

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

**THE CHURCH OF GOD OF AYLMER and HEINRICH HILDEBRANDT**

Applicants

- and -

**ONTARIO (ATTORNEY GENERAL) and AYLMER POLICE SERVICE**

Respondents

APPLICATION UNDER rules 14.05(1), 14.05(3)(d), 14.05(3)(9), 14.05(3)(g.1), 38 and 40 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194; sections 97 and 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43; and sections 1, 2(a), 2(c), 2(d) and 24(1) of the *Charter of Rights and Freedoms*

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**APPLICATION RECORD**

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**Date:** May 12, 2020

**JUSTICE CENTRE FOR CONSTITUTIONAL  
FREEDOMS**

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Calgary, AB T2V 1K2

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Court File No.

CV-20-00000030-0000

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**NOTICE OF APPLICATION**

TO THE RESPONDENTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicants. The claim made by the applicants appears on the following pages.

THIS APPLICATION will come on for a hearing on a date to be fixed by the court.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the *Rules of Civil Procedure*, serve it on the applicants' lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicants' lawyer or, where the

applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN TO IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date: May 11, 2020

Issued by

Local registrar

Address of Court Office: 4 Wellington Street  
St. Thomas ON N5R 2P2

TO: MINISTRY OF THE ATTORNEY GENERAL  
Constitutional Law Branch  
720 Bay Street, 4<sup>th</sup> Floor  
Toronto, ON M5G 2K1

AND TO: AYLMER POLICE SERVICE  
20 Beech St. E  
Aylmer, ON N5H 3H6



## APPLICATION

1. The applicants make application for:

- a) A declaration that Ontario Regulation 52/20: Order Under Subsection 7.0.2(4) of the *Emergency Management and Civil Protection Act* (the “**Regulation**”) violates the applicants’ freedom of peaceful assembly guaranteed by section 2(c) of the *Canadian Charter of Rights and Freedoms* (the “**Charter**”), and that this violation is not justified under section 1 of the *Charter*;
- b) A declaration that the Regulation violates the applicants’ freedom of association guaranteed by section 2(d) of the *Charter*, and that this violation is not justified under section 1 of the *Charter*;
- c) A declaration that the Regulation violates the right to freedom of religion of the applicants guaranteed by section 2(a) of the *Charter*, and that this violation is not justified under section 1 of the *Charter*;
- d) A declaration that the Regulation prohibiting gatherings of more than five (5) people does not apply to people contained in closed vehicles;
- e) A declaration that the Regulation does not prohibit gatherings where “physical distancing” – keeping approximately two meters apart – is possible and adhered to;
- f) A declaration that the Aylmer Police Service has no legal authorization to ticket, charge, arrest or otherwise prevent the Church of God or its parishioners from conducting or participating in services in which people are sitting in their cars in the parking lot;
- g) An interim injunction estopping the respondent, Aylmer Police Service, from enforcing or relying on the Regulation, such that it prohibits the applicants from conducting “drive-in” religious services, until such time as this application can be determined on its merits;

- h) An order permitting substituted service of this Notice of Application by e-mail to attorneygeneral@ontario.ca and zhorvat@aylmerpolice.com, pursuant to Rule 16.04(1);
- i) An order abridging the time for service of this application and allowing the application to proceed on an expedited and urgent basis;
- j) Their costs of this application on a substantial indemnity basis; and,
- k) Such further and other relief as counsel may advise and this Honourable Court may grant, including but not limited to further and other relief under section 24 of the *Charter* and section 52 of the *Constitution Act, 1982*.

**The grounds for the application are:**

**The Parties**

- 2. The Church of God of Aylmer (the “**Church**”) is a not-for-profit non-denominational religious organization, located in the Town of Aylmer, in the Province of Ontario.
- 3. Since its incorporation in 1992, the Church has been the spiritual home for a congregation comprised mainly of small-town and rural parishioners, many of whom come from a Mennonite background and speak Low German, now numbering approximately 260 people.
- 4. The applicant Heinrich (Henry) Hildebrandt (“**Hildebrandt**”) is the pastor of the Church, and has held that position since April of 1993.
- 5. The respondent, Aylmer Police Service (the “**Police**”) is a police force operating pursuant to section 4(1) of the *Police Services Act*, RSO 1990, c P.15 with jurisdiction over the Town of Aylmer, Ontario, and is responsible for, *inter alia*, the enforcement of regulations and orders pursuant to the *Emergency*

*Management and Civil Protection Act, R.S.O. 1990, C. E.9 (the "Act") and regulations thereunder.*

6. The respondent, Ontario (Attorney General), is responsible for the imposition of the various orders and regulations which are the subject of this application.

### **Factual Background: The Orders**

7. On or about March 17, 2020, the Ontario cabinet, by way of an Order in Council, declared a state of emergency as a result of the outbreak of a communicable disease, namely Covid-19, triggering the application of the *Act*. The stated goal of these measures was to ensure that hospitals would not be overwhelmed by a sudden increase in patients requiring care, and that the best way to do that was to 'flatten the curve' and slow the spread of the virus.
8. Section 7.0.2 of the *Act* sets forth the purpose and limitations of the emergency legislation as follows:

#### **Purpose**

**7.0.2** (1) The purpose of making orders under this section is to promote the public good by protecting the health, safety and welfare of the people of Ontario in times of declared emergencies in a manner that is subject to the *Canadian Charter of Rights and Freedoms*.

#### **Criteria for emergency orders**

(2) During a declared emergency, the Lieutenant Governor in Council may make orders that the Lieutenant Governor in Council believes are necessary and essential in the circumstances to prevent, reduce or mitigate serious harm to persons or substantial damage to property, if in the opinion of the Lieutenant Governor in Council it is reasonable to believe that,

- (a) the harm or damage will be alleviated by an order; and
- (b) making an order is a reasonable alternative to other measures that might be taken to address the emergency.

#### **Limitations on emergency order**

(3) Orders made under this section are subject to the following limitations:

1. The actions authorized by an order shall be exercised in a manner which, consistent with the objectives of the order, limits their intrusiveness.
  2. An order shall only apply to the areas of the Province where it is necessary.
  3. Subject to section 7.0.8, an order shall be effective only for as long as is necessary.
9. On or about March 18, 2020, by further Order in Council, the government decreed that gatherings of people numbering greater than fifty (50) were prohibited, including parades, events and communal services within places of worship, until further notice.
10. On or about March 28, 2020, by further Order in Council (Ontario Regulation 52/20), the government replaced this earlier regulation and ordered that “no person shall attend a gathering of more than five people for the purposes of conducting religious services, rites or ceremonies.” The Regulation is applicable across the entire province of Ontario, regardless of the presence or absence of Covid-19. As of May 6, there are no current reported cases of Covid-19 in Aylmer, Ontario.

11. The Regulation provides as follows:

**Prohibition**

- (1) Subject to subsection (3), no person shall attend,
  - (a) an organized public event of more than five people, including a parade;
  - (b) a social gathering of more than five people; or
  - (c) a gathering of more than five people for the purposes of conducting religious services, rites or ceremonies.
- (2) For greater certainty, subsection (1) applies to an event or gathering even if it is held at a private dwelling.
- (3) Subsection (1) does not apply to the following:
  1. A gathering of members of a single household.

2. A gathering for the purposes of a funeral service that is attended by not more than 10 persons.

12. Additionally, by Order in Council on March 24, 2020, (Ontario Regulation 82/20) the government ordered the closing of “non-essential” businesses and institutions, including churches and other faith settings. Essential services, such as grocery stores, pharmacies, public transit, manufacturing facilities and supply chain companies remained open and operational, and were not subject to limitations as to the number of individuals who could be present at one time.
13. By way of a news release from the Office of the Premier, dated March 28, 2020, Ontarians were advised that, based on the best advice of Ontario’s Chief Medical Officer of Health, the Ontario government would prohibit organized public events and social gatherings of more than five people, effective immediately. The Premier stated that the government would do “everything in our power to stop this virus in its tracks.”
14. On March 30, the emergency declaration was extended by Order in Council to April 14. On April 14, the Ontario Legislature voted to continue the state of emergency for another 28 days, to May 12, 2020, with a revocation date for the Regulation and all other emergency orders set for May 6, 2020.
15. Although most hospitals in the province have been operating well below capacity as a result of restricting non-essential healthcare access, the government appeared to pivot the goal of the lockdown from ensuring hospital capacity to avoiding any exposure to the virus, and preventing every death. As Ford stated in his April 3 briefing, “What is the cost of a life? Is a life worth a picnic in the park? Is the life worth going to the beach? Is a life worth a few cold ones with your buddies in the basement? The answer is no. None of those things are worth a life.”

16. On or about May 5, 2020, the Ford Cabinet further extended of the above-noted orders until May 19, 2020.
17. Ontario has declined to provide a fixed timeline for the removal of these restrictions, stating in a report released April 27, 2020, that any end to the lockdown is predicated on achieving certain health goals, many of which are vague, arbitrary and dependent on factors that may only be achieved through the diligence of provincial authorities, such as increasing testing and the provision of personal protective equipment for healthcare workers.
18. Ontario has further advised that any loosening of restrictions may be rescinded, and further lockdowns imposed, according to undisclosed factors and arbitrary measures.
19. Accordingly, the “lockdown” and restrictions on the fundamental freedoms of the applicants and all Ontarians has continued unabated for approximately eight (8) weeks, with no fixed end in sight, and no clear benchmark by which the applicants and other citizens can anticipate an end to the infringement of their liberties. This is in contrast with the plans and established schedules of other provinces and many states in the U.S.

#### **Factual Background: The Services**

20. The Church of God in Aylmer serves the largely rural, Mennonite population that surrounds the town of Aylmer. Given the demographics of his parishioners, and the fundamental importance to his congregation of communal worship, Pastor Hildebrandt endeavoured to find ways to bring his congregants together, while maintaining their safety and that of the general public through undertaking physical distancing measures.
21. On Sunday, April 12, 2020, which was the Christian holy celebration of Easter, and by then nearly a month into the lockdown, Hildebrandt held a “drive-in”

service at the Church. Other churches across the country had been doing similarly, and it appeared to be an effective solution. Police attended and confirmed that this was an appropriate and innovative way to hold church, and that it did not violate any orders.

22. With the blessing of police, the encouragement of his congregation, and having conducted a successful and safe service, Hildebrandt decided to continue with the drive-in services. A second service was held on April 19, which was also attended by the Police, who again expressed that they were satisfied with the conduct of the service and the safety of both the congregants and the general public. A follow-up call from a constable that Sunday afternoon confirmed no violations were observed by the officers present.
23. Hildebrandt and his worship team prepared signage instructing congregants to remain in their vehicles with the windows rolled up, and not to leave their cars or enter the church building for any reason. A platform was built overlooking the parking lot, with markings to show where up to five different members of the worship team would stand – each 2 metres apart. The Church set up an FM low-frequency broadcast system to deliver the service to the car radios of each attendee.
24. Shortly after the second service, a Facebook post circulated for a short time before being deleted. In the post, a photo of the Church's parking lot the previous Sunday, showing numerous cars, left the misleading impression that the Church building was open and the congregants were gathering inside. This was not the case. As a result of that Facebook post, approximately 15 people contacted the Police to lodge complaints against the Church.
25. Rather than assure the callers that the Church and Hildebrandt were not breaking any laws, and were not in fact "gathering" as prohibited under the Regulation since they never left their personal vehicles, the Police advised

Hildebrandt that he must not proceed with a further service, or that he and his parishioners would face fines or other penalties. Tickets for individuals are typically in the amount of \$880, but according to section 7.0.11 of the *Act*, penalties of up to \$100,000 and a year in jail, or even higher amounts for a corporation, may be ordered on conviction when proceeding by summons.

26. A statement released publicly on April 24, 2020, by Aylmer Police Chief Zvonko Horvat, advised that, after consultation with county prosecutors, "it has been determined that this gathering is in violation of the EMCPA and that those attending could be subject to facing charges for failing to comply with an order during a declared emergency." The Chief went on to state, "We would like to assure our residents that this is an active investigation and we will be monitoring all faith based groups in our community to ensure that these Emergency Orders are being followed. Those who do not adhere to these orders will result in the Aylmer Police taking enforcement action."
27. In various comments to the media, Chief Horvat reiterated the threat of fines if the Church held another drive-in service, despite the fact that the Police had previously permitted two such services.
28. In a statement of his own posted to the Church website on April 25, Hildebrandt lamented being forced to choose between Christian deference to authorities and the exercise by his congregants of their freedom of peaceful assembly and religion. Efforts to resolve the matter through discussion with the Police Chief and the local Member of Provincial Parliament, as well as a legal demand letter, proved unsuccessful. The Church offered to hire off-duty officers from the Aylmer Police Service to ensure compliance with the law, however this offer was rejected.
29. In his statement, Hildebrandt stated, "Liquor stores are considered essential and their parking lots are not under any scrutiny. Liquor is essential, but God is not?"



Drive-thru establishments are under no threat of closure and their parking lots are regularly filled with customers looking to have a chat with their friends. We are not asking for special treatment or privileges, equality would be satisfactory.”

30. A battle of statements in the media ensued between the Police Chief and the Pastor, but the matter was not resolved. Hildebrandt announced that the Church would hold a third service on April 26, under threat of penalty. He condemned any show of force or resistance to police, stating “Christians are peaceful people and have always sought the opportunity for peaceful assembly, as guaranteed in the *Canadian Charter of Rights and Freedoms*.”
31. The service proceeded without incident on April 26, and all congregants remained in their vehicles, with windows rolled up. Police attended on the property without a warrant, and videotaped all of the parishioners and their vehicles during the Sunday service. The Police advised that no tickets would be issued at the service, but the results of their investigation would be presented to a Crown Attorney to determine whether charges would be laid.
32. On or about April 29, the Police provided a statement advising that they had consulted with the local Crown Attorney and Regional Director following their review of the evidence. The statement continued:

Independent of the consultation, Aylmer Police Service has determined that they have reasonable and probable grounds to lay the charge. However, Aylmer Police Service has decided to use the incident on the 26th of April 2020 as an educational tool for the “Church of God” organizers and parishioners so they have a clear understanding that the gathering is in violation of the Emergency Order enacted to prevent the spread of COVID-19 global pandemic. With this decision and education, we anticipate that the “Church of God” organizers and parishioners will respect the Emergency Order in place to minimize the risk to their parishioners and community. This decision is yet another example where Aylmer Police are taking the measured and educational vs. retributive approach in achieving compliance with Emergency Orders put in place by our Provincial leaders. Aylmer Police will continue to respond to

complaints of Emergency Order breaches and take appropriate action based on the evidence collected.

33. On April 30, 2020, Hildebrandt issued a press release on behalf of the Church, media interest having grown significantly in light of the public dispute. In it, he expressed gratitude to the police for their forbearance, and noted that this provided the Premier and his Cabinet the opportunity to clarify their guidance surrounding “drive-in” services, as many other jurisdictions across Canada and the United States were doing, including Alberta, Saskatchewan, Manitoba, and New Brunswick, California, Mississippi, Kentucky, Tennessee, Ohio, Kansas, Florida, and others.
34. On May 3, 2020, the Church held a fourth drive-in service, with Pastor Hildebrandt announcing that theirs was the safest parking lot in the entire town. Police monitored from off-site, but did not lay any charges.
35. A statement issued by the Police Chief later on May 3 confirmed that the matter remained subject to an ongoing police investigation.

### **The Regulation Violates the *Charter***

36. The very purpose and effect of the Regulation is to prevent the peaceful assembly and association of citizens, rights which are guaranteed under sections 2(c) and 2(d) of the *Charter*. Section 2(c) protects the physical gathering together of people from unlawful restriction by government.
37. By expressly prohibiting religious services, and effectively declaring churches and other faith-based organizations as “non-essential”, the Regulation further violates the freedom of religion of Hildebrandt and the members of the Church, as guaranteed under section 2(a) of the *Charter*.

38. The Supreme Court of Canada has referred collectively to the section 2 freedoms as protecting rights fundamental to Canada's liberal democratic society. The fundamental importance of these freedoms requires that any attempt to restrict them must be subject to the most exacting scrutiny.

39. The *Act* expressly limits its own purpose, namely to promote the public good by protecting the health, safety and welfare of the people of Ontario in a manner that is subject to the *Canadian Charter of Rights and Freedoms*:

**7.0.2 (1)** The purpose of making orders under this section is to promote the public good by protecting the health, safety and welfare of the people of Ontario in times of declared emergencies in a manner that is subject to the *Canadian Charter of Rights and Freedoms*.

