



City of Hamilton

HAMILTON MUNICIPAL HERITAGE COMMITTEE ADDENDUM

Meeting #: 21-005

Date: June 25, 2021

Time: 9:30 a.m.

Location: Due to the COVID-19 and the Closure of City Hall (RM)

All electronic meetings can be viewed at:

City of Hamilton's Website:

<https://www.hamilton.ca/council-committee/council-committee-meetings/meetings-and-agendas>

City's Youtube Channel:

<https://www.youtube.com/user/InsideCityofHamilton>

Loren Kolar, Legislative Coordinator (905) 546-2424 ext. 2604

5. COMMUNICATIONS

- *5.2. Correspondence from the Rev. Ian Sloan, New Vision United Church, respecting the property located at 79 Main Street East, and 85 Holton Street South, Hamilton (Former St. Giles Church)

Recommendation: Be received.

7. CONSENT ITEMS

7.1. Heritage Permit Applications - Delegated Approvals

- *7.1.c. Heritage Permit Application HP2021-022: Proposed replacement of storm windows, restoration and replacement of shutters, and the addition of new wood trellises and time appropriate hardware at 41 Jackson Street West, Hamilton (Ward 2) (By-law No. 77-239)
- *7.1.d. Heritage Permit Application HP2021-028: Modification of a pair of pointed-arch windows and opening to facilitate the installation of an HVAC unit to 70 James Street South, Hamilton (St. Paul's Presbyterian Church) (Ward 2) (By-law No. 86-263)

*7.1.e. Heritage Permit Application HP2021-030: Installation of perimeter weeping tile and foundation waterproofing membrane to 601 Barton Street East, Hamilton (Ward 3) (By-law No. 16-334)

*7.2. Heritage Permit Review Sub-Committee Minutes - May 18, 2021

*7.3. Inventory and Research Working Group Meeting Notes - May 20, 2021

8. STAFF PRESENTATIONS

*8.1. Bill 108, More Homes, More Choice Act, 2019, Ontario Regulation 385/21 made under the Ontario Heritage Act and the Draft Ontario Heritage Tool Kit (PED19125(c)) (City Wide)

Note: This item has moved from Item 10.1 as published in the original agenda, as there is a presentation attached.

13. GENERAL INFORMATION / OTHER BUSINESS

*13.3. Verbal Update respecting Hamilton 175 (no copy)



Mailing Address:
24 Main St. W.
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(905) 522 6843

officeadmin@newvisionunited.org

June 22, 2021

The Hamilton Municipal Heritage Committee
Loren Kolar, Legislative Coordinator
City of Hamilton
By Email: loren.kolar@hamilton.ca

Dear Chair and Members,

It has been some time since we interacted directly with respect to New Vision's Holton Ave. S. campus. I write to you to review pertinent events and actions that have taken place before and since that interaction in June of 2018, and offer you guidance on what to expect from New Vision ahead.

Our interactions with you as an advisory committee of Hamilton's municipal council began in 2014 as an interaction with you over the effect of the Downtown Inventory of Heritage Buildings that the City notified us it planned to issue. We were notified that our 24 Main W. campus, the former Centenary United Church, was to be listed in the inventory. We objected to it being listed in the inventory because the City of Hamilton had not yet prepared a survey of heritage places of worship, nor instituted any meaningful protocols with respect to how to interact with heritage places of worship property owners as recommended in the *Heritage Places of Worship: A Guide to Conserving Heritage Places of Worship in Ontario Communities* issued by the Ontario Ministry of Tourism and Culture.

Our delegation was not received by the Committee at that meeting until after the Inventory was voted upon and approved – an action on the Committee's part that may prove the point of our 2014 objection.

In the summer of 2015 planning consultants IBI met with City Planning Department staff on behalf of New Vision in a formal consultation regarding redevelopment of our underutilized 85 Holton Ave. S. property. With clear indication from heritage planning staff at that consultation that heritage conservation would be a significant component of the City's response to any development proposal coming forward to the City, New Vision issued an RFP to potential development partners in the fall of 2015 seeking interest in the objectives for the property as outlined in the Formal Consultation report prepared by the City.

We were not able to secure a development partner. Further, our 2013 Capital Expenditure study issued by Edison Engineers confirmed to us what prospective development partners who engaged in preliminary due diligence were telling us: that the building was in very poor shape and would be very expensive to rehabilitate for any purpose.

Based on these determinations, and guided by our religious convictions that our role in the neighbourhood of which we have been a part for over 100 years was changing, we made application in the spring of 2018 for a demolition permit. We understood in making that application that the application would be reviewed by City heritage planning staff, who would take such actions as were reasonable to the planning staff, as a standard part of the application process, since 85 Holton Ave. S. is on the City's *Inventory of Significant Places of Worship in the City of Hamilton 1801-2001*.

The City's heritage planner issued a Cultural Heritage Impact Assessment and presented it to the Committee. The Committee adopted the planning staff recommendation that the former St. Giles site be given a municipal heritage designation.

The City Council, however, on the Planning Committee's recommendation, set aside the Heritage Committee's recommendation that the property be designated in July 2018, with the condition that New Vision provide a reasonable statement of heritage significance of the building for the City's heritage files.

It is New Vision's belief that the municipal council acted within the scope of the Ontario Heritage Act in July 2018, and did not find reason to agree with the Hamilton Municipal Heritage Committee that the building's heritage significance met the criteria established in the Ontario Heritage Act, 9/06.

This is an important point that we feel the subsequent actions of the Committee suggest the Committee has not reasonably digested.

At its meeting on March 26, 2021, without any substantial interaction with us as property owners, or further research of your own that could call into question the July 2018 decision by the municipal council not to designate, the Committee recommended to the municipal council that the property be placed on the Register of Properties of Municipal Cultural Value or Interest.

We wonder if the Committee's actions are meant as disrespect for us as religious use property owners, a disrespect which we have felt we have experienced as early as our first delegation to the Committee in 2014.

Subsequent to your March 26 meeting and through public reporting of your meeting, we learned that the Building Department incorrectly cancelled our demolition permit *application*. We then simply sought to correct the City to keep the redevelopment processes in order. As it turned out this administrative snafu within the demolition application process has caused considerable embarrassment to both the City and to New Vision in the past few months, including completely unwarranted negative speculation by some City Councillors in a public meeting of our intentions in our attempt to correct the administrative error. We ask you to correct your own understanding of what happened, if you have not done so. One way you could correct your understanding, for example, might be to ask heritage planning staff to dig into that with New Vision and with the Building Department and report to you.

Please note that New Vision had not completed the demolition permit application for the Department to review and adjudicate, and in fact, has not challenged the mistaken cancellation subsequent to the furor that developed as our attempt to be good citizens and neighbours by keeping processes in order was misinterpreted. We are not happy with the vacant and impaired building sitting in the midst of a

neighbourhood of which we value being a part. We want to arrive at a good outcome for our property in light of our changing place in the social fabric as soon as these processes of which you and we are a part permit.

The building remains standing. The reasons in favour of its demolition have not changed. It took us a further two years to find a development partner that could meet our objectives for the property. Our search was guided by the good faith understanding we had with our municipal council respecting our 2018 demolition application. Our development partner has transparently and openly invested resources into studies requested by the current term of Council that deepen the understanding of why this building is not preservable by the municipality without either a) unreasonably taxing the property owners themselves or b) charging proponents of preservation to find the significant sources of funding that enable New Vision to continue its religious presence on this site and in this neighbourhood and have the 1912 building preserved in a circumstance in which time is of the essence, because this vacant and impaired building is a blight upon *our* neighbourhood.

We believe this finding would already be evident without our development partner's good faith investment of resources into explaining it further if the Municipal Heritage Committee had completed the survey of heritage places of worship that it began in 2014. We note that the survey has yet to appear for public comment.

