

## FTR Now

# Ontario's Regional Approach to Pandemic Management: Amendments to the Yellow, Orange, Red and Grey Zones

**Date:** February 16, 2021

The Ontario government is continuing its recently announced return to a regional approach to pandemic management and to a modified provincial [COVID-19: Response Framework](#). The first phase, discussed in greater detail in our [February 10, 2021 FTR Now](#), involved the creation of a new Shutdown Zone as part of the Rules for Areas in Stage 1, and assigned most of the province to the Shutdown Zone. Three areas of the province with limited spread of the virus were moved to a modified Green Zone.

On February 12, 2021, the [government announced](#) that more regions would be removed from the Shutdown Zone and placed into other colour-coded zones effective today, February 16, 2021.

Only four public health units – City of Toronto, Peel Region, York Region and North Bay Parry Sound District – will remain in the Shutdown Zone, with the Stay-at-Home Order continuing in place. These restrictions are currently expected to remain in effect until February 22, 2021. \*

*\*Editor's note. On February 19, 2021, the [Ontario government announced](#) that the City of Toronto, Peel Region, and North Bay Parry Sound District will remain in the Shutdown Zone and subject to the Stay-at-Home Order until at least March 8, 2021. Effective February 22, 2021, [York Region is placed in the Red Zone](#).*

For all other regions of the province being removed from the Shutdown Zone, the Stay-at-Home Order will no longer apply. Rather, modified rules for the applicable Zone will apply in its stead. In this *FTR Now*, we review the regulatory changes to the remaining Zones – Yellow, Orange, Red and Grey – that now apply throughout the province (a full list of which health unit has been assigned to which Zone can be found [here](#).)

## Changes that Apply Across the Grey, Red, Yellow and Orange Zones

The Grey Zone ([Rules for Areas in Stage 1, as amended](#)), Red Zone ([Rules for Areas in Stage 2, as amended](#)) and Yellow and Orange Zones ([Rules for Areas in Stage 3, as amended](#)) are all now subject to the requirements set out below. Note that some of these rules may have applied previously to portions of a given Zone, but are now applicable to all businesses within each of the four Zones.

### Requirements for Screening and Working Remotely

Where business or organizations are permitted to open, the person responsible for their operation must ensure that they operate in compliance with any advice, recommendations and instructions issued by the Office of the Chief Medical Officer of Health or another public health official on screening individuals. Among other things, this must now include posting signs at all entrances in a conspicuous location that inform individuals on how to screen themselves for COVID-19 prior to entering the premises, and actively screening every person who works at the business or organization before they enter the premises.

The person responsible for a business or organization that is open must continue to operate the business or organization in compliance with any advice, recommendations and instructions issued by the Office of the Chief Medical Officer of Health or another public health official on working remotely.

## **Masking and Physical Distancing**

There is an existing requirement in the Rules that persons responsible for a business or organization ensure that any person in the indoor area of the premises wear a mask or face covering (subject to a range of exceptions). The amended Rules for all Zones now place similar obligations on individuals who are on the premises of a business or organization to wear a mask or face covering when they are in an indoor area of the premises, subject to permitted exceptions for wearing a mask or face covering.

Individuals must also now wear a mask or face covering during any period they are in attendance at an organized public event or gathering permitted by the applicable Rules and within two metres of another individual who is not part of their household. These requirements are also subject to the permitted exceptions for wearing a mask or face covering.

Persons responsible for a business or place that is open must ensure that patrons who line up inside the premises or outside of the premises maintain a physical distance of at least two metres from other groups of persons and are wearing a mask or face covering in a manner (again, subject to a range of exceptions).

## **Exception for Certain Services**

The Rules have been amended to clarify that they do not preclude the operations or delivery of services by any government or any person or publicly-funded agency or organization that delivers or supports government operations and services, including operations and services of the healthcare sector.

## **Changes that Apply Only to the Grey Zone**

The new Grey Zone Rules are very similar to the Rules for Areas in Stage 1 that were in effect during the recent lockdown. In addition to the changes noted above, the Grey Zone Rules now contain an expanded list of businesses and places that may open. We highlight some of the key changes here.

### **Working Remotely**

There is no longer a requirement for persons responsible for a business or organization operating in the Grey Zone to ensure that persons work from home where possible, although the government continues to encourage remote working.

### **Retail Operations**

The most significant change is that retail stores may now open in the Grey Zone provided that they meet the applicable requirements in the Grey Zone Rules. The Rules focus on capacity limits, determined by a prescribed formula based on total square metres of the floor area, and other restrictions, and vary by retail sector.

Supermarkets, grocery stores, convenience stores, indoor farmers' markets and other stores that primarily sell food, as well as pharmacies, must ensure the total number of members of the public on the premises does not exceed 50% capacity. Music cannot be played at a decibel level that exceeds the level at which normal conversation is possible.

A business located within an indoor farmer's market must not exceed 25% capacity for in-store shopping unless it is a business that primarily sells food.

Shopping malls may open subject to certain conditions, including establishing a 25% capacity limit applicable to stores in the mall and a similar limit on members of the public permitted in the mall more generally. Interior dining spaces inside the shopping mall, including any tables and seating in food courts, must be closed. The decibel level of any music played at the shopping mall cannot exceed the level at which normal conversation is possible.

Outdoor markets, including farmer's markets and holiday markets, that meet certain conditions must limit the number of members of the public so that the total number of members of the public in the place of business at any one time does not exceed 50% capacity.