40. Pursuant to its own limiting provisions, orders made pursuant to the *Act* are required to apply only to the areas of the Province where they are necessary, and to be effective only for as long as is necessary.

41. Ontario has imposed measures on her citizens which clearly violate their fundamental freedoms in a manner which does not minimally impair those freedoms and is not rationally connected to the purpose of the law. The regulation is overly broad geographically, in duration, and in the oppressive scope which prevents citizens from exercising their fundamental freedoms in a manner having no adverse impact on public health whatsoever.

42. Ontario has failed to balance its statutory objectives against the *Charter* rights to freedom of peaceful assembly and religion.

43. The Aylmer Police Force has failed to heed the clear limitation contained in the *Act* in section 7.0.2(3), namely that actions authorized by an order shall be exercised in a manner which, consistent with the objectives of the order, limits their intrusiveness.

44. The restriction on drive-in services or other gatherings where physical distancing can be reasonably accommodated, whether impliedly captured in the Regulation as promulgated by Ontario, or whether improperly enforced by the Police, is not a minimal or reasonable impairment of the fundamental freedoms guaranteed under the *Charter*.

### **Urgency**

45. Ontario has had ample time to clarify its Order to ensure that it is not overly broad, and that it does not arbitrarily target religious groups or irrationally penalize law-abiding citizens, but it has failed to do so, necessitating application to this Honorable Court.
46. This application is urgent. Unprecedented power is being exercised by the government of Ontario over the citizens of this province, in direct violation of their guaranteed freedoms under the *Charter*. Threats of onerous fines and jail time remain a pressing and substantial concern for law-abiding citizens seeking to exercise their freedoms, while at the same time adhering to the spirit and intent of the legislation. Urgent clarity is required, and the oversight of this Honourable Court is respectfully requested on an expedited basis.
47. Unless the application can be granted in an expedited manner, an interim injunction should issue against the Police, restraining enforcement measures against the applicants for conducting “drive-in” religious services, until such time as this application can be determined on the merits for the following reasons:
- a) There are serious issues to be determined in this application;
  - b) Irreparable harm will occur if an interim injunction is not ordered; and
  - c) The balance of convenience favours issuing an interim injunction until such time as the application can be heard.

**Provisions Engaged**

48. *Emergency Management and Civil Protection Act*, R.S.O. 1990, c.E.9, sections 7.0.2 and 7.0.11;
49. Ontario Regulation 52/20: Order Under Subsection 7.0.2(4) of the *Emergency Management and Civil Protection Act*;
50. Ontario Regulation 82/20: Order Under Subsection 7.0.2(4) of the *Emergency Management and Civil Protection Act*;
51. *Police Services Act*, R.S.O. 1990, c. P.15, section 4(1);
52. *Canadian Charter of Rights and Freedoms*, sections 1, 2(a), 2(c), 2(d) and 24(1);
53. *Constitution Act, 1982*, section 52(1);
54. *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, including Rules 14.05(1), 14.05(3)(d), 14.05(3)(g), 14.05(3)(g.1), 16.04(1), 38 and 40;
55. *Courts of Justice Act*, R.S.O. 1990 c. C.43, sections 97 and 101;
56. Such further and other grounds as counsel may advise and this Honourable Court will permit.
57. The following documentary evidence will be used at the hearing of the application:
  - a) Affidavit of Pastor Henry Hildebrandt, to be sworn, and the exhibits thereto;
  - b) Such further and other material as counsel may advise and this Honourable Court may permit.

DATE: May 8, 2020

**JUSTICE CENTRE FOR CONSTITUTIONAL  
FREEDOMS**

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Lawyer for the Applicants

CV 30/20  
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*Applicants*

*Respondents*

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at St. Thomas

**NOTICE OF APPLICATION**

**JUSTICE CENTRE FOR  
CONSTITUTIONAL FREEDOMS**

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Court File No.

**ONTARIO  
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**THE CHURCH OF GOD OF AYLMER and HEINRICH HILDEBRANDT**

Applicants

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APPLICATION UNDER rules 14.05(1), 14.05(3)(d), 14.05(3)(g), 14.05(3)(g.1), 38 and 40 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194; sections 97 and 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43; and sections 1, 2(a), 2(c), 2(d) and 24(1) of the *Charter of Rights and Freedoms*

---

**AFFIDAVIT OF HEINRICH HILDEBRANDT  
(Sworn May 8, 2020)**

---

I, Heinrich (Henry) Hildebrandt, of the Town of Aylmer in the Province of Ontario, MAKE OATH  
AND SAY:

1. I am one of the applicants herein, and as such have knowledge of the matters hereinafter deposed to.



## The Parties

2. I am the pastor at The Church of God, located in Aylmer, Ontario, and have held that position since April of 1993.
3. The Church of God of Aylmer (the "**Church**") is a not-for-profit non-denominational religious organization, incorporated in 1992.
4. Since its inception, the Church has been the spiritual home for a congregation comprised mainly of small-town and rural parishioners, many of whom come from a Mennonite background and speak Low German. The congregation currently numbers approximately 260 people.
5. The respondent, Aylmer Police Service (the "**Police**") is a small local police force with jurisdiction over the Town of Aylmer. The Chief of Police is currently Zvonko Horvat, who has been the official most directly involved in the events giving rise to this application.
6. The respondent, Ontario (Attorney General), is responsible for the imposition of various restrictions and orders that are the subject of this application.

## The Lockdown Orders

7. On or about March 17, 2020, the Ford government declared a state of emergency as a result of the outbreak of Covid-19 and began issuing lockdown orders. The stated goal of these extraordinary measures was "because we must offer our full support and every power possible to help our health care sector fight the spread of COVID-19." Attached hereto and

marked as **Exhibit "A"** to this affidavit is a copy of the news release issued by the Ontario government on March 17, 2020.

8. On or about March 18, 2020, by further Order in Council, the cabinet decreed that gatherings of people numbering greater than fifty (50) were prohibited, including parades, events and communal services within places of worship, until further notice. As a result of that announcement, our congregation continued to meet in accordance with these guidelines, allowing 50 or fewer persons in our building at a time.

9. On March 24, 2020, we learned through another Order in Council that church was not essential, as the cabinet ordered the closing of "non-essential" businesses and institutions, including churches and other faith settings.

10. On or about March 28, 2020, also by an Order in Council, Premier Ford and his cabinet clamped things down further, and ordered that "no person shall attend a gathering of more than five people for the purposes of conducting religious services, rites or ceremonies."

11. By way of a news release from the Office of the Premier, dated March 28, 2020, Ontarians were advised that, based on the best advice of Ontario's Chief Medical Officer of Health, the Ontario government would prohibit organized public events and social gatherings of more than five people, effective immediately. The Premier stated that the government would do "everything in our power to stop this virus in its tracks." Attached hereto and marked as **Exhibit "B"** to this affidavit is a copy of the said news release.

12. This order is applicable across the entire province of Ontario, regardless of the presence or absence of Covid-19. As of May 6, there are no current reported cases of Covid-

19 in Aylmer, Ontario, according to the data compiled on Southwestern Public Health Authority's website. Attached hereto and marked as **Exhibit "C"** to this affidavit, is a printout of the relevant webpage.

13. To the best of my information and belief, and from reading media articles such as one in the CBC on March 26, 2020 (attached hereto and marked as **Exhibit "D"** to this affidavit), it appears that hospitals have been operating well below capacity, awaiting a surge of cases that never came.

14. The purpose of the lockdown seemed to shift from ensuring capacity in the healthcare system, to preventing anyone from getting sick. As Premier Ford stated in his April 3 briefing, a transcript of which is attached hereto and marked as **Exhibit "E"** to this affidavit: "What is the cost of a life? Is a life worth a picnic in the park? Is the life worth going to the beach? Is a life worth a few cold ones with your buddies in the basement? The answer is no. None of those things are worth a life."

15. The prohibitions and restrictions brought in by the government have now been extended to at least May 19, 2020, according to a chart on the government website, attached hereto and marked as **Exhibit "F"**.

16. Ontario has declined to provide a fixed timeline for the removal of these restrictions, stating in a report released April 27, 2020, attached hereto and marked as **Exhibit "G"** to my affidavit, that any end to the lockdown is predicated on achieving certain health goals, such as increasing testing and the provision of personal protective equipment for healthcare workers, and that any loosening of restrictions may be rescinded, and further lockdowns imposed.

17. I am deeply concerned that these limitations will continue for a very long time, particularly for churches and other faith-based organizations which the government views as non-essential. I believe that finding a creative solution which permits us to practice our faith communally, where public health and safety is ensured, is therefore beneficial and necessary for the ongoing willingness of the community to tolerate these harsh restrictions on our liberties.

### **The Services**

18. The Church of God in Aylmer serves the largely rural, Mennonite population that surrounds the town of Aylmer. Given the demographics of my parishioners, and the fundamental importance to my congregation of communal worship, it is of utmost importance to me as their pastor that I find ways to bring them together, while maintaining their safety and that of the general public through undertaking physical distancing measures. Many members of my church are older, not technologically-savvy or connected, or live in areas with poor bandwidth, such that online services are unsatisfactory. To rely on that option solely would mean that many congregants, for whom church is at the very centre of their lives, would have to go weeks or months on end without that essential connection to the church and the practice of their religion.

19. I became aware through news media that churches across North America were turning to “drive-in services” as a way of finding an appropriate balance between public health and religious freedom. Attached hereto and marked collectively as **Exhibit “H”** to this affidavit are a series of news articles highlighting the success of these services in various jurisdictions.

20. On Sunday, April 12, 2020, which was the Christian holy celebration of Easter, and by then nearly a month into the lockdown, we held a small “drive-in” sunrise service at the Church. This was not an organized service, and I did not lead the sermon. A small number of our congregants simply met in the parking lot, and sat in their parked cars leaving a vacant space between each car. We followed the guidance from Saskatchewan, which had just permitted drive-in services as long as certain rules were followed. Those who participated in their vehicles listened to a livestreamed service from another congregation over their car radios, but did not get out of their cars and did not have any physical interaction.

21. While we were in the parking lot, two Aylmer Police constables came by to speak with us in a very friendly manner. Constable Nelson DaCosta said that this seemed to be an innovative way to do church. He and Constable Jordan Babb advised that it was not necessary to space out the vehicles, and that we could use the entire parking lot. Constable DaCosta asked us to let him know if we were planning to do this again.

22. With the blessing of police, the encouragement of my congregation, and having conducted a successful and safe service, I decided to continue with the drive-in services. I am advised by my son, Herbert Hildebrandt, and verily believe that he left a voicemail message for Constable DaCosta the next Thursday, and followed up with emails on the Friday and Saturday, to let him know that we were planning to proceed, as he had requested, but we did not hear back.

23. A second “drive-in” service was held on April 19. On this occasion, Constable Keven Coudenys came by and did a quick check of the lot, although neither I nor Herbert spoke to him then.



24. We had prepared official signage instructing congregants to remain in their vehicles with the windows rolled up, and not to leave their cars or enter the church building for any reason. The signs were placed along the driveway into the church, and in prominent locations around the parking lot. A platform was built overlooking the parking lot, with markings to show where up to five different members of the worship team would stand – each 2 metres apart. We purchased and set up an FM low-frequency broadcast system to deliver our own service to the car radios of each attendee. We did not collect offerings (and have not done so at any of our drive-in services), nor did we encourage or require anyone to roll down their windows. To our knowledge, none did, nor did they exit their vehicles.

25. Following the service, Constable Coudenys called to confirm that no violations were observed and that he was satisfied with how things had been conducted. He did, however, advise Herbert that there had been some complaints and that we would be receiving a call from an inspector the next day.

26. As we later learned, shortly after the second service a Facebook post circulated briefly before being deleted. In the post, a photo of the Church's parking lot taken from the road on Sunday, showing numerous cars, left the misleading impression that the Church building was open and the congregants were gathering inside. This was not the case. As a result of that Facebook post, approximately 15 people contacted the Police to lodge complaints against the Church.

27. Rather than assure those who complained that the Church and I were not breaking any laws, and were not in fact "gathering" as prohibited under the order since congregants never left their personal vehicles, the Police chose to crack down. Inspector Nick Novacich

called Herbert on April 22 to say, on behalf of Police Chief Zvonko Horvat, that we were not to proceed with a further service, or that I and my parishioners would face tickets of \$750 or other penalties of up to \$100,000 and a year in jail.

28. He further advised that they had sought the opinion of the Crown Attorney's Office and that they were of the opinion that we were, in fact, in violation of the Emergency Act and that they would be taking active enforcement action if any further drive-in services were held in the future.

29. In various comments to the media, Chief Horvat spoke on behalf of the Police and reiterated the threat of fines if the Church held another drive-in service, despite the fact that the Police had previously permitted two such services. Attached hereto and marked as **Exhibit "I"** is a copy of the London Free Press article, dated April 23, 2020, which contain his statement.

30. In a statement released publicly on April 24, 2020, Chief Horvat advised that, after consultation with county prosecutors, "it has been determined that this gathering is in violation of the EMCPA and that those attending could be subject to facing charges for failing to comply with an order during a declared emergency." The Chief went on to state, "We would like to assure our residents that this is an active investigation and we will be monitoring all faith based groups in our community to ensure that these Emergency Orders are being followed. Those who do not adhere to these orders will result in the Aylmer Police taking enforcement action." Attached hereto and marked as **Exhibit "J"** to this affidavit is a copy of the Chief's statement, as posted on Facebook on April 24.

31. All of this forced me and my congregants into a very difficult bind – we were made to choose between our peaceful Christian deference to authorities, and the exercise of our

fundamental freedoms of peaceful assembly and religion. Efforts to resolve the matter through discussion with the Police Chief and our local Member of Provincial Parliament, Jeff Yurek, as well as a legal demand letter, proved unsuccessful.

32. Attached hereto and marked as **Exhibit “K”** to this affidavit is a copy of the letter, dated April 24, 2020, sent by our counsel to Chief Horvat, and copied to government officials, in which we offered to hire off-duty officers from the Aylmer Police Service to ensure compliance with the law. We received no response to this letter.

33. In a statement I posted to the Church website, I noted, “Liquor stores are considered essential and their parking lots are not under any scrutiny. Liquor is essential, but God is not? Drive-thru establishments are under no threat of closure and their parking lots are regularly filled with customers looking to have a chat with their friends. We are not asking for special treatment or privileges, equality would be satisfactory.” Attached hereto and marked as **Exhibit “L”** to this affidavit is a printout of my statements and press releases on the Church of God of Aylmer website.

34. On April 25, I announced on our church website and social media that we would proceed to hold a third service on April 26, under threat of penalty. I condemned any show of force or resistance to police, stating “Christians are peaceful people and have always sought the opportunity for peaceful assembly, as guaranteed in the Canadian Charter of Rights and Freedoms.”

35. The service proceeded without incident on April 26, and all congregants remained in their vehicles, with windows rolled up. Police attended on the property without a warrant, and videotaped all of the parishioners and their vehicles during the Sunday service. The Police had



advised by a public statement in advance that no tickets would be issued at the service, but the results of their investigation would be presented to a Crown Attorney to determine whether charges would be laid.

36. On or about April 29, the Police provided a statement advising that they had consulted with the local Crown Attorney and Regional Director following their review of the evidence. The statement continued:

Independent of the consultation, Aylmer Police Service has determined that they have reasonable and probable grounds to lay the charge. However, Aylmer Police Service has decided to use the incident on the 26th of April 2020 as an educational tool for the "Church of God" organizers and parishioners so they have a clear understanding that the gathering is in violation of the Emergency Order enacted to prevent the spread of COVID-19 global pandemic. With this decision and education, we anticipate that the "Church of God" organizers and parishioners will respect the Emergency Order in place to minimize the risk to their parishioners and community. This decision is yet another example where Aylmer Police are taking the measured and educational vs. retributive approach in achieving compliance with Emergency Orders put in place by our Provincial leaders. Aylmer Police will continue to respond to complaints of Emergency Order breaches and take appropriate action based on the evidence collected.