At no point subsequent to the 2018 decision has the Committee reached out to us as property owners of a place of worship in the spirit of the *Heritage Places of Worship: A Guide to Conserving Heritage Places of Worship in Ontario Communities*. New Vision, in contrast, has embraced a feasible future for the 24 Main W site as a municipally designated heritage property, and worked closely with heritage planning staff and economic renewal staff to make the 1868 former Centenary building a highly regarded example of heritage conservation in Hamilton. Once again, had your Committee either completed its survey of heritage places of worship, or engaged us in the spirit of the Provincial heritage places of worship guide, your understanding of the complexity and challenges of these two buildings and our mission as a religious charity might have made you more our ally than our antagonist. We would prefer the former relationship.

As you no doubt are aware, the Ontario Heritage Act has been amended and will be proclaimed July 1 2021. The Province has committed to provide clearer guidelines to municipal councils on how to evaluate and research heritage elements of the built form of their communities as part of its amendment evaluation process. We ask you join us in urging the Province to put those clearer guidelines into property owner and municipal council hands as soon as possible so that other religious property owners and successor municipal heritage committees to yourselves across Ontario have a better legislative environment within which to interact.

A draft revision of the *Heritage Places of Worship: A Guide to Conserving Heritage Places of Worship in Ontario Communities* has been issued for public comment. I close with a quotation from the revised preface and invite you to consider what comment you might wish to make to the revision team during this review period:

Many heritage properties change or are adapted over time, but places of worship may be different in that they often have evolving spiritual value in addition to cultural heritage value. Heritage places of worship may be thought of as “living cultural heritage resources” due to the ongoing need to change or adapt them to new philosophies, doctrines or practices of worship. This should be considered when deciding the best approach to conserving a heritage place of worship (<https://prod-environmental-registry.s3.amazonaws.com/2021-05/POW-FINAL%20DRAFT-compressed.pdf>).

We continue to seek open and meaningful dialogue with you over the two places of worship we own. We do this in accordance with the provisions of and in the spirit of the Ontario Heritage Act and the guidance related to it issued by the Province to municipal councils and property owners of places of worship.

Yours faithfully,

A handwritten signature in black ink, appearing to read "Ian Sloan". The signature is written in a cursive, flowing style.

Rev. Dr. Ian Sloan
Minister
Chair, Board of Trustees

cc. Councillor Nann



Mailing Address:
71 Main Street West
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www.hamilton.ca

Planning and Economic Development Department
Planning Division
71 Main Street West, 5th Floor, Hamilton, Ontario, L8P 4Y5
Phone: 905-546-2424, Ext. 1202
Fax: 905-540-5611

FILE: HP2021-022

June 9, 2021

City of Hamilton
c/o Jarrett Zacharko
71 Main Street West
Hamilton, Ontario
L8P 4Y5

**Re: Heritage Permit Application HP2021-022:
Proposed replacement of storm windows, restoration and replacement of shutters, and the addition of new wood trellises and time appropriate hardware at 41 Jackson Street West, Hamilton (Ward 2) (By-law No. 77-239)**

Please be advised that pursuant to By-law No. 05-364, as amended by By-law No. 07-322, which delegates the power to consent to alterations to designated property under the *Ontario Heritage Act* to the Director of Planning and Chief Planner, Heritage Permit Application HP2021-022 is approved for the designated property at 41 Jackson Street West, Hamilton, in accordance with the submitted Heritage Permit Application for the following alterations:

- Addition and replacement of new storm windows;
- Restoration and replacement of shutters;
- Addition of new stained wood trellises;
- Custom fabricated hinges on shutters; and,
- Period appropriate hook and eye hardware on storms.

Subject to the following conditions:

- a) Any minor changes to the plans and elevations following approval shall be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to submission as part of any application for a Building Permit and / or the commencement of any alterations; and,
- b) Implementation of the alterations, in accordance with this approval, shall be completed no later than May 31, 2023. If the alterations are not completed by May

**Re: Heritage Permit Application HP2021-022:
Proposed replacement of storm windows, restoration
and replacement of shutters, and the addition the
addition of new wood trellises and time appropriate
hardware at 41 Jackson Street West, Hamilton (Ward
2) (By-law No. 77-239)**

**May 31, 2021
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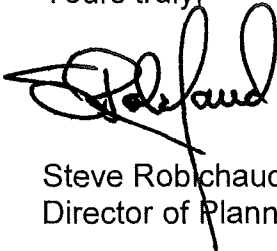
31, 2023, then this approval expires as of that date and no alterations shall be undertaken without a new approval issued by the City of Hamilton.

Please note that this property is designated under Part IV of the *Ontario Heritage Act*, and that this permit is only for the above-noted alterations. Any departure from the approved plans and specifications is prohibited, and could result in penalties, as provided for by the *Ontario Heritage Act*. The terms and conditions of this approval may be appealed to the Conservation Review Board within 30 days of your receipt of this permit.

The issuance of this permit under the *Ontario Heritage Act* is not a waiver of any of the provisions of any By-law of the City of Hamilton, the requirements of the *Building Code Act*, the *Planning Act*, or any other applicable legislation.

We wish you success with your project, and if you have any further questions please feel free to contact Stacey Kursikowski, Cultural Heritage Planner, at 905-546-2424 ext. 1202 or via email at Stacey.Kursikowski@hamilton.ca.

Yours truly,



Steve Robichaud, MCIP RPP
Director of Planning and Chief Planner

cc: Stacey Kursikowski, Cultural Heritage Planner
Chantal Costa, Plan Examination Secretary
John Lane, Manager, Building Inspections
Tamara Reid, Supervisor-Operations and Enforcement
Loren Kolar, Legislative Coordinator
Christine Vernem, Legislative Secretary
Councillor Jason Farr, Ward 2

HERITAGE PERMIT DELEGATED AUTHORITY REPORT – HP2021-022
ADDRESS: 41 Jackson Street West, Hamilton

Owner: City of Hamilton
Applicant / Agent: Jarrett Zacharko

Description of proposed alterations:

- Addition and replacement of new storm windows;
- Restoration and replacement of shutters;
- Addition of new stained wood trellises;
- Custom fabricated hinges on shutters; and,
- Period appropriate hook and eye hardware on storms.

Reasons for proposed alterations:

- Repair and maintenance.

Documentation submitted with application:

- Window Schedule;
- Window and Shutter Assessment Report;
- Exterior Restoration Specifications;
- Sketches of Proposed Windows and Shutters; and,
- Photos of Existing Conditions.

Staff assessment:

Key factors in the evaluation of alterations affecting a heritage building or its setting are the consideration of:

- “**displacement effects**” (those adverse actions that result in the damage, loss or removal of valued heritage features); and,
- “**disruption effects**” (those actions that result in detrimental changes to the setting or character of a heritage feature).

In the consideration of any heritage permit application, staff must assess the impact of the displacement and disruption effects on the heritage resource, particularly in relation to the heritage attributes mentioned in the Designation By-law in this case By-law No. 77-239.

The proponent proposes maintenance and repair work on the windows, storms, shutters, and sills as well as the installation of 10 new stained wood trellises to Whitehern Historic House and Garden. This will include the restoration of five existing storm windows, installation of 30 new storm windows, the restoration of 49 existing shutters, installation of nine shutters, and repair to existing mortar.

There will be minimal displacement effects resulting from the proposed work. Many of the storms have been previously replaced and original storms are being repaired as a part of this work. This work will ensure that the windows remain functioning longer and helps protect the remaining features of heritage value. The existing shutters will also be repaired and those that are being replaced are currently damaged or missing.

There will be no disruption effects resulting from the proposal as the scope of the work is to repair, maintain, or replace the existing conditions of the building. The exception to this is new custom-built trellises to replace existing deteriorating wood trellises to support the existing rose bushes along the exterior walls of the building. This addition will enhance the character of the designated property.

Staff support this proposed work as it will aid in maintaining the heritage features of the structure. The replacement of missing shutters will aid in restoring the historic character of the building. The minimal displacement and disruption effects are reasonable given that the improvements and maintenance will help enhance and maintain the historic value of the designated building.

