

POA APPEAL PROCESS – INFORMATION AND GUIDELINES

PLEASE NOTE:

- This information is to assist you in completing the paperwork for a Part I (Certificate of Offence) and Part II (parking ticket) *Provincial Offences Act* (“POA”) appeals
- Court Administration and Prosecution staff are **not** able to provide you with legal advice, assist in filling out forms, or making copies of your forms
- Please contact a lawyer or licensed paralegal for advice and assistance on your appeal, any applications, and filling out forms or paperwork
- The appeal court is not the place to have a new trial. A judge will hear your explanation, review what has previously happened, and consider whether any error was made and whether your application or appeal should be allowed For more information, please read the **Ontario Court of Justice Guide to Appeals in Provincial Offences Cases** online at www.ontariocourts.ca/ocj/self-represented-parties/guide-to-appeals-in-provincial-offences-cases/guide/

WHAT YOU WILL NEED FOR YOUR APPEAL

- A **total of 3 copies** of **all** required forms (1 original and 2 copies)
 - 1 copy to serve the prosecutor’s office
 - 1 copy for yourself
 - 1 original copy to serve the court

Please see below for a list of forms and applications that may be required in order to proceed with your appeal.

PLEASE NOTE: If you are appealing a conviction after a trial or a guilty plea in court, you must order and pay for 3 copies of the transcript. If you were convicted without a hearing, you do not need to order transcripts since you did not attend a court hearing.

FORMS AND APPLICATIONS

Notice of Appeal

This form must be filled out completely before you file your Notice of Appeal. This form will help the judge and the prosecutor understand why you believe your conviction or sentence appeal should be allowed.

Application for Extension of Time to File the Appeal

This form is to be used if you are filing an appeal more than 30 days after the date of your conviction and sentence. This form will have you explain why you were not able to file your appeal within 30 days of your conviction and sentence.

Application to File an Appeal Without Paying the Fine

This form is used if you cannot afford to pay your fine (including all costs and victim fine surcharge). You can apply to a judge for an order giving you permission to file the Notice of Appeal without having to pay the fine. If your application and appeal are filed more than 30 days after the conviction and sentence date, you will also have to complete an Application for Extension of Time to File the appeal form. A completed Order for Recognizance form is also required if you do not pay the fine. If the court allows the application, you will have to sign a recognizance agreeing to pay the fine if your appeal is dismissed. You must be present in court to sign this document. No one else can sign it on your behalf.

Application to Stay

Section 112 of the *Provincial Offences Act* allows you to apply to the appeal court to put your conviction on hold pending your appeal. An Application to Stay cannot be heard until the Notice of Appeal is filed with the court. You may serve/file an Application to Extend Time to File the Appeal, a Notice of Appeal and an Application to Stay at the same time. ****Note that the filing of the Notice of Appeal may stay your licence suspension in certain situations without the need to apply for a Stay.**

Motion to Restore an Appeal or Application

If your Application or Appeal was dismissed because you did not appear for your Application or Appeal hearing, you can bring a motion to request that your Appeal or Application to be restored for a hearing. You must fill out a "Motion to Restore" form explaining why you missed the hearing, and serve the Motion on the prosecutor's office.

APPEAL PROCESS (WITHIN 30 DAYS OF CONVICTION)

STEP 1: Pay your fine- You may pay your fine at any Provincial Offences Court in Ontario. **If you cannot afford to pay your fine, please see Page 3 under the heading "What if You cannot Pay the Fine?"*

STEP 2: Order and pay for **3 copies** of the trial transcript (If you were convicted without a hearing, transcripts are not required). The list of approved transcription agencies can be obtained at www.york.ca/transcripts or in person at the court office.

STEP 3: Complete the **Notice of Appeal**, make 2 extra copies and serve a copy of all documentation to the **Prosecution Office at 465 Davis Drive, Suite 225, Newmarket 8:30am-4pm (applies to tickets from a police officer or by-law officer. If your ticket is from a Ministry, go to 50 Eagle St. W., Newmarket for more information on who to serve).**

STEP 4: File a copy of your Notice of Appeal at the **court office at 50 Eagle Street West, Newmarket, ON.**

APPEAL PROCESS (MORE THAN 30 DAYS OF CONVICTION)

IF YOUR TICKET IS FROM A POLICE OR BY-LAW OFFICER	IF YOUR TICKET IS FROM A MINISTRY
<ol style="list-style-type: none">1. Pay your fine. <i>*If you cannot afford to pay your fine, please see below "What If You Cannot Pay the Fine?"</i>2. Order and pay for 3 copies of the trial transcript (If you were convicted without a hearing, transcripts are not required.) The list of approved transcription agencies can be obtained at www.york.ca/transcripts or in person at the court office.3. Complete the Application for Extension of Time to File an Appeal.4. Complete the Notice of Appeal form5. Serve a copy of all documentation to the Prosecution Office at 465 Davis Drive, Suite 225, Newmarket 8:30am-4pm6. File a copy of all documentation with proof of service to the court office at 50 Eagle Street W, Newmarket, ON.	<ol style="list-style-type: none">1. Pay your fine. <i>*If you cannot afford to pay your fine, please see below "What If You Cannot Pay the Fine?"</i>2. Order and pay for 3 copies of the trial transcript (If you were convicted without a hearing, transcripts are not required.) The list of approved transcription agencies can be obtained at www.york.ca/transcripts or in person at the court office.3. Complete the Application for Extension of Time to File an Appeal form4. Complete the Notice of Appeal form5. Go to 50 Eagle Street W, Newmarket, ON, for more information on who you are to serve your documents6. File a copy of all documentation with proof of service to the court office at 50 Eagle Street W, Newmarket, ON.

WHAT IF YOU CANNOT PAY THE FINE?

If you cannot afford to pay the fine, you will have to fill out and file the Application to File an Appeal Without Paying the Fine form with the Appeal court. If your application and appeal are filed more than 30 days after the conviction and sentence date, you will also have to fill out and file an Application for Extension of Time to File the Appeal. A completed Order for Recognizance form is also required.

If your ticket or summons is from a Police or By-Law Officer, you must serve your forms and applications on the Prosecutor's Office at 465 Davis Drive, Suite 225, Newmarket (Mon-Fri 8:30am-4pm). If your ticket or summons is from a Ministry, you must inquire about who to serve your materials to by inquiring with the Appeal court office at 50 Eagle Street West, Newmarket. Once your documents have been served on the Prosecutor's office, you must file your forms at 50 Eagle Street West, Newmarket, ON.

What happens after I served and filed my applications/appeal?

A prosecutor may contact you to see if your application and/or appeal can be resolved.

If the application/appeal can be resolved, the prosecutor will send you a consent form to sign that sets out all the terms of the agreement. You or your legal representative will sign the form and return it to the prosecutor by either scanning and sending it by email to the prosecution office or by delivering it in person to the prosecution office. The prosecutor will file the consent with the court and it will be given to a judge who will consider whether the agreement will be approved or whether the judge will require you and the prosecutor to appear in court. The clerk of the appeal court will send you a copy of the judge's decision.

If the application/appeal cannot be resolved, the prosecutor will send a form to the appeal court clerk advising that the case cannot be resolved. The clerk will send you a Notice of the time, place and date that you are required to appear in court to deal with your application and/or appeal. **Your case may not be heard until later in the day so make sure that you are available to stay the entire day until court is finished.**