37. On April 30, 2020, I issued a press release on behalf of the Church, media interest having grown significantly in light of the public dispute. In it, I expressed gratitude to the police for their forbearance, and noted that this provided the Premier and his cabinet the opportunity to clarify their guidance surrounding "drive-in" services, as many other jurisdictions across Canada and the United States were doing, including Alberta, Saskatchewan, Manitoba, and New Brunswick, California, Mississippi, Kentucky, Tennessee, Ohio, Kansas, Florida, and others.

38. On May 3, 2020, we held a fourth drive-in service, and I noted to the media in attendance that ours was the safest parking lot in the entire town. Police monitored from off-site, but did not lay any charges. Once again, this was a successful and safe service. It was

kept relatively brief under the circumstances, but feedback from my parishioners was that they were very grateful to have had the opportunity to see one another, and their pastor, and share together in the faith as is so fundamental to Christians, even if it was across a parking lot and through closed windows. The service was still interactive, with congregants enthusiastically “honking” their Amens. This is an essential service indeed.

39. Following that service, Chief Horvat issued another public statement, attached hereto and marked as **Exhibit “M”** to this affidavit as follows:

On May 03, 2020, church service was held at the Church of God on John St. North Aylmer ON. Prior to service, officers addressed concerns with the congregation and heat inside the vehicles due to high temperatures. Organizers informed officers that the congregation had been instructed to start their vehicles and air conditioning as needed to avoid any health issues associated with heat exhaustion.

Police observed approximately 70 vehicles for the service with multiple occupants in each vehicle. Police observed and monitored 14 vehicles and occupants parked on the shoulder of the roadway occupied by civilians monitoring the outdoor church service. It is not known if the onlookers were in protest of the service. Police remained in the area to keep the peace.

Police received one anonymous complaint and one formal complaint from a citizen regarding breach of Provincial Emergency order. Upon conclusion of the service, onlookers and congregation departed without incident. This is an on-going investigation of the Emergency Order violation.

Aylmer Police would like to focus on the positive aspects of this contentious community issue and current Provincial Emergency order violations. We would like to thank all other faith based groups, citizens and business owners in our community for abiding by the current Provincial Emergency orders to minimize the spread of COVID-19 global pandemic.

40. Our faith is fundamental to our lives. It is not a “non-essential” service – it goes to the core of who we are as Christians. By prohibiting us from holding even perfectly safe, drive-in services, I believe this is an unreasonable and unjustifiable attack on our fundamental freedoms of religion, association and peaceful assembly.

### **Injunctive Relief Requested**

41. With the threat of “on-going investigation” and draconian fines hanging over our heads, no meaningful response from politicians, and no apparent end in sight to these restrictions on our liberties, I believe that we have no option but to seek clarification from this Honourable Court.

42. I do verily believe that the evidence I have presented in this affidavit supports that our application will be successful.

43. I do verily believe that the applicants will suffer irreparable harm if we are not granted an injunction preventing the enforcement of the order where our parishioners are attending a drive-in service and are of no risk to public health – our constitutionally guaranteed freedoms will be rendered nothing more than meaningless permissions, to be granted or taken away at will by the state, without demonstrable justification.

44. I do verily believe that the applicants will suffer greater harm if they are not granted an injunction against enforcement than the Police would suffer, given that if they were to press charges it would be due to either a misunderstanding of the law, or a failure to exercise their powers in a manner which, consistent with the objectives of the order, limits their intrusiveness.

45. I swear my affidavit in support of this application, and for no improper purpose.


SWORN BEFORE ME by video conference  
From the Town of Aylmer in the County of  
Elgin, To the City of London, in the County of  
Middlesex, this 8th day of May, 2020.

*B. B. Budy*  
Commissioner, etc.

A Commissioner, etc.

**LISA D.S. BILDY**  
**BARRISTER & SOLICITOR**

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Heinrich (Henry) Hildebrandt

# EXHIBIT A

This is Exhibit "A" referred to  
in the Affidavit of

Heinrich Hildebrandt

Sworn before me this 8<sup>th</sup> day

of May A.D., 2020 by video conference.

[Signature]  
A Commissioner for Oaths in and for Ontario

**LISA D.S. BILDY**  
**BARRISTER & SOLICITOR**

**Ontario Enacts Declaration of Emergency to Protect the Public***Significantly Enhanced Measures will Help Contain Spread of COVID-19*

March 17, 2020 9:13 A.M.

TORONTO - Today, the Government of Ontario announced that it is taking decisive action by making an order declaring an emergency under s 7.0.1 (1) the *Emergency Management and Civil Protection Act*. In doing so, Ontario is using every power possible to continue to protect the health and safety of all individuals and families.

"We are facing an unprecedented time in our history," said Premier Ford. "This is a decision that was not made lightly. COVID-19 constitutes a danger of major proportions. We are taking this extraordinary measure because we must offer our full support and every power possible to help our health care sector fight the spread of COVID-19. The health and wellbeing of every Ontarian must be our number one priority."

As a result of this declaration and its associated orders, the following establishments are legally required to close immediately:

- All facilities providing indoor recreational programs;
- All public libraries;
- All private schools as defined in the *Education Act*;
- All licensed child care centres;
- All bars and restaurants, except to the extent that such facilities provide takeout food and delivery;
- All theatres including those offering live performances of music, dance, and other art forms, as well as cinemas that show movies; and
- Concert venues.

Further, all organized public events of over fifty people are also prohibited, including parades and events and communal services within places of worship. These orders were approved by the Lieutenant Governor in Council and will remain in place until March 31, 2020, at which point they will be reassessed and considered for extension, unless this order is terminated earlier.

"We are acting on the best advice of our Chief Medical Officer of Health and other leading public health officials across the province," said Christine Elliott, Deputy Premier and Minister of Health. "We know these measures will affect people's every day lives, but they are necessary to ensure that we can slow the spread of COVID-19 and protect our people. We're working with all



partners across the system, from public health to hospitals and community care, to do everything we can to contain this virus and ensure that the system is prepared to respond to any scenario."

"Our government is taking an important step to protect Ontarians by declaring a provincial emergency through the *Emergency Management and Civil Protection Act*, establishing Ontario's ability to quickly implement and enforce orders in the public interest," said Solicitor General Jones. "Our government will continue to respond to this outbreak by limiting the exposure of individuals to COVID-19 and ensure the health and well-being of all Ontarians."

Ontario is also investing up to \$304 million to enhance the province's response to COVID-19 by providing the following:

- **\$100 million for increased capacity in hospitals** to assist with the effective treatment of COVID-19 patients both in critical care and medicine beds.
- **\$50 million for more testing and screening through public health**, including additional funding to support extraordinary costs incurred to monitor, detect and contain COVID-19 in the province. This includes contact tracing, increased laboratory testing capacity and home testing.
- **\$50 million to further protect frontline workers, first responders and patients** by increasing the supply of personal protective equipment and other critical supplies and equipment to protect them.
- **\$25 million to support frontline workers** working in COVID-19 assessment centres, including the creation of a new fund to provide respite care, child care services and other supports as they are needed.
- **\$50 million for long-term care homes** to support 24/7 screening, additional staffing to support infection control and additional supplies.
- **\$20 million for residential facilities in developmental services, gender-based services and protective care for children and youth** to support additional staffing, respite for caregivers impacted by school closures, personal protective equipment and supplies and transportation costs to minimize client exposure and to support social distancing, as well as additional cleaning costs.
- **\$5 million to protect seniors in retirement homes** through increased infection control and active screening procedures.
- **\$4 million for Indigenous communities** to support transportation costs for health care professionals and the distribution of critical supplies.

## QUICK FACTS

- The increased funding includes investments from Ontario's previously-announced COVID-19 Contingency Fund, as well as funding provided by the federal government.
- Coronaviruses are a large family of viruses that can cause illnesses ranging from the common cold to more serious respiratory infections like bronchitis, pneumonia or severe acute respiratory syndrome (SARS).
- There is no vaccine available to protect against the 2019 novel coronavirus, but there are everyday actions that can help prevent the spread of germs that cause respiratory illnesses. To find out more visit Ontario's [website](#).

## LEARN MORE

- Visit Ontario's [website](#) to learn more about how the province continues to protect Ontarians from COVID-19.
- Learn about [travel advisories](#) related to the 2019 novel coronavirus.
- If you are a health care professional, learn how to protect yourself and your patients by reading our [guidance documents](#).
- **For public inquiries call ServiceOntario, INFOline at 1-866-532-3161 (Toll-free in Ontario only)**

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[Available Online](#)  
[Disponible en Français](#)



# EXHIBIT B

This is Exhibit " B " referred to  
in the Affidavit of

Heinrich Hildebrandt

Sworn before me this 8<sup>th</sup> day

of May A.D., 2020 by video conference

L.S. Biddy  
A Commissioner for Oaths in and for Ontario

LISA D.S. BILDY  
BARRISTER & SOLICITOR

## **Ontario Prohibits Gatherings of More Than Five People with Strict Exceptions**

*Stronger action required to stop the spread of COVID-19*

March 28, 2020 9:15 P.M.

TORONTO — Today, the Ontario government is taking immediate and decisive action to further stop the spread of COVID-19 and protect the health and well-being of all Ontarians.

Based on the best advice of Ontario's Chief Medical Officer of Health, the Ontario government is issuing a new emergency order under the Emergency Management and Civil Protection Act to prohibit organized public events and social gatherings of more than five people, effective immediately.

This order would not apply to private households with five people or more. It would also not apply to operating child care centres supporting frontline health care workers and first responders provided the number of persons at each centre does not exceed 50 people. Funerals would be permitted to proceed with up to 10 people at one time.

"If we are going to stop the spread of COVID-19 now and keep our communities safe, we need to take extraordinary measures to ensure physical distancing," said Premier Doug Ford. "I strongly encourage everyone to do the responsible thing and stay home unless absolutely necessary. I can assure everyone that we will do everything in our power to stop this virus in its tracks."

"We are acting on the best advice of our Chief Medical Officer of Health and other leading public health officials across the province," said Christine Elliott, Deputy Premier and Minister of Health. "These are extraordinary times that demand extraordinary measures to stop the spread of COVID-19 and protect our people. Nothing is more important."

Organized public events include parades, events including weddings, social gatherings and communal services within places of worship. This order replaces a previous emergency order which prohibits organized public events of over 50 people.

Ontario declared a provincial [state of emergency](#) on March 17, 2020 and has issued orders to close non-essential workplaces, recreational programs, libraries, publicly funded schools, private schools, daycares, provincial parks, churches and other faith settings, as well as bars

and restaurants, except those that may only offer takeout or delivery. Essential services, such as grocery stores, convenience stores, pharmacies, public transit, manufacturing facilities, and supply chain companies remain open and operational.

## QUICK FACTS

- Everyone in Ontario should be practicing physical distancing to reduce their exposure to other people. Avoid close contact (within 2 metres) with people outside of your immediate families.
- On March 25, 2020, the federal government announced an Emergency Order under the Quarantine Act that requires any person entering Canada by air, sea or land to self-isolate for 14 days whether or not they have symptoms of COVID-19. They should monitor for symptoms of COVID-19 for 14 days.
- Take everyday steps to reduce exposure to COVID-19 and protect your health: wash your hands often with soap and water or alcohol-based hand sanitizer; sneeze and cough into your sleeve; avoid touching your eyes, nose or mouth; avoid contact with people who are sick; stay home if you are sick.

## LEARN MORE

- Visit Ontario's [website](#) to learn more about how the province continues to protect Ontarians from COVID-19.
- [Ontario Enacts Declaration of Emergency to Protect the Public](#)
- [The 2019 Novel Coronavirus \(COVID-19\)](#)
- For public inquiries, call ServiceOntario, INFOline at 1-866-532-3161 (toll-free in Ontario only).

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**Available Online**  
**Disponible en Français**

# EXHIBIT C

This is Exhibit " C " referred to  
in the Affidavit of

Heinrich Hildebrandt

Sworn before me this 8<sup>th</sup> day

of May A.D., 2020 by video conference

Lisa D.S. Bily  
A Commissioner for Oaths in and for Ontario

**LISA D.S. BILDY**  
**BARRISTER & SOLICITOR**



## 2019 Novel Coronavirus (COVID-19) in the Southwestern Public Health region

Percent of tests that are positive	Age and gender distribution	Location of confirmed cases (municipality)	Cases in surrounding public health units
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Change this filter to "All" to view the cumulative number of cases by municipality

Ongoing

Grand Total		13
Elgin St. Thomas	Total	4
	Malahide	2
	St. Thomas	2
Oxford County	Total	9
	Tillsonburg	3
	Woodstock	2
	Blandford-Blenheim	1
	Norwich	1
	South-West Oxford	1
	Zorra	1

# EXHIBIT D

This is Exhibit "D" referred to  
in the Affidavit of

Heinrich Hildebrandt

Sworn before me this 8<sup>th</sup> day

of May A.D., 2020 by video conference

[Signature]  
A Commissioner for Oaths in and for Ontario

LISA D.S. BILDY  
BARRISTER & SOLICITOR



COVID-19

More ▾

## Health

## Why emergency departments look empty amid COVID-19 outbreak

Emergency physicians say people should not hesitate going to hospital if in medical distress

[Cassandra Szklarski](#) · The Canadian Press · Posted: Mar 26, 2020 12:08 PM ET | Last Updated: March 26



A B.C. ambulance paramedic is seen outside the Lions Gate Hospital in North Vancouver on Monday. Contrary to what one might think, several emergency room doctors report relatively quiet ERs these days. (Jonathan Hayward/The Canadian Press)

The sound of Nicole Odermatt's son gasping for air woke her just after midnight.

The Cambridge, Ont., mom immediately recognized an attack of croup, which the six-year-old had faced several times before. But even as his lips turned blue, she admits to hesitating before she ultimately called an ambulance.



"I didn't want to be one of those people filling up the beds at the ER unnecessarily," Odermatt said days later, with Max no longer feverish and on the mend.

"I don't know what the situation's like in the emergency room. I don't want to take him there and expose him to something unnecessarily and I don't want to be taking up a bed that somebody else may need more."

She initially thought, "Can this wait until morning?" But her son was in distress.

"No, he couldn't have waited."

Odermatt's medical scare has a happy ending, but an era of public health directives to social-distance and conserve precious health-care resources for COVID-19 has many people grappling with when it's OK to go to the ER.

## Quiet ERs in outbreaks

Contrary to what one might think, several emergency room doctors report relatively quiet ERs these days — likely due to the fact people have curtailed routine visits that can be addressed by virtual or in-person consults with their family doctor, and the fact widespread isolation has cut opportunities for sports injuries, traffic accidents and other common ER traumas.

Of course many emergencies — [heart attacks](#), anaphylaxis, burns — can occur regardless of whether a person is housebound or not.

While some hospitals are under increased strain from COVID-19 patients, emergency physicians said people should not hesitate going to hospital if they are in medical distress.

Dr. Carolyn Snider, chief of emergency medicine at St. Michael's Hospital, described careful isolation measures that separate COVID-19 patients from others, and pointed to many weeks of planning to ensure adequate care is available for whoever — and whatever — may come.





An emergency department in Toronto prepared to screen patients who could be infected with COVID-19 earlier this month. (Craig Chivers/CBC)

"You never use the 'Q' word in the emerge because we're all pretty superstitious," said Snider, instead describing a "calm before a storm."

"We just know we have to be ready, and that the more time we have to be more ready is what we're thankful for."

Over at another Toronto hospital, emergency physician and health services researcher Dr. Jennifer Hulme said she fears some overly cautious patients will suffer at home and even die from lack of care.

## 'Incredibly sad'

She described one recent patient who required intubation for a severe respiratory ailment that he later admitted began two weeks before he was rushed to hospital.



"It was incredibly sad to see this guy so, so sick, who didn't feel that he could access services because he was afraid of COVID-19," said Hulme.

"We could have had more time to figure out what was going on and to potentially treat his underlying condition before it got that bad."



'We just know we have to be ready,' said Dr. Carolyn Snider, medical director of the emergency department at Toronto's St. Michael's Hospital. (Michael Wilson/CBC)

Like Snider, she stressed the work hospitals have undertaken to ensure emergency patients safely get the attention they need, when they need it.

Hulme also pointed to the danger of not maintaining care for particular cases including pregnant women and infants, whose check-ups should not be skipped.

"Anecdotally, even from my own mom's groups, people are avoiding their pediatrician's office or their family doctor's office to get vaccines because they're worried about the offices being a source of infection," said Hulme, a new mom herself.



"If vaccination is postponed, then we're now putting an entire cohort of people at risk of measles. We could be causing another outbreak."