Key dates:

Sub-committee meeting date: May 18, 2021
Notice of Receipt: May 18, 2021

Sub-committee comments and advice:

The Sub-committee considered the application and passed the following motion:

(Ritchie / MacLaren)

That the Heritage Permit Review Sub-committee advises that Heritage Permit Application HP2021-022 be approved as submitted, subject to the following conditions:

- a) Any minor changes to the plans and elevations following approval shall be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to submission as part of any application for a Building Permit and / or the commencement of any alterations; and,
- b) Implementation of the alterations, in accordance with this approval, shall be completed no later than May 31, 2023. If the alterations are not completed by May 31, 2023, then this approval expires as of that date and no alterations shall be undertaken without a new approval issued by the City of Hamilton.

CARRIED

Final Recommendation:

That the applicant be advised that Heritage Permit Application HP2021-022 is approved in accordance with the submitted application, subject to the following conditions:

- a) That any minor changes to the plans and elevations following approval shall be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to submission as part of any application for a Building Permit and / or the commencement of any alterations; and,
- b) Installation of the alterations, in accordance with this approval, shall be completed no later than May 31, 2023. If the alterations are not completed by May 31, 2023, then this approval expires as of that date and no alterations shall be undertaken without a new approval issued by the City of Hamilton.

Approval:

Staff Approval:

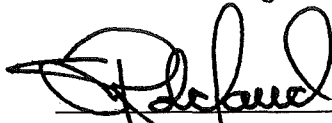


SM/AF _____

Stacey Kursikowski, MCIP RPP
Cultural Heritage Planner

SPM/MGR Initials

Authorized:



Steve Robichaud, MCIP RPP
Director of Planning and Chief Planner

Reasons for Designation Excerpt (By-law 77-239)

Whitehern

Reasons for Designation

"The interior and exterior of this property are recommended for conservation as property having historic and architectural value or interest by the Local Architectural Conservation Advisory Committee of the City of Hamilton.

7.1(d)



Hamilton

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www.hamilton.ca

Planning and Economic Development Department
Planning Division
71 Main Street West, 5th Floor, Hamilton, Ontario, L8P 4Y5
Phone: 905-546-2424, Ext. 1202
Fax: 905-540-5611

FILE: HP2021-028

June 23, 2021

Trustees of St Paul's Presbyterian Church
c/o David Church, Trustee
c/o Emily Collins, ERA Architects Ltd.
70 James Street South
Hamilton ON L8P 2Y8

**Re: Heritage Permit Application HP2021-028:
Modification of a pair of pointed-arch windows and opening to facilitate the
installation of an HVAC unit to 70 James Street South, Hamilton (St. Paul's
Presbyterian Church) (Ward 2) (By-law No. 86-263)**

Please be advised that pursuant to By-law No. 05-364, as amended by By-law No. 07-322, which delegates the power to consent to alterations to designated property under the *Ontario Heritage Act* to the Director of Planning and Chief Planner, Heritage Permit application HP2021-028 is approved for the designated property at 70 James Street South, Hamilton, in accordance with the submitted Heritage Permit application for the following alterations:

- Temporary removal and storage of a pair of pointed-arch windows to facilitate the installation of an HVAC unit for a term of two-years to accommodate the adaptive reuse of a portion of the property for a safe injection site.

In addition to designation by the City of Hamilton By-law 86-263 under Part IV, Section 29 of the *Ontario Heritage Act*, the property is further protected by a Heritage Conservation Easement Agreement held by the Ontario Heritage Trust (OHT), registered on October 1, 1990 as Instrument No. 062997. An approval letter and set of conditions from the OHT for the proposed work was submitted along with the application.

Subject to the following conditions:

- a) Any minor changes to the plans and elevations following approval shall be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to submission as part of any application for a Building Permit and / or the commencement of any alterations;

**Re: Heritage Permit Application HP2021-028:
Modification of a pair of pointed-arch windows and
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70 James Street South, Hamilton (St. Paul's
Presbyterian Church) (Ward 2) (By-law No. 86-263)**

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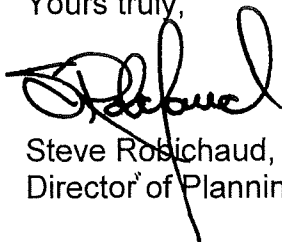
- b) Installation of the alterations, in accordance with this approval, shall be completed no later than June 30, 2023. If the alterations are not completed by June 30, 2023, then this approval expires as of that date and no alterations shall be undertaken without a new approval issued by the City of Hamilton
- c) That all salvaged materials be stored on site and on non-staining wood skids, clear off the ground and protected against soiling and staining in a safe, dry and weather protected location to the satisfaction of the Director of Planning and Chief Planner, with dated photo documentation submitted to culturalheritageplanning@hamilton.ca every six months beginning on the initial date of storage.
- d) That an elevation showing the proposed exterior alteration including the mechanical equipment be provided to the satisfaction of the Director of Planning and Chief Planner.

Please note that this property is designated under Part IV of the *Ontario Heritage Act*, and that this permit is only for the above-noted alterations. Any departure from the approved plans and specifications is prohibited, and could result in penalties, as provided for by the *Ontario Heritage Act*. The terms and conditions of this approval may be appealed to the Ontario Land Tribunal within 30 days of your receipt of this permit.

The issuance of this permit under the *Ontario Heritage Act* is not a waiver of any of the provisions of any By-law of the City of Hamilton, the requirements of the *Building Code Act*, the *Planning Act*, or any other applicable legislation.

We wish you success with your project, and if you have any further questions please feel free to contact Stacey Kursikowski, Cultural Heritage Planner, at 905-546-2424 ext. 1202 or via email at Stacey.Kursikowski@hamilton.ca.

Yours truly,



Steve Robichaud, MCIP RPP
Director of Planning and Chief Planner

cc: Stacey Kursikowski, Cultural Heritage Planner
Chantal Costa, Plan Examination Secretary
John Lane, Manager, Building Inspections

**Re: Heritage Permit Application HP2021-028:
Modification of a pair of pointed-arch windows and
opening to facilitate the instillation of an HVAC unit to
70 James Street South, Hamilton (St. Paul's
Presbyterian Church) (Ward 2) (By-law No. 86-263)**

**June 23, 2021
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Tamara Reid, Supervisor-Operations and Enforcement
Loren Kolar, Legislative Coordinator
Christine Vernem, Legislative Secretary
Councillor Jason Farr, Ward 2

HERITAGE PERMIT DELEGATED AUTHORITY REPORT – HP2021-028
ADDRESS: 70 James Street South, Hamilton

Owner: Trustees of St Paul's Presbyterian Church c/o David Church
Applicant: Emily Collins, ERA Architects Inc.

Description of proposed alterations:

- Modification of a pair of pointed-arch windows and opening to facilitate the installation of an HVAC unit for a period of two-years.

Reasons for proposed alterations:

- Required to accommodate the reuse of this portion of the property as a safe injection site.

Documentation submitted with application:

- Alteration request approval from the Ontario Heritage Trust (OHT) as property is protected by a Heritage Conservation Easement Agreement held by the OHT, registered on October 1, 1990 as Instrument No. 062997;
- Images of subject window;
- Dismantle and salvage specifications;
- Heritage General Requirement Specifications; and,
- Architectural, Mechanical, and Structural Drawings.

Staff assessment:

Key factors in the evaluation of alterations affecting a heritage building or its setting are the consideration of:

- **“displacement effects”** (those adverse actions that result in the damage, loss or removal of valued heritage features); and,
- **“disruption effects”** (those actions that result in detrimental changes to the setting or character of a heritage feature).

In the consideration of any Heritage Permit application, staff must assess the impact of the displacement and disruption effects on the heritage resource, particularly in relation to the heritage attributes mentioned in the Designation By-law, in this case By-law No. 86-263.