All other retailers (including big box stores) must limit the number of members of the public in the place of business so that the total number does not exceed 25% capacity at any one time. Any music played at the place of business must not be at a decibel level that exceeds the level at which normal conversation is possible.

## Services

Day camps for children that are operated in a manner consistent with the safety guidelines for COVID-19 for summer day camps produced by the Office of the Chief Medical Officer of Health may open (camps that provide supervised overnight accommodation for children remain closed).

Community centres and multi-purpose facilities, as well as facilities for indoor or outdoor sports and recreational fitness activities, may also open to provide a day camp for children, where certain conditions are met.

## Construction

Construction activities or projects and related services that support construction activities or projects, including land surveying and demolition services, may open (i.e. the limits that were imposed on construction during the recent lockdown no longer apply in the Grey Zone).

## Entertainment and Media

Concert venues, theatres and cinemas may open for the purpose of rehearsing or performing a recorded or broadcasted concert, artistic event, theatrical performance or other performance if certain conditions are met.

Concert venues, theatres and cinemas that provide a drive-in or drive-through format, as well as drive-in cinemas, may open, subject to a range of conditions.

The provisions relating to media operations [have been amended](#) to require that persons responsible for the film or television production ensure that the production operates in accordance with a document titled "Film and television industry health and safety during COVID-19" issued by the Film and Television Health and Safety Advisory Committee of the Ministry of Labour, Training and Skills Development, as may be amended.

## Public Libraries

Public libraries may open subject to a range of conditions. These include but are not limited to a requirement that circulating materials be reserved over the telephone or online, circulating materials may only be exchanged with members of the public through contactless drop-off, pick-up or delivery, patrons must only be permitted to enter the premises to facilitate contactless drop-off and pick-up or to access certain services, and patrons must not be permitted to be in the book stacks. There are certain exceptions to these requirements where a library provides a day camp for children.

## Recreational Amenities

Golf courses, driving ranges and downhill ski hills are added to the list of amenities that may open. Persons who are in line for the amenity or who form a line anywhere within the amenity must maintain physical distancing of two metres and wear a mask or face covering (subject to a range of exceptions).

## Other

Museums, galleries, aquariums, zoos, science centres, landmarks, historic sites, botanical gardens and similar attractions are closed except to provide drive-in or drive-through access to the public, subject to a range of conditions.

## Changes that Apply Only to the Red Zone

New requirements relating to capacity limits have been made to the Red Zone. Again, the determination of the capacity limits is based on a prescribed formula.

### Capacity Limits for Facilities or Businesses

The person responsible for a place of business or facility that is open to the public shall ensure that members of the public on the premises are able to maintain a physical distance of at least two metres from every other person in the business or facility. The total number of number of members of the public on the premises at any one time must not exceed 75% capacity.

Persons who are in compliance with public health guidance on households are not required to maintain a physical distance of at least two metres from each other while in a place of business or facility.

These capacity limits do not apply to schools and private schools within the meaning of the *Education Act* or to certain First Nations schools.

### Capacity Limits for Retail Sales

Persons responsible for the operation of supermarkets, grocery stores, convenience stores, indoor farmers' markets, other stores that primarily sell food and pharmacies must limit the total number of members of the public in the premises so that at any one time it does not exceed 75 % capacity. Music must not be played at a decibel level that exceeds the level at which normal conversation is possible.

Persons responsible for all other businesses that engage in the retail sale, or rental, of items to the public (including big box stores) must limit the total number of members of the public in premises any one time to 50% capacity. Music must not be played at a decibel level that exceeds the level at which normal conversation is possible.

The person responsible for a place of business or facility that engages in retail sales to the public must post a sign in a conspicuous location visible to the public to inform it of the maximum capacity they are permitted to operate under.

## Media

The provisions relating to film and television production [have been amended](#) such that they apply to “commercial film” operations. The Rules relating to film or television sets have been clarified such that they may operate on a premises that is otherwise closed under the Red Zone Rules.

In addition, persons responsible for the film or television production must ensure that the production operates in accordance with document titled “Film and television industry health and safety during COVID-19” issued by the Film and Television Health and Safety Advisory Committee of the Ministry of Labour, Training and Skills Development, as may be amended.

## Changes that Apply to the Red, Yellow and Orange Zones

For **immediate action**, effective February 16, 2021, persons responsible for all businesses in the [Yellow](#), [Orange](#) and [Red](#)

Zones must now prepare and make available a safety plan. Previously, the obligation to prepare a safety plan was limited to various specified operations. Businesses for which this is a new obligation must prepare the safety plan within seven days after this requirement comes into place. Note that the government [has provided guidance](#) on how to prepare a safety plan.

A [provision has also been added](#) to the Rules for Areas in Stage 2 which permits the operation of commercial film and television production, including all supporting activities such as hair, makeup and wardrobe, to open if they comply with a range of conditions.

## General

In this *FTR Now*, we have highlighted many of the changes that apply within the various colour-coded Zones throughout Ontario, but encourage employers to consult the text of the regulations with respect to their impact on your operations.

We also remind our readers that in addition to the restrictions imposed under the government's framework, some local public health units and municipal governments have imposed additional restrictions that may continue to apply to businesses in those areas.

For assistance with how these new Rules may impact your operations, please contact your [regular Hicks Morley lawyer](#).