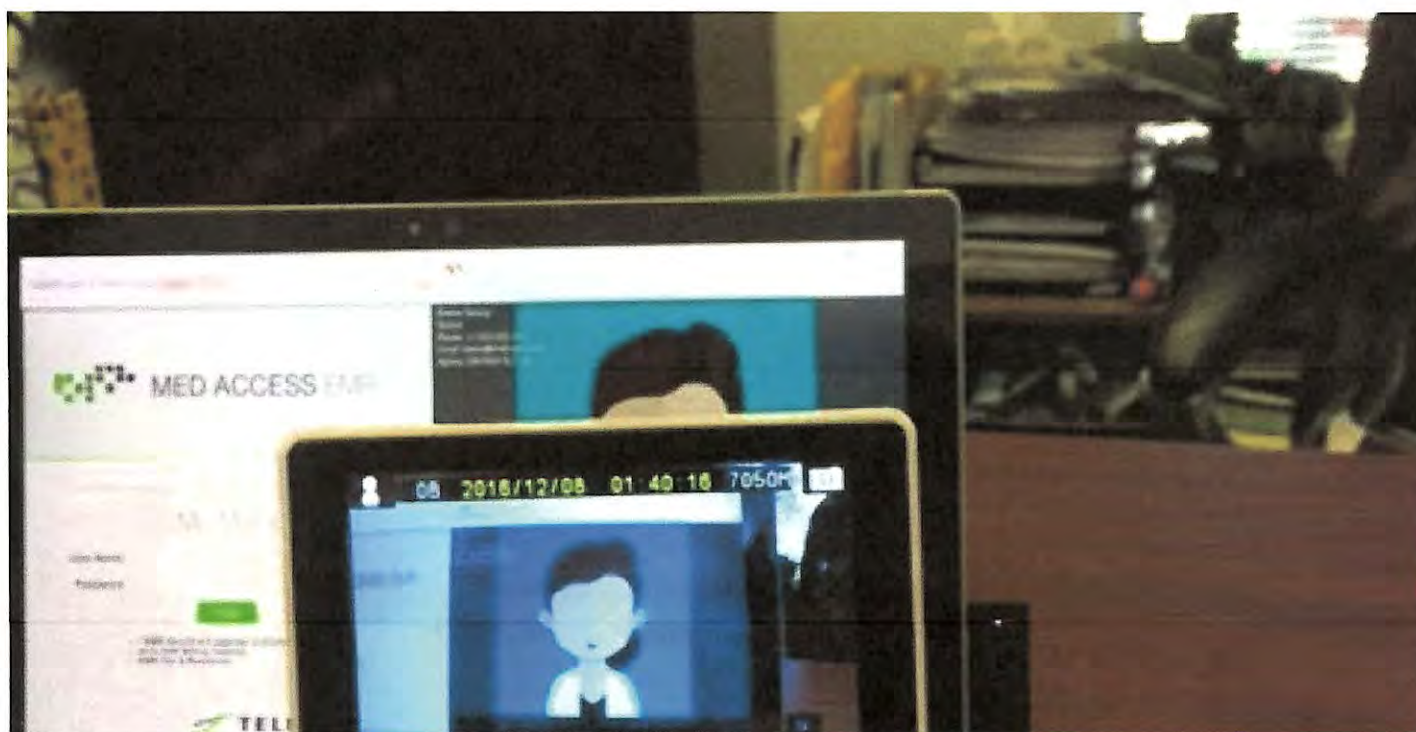
- [Your guide to COVID-19 and its impact on life in Canada](#)
- [Hospitals across Canada face COVID-19 'storm'](#)

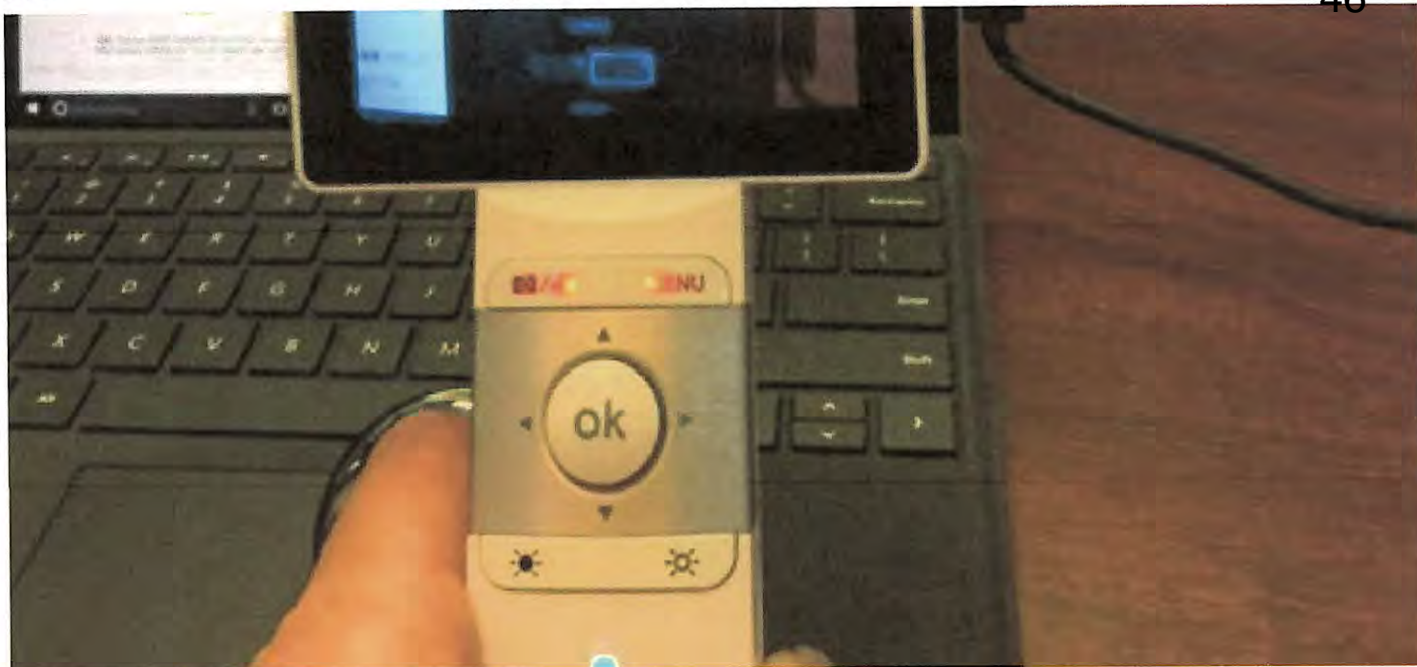
Odermatt said she feels lucky to live five minutes from an ambulance bay, and that a vehicle was ready and waiting to respond. When they arrived at hospital about 10 minutes later, she was surprised to find the ER "eerily quiet."

And that's a good thing, she added, musing on what the alternative could have looked like.

"The whole [next day] I just couldn't stop thinking about: What if the ambulance wasn't there? What if the situation had progressed further and the ambulance was out on other calls? What if I got to the emergency room and it was inundated with people, just full of people in crisis?"

The chance COVID-19 demands could lead to deaths from other causes is real, said Steven Hoffman, a professor of global health, law, and political science at York University, and the scientific director of the Canadian Institutes of Health Research's Institute of Population & Public Health.





An increased reliance on virtual care could also be driving the drop in ER visits. (Bayshore HealthCare Ltd.)

He pointed to a systematic review of studies that examined a surge in health-care demands in West Africa during the Ebola outbreak of 2014 to 2016. It found more people died from lack of health-care access for non-Ebola needs than Ebola itself.

- **MARKETPLACE** 'Spreads like wildfire': More than half of COVID-19 deaths in Canada have been seniors' home residents

"We can put off some elective surgeries and yes, we can defer preventative dental checkups and we can try to encourage the cancellation of general annual appointments without particular needs. But eventually these things all do add up in causing health consequences," said Hoffman.

Dr. Yanick Beaulieu of Montreal's Sacred Heart Hospital also described a drop in ER visits, but suspected that was more due to people heeding isolation directives and avoiding injury rather than an effort to avoid health-care strain or increased reliance on virtual-care.

There's only so much virtual care can address, added the cardiologist and intensive care physician, noting people should still head to the ER for certain problems.



"Any patient that has any important pain — chest pain, shortness of breath — anything that would require going to the ER judged by the patient or their family, they should just come. We'll take care of them," he said.

The long-term impact of today's measures is a question that will be closely watched.

ER visits also declined in Ontario during SARS, with as much as a 45 per cent drop seen in Toronto's "infected" facilities at the outbreak's peak in April 2003, according to the Canadian Institute for Health Information.

They remained low for months afterwards, with a drop of more than five per cent persisting in the Greater Toronto Area eight months later. It was 10 months before visits returned to 2002 levels.

## CBCNEWS Coronavirus Brief

Your daily guide to the coronavirus outbreak. Get the latest news, tips on prevention and your coronavirus questions answered every evening.

Email address:

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Visitez [Radio-Canada.ca](http://Radio-Canada.ca)

# EXHIBIT E

This is Exhibit "E" referred to  
in the Affidavit of

Heinrich Hildebrandt

Sworn before me this 8<sup>th</sup> day

of May A.D., 2020 by video conference

Lisa D.S. Bldy

A Commissioner for Oaths in and for Ontario

LISA D.S. BLDY  
BARRISTER & SOLICITOR

CANADA



## Doug Ford's latest coronavirus update: 'You have saved thousands of lives' (Full transcript)

'The numbers clearly show that we have collectively saved thousands of lives...But we also know that we can't stop now,' says the premier

By Maclean's  
April 3, 2020



Ontario Premier Doug Ford answers questions during the daily briefing on the COVID-19 pandemic at Queen's Park in Toronto on Thursday April 2, 2020. THE CANADIAN PRESS/Frank Gunn

Yesterday, I said you deserve to see the same numbers. You deserve to have the same information I have. I've asked our top officials, some of the brightest minds we have, to provide you with a full briefing on the latest situation. I've asked our experts to provide you with the same briefing, the same information that I have access to as premier.

I want to thank Drs. Anderson, Donnelly, Williams and Brown. These are some of the incredible experts that are working with us, and today you saw some drastic numbers. These numbers are stark and they are sobering. They tell a story. These numbers tell a story of Ontario's fight against COVID-19. And the reality is, the early chapters of our story have already been written. And there's some things that are out of anyone's hands.

But what matters is that the ending of our story is still up to us. And if we work together, we can write the last chapter of our story. Because these forecasts are projections, and they can change—with your actions and with the government's actions.

**READ: *So this is what data transparency on COVID-19 looks like***

your loved ones, because this virus doesn't discriminate. It doesn't care about your race, religion or creed. It doesn't care about your age. Anyone and everyone is at risk.

We all have to ask ourselves, what is the cost of a life? Is a life worth a picnic in a park? Is a life worth going to the beach? Is a life worth having a few cold ones with your buddies in the basement? The answer is no. None of those things is worth as much as a life.

So to everyone in Ontario, we need to listen. We need to listen to what the data tells us. We need to take action. We must take these warnings seriously. I can't stress this enough. The situation is extremely serious.

And we must recognize that the numbers also show that everything we've done so far, everything we've done together since this started is working. And thanks to every person out there listening to the advice of our health professionals. Staying at home, keeping their distance and doing what they can to keep this virus contained.

The numbers clearly show that we have collectively saved thousands of lives. You have saved thousands of lives.

But we also know that we can't stop now. There are 1,600 people out there who need us to do everything we can in the next 30 days to help save them. My government is prepared to take every step possible.

And today I'm asking you to do the same thing. We're moving as quickly as we can and acting immediately as the data changes. And today, we're taking additional steps to flatten the curve. We're announcing the closure of many more sectors of the economy.

I could tell you, this was no easy task. I know that businesses are struggling to stay afloat through these rough waters. But lives are on the line. And we must take this action now. It's frustratingly hard to get, annoyingly difficult to compare and infuriatingly complicated to use to map trends.

Effective Saturday, April the 4th, at 11:59 p.m., we will be directing additional workplaces to close. All industrial construction except for critical industrial construction will stop only necessary infrastructure projects like hospitals and transportation will continue. No new residential construction will start.

Those few sites that will remain open will be placed under the highest level of scrutiny possible. We'll keep coming down hard on the inspections.

We have added more than 60 new inspectors. We have hundreds of inspectors out every day. Over the last week, we have conducted over 583 inspections, we've shut down five construction sites, and we will not hesitate to shut down more because the health and safety of all Ontarians is my number-one priority.

And if we take a step back, we can fully grasp what fighting this terrible virus has cost us. What it has cost us as a province, and as a people. We've all had to make tremendous sacrifices, and none more than our frontline healthcare workers. But everyone has had to pay a price in this war. Daily life has ground to a halt. Companies, workers, have lost their livelihood. And with today's closures, we've told the vast majority of Ontario's workforce to stay home.



But my friends, when I saw those projections, when I saw how many lives we as a province have been able to save so far, I know we all did the right thing. And I know we'd all do it all over again in a heartbeat. Because nothing is worth more than a life.

So please, this weekend will be nice outside, and I know it's hard to do, I know how difficult it is, but please, stay home. Help us write an ending to our story that we can look back on, that our future generations can look back on and be proud of.

Thank you and God bless the people of Ontario.

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# EXHIBIT F

This is Exhibit " F " referred to  
in the Affidavit of

Heinrich Hildebrandt

Sworn before me this 8<sup>th</sup> day

of May A.D., 2020 by video conference

L. Baldy  
A Commissioner for Oaths in and for Ontario

LISA D.S. BILDY  
BARRISTER & SOLICITOR

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**Emergency Management and Civil Protection Act****ONTARIO REGULATION 106/20****ORDER MADE UNDER THE ACT - EXTENSIONS AND RENEWALS OF ORDERS****Consolidation Period:** From May 5, 2020 to the [e-Laws currency date](#).

Last amendment: 199/20.

Legislative History: 138/20, 143/20, 165/20, 199/20.

***This is the English version of a bilingual regulation.***

Whereas an emergency was declared pursuant to Order in Council 518/2020 (Ontario Regulation 50/20) on March 17, 2020 at 7:30 a.m. Toronto time pursuant to section 7.0.1 of the *Emergency Management and Civil Protection Act* (the “Act”);

And Whereas Orders have been made under subsections 7.0.2 (4) and 7.1 (2) of the Act;

And Whereas an Order made under subsection 7.0.2 (4) of the Act may be extended under section 7.0.8 of the Act;

And Whereas an order made under subsection 7.1 (2) of the Act may be renewed under section 7.1 of the Act;

Now Therefore, this Order provides for the extension of the Orders referred to in Schedule 1.

SCHEDULE 1  
EXTENSIONS OF ORDERS MADE UNDER SUBSECTION 7.0.2 (4) OF THE ACT

**Extensions**

1. An Order referred to in Column 1 of the following Table is extended under section 7.0.8 of the Act past its previously applicable revocation date, as set out in Column 2 of the Table opposite the Order, and is revoked on the date set out opposite the Order in Column 3, subject to any further extension under that section.