The applicant proposes to remove a pair of pointed-arch windows, to protect the opening, and to install an HVAC unit. The opening will be required to accommodate the duct work associated with the unit which will be located in a designated parking space directly outside of the window. The removed arch windows will be stored on site and on non-staining wood skids, clear off the ground and protected against soiling and staining in a safe, dry and weather protected location in accordance with the conditions issued

by the Ontario Heritage Trust. The proposed tenant has signed a two-year lease for this portion of the property, upon completion of the lease, a new Heritage Permit will be required for any work involved in reinstalling the windows and reverting the opening/portion of the facade back to its original state.

The designation By-law identifies the pointed-arch and tracery windows as a protected heritage attribute. The careful removal, salvage and storage of these windows will ensure their protection while allowing the tenant to adaptively reuse the space and meeting all safety requirements for their proposed use as a safe injection site.

Minimal "disruption effects" are expected to the heritage context of the property. While the HVAC unit will be visible on the property, it is located at the rear of the church and the impact will be temporary. When the tenant's two-year lease is finished, the windows will be reinstalled, and the visual disruption impact will be reversed.

There will be minimal "displacement effects" to the subject property as a result of this work. The removal and storage of the window will be overseen by a heritage professional and will be stored on site as per the Ontario Heritage Trust's guidelines. The windows will be installed back into the structure at the end of the two-year lease.

Staff support the proposed alterations as they are in keeping with the designation By-law.

Key dates:

Sub-committee meeting date: June 15, 2021

Notice of Receipt: June 16, 2021

Sub-committee comments and advice:

The Sub-committee considered the application and passed the following motion:

(Burke / Ritchie)

That the Heritage Permit Review Sub-committee advises that Heritage Permit Application HP2021-028 be approved as submitted, subject to the following conditions:

- a) Any minor changes to the plans and elevations following approval shall be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to submission as part of any application for a Building Permit and / or the commencement of any alterations;
- b) Installation of the alterations, in accordance with this approval, shall be completed no later than June 30, 2023. If the alterations are not completed by June 30, 2023, then this approval expires as of that date and no alterations shall be undertaken without a new approval issued by the City of Hamilton

- c) That all salvaged materials be stored on site and on non-staining wood skids, clear off the ground and protected against soiling and staining in a safe, dry and weather protected location to the satisfaction of the Cultural Heritage Planner with dated photo documentation submitted to culturalheritageplanning@hamilton.ca every six months beginning on the initial date of storage.
- d) That an elevation showing the proposed exterior alteration including the mechanical equipment be provided to the satisfaction of the Director of Planning and Chief Planner.

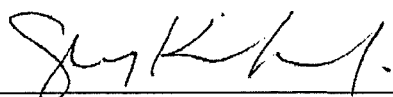
CARRIED

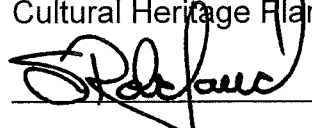
Final Recommendation:

That the applicant be advised that Heritage Permit Application HP2021-028 is approved in accordance with the submitted application, subject to the following conditions:

- a) Any minor changes to the plans and elevations following approval shall be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to submission as part of any application for a Building Permit and / or the commencement of any alterations;
- b) Installation of the alterations, in accordance with this approval, shall be completed no later than June 30, 2023. If the alterations are not completed by June 30, 2023, then this approval expires as of that date and no alterations shall be undertaken without a new approval issued by the City of Hamilton
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- d) That an elevation showing the proposed exterior alteration including the mechanical equipment be provided to the satisfaction of the Director of Planning and Chief Planner.

Approval:

Staff Approval:  _____ SM/AF
Stacey Kursikowski, MCIP, RPP SPM/MGR Initials
Cultural Heritage Planner

Authorized:  _____
Steve Robichaud, MCIP RPP
Director of Planning and Chief Planner

Designation By-law (By-law 86-263)

Important to the preservation of St. Paul's Presbyterian Church is the retention of the four exterior facades and the interior of the original church; the exteriors of the stone chapel addition built in 1877 by architect Peter Brass, and enlarged, in 1909 by Frank Darling; and the chancel extension on 1909 by Hugh Vallance. Designation includes but is not limited to the masonry walls, buttresses and spire; the pointed-arch windows and doorways; the roof and dormers, the decorative wooden porches, tracery windows, wooden doors, stone pinnacles mouldings and carved decoration; and on the interior the narthex and sanctuary including the chancel, pulpit, gallery, stained glass and tracery windows, timberwork ceiling, lighting fixtures, carved woodwork, pews excluding the ones in the transept and the original Communion Table.

7.1(e)



Hamilton

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Phone: 905-546-2424, Ext. 1202
Fax: 905-540-5611

FILE: HP2021-030

June 23, 2021

Henry Stinson
c/o Peter Scott
134 Mary Street
Hamilton, ON L8R 1K5

**Re: Heritage Permit Application HP2021-030:
Installation of perimeter weeping tile and foundation waterproofing
membrane to 601 Barton Street East, Hamilton (Ward 3) (By-law No. 16-334)**

Please be advised that pursuant to By-law No. 05-364, as amended by By-law No. 07-322, which delegates the power to consent to alterations to designated property under the *Ontario Heritage Act* to the Director of Planning and Chief Planner, Heritage Permit application HP2021-030 is approved for the designated property at 601 Barton Street East, Hamilton, in accordance with the submitted Heritage Permit application for the following alterations:

- Installation of perimeter weeping tile and foundation waterproofing membrane.

Subject to the following conditions:

- a) Any minor changes to the plans and elevations following approval shall be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to submission as part of any application for a Building Permit and / or the commencement of any alterations;
- b) Installation of the alterations, in accordance with this approval, shall be completed no later than June 30, 2023. If the alterations are not completed by June 30, 2023, then this approval expires as of that date and no alterations shall be undertaken without a new approval issued by the City of Hamilton

Please note that this property is designated under Part IV of the *Ontario Heritage Act*, and that this permit is only for the above-noted alterations. Any departure from the approved plans and specifications is prohibited, and could result in penalties, as provided for by the *Ontario Heritage Act*. The terms and conditions of this approval may be appealed to the Ontario Land Tribunal within 30 days of your receipt of this permit.

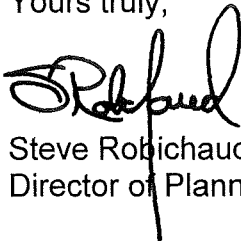
**Re: Heritage Permit Application HP2021-030:
Installation of perimeter weeping tile and foundation
waterproofing membrane to 601 Barton Street East,
Hamilton (Ward 3) (By-law No. 16-334)**

**June 23, 2021
Page 2 of 2**

The issuance of this permit under the *Ontario Heritage Act* is not a waiver of any of the provisions of any By-law of the City of Hamilton, the requirements of the *Building Code Act*, the *Planning Act*, or any other applicable legislation.

We wish you success with your project, and if you have any further questions please feel free to contact Stacey Kursikowski, Cultural Heritage Planner, at 905-546-2424 ext. 1202 or via email at Stacey.Kursikowski@hamilton.ca.

Yours truly,



Steve Robichaud, MCIP RPP
Director of Planning and Chief Planner

cc: Stacey Kursikowski, Cultural Heritage Planner
Chantal Costa, Plan Examination Secretary
John Lane, Manager, Building Inspections
Tamara Reid, Supervisor-Operations and Enforcement
Loren Kolar, Legislative Coordinator
Christine Vernem, Legislative Secretary
Councillor Nrinder Naan, Ward 3

HERITAGE PERMIT DELEGATED AUTHORITY REPORT – HP2021-030
ADDRESS: 601 Barton Street East, Hamilton

Owner: Henry Stinson
Applicant: Peter Scott

Description of proposed alterations:

- Installation of perimeter weeping tile and foundation waterproofing membrane.

Reasons for proposed alterations:

- Waterproofing for future preservation.

Documentation submitted with application:

- Mechanical diagrams; and,
- Floor plans.

Staff assessment:

Key factors in the evaluation of alterations affecting a heritage building or its setting are the consideration of:

- “**displacement effects**” (those adverse actions that result in the damage, loss or removal of valued heritage features); and,
- “**disruption effects**” (those actions that result in detrimental changes to the setting or character of a heritage feature).

In the consideration of any Heritage Permit application, staff must assess the impact of the displacement and disruption effects on the heritage resource, particularly in relation to the heritage attributes mentioned in the Designation By-law, in this case By-law No. 16-334.

The applicant proposes to install perimeter weeping tile and a foundation waterproofing membrane along the foundation of the structure. The membrane will not extend beyond grade and will not visibly impact the exterior of the foundation. The work will involve digging around the perimeter of the building in small sections to ensure no structural damage occurs to the foundation or building. The section of the building being worked on will be covered in sheathing/plywood during construction to protect the designated features of the structure.

The designation By-law indicates that the brick construction of the property is a designated feature. While the foundation itself is not a defined heritage attribute within the By-law, given the proposal for extensive digging around the entirety of the structure and potential impacts to other attributes of the building, the request for a Heritage Permit was deemed an appropriate measure to ensure the protection of this element.

Minimal "disruption effects" are expected to the heritage context of the property. The work will not be visible to the public once complete as no aspect of the project is to extend above grade. Additionally, any disturbance of the asphalt will be repaved.

There will be minimal "displacement effects" to the subject property as a result of this work. Adequate protection measures are in place to ensure that the designated features of the property will not be damaged as a part of construction and the proposed work will minimize any displacement effects that may occur in the future due to water damage.

Staff support the proposed alterations as they are in keeping with the designation By-law.

Key dates:

Sub-committee meeting date: June 15, 2021

Notice of Receipt: June 16, 2021

Sub-committee comments and advice:

The Sub-committee considered the application and passed the following motion:

(Spolnik / Dent)

That the Heritage Permit Review Sub-committee advises that Heritage Permit application HP2021-030 be approved as submitted, subject to the following conditions:

- a) Any minor changes to the plans and elevations following approval shall be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to submission as part of any application for a Building Permit and / or the commencement of any alterations;
- b) Installation of the alterations, in accordance with this approval, shall be completed no later than June 30, 2023. If the alterations are not completed by June 30, 2023, then this approval expires as of that date and no alterations shall be undertaken without a new approval issued by the City of Hamilton

CARRIED

Final Recommendation:

That the applicant be advised that Heritage Permit application HP2021-030 is approved in accordance with the submitted application, subject to the following conditions:

- a) Any minor changes to the plans and elevations following approval shall be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to submission as part of any application for a Building Permit and / or the commencement of any alterations;

Designation By-law (By-law 16-334)

Description of Heritage Attributes

Key attributes that express the heritage value of the property related to its former school function and the Edwardian Classicism architectural style include the:

- Brick construction;
- L-shaped plan of the original 1914 building;
- Projections on all elevations of the 1914 structure;
- Rectangular window openings, in singles and groupings of three, four and five on all elevations;
- Stone lintels and sills;
- Continuous stone band above second storey windows;
- Stone cornice;
- Tapered stone lintels and band above basement windows;
- East and west side entrance features with projection, archway, brick voussoirs, shaped stone blocks beneath voussoir, keystone, stone cornice, parapet capped with stone, arched fanlight and double doors;
- Flat roof;
- Parapet at roofline with stone caps, including stepped and arched parapet in south central projection with datestone and school name;
- Rectangular brick courses with stone corners in blank wall area of the east elevation;
- Brick pilasters and stone bands surrounding a stylized rectangular stone decoration in both ends of the south elevation on the second storey; and,
- Interior iron staircases with decorative column-style iron newel posts with round newel cap, patterned borders and rosettes on the stringers (limited to the west staircase)

GENERAL NOTES:

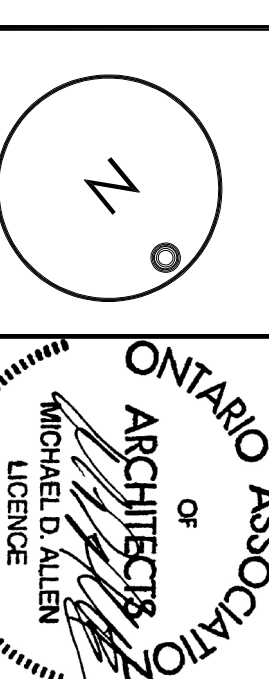
NO.	DATE:	REVISION:	BY:
1.	MAY 23, 2019	ISSUED FOR REVIEW	PD
2.	MAY 30, 2019	ISSUED FOR UPDATE	PD
3.	JULY 2, 2019	ISSUED FOR UPDATE	PD
4.	JULY 15, 2019	UPDATE FOR SUITE REV'D SUITES + UPDATED SUITE AREA CALC'S	PD
5.	AUG 21, 2019	SUITE AREA CALC'S	PD
6.	OCT 17, 2019	WATERPROOFING PERMIT	PD

COMMISSION:

PROPOSED:

GIBSON LOFTS
(RENOVATION TO EXIST
GIBSON SCHOOL)

601 BARTON ST E, HAMILTON, ON.



A | C | K
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www.ackarchitects.com
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206 gerrard street east
toronto, ontario, m5c 1g7
f 416.862.8542
s1.carlson@ack.com
1822 carleton place
f 416.862.8542
toronto, ontario, m4c 1b8

SHEET TITLE:
WATERPROOFING
PLAN (Below Grade)
- LEVEL 1 (LWR FLR)

Issued for Re-Zoning:

Issued for Site Plan Agreement:

Issued for Permit:

Issued for Tender:

Issued for Construction:

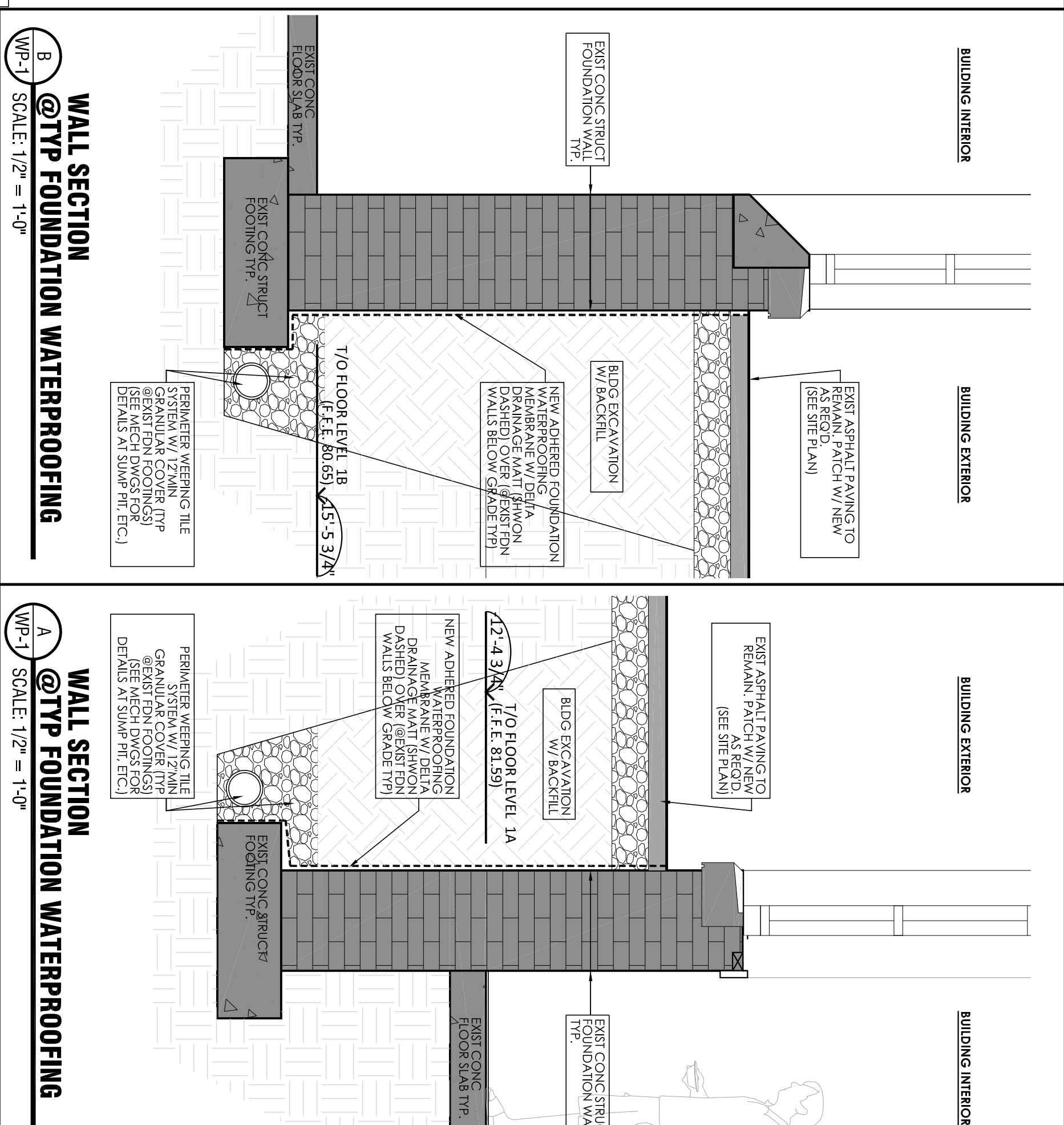
DRAWN BY: PD / JV DWG No.