TABLE

Item	Column 1 Order in Council and date made	Column 2 Previously applicable revocation date	Column 3 Current revocation date
1.	Order in Council filed as O. Reg. 51/20 (Order Under Subsection 7.0.2 (4) of the Act - Closure of Establishments), made March 17, 2020	May 6, 2020	May 19, 2020
2.	Order in Council filed as O. Reg. 52/20 (Order Under Subsection 7.0.2 (4) of the Act - Organized Public Events, Certain Gatherings), made March 17, 2020	May 6, 2020	May 19, 2020
3.	Order in Council filed as O. Reg. 74/20 (Order Made Under Subsection 7.0.2 (4) of the Act), made March 21, 2020	May 6, 2020	May 19, 2020
4.	Order in Council filed as O. Reg. 75/20 (Order Under Subsection 7.0.2 (4) of the Act - Drinking Water Systems and Sewage Works), made March 23, 2020	May 6, 2020	May 19, 2020
5.	Order in Council filed as O. Reg. 76/20 (Order Under Subsection 7.0.2 (4) of the Act - Electronic Service), made March 23, 2020	May 6, 2020	May 19, 2020
6.	Order in Council filed as O. Reg. 77/20 (Order Under Subsection 7.0.2 (4) of the Act - Work Deployment Measures in Long-Term Care Homes), made March 23, 2020	May 6, 2020	May 19, 2020
7.	Order in Council filed as O. Reg. 80/20 (Order Under Subsection 7.0.2 (4) of the Act - Electricity Price for RPP Consumers), made March 24, 2020	May 6, 2020	May 19, 2020
8.	Order in Council filed as O. Reg. 82/20 (Order Under Subsection 7.0.2 (4) - Closure of Places of Non-Essential Businesses), made March 24, 2020	May 6, 2020	May 19, 2020
9.	Order in Council filed as O. Reg. 89/20 (Order Under Subsection 7.0.2 (4) of the Act - Traffic Management), made March 26, 2020	May 6, 2020	May 19, 2020



10.	Order in Council filed as O. Reg. 95/20 (Order Under Subsection 7.0.2 (4) of the Act - Streamlining Requirements for Long-Term Care Homes), made March 27, 2020	May 6, 2020	May 19, 2020
11.	Order in Council filed as O. Reg. 98/20 (Order Under Subsection 7.0.2 (4) - Prohibition on Certain Persons Charging Unconscionable Prices for Sales of Necessary Goods), made March, 27, 2020	May 6, 2020	May 19, 2020
12.	Order in Council filed as O. Reg. 104/20 (Emergency Order Under Subsection 7.0.2 (4) of the Act - Closure of Outdoor Recreational Amenities), made March 30, 2020	May 6, 2020	May 19, 2020
13.	Order in Council filed as O. Reg. 114/20 (Order Under Subsection 7.0.2 (4) of the Act - Enforcement of Orders), made March 31, 2020	May 6, 2020	May 19, 2020
14.	Order in Council filed as O. Reg. 116/20 (Order Under Subsection 7.0.2 (4) of the Act - Work Deployment Measures for Boards of Health), made April 1, 2020	May 6, 2020	May 19, 2020
15.	Order in Council filed as O. Reg. 118/20 (Order Under Subsection 7.0.2 (4) of the Act - Work Deployment Measures in Retirement Homes), made April 2, 2020	May 6, 2020	May 19, 2020
16.	Order in Council filed as O. Reg. 120/20 (Order Under Subsection 7.0.2 (4) of the Act - Access to COVID-19 Status Information by Specified Persons), made April 3, 2020	May 6, 2020	May 19, 2020
17.	Order in Council filed as O. Reg. 121/20 (Order Under Subsection 7.0.2 (4) of the Act - Service Agencies Providing Services and Supports to Adults with Developmental Disabilities and Service Providers Providing Intervenor Services), made April 3, 2020	May 6, 2020	May 19, 2020
18.	Order in Council filed as O. Reg. 128/20 (Order Under Subsection 7.0.2 (4) of the Act - Pick Up and Delivery of Cannabis), made April 7, 2020	May 6, 2020	May 19, 2020
19.	Order in Council filed as O. Reg. 129/20 (Order Under Subsection 7.0.2 (4) of the Act - Signatures in Wills and Powers of Attorney), made April 7, 2020	May 6, 2020	May 19, 2020
20.	Order in Council filed as O. Reg. 132/20 (Order Under Subsection 7.0.2 (4) of the Act - Use of Force and Firearms in Policing Services), made April 8, 2020	May 6, 2020	May 19, 2020
21.	Order in Council filed as O. Reg. 139/20 (Order Under Subsection 7.0.2 (4) of the Act - Child Care Fees), made April 9, 2020	May 6, 2020	May 19, 2020
22.	Order in Council filed as O. Reg. 140/20 (Order Under Subsection 7.0.2 (4) of the Act - Agreements Between Health Service Providers and Retirement Homes), made April 9, 2020	May 6, 2020	May 19, 2020
23.	Order in Council filed as O. Reg. 141/20 (Order Under Subsection 7.0.2 (4) of the Act - Temporary Health or Residential Facilities), made April 9, 2020	May 6, 2020	May 19, 2020
24.	Order in Council filed as O. Reg. 142/20 (Order Under Subsection 7.0.2 (4) of the Act - Closure of Public Lands for Recreational Camping), made April 9, 2020	May 6, 2020	May 19, 2020
25.	Order in Council filed as O. Reg. 145/20 (Order Under Subsection 7.0.2 (4) of the Act - Work Deployment Measures for Service Agencies Providing Violence Against Women Residential Services and Crisis Line Services), made April 14, 2020	May 6, 2020	May 19, 2020
26.	Order in Council filed as O. Reg. 146/20 (Order Under Subsection 7.0.2 (4) of the Act - Limiting Work to a Single Long-Term Care Home), made April 14, 2020	May 6, 2020	May 19, 2020
27.	Order in Council filed as O. Reg. 154/20 (Order Under Subsection 7.0.2 (4) of the Act - Work Deployment Measures for District Social Services Administration Boards), made April 16, 2020	May 6, 2020	May 19, 2020
28.	Order in Council filed as O. Reg. 156/20 (Order Under Subsection 7.0.2 (4) of the Act - Deployment of Employees of Service Provider Organizations), made April 16, 2020	May 6, 2020	May 19, 2020
29.	Order in Council filed as O. Reg. 157/20 (Order Under	May 6, 2020	May 19, 2020

	Subsection 7.0.2 (4) of the Act - Work Deployment Measures for Municipalities), made April 16, 2020		
30.	Order in Council filed as O. Reg. 158/20 (Order Under Subsection 7.0.2 (4) of the Act - Limiting Work to a Single Retirement Home), made April 16, 2020	May 6, 2020	May 19, 2020
31.	Order in Council filed as O. Reg. 163/20 (Order Under Subsection 7.0.2 (4) of the Act - Work Deployment Measures for Mental Health and Addictions Agencies), made April 22, 2020	May 6, 2020	May 19, 2020
32.	Order in Council filed as O. Reg. 177/20 (Order Under Subsection 7.0.2 (4) of the Act - Congregate Care Settings), made April 24, 2020	May 8, 2020	May 19, 2020
33.	Order in Council filed as O. Reg. 190/20 (Order Under Subsection 7.0.2 (4) of the Act - Access to Personal Health Information by Means of the Electronic Health Record), made May 1, 2020	May 15, 2020	May 19, 2020
34.	Order in Council filed as O. Reg. 191/20 (Order Under Subsection 7.0.2 (4) of the Act - Global Adjustment for Market Participants and Consumers), made May 1, 2020	May 15, 2020	May 19, 2020
35.	Order in Council filed as O. Reg. 192/20 (Order Under Subsection 7.0.2 (4) of the Act - Certain Persons Enabled to Issue Medical Certificates of Death), made May 1, 2020	May 15, 2020	May 19, 2020
36.	Order in Council filed as O. Reg. 193/20 (Order Under Subsection 7.0.2 (4) of the Act - Hospital Credentialing Processes), made May 1, 2020	May 15, 2020	May 19, 2020

O. Reg. 106/20, Sched. 1, s. 1; O. Reg. 138/20, s. 1; O. Reg. 143/20, s. 1; O. Reg. 165/20, s. 1; O. Reg. 199/20, s. 1.

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# EXHIBIT G

This is Exhibit "G" referred to  
in the Affidavit of

Heinrich Hildebrandt

Sworn before me this 8<sup>th</sup> day

of May A.D., 2020 by video conference

Lisa D.S. Bilty  
A Commissioner for Oaths in and for Ontario

LISA D.S. BILTY  
BARRISTER & SOLICITOR



# **A Framework for Reopening our Province**

April 27, 2020

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## A Framework for Reopening our Province

The impacts of the COVID-19 outbreak have been felt across Ontario, by families, workers, businesses and communities.

By working together and following the advice of public health experts, together we made steady progress in the fight against this deadly virus. Modelling in mid-April 2020 shows early signs that enhanced public health measures — including staying home, physical distancing and hand washing — are working to stop the spread of the virus and flatten the curve of the outbreak. By following these simple steps, everyone across the province is making a positive difference.

It has been a slow and steady fight, but every victory Ontario has made against COVID-19 belongs to our heroic health care workers on the frontlines of this pandemic, essential businesses and workers, those stepping up to produce much-needed medical gear, and the regular people making extraordinary sacrifices to keep their families, friends and communities safe.

While the situation is still evolving, Ontario continues to work with its partners to keep people healthy and provide support for the families, individuals and businesses struggling as a result of the necessary measures taken in response to COVID-19 and to plan for what comes next.

And now, led by the Chief Medical Officer of Health and the work of the Ontario Jobs and Recovery Committee, the government is planning for what comes next.

*A Framework for Reopening our Province* lays out the government's approach to the next chapter in the ongoing fight to defeat COVID-19. It outlines the principles the government will use to reopening businesses, services and public spaces in gradual stages. It also explains the criteria Ontario's Chief Medical Officer of Health will use to help advise the government on when it is safe to begin loosening public health restrictions. And it highlights the government's commitment to continue providing guidance and advice as workplaces prepare to reopen, including businesses deemed essential that voluntarily chose to temporarily shut down.

Thanks to the hard work of public health professionals and frontline heroes, and the ongoing commitment of the people of this province, Ontario is confident that together we will continue to make progress in our fight to contain and defeat this deadly virus. This framework provides a roadmap for people and businesses, so they know what to look for as the province moves forward. Together, Ontario will emerge from this crisis — with a clear path to economic recovery that keeps people safe and healthy.

# Ontario's Response to COVID-19

## Phase 1: Protect and Support



The government's primary focus is on protecting the health and well-being of individuals and families, supporting frontline health care workers, essential workers and businesses, and providing immediate support to protect people and jobs. This is demonstrated through the \$17-billion [Ontario's Action Plan: Responding to COVID-19](#) and ongoing government actions, such as increased pay for frontline workers during the pandemic.

Emergency orders put in place to protect people include: the closure of non-essential workplaces, outdoor amenities in parks, recreational areas and public places, as well as bars and restaurants; restrictions on social gatherings; and limiting staff from working in more than one retirement home, long-term care home or congregate care setting.

## Phase 2: Restart



The government will take a careful, stage-by-stage approach to loosening emergency measures and reopening Ontario's economy. Public health and workplace safety will remain the top priority, while balancing the needs of people and businesses. Public health officials will carefully monitor each stage for two-to-four weeks, as they assess the evolution of the COVID-19 outbreak to determine if it is necessary to change course to maintain public health. The government will also continue to issue guidelines for workplace safety.



## Phase 3: Recover



Ensuring the health and safety of the public and workers will continue to be a top priority as Ontario transitions to a "new normal." The government will partner with businesses and other sectors to lead Ontario's economic recovery. The focus will be on creating jobs and opportunity across the province, while working to restore long-term prosperity for the benefit of every individual and family in Ontario.



## State of Play in Ontario's Response to COVID-19

The government acted immediately and decisively to slow the spread of COVID-19 and protect the health and safety of the people of Ontario. Thanks to these actions, the latest expert modelling projects that the wave of new community spread of COVID-19 cases has started to peak as Ontario's outbreak is now trending positively.

- **January 24** Minister's Order made the novel coronavirus a reportable disease
- **January 25 – ongoing** Rapid testing ramp-up  
Aggressive case and contact management of all confirmed cases
- **March 12** Closure of public schools
- **March 13** Essential visitors only in long-term care and other congregate care settings  
Stop cycling of intermittent inmates and personal visits in correctional facilities  
Prohibit gatherings over 250 people
- **March 16** Practice physical distancing  
Self-isolate for 14 days if travelled outside Canada  
Prohibit gatherings over 50 people  
Make virtual work arrangements where possible
- **March 17** Emergency Declaration  
Closure of public places and establishments
- **March 21** Work deployment for health services providers
- **March 24** Closure of non-essential workplaces  
Work deployment for long-term care homes
- **March 25** Prohibit gatherings greater than five people  
Release of the \$17-billion *Ontario's Action Plan: Responding to COVID-19*
- **March 30** Closure of parks and outdoor recreational amenities  
Limit outings to essential needs  
Self-isolation for those over 70, with compromised immune systems or underlying medical conditions
- **April 2** Enhance capacity for contact-tracing
- **April 3** Revised essential workplaces list
- **April 9** Prohibit camping on Crown land
- **April 11** Work deployment for service organizations, municipalities and their service providers
- **April 14** Extension of Emergency Declaration for 28 days
- **April 15** Release of *COVID-19 Action Plan for Long-Term Care Homes*, including the Emergency Order restricting staff from working in more than one setting
- **April 22** Ontario requests military support for long-term care homes
- **April 23** Release of *COVID-19 Action Plan for Vulnerable People*
- **April 25** Ontario provides pandemic pay for frontline heroes
- **April 27** Release of *A Framework for Reopening our Province*

## Principles of the Framework

Ontario's plan to begin to responsibly lift public health measures and restart the economy will be guided by the advice of the Chief Medical Officer of Health and public health officials, and will be based on the following principles:



**Responsible:** Public health and protecting the people of Ontario, especially those who are most vulnerable and at high-risk, will continue to be paramount and guide a gradual approach to loosening public health measures.



**Evidence-informed:** Emerging scientific knowledge, public health data, defined criteria and consistent measures will inform the actions of the government, regions and sectors.



**Resourced:** Sufficient health system capacity to respond to any resurgence in COVID-19 infections will be required to protect health care workers and the public and maintain the regular health system.



**Monitored:** Public health capacity for rigorous testing, timely contact tracing and case management will need to be in place.



**Responsive and Effective:** Measures will be implemented quickly, clearly and efficiently, based on health capacity, safety and economic needs, and the need to tighten or restrict measures if surges or further outbreaks occur.



**Clear:** Plans and responsibilities for individuals, employers and the health care system will be clear, well-communicated by government and ready to implement.

Flexibility and the ability to adapt to changing circumstances are essential to the province's continued success. As the situation evolves, these principles will guide the actions and direction the government takes to reopen Ontario and its economy.



## Determining When to Ease Public Health Measures

Ontario's Chief Medical Officer of Health will consider the following criteria to advise when the province can begin to ease public health measures:



### Virus spread and containment



### Health system capacity



### Public health system capacity

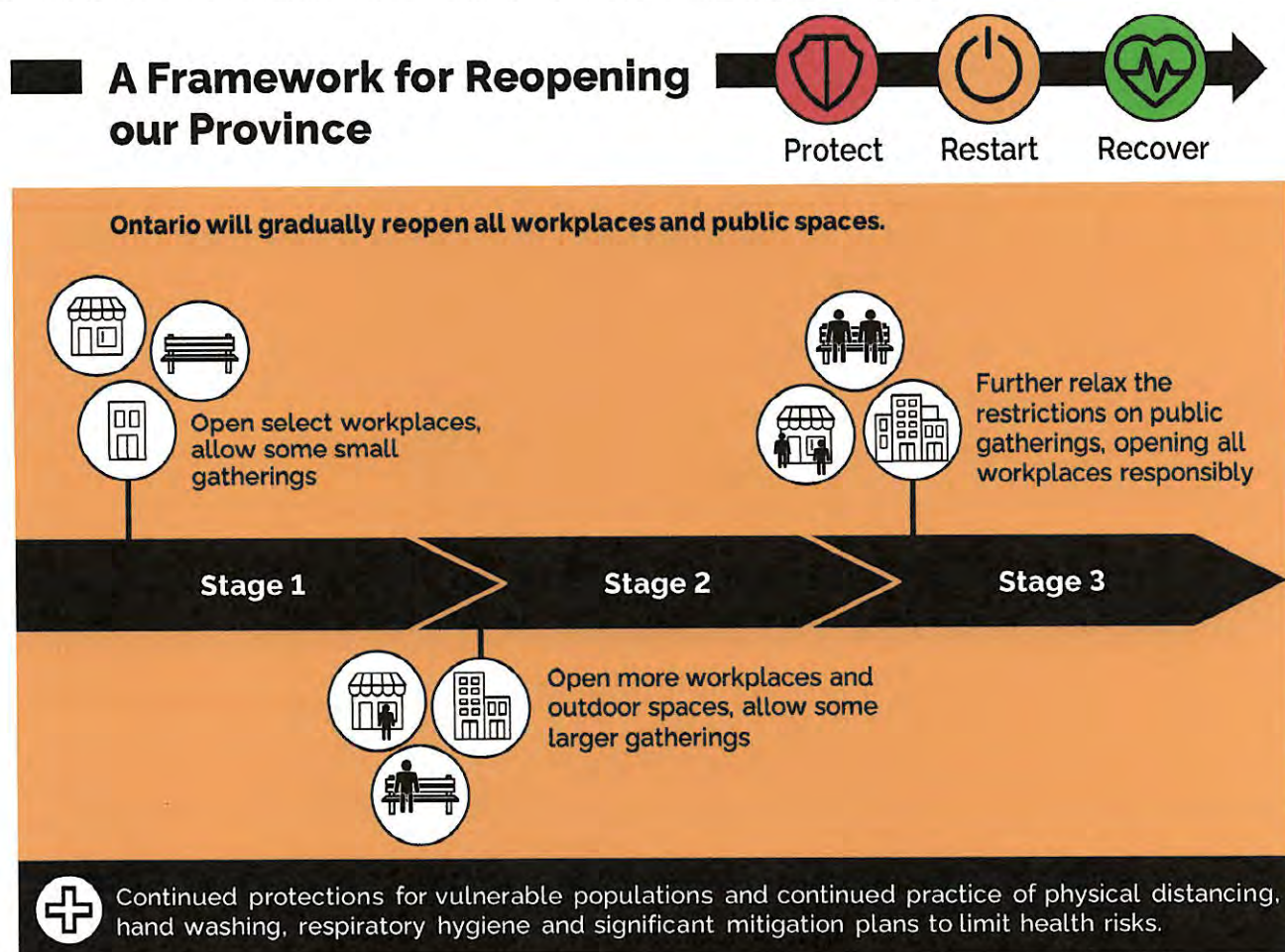


### Incidence tracking capacity

Ensures loosening of measures is appropriately timed with the progression of the epidemic in Ontario.	Ensures there is an effective response to any potential case resurgence.	Ensures there is an effective public health response to any potential case resurgence.	Ensures that any potential resurgence in cases can be identified promptly.
<ul style="list-style-type: none"> <li>• A consistent two-to-four week decrease in the number of new daily COVID-19 cases.</li> <li>• A decrease in the rate of cases that cannot be traced to a source.</li> <li>• A decrease in the number of new COVID-19 cases in hospitals.</li> </ul>	<ul style="list-style-type: none"> <li>• Sufficient acute and critical care capacity, including access to ventilators, to effectively respond to potential surges.</li> <li>• Ongoing availability of personal protective equipment (PPE) based on provincial directives and guidelines.</li> </ul>	<ul style="list-style-type: none"> <li>• Approximately 90 per cent of new COVID-19 contacts are being reached by local public health officials within one day, with guidance and direction to contain community spread.</li> </ul>	<ul style="list-style-type: none"> <li>• Ongoing testing of suspected COVID-19 cases, especially of vulnerable populations, to detect new outbreaks quickly.</li> <li>• A shift to new and other ways of testing and contact tracing to promote widespread tracking of cases.</li> </ul>

As the province eases public health measures, these criteria will also serve as the framework for ongoing monitoring of progress and identifying when a change in direction is required. For example, the Chief Medical Officer of Health may also advise reapplying certain public health measures to manage the risk of recurring surges, outbreaks or future waves.

## Phase 2: Restart — A Gradual, Staged Approach



The government will reopen Ontario businesses and public spaces gradually. This will be based on the advice of the Chief Medical Officer of Health, including the criteria and thresholds detailed above. Each stage will last for approximately two-to-four-week periods to allow for close monitoring of any impacts or potential resurgence of cases.

After each two-to-four-week period, the Chief Medical Officer of Health may advise to:

- Reapply or tighten certain public health measures in response to a surge in cases or outbreaks;
- Maintain status quo and continue close monitoring of impacts; or
- Progress to the next two-to-four-week stage.



As public health measures are lifted and as economic activity resumes, the public will need to continue to maintain physical distancing and hand washing, along with self-isolation when experiencing COVID-19 symptoms. Remote work arrangements should continue where feasible.

By taking this incremental approach, the government can ensure there are appropriate measures in place to reopen the province safely and limit any risks to people and public health. Each stage requires careful assessment and monitoring to know whether to adjust, tighten or loosen measures.

## Supporting Children and Parents

The government is committed to keeping children across Ontario safe. In considering how to reopen Ontario's economy, the government recognizes the important needs of both parents and children in relation to public health decisions about when and how to open schools and child care centres. As with all other measures, the government will proceed slowly and in phases, based on the best advice from the Chief Medical Officer of Health. In reopening, the government will ensure the safety of children and educators by ensuring adherence to public health guidelines.

## Reopening in Stages

Examples of the government's gradual approach to reopening Ontario include:

### Stage 1

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Initially, consider:



For businesses that were ordered to close or restrict operations, opening select workplaces that can immediately meet or modify operations to meet public health guidance and occupational health and safety requirements (e.g., curbside pick-up or delivery).



Opening some outdoor spaces like parks and allow for a greater number of individuals to attend some events, such as funerals.



Continued protections for vulnerable populations and the continued practice of physical distancing, hand washing and respiratory hygiene, and significant mitigation plans to limit health risks. Hospitals beginning to offer some non-urgent and scheduled surgeries and other health care services.

## Stage 2

If the initial loosening of public health measures is successful, consider:



Opening more workplaces, based on risk assessments, which may include some service industries, and additional office and retail workplaces.



Opening more outdoor spaces and allowing some larger public gatherings.



Continued protections for vulnerable populations and the continued practice of physical distancing, hand washing and respiratory hygiene, and significant mitigation plans to limit health risks.

## Stage 3

If the loosening of public health measures continues to be successful, consider:



Opening all workplaces responsibly



Further relaxing the restrictions on public gatherings. Large public gatherings such as concerts and sporting events will continue to be restricted for the foreseeable future.



Continued protections for vulnerable populations and the continued practice of physical distancing, hand washing and respiratory hygiene, and significant mitigation plans to limit health risks.

This ongoing, gradual assessment of public health measures will continue until the post-pandemic period when a vaccine or treatment for COVID-19 is available. This staged approach reflects Ontario's "new normal."

This framework allows the government to prioritize the needs of individuals and families across the province, while balancing economic and social benefits and keeping people safe. To help businesses and services restart, key factors the government will consider include the risk of spread of the virus and the ability to implement protective measures to keep workplaces safe.

In the coming days, the Ontario Jobs and Recovery Committee, as well as Members of Provincial Parliament (MPPs), will begin holding discussions with business associations, chambers of commerce, municipal leaders, the postsecondary sector, corporate leaders, small business owners, community and social service providers, Indigenous partners, Franco-Ontarians, entrepreneurs and others. This will enable Ontario to better understand the unique impacts of COVID-19 that each region and each sector is facing, as well as what they need to succeed as Ontario progresses through the stages of reopening toward the recovery phase.



## Making Workplaces Safe

The health and safety of workers is the government's top concern. As public health measures are adjusted, ensuring workplaces are safe for employees and customers will be essential. All employers and workers will be required to follow directives and guidelines on COVID-19, including measures that may restrict certain activities.

In fact, many key sectors deemed essential have remained open during the COVID-19 outbreak, following strict guidance to help their employees stay safe. It is vital that they continue to do so. The government will rely on their expertise and, in many cases, global experience to serve as a model for how other businesses adjust their operations for a new environment. The government will help with a range of advice and support.

Safe workplaces must have a plan that promotes and adheres to strict hygiene and sanitation standards, and physical distancing to the extent possible. These are key factors to resume activities safely. The use of measures to limit risks include adjusting work practices and physical environments. This applies to workplaces that are allowed to reopen, as well as businesses deemed essential but that voluntarily chose to shut down, recognizing they may decide to resume operations before entering the first stage.

The government, in partnership with Ontario's Health and Safety Associations and based on input from public health officials, will provide guidelines to employers on how to open safely and protect their employees and customers. Documents will be made available across many sectors, as well as training to provide guidance to workplaces entering the restart phase. This may include webinars and other distance learning tools. These resources will build on the guidelines provided to essential workplaces, which have enabled those businesses to adapt and remain open.

Ontario has added more workplace inspectors and specialists to ensure workers continue to be protected on the job during the pandemic, including adding close to 60 new frontline officials to support employers and workers in the field. The capacity of Ontario's Health and Safety Call Centre has also been doubled. Workers who are worried their workplaces are unsafe can phone 1-877-202-0008. Regular updates will also be provided on the number of workplace inspections and work orders taking place across the province.

Throughout the reopening phase, Ontario will continue the "Team Canada" approach to understand the measures and steps other jurisdictions are taking, to coordinate where possible, and reduce barriers to interprovincial business activities.

## Protecting Vulnerable Populations

Nothing is more important than protecting the health and well-being of the people of Ontario, especially the province's most vulnerable populations. Seeing the impact of COVID-19 on seniors and vulnerable people has been heartbreaking.

As Ontario gradually loosens public health restrictions and economic activity resumes, the government will continue to use every resource available to support the province's long-term care homes to stop the spread of COVID-19, with a special focus on those long-term care homes experiencing outbreaks and in need of urgent support.

The [\*COVID-19 Action Plan for Protecting Long-Term Care Homes\*](#) is helping to stop and contain the spread of COVID-19 in the province's long-term care and retirement homes. The government has introduced more aggressive testing, screening and surveillance, deployed specialized teams from hospitals, public health and the home care sector, recruited additional frontline staff, and increased personal protective equipment.

Ontario is also implementing its [\*COVID-19 Action Plan for Vulnerable People\*](#) to better protect people living in high-risk settings including homes serving those with developmental disabilities, shelters for survivors of gender-based violence and human trafficking, and children's residential settings. This includes Indigenous residential settings for children and youth, shelters and other high-risk settings on- and off-reserve.

New measures have been put in place to enhance screening and testing, help reduce exposure to COVID-19, prevent the spread of the virus and increase infection control measures. This plan builds upon the initiatives that were put in place at the outset of the COVID-19 outbreak.

## A Path to Recovery

Through each stage of *A Framework to Reopening our Province*, the government's number one priority will continue to be the health and well-being of the people of Ontario. But recovery from COVID-19 doesn't just mean stopping the spread — it also means setting up Ontario to help create jobs, prosperity and growth well into the future.

As we prepare to reopen Ontario's economy, it is more important than ever to follow public health advice. Everyday actions to reduce exposure and protect people's health, such as physical distancing, frequent hand washing and staying home when ill, continue to be crucial in Ontario's fight against COVID-19. We cannot afford to let up our efforts now and undo all of the progress we have made. Together, we are making a difference.

Ontario is resilient. With everyone doing their part and the heroic efforts of frontline health care workers, our efforts against COVID-19 are working. Now, the government is preparing for the weeks and months ahead, to responsibly lead Ontario's economy back to a strong position. The Ontario Spirit will continue to guide us through these challenging times.

The perseverance of the people of Ontario has always been our province's strength. With a clear framework to help guide the loosening of emergency measures, and with the continued support of the people of this province, Ontario stands ready to tackle the next chapter in the fight against COVID-19.

### Additional resources

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- [Learn more about the first phase of Ontario's Action Plan: Responding to COVID-19.](#)
- [Learn more about the COVID-19 Action Plan for Vulnerable People.](#)
- [Learn more about the COVID-19 Action Plan for Protecting Long-Term Care Homes.](#)
- [Visit Ontario's website to learn more about how the province continues to protect the people of Ontario from COVID-19.](#)
- [See how your organization can help fight COVID-19 through Ontario Together.](#)
- [Information and advice to help your business navigate the economy during COVID-19.](#)



# EXHIBIT H

This is Exhibit "H" referred to  
in the Affidavit of

Heinrich Hildebrandt

Sworn before me this 8<sup>th</sup> day

of May A.D., 2020 by videoconference.

L.S. Bilty  
A Commissioner for Oaths in and for Ontario

LISA D.S. BILDY  
BARRISTER & SOLICITOR

# Venue Church hosts Easter services at the drive-in

71

Category: [Local News](#)

Published: Saturday, 11 April 2020 09:56

Written by Keith Leask



*Venue Church Pastor Cory Kope (Credit: Venue Church Facebook)*

Organizations around the world are trying to adapt to a new normal during the COVID-19 pandemic.

In times of social-distancing and isolation, they've had to do that. Most church worship services have gone online as congregations have been forced to stay home. Tomorrow though, for Easter Sunday, you can get in your car and drive to church once again.

The only thing is, you have to stay in your car.

Venue Church of Airdrie is hosting four Easter worship services in a drive-in church format tomorrow. Pastor Cory Kope explains that it's all approved by Alberta Health Services, with the concept actually endorsed by Alberta's Chief Medical Officer Dr. Deena Hinshaw.

"We've been working with a representative from Alberta Health. I was extensively on the phone with her. In talking with her, and Dr. Hinshaw actually mentioned this in the last couple of weeks a drive-in church, sort of like a drive-in movie used to be. So we thought, 'what if we do a 20 foot LED wall and sort of pipe the sound right into people's cars?' So we

kind of came up with a plan with our Alberta Health representative and the final okay came through on Monday so we've been kind of spinning it real quick ever since then."

People who come to the services will be isolated in their cars. Not only did the AHS rep approve the church doing this, she actually encouraged them to have drive-in church. "Her words to me were, 'please, please, do something like this because people for their mental health need to get outside and get out of their houses right now.'"

Kope says the service will consist of worship segments that their teams put to video in the Venue studio before things shut down several weeks back. At that time he also put his Easter sermon to video in anticipation of the changing times. "It's kind of like a whole Easter worship experience that will happen every hour during that time. Everybody will stay in their cars and we have some ingenious ways to enforce that although, I don't think that's going to be a problem honestly because people want to be safe and that's our ultimate concern for people."

Four services will take place you'll at 8:30 am, 9:30 am, 10:30 am and 11:30 am. The church revealed today that they'll be held at 77 Gateway Drive. More details at [venuechurch.ca](https://venuechurch.ca),

Easter is the most important date on the faith community's calendar and Kope believes it's also very important that people have the opportunity to gather together, even if they do it from the safety of their cars.

"Dr. Hinshaw has mentioned in a phone call to religious leaders that she considers the faith community to be an essential service to people. It's their support group, it's their mental health, it's their spiritual health I would say. They don't necessarily have the luxury of picking and choosing and say 'let's just deal with the COVID outbreak.' They're actually concerned with other things happening in the community. I would suggest, part of those things is the deep need in the heart of people of faith to get out and worship on Easter Sunday."

**Send your news tips, story ideas and comments to [news@discoverairdrie.com](mailto:news@discoverairdrie.com)**

- COVID-19

FILED 7/3



## NEWS

# Saskatchewan gov't reverses ban on drive-in religious services after legal challenge

*The Saskatchewan Health Authority was challenged to rescind its order banning drive-in religious services.*

Mon Apr 20, 2020 - 5:30 pm EST



*By LifeSiteNews.com*

***Urgent appeal to the bishops of the world: Feed your flock [Sign the petition here.](#)***

NIPAWIN, SK, April 20, 2020 April 20, 2020 (LifeSiteNews) – The Government of Saskatchewan has reversed the decision of the Saskatchewan Health Authority prohibiting drive-in religious services, and instead issued guidelines which recognize the right for churches



to hold such services with appropriate safety precautions.

On Tuesday, April 14, 2020, the Justice Centre wrote a letter challenging the Saskatchewan Health Authority for its decision to categorize drive-in religious services as “mass gatherings” in violation of Saskatchewan's Public Health Order.

The Justice Centre's letter stated:

“The Covid-19 outbreak does not, however, suspend the exercise of the Charter. The restriction of public religious gatherings in which people exclusively occupy their personal vehicles on a parking lot while worshiping is irrational, unnecessary and not a minimal impairment of Charter rights.”

Prior to Easter, the Nipawin Apostolic Church had carefully planned a drive-in Easter service, in the same format as a drive-in movie, ensuring that social distancing would be observed. The church requested people stay in their vehicles and to listen to the service and participate in worship via their radios. Car windows would remain closed, and people could flash their car lights instead of saying “Amen.”

The Saskatchewan Health Authority deemed the church's Easter drive-in service a “mass gathering” in violation of the Public Health Order. The church was forced to cancel the planned drive-in church service, or face the risk of the church and its parishioners being penalized with steep fines. The Health Authority decision was ostensibly based on a concern that attendees would leave their vehicles and engage in personal interactions without social distancing.

On Saturday, April 18, 2020, the Saskatchewan Government released new guidelines conceding that drive-in services can occur with appropriate safety measures.

“The *Charter* protects freedom of religion, association and assembly not only in good times, but also, and especially, in difficult times,” stated Jay Cameron, Litigation Manager for the Justice Centre for Constitutional Freedoms.