CHECKED BY: MA / JR

DATE: MAY 2019

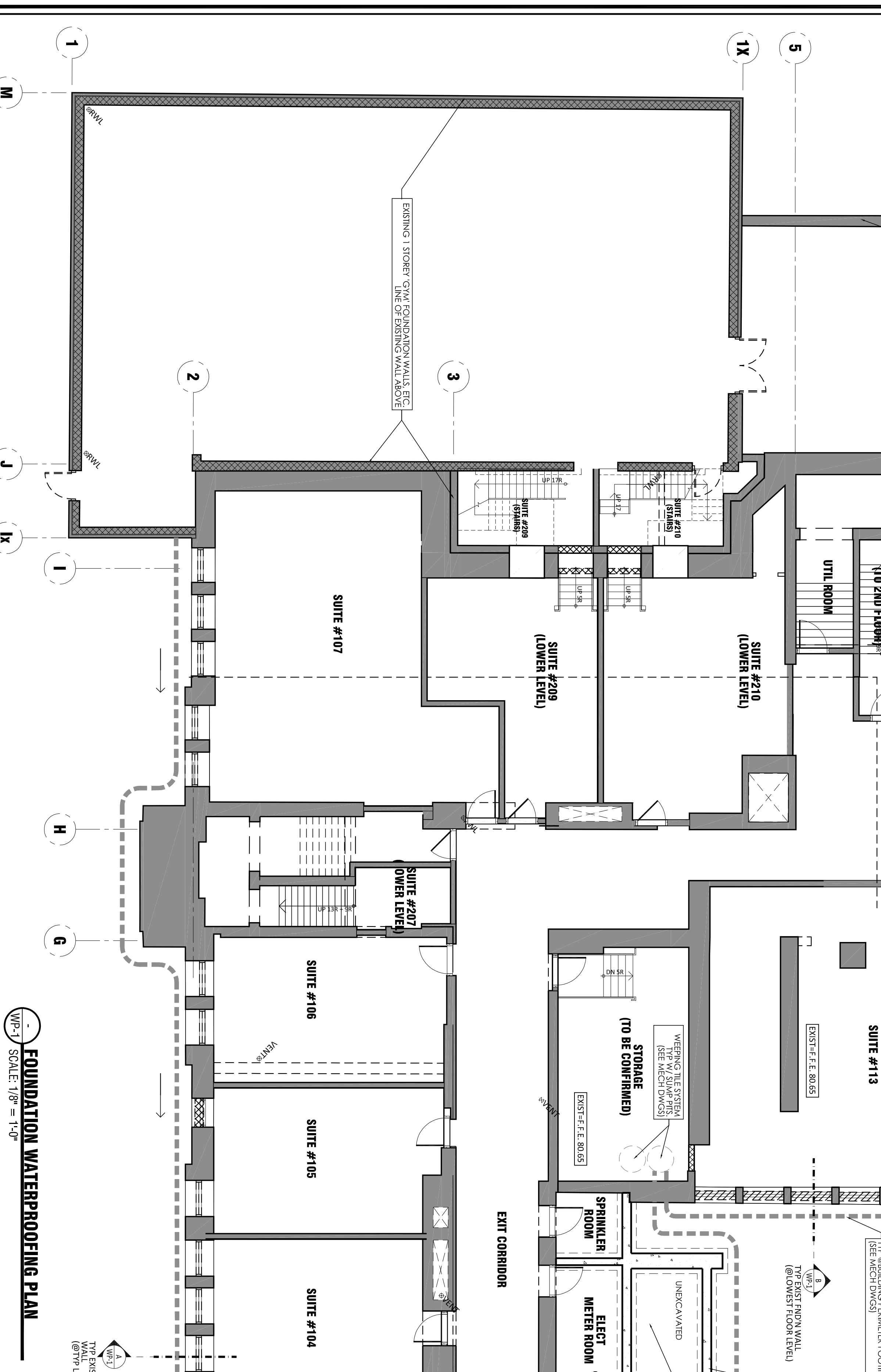
SCALE: AS SHOWN

PROJECT No.: 2019-118A



WALL SECTION
@TYP FOUNDATION WATERPROOFING
SCALE: 1/2" = 1'-0"

WALL SECTION
@TYP FOUNDATION WATERPROOFING
SCALE: 1/2" = 1'-0"



FOUNDATION WATERPROOFING PLAN
SCALE: 1/8" = 1'-0"

MINUTES OF THE HAMILTON HERITAGE PERMIT REVIEW SUB-COMMITTEE

Tuesday, May 18, 2021

Present: Melissa Alexander, Charles Dimitry (Chair), Andy MacLaren, Carol Priamo, Tim Ritchie (Vice Chair), Stefan Spolnik, Steve Wiegand

Attending Staff: Alissa Golden, Hannah Kosziwka, Stacey Kursikowski, Shannon McKie, Chloe Richer, Charlie Toman

Absent with Regrets: Diane Dent

Meeting was called to order by the Chairman, Charles Dimitry, at 4:30pm

1) Approval of Minutes from Previous Meetings:

(Wiegand/MacLaren)

That the Minutes of April 20, 2021, be approved as presented.

2) Heritage Permit Applications

a. HP2021-022: 41 Jackson Street West, Hamilton (Whitehern NHS)

- Scope of work:
 - Re-glazing, restoration and repainting of 5 existing storm windows;
 - Replication and installation of 30 new storm windows;
 - Supply and installation of new period appropriate brass hook & eyes;
 - Restoration, repainting and re-hanging of 49 individual existing shutters;
 - Replication and installation of 9 missing or damaged shutters;
 - Repairs to mortar behind all shutters;
 - Fabrication of 10 new stained wood trellises to support existing roses against main house;
 - Installation of new owner-supplied shutter hinges hardware;
 - Removal and application of new sealant between wood members and masonry;
 - Fabrication and installation of new laminated glass storm for arched window (W2-07);
 - Hand scraping, sanding, filling, priming, and re-painting of all sills, exposed jambs and brickmould.

- Original butt-mortise hinges to be restored on basement level
- Reason for work:
 - Repair and maintenance

Jarrett Zacharko represented the city and spoke to the Sub-committee at the permit review.