“Given the presence of reasonable safety measures, the restriction of such assembly for religious worship is illegal. We appreciate the Saskatchewan government's reasoned and rational revision to its policies on this issue.”

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News

## What does the non-critical business closure mean for churches? (/news/what-does-the-non-critical-business-closures-mean-for-churches)

Written by Mike Thom

Published: 31 March 2020



*Minister Cameron Friesen says that gathering in-person for church is out, but that doesn't mean the Church can't gather. (Screenshot: Manitoba Government/YouTube)*

Manitoba's Minister of Health, Seniors and Active Living Cameron Friesen spoke with CHVN on Tuesday afternoon to clarify what Manitoba's latest measures in fighting COVID-19 mean for churches.

On Monday the province announced that all non-critical businesses must close from April 1 until April 14. That left many churches and staff wondering if they can still stream services with a small team, continue to take in food and monetary donations, or to get creative with things like drive-in prayer and worship gatherings.

## Listen to the full conversation:

0:00 / 7:10

## Can churches still stream worship gatherings from their building?

### **The short answer: Yes**

Friesen wants to remind Manitobans that they should be staying home as much as possible, washing their hands often, and maintaining good physical distancing practices.



That said, he points out that the same restrictions on public gatherings, including worship gatherings, remain in place as before. "We're advising people that gatherings be limited to people of 10 or less. So that means church is out, but that doesn't mean that the Church cannot gather, it can gather virtually."

Friesen says that includes the worship service is facilitated by a small team from the church's building. "Provided that in the church those who are organizing and facilitating the service are numbered 10 or less and are observing social distancing requirements," then churches can continue to stream from their building.

He says that he and his family have been enjoying watching church online together.

## Can churches host 'drive-in gatherings'

**The short answer: Yes**

Churches have been getting creative in gathering people for prayer and worship. Last week, Kilcona Park Alliance church had dozens of vehicles show up ([/christian-news/church-hosts-drive-in-prayer-meeting](#)) for an early morning prayer meeting. On Sunday night Springs Church held a worship gathering, complete with drive-in movie screen, that had over 500 vehicles attend.

Friesen says he loves the creativity of Manitobans and encourages it so long as they are being safe doing so.

That means people cannot leave their vehicles, and should not even roll down their windows to talk to one another.

## Can churches open to accept donations

**The short answer: Yes**

Manitobans are well-known for their generosity, and Friesen says we need to continue to be so.

"We see the Church stepping in at this time and wanting to marshall resources and help out, and that doesn't need to stop. So my answer would be, can churches still accept food donations - canned and non-perishable foods? Absolutely they can."

Friesen says COVID-19 is spread through close contact with an infected person or by touching surfaces that have been contaminated by an infected person. That means if churches are accepting donations then they should take steps to protect themselves and others. He suggests among other things that churches should:

- Disinfect and sanitize surfaces
- Make sure people wear disposable gloves
- Wash hands often
- Ensure people are practicing proper physical distancing
- Set up curbside dropoffs if possible so there is no face-to-face interaction

[Prev \(/news/covid-19-leaving-those-in-domestic-abuse-situations-isolated\)](#)

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## N.B. churches transition to drive-in services as province eases COVID-19 restrictions

[Laura Lyall](#)

Videographer

[@LauraLyallCTV](#) | [Contact](#)

Published Monday, April 27, 2020 10:43AM ADT

Last Updated Monday, April 27, 2020 10:44AM ADT



SHARE  33 |   

QUISPAMISIS, N.B. -- Churches in New Brunswick are finding unconventional ways to worship as the province eases its COVID-19 restrictions.

Among them are outdoor religious services, which are now being allowed, as long as the proper precautions are taken.

Sunday service looks a lot different these days at the First Bible Baptist Church in Quispamsis, N.B., with a sound system set up outside and parishioners worshipping from the parking lot.

### Related Stories

- **'Welcome to the new normal;' New Brunswick loosens some public health restrictions**
- **New Brunswick businesses prepare to reopen in new reality**

"We call it drive-in church," says Mark Thren, staff evangelist at First Bible Baptist. "What we do is we have folks in their vehicles, and we have our worship service here, and we're trying to adapt."

Trying to adapt using creative alternatives is the new normal of physical distancing in the time of COVID-19.

"It's just a way that we can still assemble as a church, still hear God's word, still sing, still be able to see each other," describes Thren. "Even though we can't shake hands in fellowship like we're used to, we could still spend time in the same place."

Other churches in New Brunswick held similar services this weekend.

The green light to hold outdoor services was given to religious groups by the provincial government on Friday, as it starts to [relax some of its COVID-19 restrictions](#).

"As an alternative to online worship, religious organizations can hold outdoor services if parishioners stay in their vehicles at all times, and the vehicles are spaced two metres apart," explained N.B. premier Blaine Higgs at an April 24 news conference.

The province has also introduced a guidance document for its recovery plan, which lays out the health measures for those who have been allowed to open up during this first phase, including guidelines for outdoor religious services."

Other churches in New Brunswick held similar services this weekend.

"I know that in speaking to different members of our congregation over the three weeks that we couldn't get together in a way like this, that they were missing it desperately," says First Bible Baptist Pastor Robert Conrad.

Pastor Conrad praises the work so far by the province in navigating this pandemic.

"The evidence was available that they could clear those restrictions up, and they are, little-by-little," says Conrad. "I appreciate that, and I thank God for allowing us to be back together again."

Back together, but safely separated.

## RELATED IMAGES



Sunday service looks a lot different these days at the First Bible Baptist Church in Quispamsis, N.B., as they held their first drive-in service on Sunday.

SHARE  33 |   



# EXHIBIT I

This is Exhibit "I" referred to  
in the Affidavit of

Heinrich Hildebrandt

Sworn before me this 8<sup>th</sup> day

of May A.D., 2020 by video conference

L.S. Bilty  
A Commissioner for Oaths in and for Ontario

LISA D.S. BILDY  
BARRISTER & SOLICITOR

# Coronavirus: Amid lockdowns, Aylmer church and police clash over drive-in service

Dale Carruthers

April 23, 2020 • 4 minute read



## TRENDING

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Developer wins lengthy battle to demolish building in London here

COVID-19: City hall lays off 200 full-time workers amid budget crunch

COVID-19: Mayor's latest report on progress on dozens of London plans

Letters to the Editor: May 8



Here's the key difference between the 2020 Toyota 4Runner TRD Pro

and Jeep Wrangler

The Southwestern Ontario church held a drive-in service Sunday when congregants pulled into the parking lot and listened to the sermon through their radios, prompting local police to warn church officials there will be legal consequences if any future services are held.

That's left Hildebrandt questioning whether Ontario's emergency law, slapped in place to halt the spread of the coronavirus, is an attack on freedom of religion.

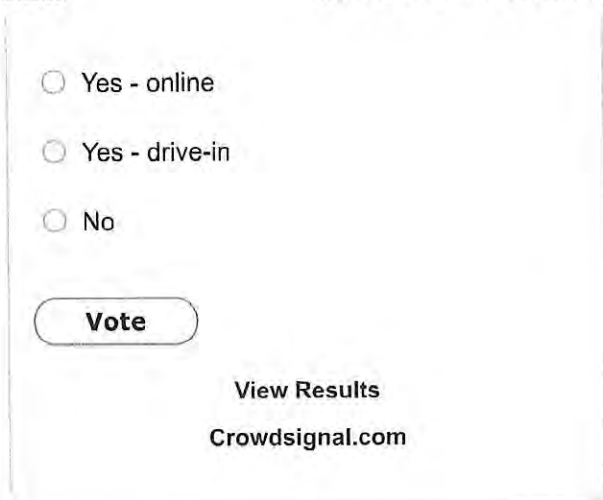
"The Bible teaches Christians to be good citizens and obey the reasonable demands of our government. It does not, however, teach blind obedience to the authorities when onerous restrictions are placed on our freedoms," Hildebrandt said in a statement .

"In fact, we are guaranteed the right to religious freedom and peaceful assembly in the Canadian Constitution, subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society. We now find ourselves debating what constitutes a justifiable, reasonable limit," Hildebrandt said.

STORY CONTINUES BELOW

**Are you still attending church services during the pandemic?**





☐ Yes - online

☐ Yes - drive-in

☐ No

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Crowdsignal.com

Church officials gave Aylmer police advance notice of the drive-in service — a similar gathering was also held Easter Sunday — but police contacted the church Monday to say a consultation with the provincial prosecutor determined the gatherings breach Ontario’s emergency order, Hildebrandt said.

Aylmer police Chief Zvonko Horvat said he’s instructed his officers to lay charges under the Emergency Measures and Civil Protections Act against any faith-based organizations that break the order banning gatherings of more than five people.

“We’re just waiting to see whether it happens in the future in terms of those types of gatherings,” Horvat said, declining to name any specific place of worship.

STORY CONTINUES BELOW

“Should there be further violations, we will take the enforcement approach,” he said.

A photo posted to Facebook showing the packed parking lot Sunday sparked online outrage, but many who commented on the post mistakenly thought people were inside the building at 751 John St. N.

Church officials say the photo, which was shared more than 700 times and generated nearly 300 comments, was taken out of context because all congregants stayed inside their vehicles and kept their windows rolled up.



The Church of God in Aylmer hosted a drive-in service on Sunday that prompted complaints to police. DALE CARRUTHERS / THE LONDON FREE PRESS

“Strict guidelines were prescribed prior to the service and compliance was strictly enforced by our team. The service itself was conducted by five persons from an open-air platform that was visible to those in the parking lot,” Hildebrandt said, adding the building, including bathrooms, remained closed.

STORY CONTINUES BELOW

A sign posted on the church doors Wednesday said it's closed until further notice due to Ontario's state of emergency. Also posted was a note from Southwestern Public Health, the area public health office, warning people to practise social distancing and saying public and private schools are closed until May 4.

Under Ontario's state of emergency, only businesses deemed essential are allowed to operate. Those businesses include grocery stores, pharmacies, liquor stores, restaurants doing takeout and delivery, gas stations, hotels and other operations.

"Now, we find ourselves confronted with a much greater dilemma than just deciding on what we do next Sunday. The question is, what is essential?" Hildebrandt said.

STORY CONTINUES BELOW

"If faith and the communal expression of faith are not essential while ensuring physical contact guidelines are maintained, then is this an attack on faith?

Church officials say they're considering whether to hold another drive-in service Sunday.

A similar showdown played out earlier this month in Nipawin, in northeast Saskatchewan, where health officials ordered a church not to hold a drive-in Easter service.

Horvat, who has assigned an inspector to oversee compliance, said police will run patrols near the church on Sunday.





A photo taken by a drone shows members of the Church of God in Aylmer gathered on Sunday morning for a drive-in service. Congregants listened to the service on their radios and were required to stay in their vehicles with the windows up. (Church of God photo)

“We’re going to be monitoring it,” he said.

Those caught breaking Ontario’s emergency orders could get slapped with a \$750 ticket. In more serious cases involving a court summons, convictions carry a maximum fine of \$100,000 and up to one year in jail. The fine increases to \$500,000 for company directors and \$10 million for corporations.

STORY CONTINUES BELOW



Hildebrandt questioned why people are allowed to flock to grocery, beer and liquor stores, but they can't attend a drive-in church service with stringent safety measures.

"Yet, it is our faith community that is singled out for public criticism, false accusations and a directive to cease any active operations, whether they follow the guidelines provided by the government or not," he said.

"It is imperative that we find a resolution to this as quickly as possible. There must be an allowable expression of faith that is deemed essential while we are allowing the interaction of customers at establishments that exist solely for the sale of alcohol, coffee, doughnuts and fast food."

Established in 1990, the Aylmer branch of the Church of God has around 250 congregants.

[dcarruthers@postmedia.com](mailto:dcarruthers@postmedia.com)

# EXHIBIT J

This is Exhibit "J" referred to  
in the Affidavit of

Heinrich Hildebrandt

Sworn before me this 8<sup>th</sup> day

of May A.D., 2020 by video conference

[Signature]  
A Commissioner for Oaths in and for Ontario

LISA D.S. BILDY  
BARRISTER & SOLICITOR

The Aylmer Police Service respects everyone's rights to peaceful assembly for freedom of expression, and religion. Our role throughout this CoVID-19 response is to maintain the health and safety of all the residents of Aylmer by ensuring that the Emergency Management Civil and Protection Act, O.Reg 52/20 is adhered to.

The *Emergency Management and Civil Protection Act* (EMCPA), was enacted by our Provincial Government on March 17<sup>th</sup>, 2020 and several emergency orders have been made under the Act to contain the spread of COVID-19 and to ensure that essential services continue to be provided and Ontarians are supported.

One of these orders that have been made under Ontario Regulation 52/20 states the following:

#### SCHEDULE 1

#### ORGANIZED PUBLIC EVENTS, CERTAIN GATHERINGS

##### Prohibition

1. (1) Subject to subsection (3), **no person shall attend,**
  - (a) an organized public event of more than five people, including a parade;
  - (b) a social gathering of more than five people; or
  - (c) **a gathering of more than five people for the purposes of conducting religious services, rites or ceremonies.**
- (2) For greater certainty, subsection (1) applies to an event or gathering even if it is held at a private dwelling.
- (3) Subsection (1) does not apply to the following:
  1. A gathering of members of a single household.
  2. A gathering for the purposes of a funeral service that is attended by not more than 10 persons. O. Reg. 99/20, s. 3.

Last Sunday, April 19<sup>th</sup>, 2020 our communications centre received over (15) calls of reports that a certain Faith based group had gathered in a parking lot in their vehicles to listen to a service being delivered outside by their Pastor.

After consultation with our Elgin County Prosecutor(s), it has been determined that this gathering is in violation of the EMCPA and that those attending could be subject to facing charges for failing to comply with an order during a declared emergency.

We would like to assure our residents that this is an active investigation and we will be monitoring all faith based groups in our community to ensure that these Emergency Orders are being followed. Those who do not adhere to these orders will result in the Aylmer Police taking enforcement action.

# EXHIBIT K

This is Exhibit "K" referred to  
in the Affidavit of

Heinrich Hildebrandt

Sworn before me this 8<sup>th</sup> day

of May A.D., 2020 by *videconference*

*L. D. S. Bilty*  
A Commissioner for Oaths in and for Ontario

LISA D.S. BILDY  
BARRISTER & SOLICITOR





April 24, 2020

Sent via email to [info@aylmerpolice.com](mailto:info@aylmerpolice.com)

Aylmer Police Department  
20 Beech St. East  
Aylmer, ON N5H 3H6

Attention: Police Chief Zvonko Horvat

Dear Sir:

**Re: Restrictions on Drive-In Religious Services Violate the Charter**

We have been retained by The Church of God in Aylmer ("the Church").

We write to express our concern with your recent statements to *The London Free Press*<sup>1</sup> in which you declare that you have instructed officers to lay charges under the provincial *Emergency Measures and Civil Protections Act*, should the Church proceed with a drive-in service.

This is notwithstanding that such a service was successfully conducted at the Church on the two preceding weekends, to the complete satisfaction of your officers who attended on both occasions.

According to this news article, you have deemed any further drive-in church services in Aylmer to be in breach of emergency orders banning gatherings of more than five people.

These services have been meticulously planned to avoid any breach of public health concerns. All congregants will remain in their own vehicles, which are themselves spaced out in the parking area. No one is permitted to enter the church building, even to use the washroom facilities. Only five people will be on the platform to conduct the service, maintaining proper social distancing the entire time. Congregants will have the service broadcast into their vehicles over FM radio.

We would suggest that the measures taken by the Church provide much more safety to public health than long lineups of people waiting to get into the liquor store, or sitting in their vehicles bumper to bumper at the Tim Horton's drive-thru – all permitted activities.

<sup>1</sup> <https://bit.ly/3eNr9lg>

To many citizens in your community, religious services are anything but “non-essential”. While most people recognize that we are in challenging times, and that we must all make sacrifices for the greater good, creative efforts to arrive at solutions which uphold citizens’ fundamental freedoms of peaceful assembly, association, conscience and religion as guaranteed by our *Canadian Charter of Rights and Freedoms*, while at the same time respect the need for social distancing, should be encouraged rather than arbitrarily banned and fined. Many such services have occurred without incident across Canada with reported success.<sup>2</sup>

In Saskatchewan, the Health Authority recently cancelled drive-in Easter gatherings over apparent concerns that people would leave their vehicles and engage in personal interactions without social distancing. This explanation was purely hypothetical and unfounded, and when our organization brought this unreasonable heavy-handedness to the attention of the Saskatchewan Premier, Scott Moe, the guidance was quickly changed to permit drive-in services, provided certain conditions were met.<sup>3</sup>

As you can see from the new guidance<sup>4</sup>, authorities were able to find a way to accommodate the religious needs of the community with the task of maintaining social distancing in a satisfactory manner to all. This is the sort of important public relations work that is needed by authorities such as yourself, to ensure the continued goodwill of the citizenry to accept what would otherwise be considered draconian, unreasonable limits on our fundamental freedoms.

Citizens across the country are attempting, in a good-natured manner, to comply with the extraordinarily restrictive measures which have been imposed. Some of these measures are arguably justifiable, depending on their scope and duration. The Covid-19 outbreak does not, however, suspend the exercise of the *Charter*. The restriction on public religious gatherings, in which people exclusively occupy their personal vehicles on a parking lot while worshipping, is irrational, unnecessary, and not a minimal impairment of *Charter* rights. Government authorities like the Aylmer Police Department may only infringe Canadians’ constitutional rights if such authorities can demonstrate a pressing and substantial justification for doing so. There is no justification for prohibiting people from parking in the same parking lot for a drive-in religious service when drive-thru restaurant windows and grocery stores are open.

To ensure that you are satisfied that the event will proceed in a safe manner, as it did on the previous two Sundays, the Church is willing to hire two off-duty police officers at its own expense to assist in maintaining social distancing at the event.

We request an immediate response from you confirming that the Aylmer Police Department has rescinded its decision to ticket the church and its members, provided they abide by the conditions set out herein.

<sup>2</sup> <https://bit.ly/2S0Er4c>; <https://bit.ly/2S5e5Os>

<sup>3</sup> <https://www.iccf.ca/saskatchewan-government-reverses-course-allows-drive-in-religious-services/>

<sup>4</sup> <https://www.saskatchewan.ca/government/news-and-media/2020/april/18/covid-19-update-april-18>



Sincerely,



**Lisa D.S. Bildy, JD, BA**  
**Staff Lawyer, Justice Centre for Constitutional Freedoms**

Local contact info:

Tel: 519.852.6967

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Email: [lbildy@jccf.ca](mailto:lbildy@jccf.ca)

*"Defending the constitutional freedoms of Canadians"*

cc: Hon. Doug Ford, Premier of Ontario via email to [doug.fordco@pc.ola.org](mailto:doug.fordco@pc.ola.org)  
cc: Hon. Doug Downey, Attorney General via email to [doug.downey@pc.ola.org](mailto:doug.downey@pc.ola.org)  
cc: Hon. Jeff Yurek, MPP via email to [jeff.yurek@pc.ola.org](mailto:jeff.yurek@pc.ola.org)

# EXHIBIT L

This is Exhibit "L" referred to  
in the Affidavit of

Heinrich Hildebrandt

Sworn before me this 8<sup>th</sup> day

of May A.D., 2020 by videoConference

J. S. Bilty  
A Commissioner for Oaths in and for Ontario

LISA D.S. BILDY  
BARRISTER & SOLICITOR



Join us Sunday for a livestreamed service at 10:30 AM Eastern. An hour prior to the service, [app.gospeltrumpet.com](https://app.gospeltrumpet.com) will go live with all the relevant links for audio and video feeds.

For those of you that would like to listen live in our parking lot, please review the instructions in the graphic below. These guidelines are not suggestions and we will strictly enforce them. You must be in a vehicle and remain in your vehicle at all times with your windows rolled up to park in the parking lot at any time. This includes all members of the congregation, visitors, and media.

Tune in to 87.9 FM to listen live to the broadcast within a 750 meter radius of our meetinghouse.



Alberta, Saskatchewan, Manitoba, and New Brunswick have all endorsed outdoor, drive-in services as allowable under their Emergency Acts, as well as California, Mississippi, Kentucky, Tennessee, Ohio, Kansas, Florida, and many other countries across the globe.



Ontario, now it's your turn. Cars in a parking lot are not gathering, they are parking. Gatherings are defined by physical presence without barriers.

ALBERTA: <https://www.discoverairdrie.com/local/church-at-the-drive-in-for-easter>

SASKATCHEWAN: <https://www.lifesitenews.com/news/govt-authorities-reverse-ban-on-drive-in-religious-services-after-legal-challenge>

MANITOBA: <https://www.chvnradio.com/news/what-does-the-non-critical-business-closures-mean-for-churches>

NEW BRUNSWICK: <https://atlantic.ctvnews.ca/n-b-churches-transition-to-drive-in-services-as-province-eases-covid-19-restrictions-1.4913183>

CALIFORNIA: <https://www.theblaze.com/news/california-now-will-allow-drive-in-church-services-amid-coronavirus-shelter-in-place-order-reversing-course-after-lawsuit>

<https://www.theatlantic.com/photo/2020/04/photos-easter-services-distanced-world/609898/>

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## PRESS RELEASES

### RE: FREEDOM OF RELIGIOUS ASSEMBLY

April 30, 2020 – 14:00

We extend our gratitude to Canadians across the country that have prayed, called, emailed, commented, and messaged us this past week. The support and passion for freedom in this country has been overwhelming. God is sovereign and His Word will prevail. This nation was founded on the principles of religious freedom and peaceful assembly and we pray that we will enjoy these privileges for many years to come.

This afternoon, we received notice that the Aylmer Police Service will not proceed with charges for those that parked in our parking lot and tuned into the service that was broadcast last Sunday morning, as well as the persons that

conducted the service from our outdoor platform. We are grateful for that and believe it is the right decision. This allows the Premier and his cabinet the opportunity to swiftly provide clear enforcement directives pertaining to the Emergency Act that uphold public safety while respecting the right of people to express their faith in a safe manner. We continue to hope for a political resolution to this situation that does not put our local police in an unenviable position, and we thank the Aylmer Police for their continued service and protection to our community.

Provinces across Canada and countries around the globe are endorsing drive-in services as a temporary measure as it allows for an expression of community without violating public health objectives.

Pastor Henry Hildebrandt

## RE: FREEDOM OF RELIGIOUS ASSEMBLY

April 25, 2020 – 17:00

This past week has been defined by an unexpected amount of upheaval for our faith community. As a matter of fact, it has been a moment of truth for Christians across Ontario and the country.

Last Sunday morning we held our second drive-in service in as many weeks, with the full approval, permission, and encouragement of the Aylmer Police Service. A follow-up call from a constable on Sunday afternoon confirmed no violations were observed by the officers present and that we were cleared continue to worship in this manner until this crisis abates.

Tomorrow morning, at 10:30, the Lord willing, we will hold our third drive-in service under the threat of hefty fines, disruption, and physical roadblocks by order of the Aylmer Chief of Police. We have attempted, unsuccessfully, to reach an acceptable compromise with him these past 6 days. Regrettably, he has allowed his judgement to be clouded by one inaccurate post on Facebook that generated hundreds of comments and 15 complaint calls to the police service (this post has since been deleted). Our offer to hire off-duty officers from the Aylmer force, to ensure compliance with the law, was unceremoniously dismissed. Unfortunately, the Chief has also decreed that his officers must enforce the law as he interprets it, recklessly abandoning the discretion and interpretation used successfully in the past weeks, both here in Aylmer and across the country and the continent. One thing is clear to us at



this moment, he finds himself on the wrong side of history and we extend our gratitude and pray for blessings and wisdom on the officers of the Aylmer Police Service as they are thrust into this unenviable position.

Our local MPP, Minister Jeff Yurek, has been a tremendous help for us during this crisis. We are grateful to him and his constituency office for their advocacy on our behalf. Their communication has been consistent and responsive, but we are still awaiting further guidance from the Attorney General. The Justice Centre for Constitutional Freedoms deserves special mention for their assistance. They have worked overtime to find a solution and clarify any legal questions we had. Several prominent London law firms have reached out to us and provided invaluable, precise legal advice and we expect to hear more from them in the coming days.

Drive-in services at a place of worship are not illegal and there is absolutely no legal foundation for such a claim. Parades are specifically forbidden under the Ontario EMCPA and yet no fines are levied for such daily displays across Ontario, and, I might add, rightfully so. In fact, police officers are actively participating in such parades, with impunity. Liquor stores are considered essential and their parking lots are not under any scrutiny. Liquor is essential, but God is not? Drive-thru establishments are under no threat of closure and their parking lots are regularly filled with customers looking to have a chat with their friends. We are not asking for special treatment or privileges, equality would be satisfactory.

We have considered returning to our livestream broadcasts alone and complying with an interpretation of the Emergency Act that is an abrogation of the rights of all Canadians of faith. However, we cannot do so in good conscience. We have arrived at a point where we must draw a line in the sand and stand up for all who value justice and reject unreasonable, unjustifiable curbs of our freedoms.

Everyone is welcome to join us tomorrow in a livestream broadcast of our service that will be posted on our website at [www.churchofgod.com](http://www.churchofgod.com). We will not be gathering for a service as defined by the Act, but our parking lot will be open to anyone that wishes to park there, stay in their vehicle at all times with their windows rolled up, and tuned in to the station that will be posted on the signage onsite.

We will not condone any show of force or resistance to the police. In fact, we strongly condemn it. Christians are peaceful people and have always sought the opportunity for peaceful assembly, as guaranteed in the Canadian Charter of Rights and Freedoms.



“And the LORD, He it is that doth go before thee; He will be with thee, He will not fail thee, neither forsake thee: fear not, neither be dismayed.” Deuteronomy 31:8

Pastor Henry Hildebrandt

April 22, 2020 – 14:00

We are grateful to our federal, provincial, and municipal government leaders for their commitment to public service during this time of crisis and appreciate their responsibility for the wellbeing of the people they serve.

The COVID-19 crisis has rapidly changed a lot of what our society considers normal and essential in a few short weeks. Faith communities have not been unaffected, in fact they have been singled out in many cases across the world and especially in Canada and certain states, south of the border. The Bible teaches Christians to be good citizens and obey the reasonable demands of our government. It does not, however, teach blind obedience to the authorities when onerous restrictions are placed on our freedoms. In fact, we are guaranteed the right to religious freedom and peaceful assembly in the Canadian Constitution, subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society. We now find ourselves debating what constitutes a justifiable, reasonable limit.

This past Sunday, April 19, 2020, we conducted a drive-in service at our meetinghouse parking lot in Aylmer, Ontario. Contrary to widely shared social media posts, attendees listened in to the service via low-power FM transmission while remaining in their vehicles, with their windows rolled up to ensure physical distancing requirements were adhered to. Strict guidelines were prescribed prior to the service and compliance was strictly enforced by our team. The service itself was conducted by 5 persons from an open-air platform that was visible to those in the parking lot. The meetinghouse itself was closed to the use of anyone, including bathroom facilities. There was no physical gathering at this location that contravened the Emergency Act, at any time.

Prior to this, our congregation continued to meet in accordance with previous guidelines of 50 or fewer persons in our building and on Easter Sunday there was a smaller drive-in service where those that participated in their vehicles

livesstreamed a service from another congregation, but, again, with no physical interaction. The Aylmer Police attended each one of these services and found no one in violation of the current Emergency Act. We have actively reached out to them and informed them of our intentions prior to the April 19th service.

We were informed Monday, April 20<sup>th</sup>, by the Aylmer Police that they had sought the opinion of the Crown Attorney's Office and that they were of the opinion that we were, in fact, in violation of the Emergency Act and that they would be taking active enforcement action if any further drive-in services were held in the future.

Now, we find ourselves confronted with a much greater dilemma than just deciding on what we do next Sunday. The question is, what is essential? If faith and the communal expression of faith is not essential, then is this an attack on faith (for we strictly followed all physical contact guidelines)? We are not asking for special treatment, just equal treatment. Christians have always believed that their faith and the reasonable expression of that faith is essential to their general well-being, as well as their mental and spiritual health. We believe that being arbitrarily separated from each other is detrimental to our community.

Just 300 meters south of us, during our service, hundreds of people interacted in a local grocery store and its parking lot. The same thing happened at the local Beer Store, LCBO, Tim Horton's parking lot, Dollarama, and the list goes on. Our drive-in service did not endanger the public, in fact we took far more stringent measures than any major retailer has done during this entire crisis. Yet, it is our faith community that is singled out for public criticism, false accusations, and a directive to cease any active operations, whether they follow the guidelines provided by the government or not.

It is imperative that we find a resolution to this as quickly as possible. There must be an allowable expression of faith that is deemed essential while we are allowing the interaction of customers at establishments that exist solely for the sale of alcohol, coffee, donuts, and fast food.

Pastor Henry Hildebrandt

# EXHIBIT M

This is Exhibit "M" referred to  
in the Affidavit of

Heinrich Hildebrandt

Sworn before me this 8<sup>th</sup> day

of May A.D., 2020 by videoconference

[Signature]  
A Commissioner for Oaths in and for Ontario

LISA D.S. BILDY  
BARRISTER & SOLICITOR





Aylmer Police Service

## News Release

**FROM: Aylmer Police Service**

**DATE: 03 May 2020**

### **Update: Emergency Order breach**

Aylmer Police Service respects everyone's rights to a peaceful assembly for the purposes of freedom of expression and religious beliefs. Our role throughout COVID-19 response is to maintain the health and safety of all residents of Aylmer by ensuring that Emergency Orders are adhered to. For Aylmer Police, public safety is our priority as is the maintenance of peace and enforcement of laws to protect the citizens of our community. For this reason, we are taking a measured and least intrusive approach in dealing with this community issue.

On 26<sup>th</sup> of April 2020 Aylmer Police responded to a large church gathering on John St. North Aylmer ON. Police observed approximately 61 vehicles parked on the church property with several occupants inside the vehicles listening to the church service being administered by the pastor of the church. This is a third weekend that Aylmer Police responded to the location for reports of Emergency Order contravention.

### **Violation of the Emergency Order being investigated:**

*Under Ontario Regulation 52/20 Schedule 1 1. (1)(c) "no person shall attend a gathering of more than five people for the purposes of conducting religious services, rites or ceremonies.*

### ***Update 03 May 2020***

*On May 03, 2020, church service was held at the Church of God on John St. North Aylmer ON. Prior to service, officers addressed concerns with the congregation and heat inside the vehicles due to high temperatures. Organizers informed officers that the congregation had been instructed to start their vehicles and air conditioning as needed to avoid any health issues associated with heat exhaustion.*

*Police observed approximately 70 vehicles for the service with multiple occupants in each vehicle. Police observed and monitored 14 vehicles and occupants parked on the shoulder of the roadway occupied by civilians monitoring the outdoor church service. It is not known if the onlookers were in protest of the service. Police remained in the area to keep the peace.*

*Police received one anonymous complaint and one formal complaint from a citizen regarding breach of Provincial Emergency order. Upon conclusion of the service, onlookers and congregation departed without incident. This is an on-going investigation of the Emergency Order violation.*



Aylmer Police Service

## News Release

*Aylmer Police would like to focus on the positive aspects of this contentious community issue and current Provincial Emergency order violations. We would like to thank all other faith based groups, citizens and business owners in our community for abiding by the current Provincial Emergency orders to minimize the spread of COVID-19 global pandemic.*

**Contact:** Chief of Police - Zvonko Horvat

**Phone:** 519-773-3146

**Email:** [zhorvat@aylmerpolice.com](mailto:zhorvat@aylmerpolice.com)

- 30 -

**THE CHURCH OF GOD OF AYLMER, et al.**

*and*

Court File No:  
**ONTARIO (ATTORNEY GENERAL) et al.**

*Applicants*

*Respondents*

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at St. Thomas

**AFFIDAVIT OF HEINRICH  
HILDEBRANDT**

**JUSTICE CENTRE FOR  
CONSTITUTIONAL FREEDOMS**

#253-7620 Elbow Drive SW  
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Lisa D.S. Bildy (LSO #36583A)

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Lawyer for the Applicants

**THE CHURCH OF GOD OF AYLMER, et al.**

***and***

Court File No: CV-20-00000030-0000  
**ONTARIO (ATTORNEY GENERAL) et al.**

*Applicants*

*Respondents*

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at St. Thomas

**APPLICATION RECORD**

**JUSTICE CENTRE FOR  
CONSTITUTIONAL FREEDOMS**

#253-7620 Elbow Drive SW  
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