The Sub-committee considered the application and together with input from the applicant and advice from staff, passed the following motion:

(Ritchie/MacLaren)

That the Heritage Permit Review Sub-committee advises that Heritage Permit application HP2021-022 be consented to, subject to the following conditions:

- a) That any minor changes to the plans and elevations following approval shall be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to submission as part of any application for a Building Permit and / or the commencement of any alterations; and,
- b) Installation of the alterations, in accordance with this approval, shall be completed no later than May 31, 2023. If the alteration(s) are not completed by May 31, 2023, then this approval expires as of that date and no alterations shall be undertaken without a new approval issued by the City of Hamilton.

b. HP2021-023: 71 Main Street West, Hamilton (City Hall)

- Scope of work:
 - Installation of black stainless-steel tactile walking surface indicators with an off white soft inlay tile to floating stairs for increased accessibility measures
 - Terrazzo flooring at top of stairs is included in the Designation By-law, installation requires drilling the flooring
- Reason for work:
 - Accessibility improvements

Melissa McGinnis represented the City and spoke to the Sub-committee at the permit review

The Sub-committee considered the application and together with input from the applicant and advice from staff, recommended refusal of the permit by a vote of 5 to 2.

The Sub-committee recommended that the City find examples of similar accessibility interventions at other heritage properties with similar terrazzo flooring as City Hall for guidance before further consideration and review by the Sub-committee.

c. HP2021-026: 220 St. Clair Boulevard, Hamilton (St. Clair Blvd HCD)

- Scope of work:
 - Removal of original windows to be replaced with new vinyl casement windows.
 - Leaded details from windows will be retained.
 - Heritage contractor determined windows are not deteriorated beyond repair.
 - Cost of restoration and new storms represents substantial cost in comparison to vinyl.

- Reason for work:
 - Windows are damaged and no longer functioning

Patrick and Alisa Hale, the property owners, spoke to the sub committee at the permit review.

The Sub-committee considered the application and together with input from the applicant and advice from staff, passed the following motion:

(Ritchie/Spolnik) by a vote of 5-2

That the Heritage Permit Review Sub-committee advises that Heritage Permit application HP2021-023 be consented to, subject to the following conditions:

- a) That any minor changes to the plans and elevations following approval shall be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to submission as part of any application for a Building Permit and / or the commencement of any alterations; and,
- b) Installation of the alterations, in accordance with this approval, shall be completed no later than May 31, 2023. If the alteration(s) are not completed by May 31, 2023, then this approval expires as of that date and

no alterations shall be undertaken without a new approval issued by the City of Hamilton.

d. HP2021-024: 16 West Avenue South, Hamilton (Former St. Thomas Church)

- Scope of work:
 - Addition of dormers on the roof above each main stained-glass window
 - Cutting into exterior stone and supporting the weight of the stained glass with steel bar
 - Removal of North Side chimney
 - Painting current wood framing
 - Install film or opaque glass on the inside where there is stained glass that is not visible from the interior
 - Replace current plastic coverings of stained glass with storm window covers
 - Construct a wood or metal fence on the North Side of the property for amenity space
 - Replace in kind:
 - windows on the east side of the building on the ground floor
 - Metal eaves across the building
 - Shingles and metal work on roof

- Reason for work:
 - Adaptive reuse

Tal Dehtiar, the applicant, spoke to the Sub-committee at the review.

The Sub-committee considered the application and together with input from the applicant and advice from staff, passed the following motion:

(Ritchie/Alexander)

That the Heritage Permit Review Sub-committee advises that Heritage Permit application HP2021-024 be consented to, subject to the following conditions:

- a) That the final specifications for the new windows, doors and dormers be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to submission as part of any application for a Building Permit and / or the commencement of any alterations;
- b) That any minor changes to the plans and elevations following approval shall be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to submission as part of any application for a Building Permit and / or the commencement of any alterations; and,
- c) Installation of the alterations, in accordance with this approval, shall be completed no later than May 31, 2023. If the alteration(s) are not completed by May 31, 2023, then this approval expires as of that date and no alterations shall be undertaken without a new approval issued by the City of Hamilton.

e. HP2021-027 – 228 St. Clair Boulevard (St. Clair Boulevard HCD)

- Scope of work:
 - Front yard landscaping including:
 - Removal of the existing concrete pad at the foot of the stairs
 - Introduction of an interlocking brick walkway, flanked by garden beds with plants and groundcover
- Reason for work:
 - Home improvement

Albert Cule, the property owner, spoke to the Sub-committee at the review.

The Sub-committee considered the application and together with input from the applicant and advice from staff, passed the following motion:

(Ritchie/MacLaren)

That the Heritage Permit Review Sub-committee advises that Heritage Permit application HP2021-027 be consented to, subject to the following conditions:

a) That any minor changes to the plans and elevations following approval shall be submitted, to the satisfaction and approval of the Director of Planning and Chief Planner, prior to submission as part of any application for a Building Permit and / or the commencement of any alterations; and,

b) Installation of the alterations, in accordance with this approval, shall be completed no later than May 31, 2023. If the alteration(s) are not completed by May 31, 2023, then this approval expires as of that date and no alterations shall be undertaken without a new approval issued by the City of Hamilton.

3) **Adjournment:** Meeting was adjourned at 7:45 pm

(MacLaren/Spolnik)

That the meeting be adjourned.

4) **Next Meeting:** Tuesday, June 15, 2021 from 4:30 – 8:30pm

Inventory & Research Working Group (IRWG)

Meeting Notes

Thursday, May 20, 2021 (6:00 pm – 8:00 pm)

City of Hamilton WebEx Virtual Meeting

Present: Janice Brown (Chair); Rammy Saini (Secretary); Alissa Denham-Robinson; Ann Gillespie; Brian Kowalesicz; Graham Carroll; Lyn Lunsted

Regrets: Chuck Dimitry; Jim Charlton

Also Present: Alissa Golden (Heritage Project Specialistt); Hannah Kosziwka (Waterloo Student Intern); Stacey Kursikowski (Heritage Planner); Chloe Richer (Heritage Planner)

NOTES

1. Chair's Remarks

Janice welcomed all present.

2. Declarations of Interest

None.

3. Review & Approval of Meeting Notes, April 26, 2021

Approved by general consensus.

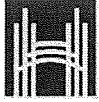
4. Meeting and Introduction with Two New Cultural Heritage Planners

To help orient our new heritage planners to the IRWG, each member took time introducing themselves and providing brief information on their background and history with the committee. After member introductions, Chloe Richer and Stacey Kursikowski introduced themselves to the IRWG. We're all very excited to have them join us.

5. Adjournment and Next Meeting Date

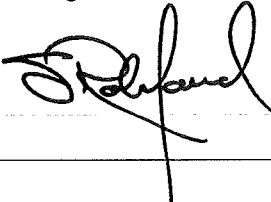
The meeting was adjourned at 6:45 PM.

Next meeting: June 21, 6:00-8:00 PM (WebEx Online)



Hamilton

CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Hamilton Municipal Heritage Committee
COMMITTEE DATE:	June 25, 2021
SUBJECT/REPORT NO:	<i>Bill 108, More Homes, More Choice Act, 2019</i> , Ontario Regulation 385/21 made under the <i>Ontario Heritage Act</i> and the Draft Ontario Heritage Tool Kit (PED19125(c)) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Jennifer Roth (905) 546-2424 Ext. 2058
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That Council adopt the submissions and recommendations as provided in Report PED19125(c) regarding the Regulation under the *Ontario Heritage Act*, as amended by *Bill 108, More Homes, More Choice Act, 2019* that is scheduled to be Proclaimed July 1, 2021 and the associated Draft Ontario Heritage Tool Kit;
- (b) That the Director of Planning and Chief Planner be authorized and directed to confirm the submissions made to the Province attached as Appendix "D" to Report PED19125(c); and,
- (c) That the Director of Planning and Chief Planner, be authorized and directed to negotiate and consent to agreements to extend or eliminate the 90-day timeline to issue a notice of intention to designate when a Prescribed Event occurs, to ensure the comprehensive review of *Planning Act* applications as well as cultural heritage resources.

EXECUTIVE SUMMARY

Report PED19125(b) went to Hamilton Municipal Heritage Committee on October 30, 2020 and to Planning Committee on November 3, 2021 which provided an overview of

SUBJECT: *Bill 108, More Homes, More Choice Act, 2019, Ontario Regulation 385/21 made under the Ontario Heritage Act and the Draft Ontario Heritage Tool Kit (PED19125(c)) (City Wide) - Page 2 of 12*

the proposed Regulation to implement changes to the *Ontario Heritage Act* resulting from *Bill 108, More Homes, More Choice Act, 2019*. As part of Report PED19125(b), a letter submission was prepared and submitted to the Ministry with questions of clarification, supportive comments and concerns. Direct responses to each municipality from the Ministry have not been provided to this letter but the ERO Posting Decision was posted on July 9, 2021 and is included as Appendix “E” to this Report.

The Ministry of Heritage, Sport, Tourism and Culture Industries issued *Ontario Regulation 385/21*, attached as Appendix “A” to Report PED19125(c), and released ERO Posting 019-2770 – Updates to the Ontario Heritage Tool Kit for public comment on June 1, 2021. This Report identifies some of the key changes to the Regulation from the previously reviewed draft Regulation outlined in Report PED19125(b).

Staff will be forwarding a letter to the Province, attached as Appendix “B” to Report PED19125(c), outlining staff’s comments on the ERO posting in advance of the commenting deadline, being June 30, 2021. This Report, including any changes or additions proposed by Council will be forwarded to the Province as additional comments on the ERO posting after it has closed.

Alternatives for Consideration – See Page 11

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: The *Ontario Heritage Act*, as amended by Bill 108, and *Ontario Regulation 385/21* will have financial implications on the City in terms of staff resources, and possibly fees for processing matters under the *Ontario Heritage Act*. However, the degree and magnitude are unknown at this time.

It should be noted that while the City does not currently charge fees for applications under the *Ontario Heritage Act*, Staff will review internal processes and the potential need to apply application fees to future heritage applications to ensure cost recovery. The result of this review will be presented to Committee and Council for consideration.

Staff note that there are currently 238 properties with Part IV designation by-laws that pre-date 2005 and the implementation of *Ontario Regulation 9/06 - Ontario Criteria for Determining Cultural Heritage Value or Interest*. Properties that are subject to a heritage permit that have a pre-2005 designation by-law will need to be amended to meet the heritage evaluation criteria of *Ontario Regulation 9/06* as a result of *Ontario Heritage Act*, as amended by Bill 108, and *Ontario Regulation 385/21*. The associated costs for updating these by-laws has not been considered in the capital budget.

SUBJECT: *Bill 108, More Homes, More Choice Act, 2019, Ontario Regulation 385/21 made under the Ontario Heritage Act and the Draft Ontario Heritage Tool Kit (PED19125(c)) (City Wide) - Page 3 of 12*

Staffing: Staff resource implications remain unknown at this time, and ongoing monitoring will continue to ensure that the new *Ontario Heritage Act* timelines are met, and heritage resources are protected and conserved.

Legal: Additional Legal resources will be required to:

- provide support interpreting and implementing changes;
- provide support for amendments to Delegated Authority By-law No. 05-364;
- assist with preparation of reports, by-laws, resolutions and agreements to comply with new requirements;
- assist with changes to the process of placing properties on the heritage register; and,
- represent the City at the Ontario Land Tribunal (OLT) as staff anticipate higher number of OLT appeals now that final decision-making power on designations rests with OLT.

HISTORICAL BACKGROUND

Report PED19125(b) went to Hamilton Municipal Heritage Committee on October 30, 2020 and to Planning Committee on November 3, 2021 which provided an overview of the proposed Regulation to implement changes to the *Ontario Heritage Act* resulting from *Bill 108, More Homes, More Choice Act, 2019*. As part of Report PED19125(b), a letter submission was prepared and submitted to the Ministry with questions of clarification, supportive comments and concerns. Responses from the Ministry have not been provided to this letter.

The following are key dates related to *Bill 108, More Homes, More Choice Act, 2019*:

- May 2, 2019: *Bill 108, More Homes, More Choice Act, 2019*, was introduced at the Ontario Legislature.
- June 6, 2019: Royal Assent given to Bill 108.
- September 21, 2020: ERO Posting 019-1348 - Proposed Regulation under the Ontario Heritage Act (Bill 108) released for public comment.
- November 5, 2020: Commenting deadline for the ERO Posting 019-1348.
- June 1, 2021: Ministry of Heritage, Sport, Tourism and Culture Industries issued *Ontario Regulation 385/21* and released ERO Posting 019-2770 – Updates to the Ontario Heritage Tool Kit for public comment.

SUBJECT: *Bill 108, More Homes, More Choice Act, 2019, Ontario Regulation 385/21 made under the Ontario Heritage Act and the Draft Ontario Heritage Tool Kit (PED19125(c)) (City Wide) - Page 4 of 12*

- June 9, 2021: ERO Posting 019-1348 Decision posted explaining the changes between the Draft Regulation and *Ontario Regulation 385/21* and how the comments submitted impacted the changes. The decision is attached as Appendix "E" to Report PED19125(c).
- June 30, 2021: Commenting deadline for ERO Posting 019-2770 – Updates to the Ontario Heritage Tool Kit.
- July 1, 2021: *Ontario Heritage Act* and *Ontario Regulation 385/21* will be Proclaimed.

RELEVANT CONSULTATION

This Report has been prepared by Planning Division staff with input from Legal staff and Tourism and Culture staff.

Legal

Legal staff reiterate the comments provided in PED19125(b). Legal staff also identified the Sections in the *Ontario Heritage Act* that are not being Proclaimed on July 1, 2021, including:

- Section 1(2) - definition of 'alter' as it relates to Sections 33, 34.5 and 69;
- Subsection 41(2.3) – Change to language related to demolition and removal as it relates to properties that are designated under both Section 29 (Individual designation) and Section 41 (Heritage Conservation District);
- Section 42(1) 2. – 4., Section 42(2.1) and Section 42(4.1) – Change to language related to demolition and removal of heritage attributes for properties located within a Heritage Conservation District (HCD) which would require all attributes to be described in the HCD Plan and associated impacts on heritage permits; and,
- Section 69(3) – Change to the offences and restoration costs as it relates to demolition within an HCD (not Proclaimed because changes to Section 42 are not being proclaimed).

The Sections that are not being proclaimed and their associated impacts are discussed in more detail in the Analysis and Rationale for Recommendation section below.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Ontario Heritage Act and the New Regulation

On June 1, 2021 the Ministry of Heritage, Sport, Tourism and Culture Industries provided an email communication notifying municipalities that changes to the *Ontario Heritage Act* and associated implementation regulation being, *Ontario Regulation 385/21*, resulting from *Bill 108, More Homes, More Choice Act, 2019* were coming into effect on July 1, 2021. ERO Posting 019-1348 Decision posted on June 9, 2021 explains the changes between the Draft Regulation and *Ontario Regulation 385/21* and how the comments submitted through the previous ERO Posting in 2020 impacted the changes. The Decision is attached as Appendix "E" to Report PED19125(c).

Changes to the *Ontario Heritage Act* that are not Proclaimed

There are a number of changes to the *Ontario Heritage Act* that are not being proclaimed into effect on July 1, 2021 but remain in the *Ontario Heritage Act*. Staff will be seeking clarification from the Province on the plan regarding these items and if there will be future proclamation dates. The changes that are not being proclaimed include:

- Section 1(2) - definition of 'alter' as it relates to Sections 33, 34.5 and 69;
- Subsection 41(2.3) – Change to language related to demolition and removal as it relates to properties that are designated under both Section 29 (Individual designation) and Section 41 (Heritage Conservation District);
- Section 42(1) 2. – 4., Section 42(2.1) and Section 42(4.1) – Change to language related to demolition and removal of heritage attributes for properties located within a Heritage Conservation District (HCD) which would require all attributes to be described in the HCD Plan and associated impacts on heritage permits; and,
- Section 69(3) – Change to the offences and restoration costs as it relates to demolition within an HCD (not Proclaimed because changes to Section 42 are not being proclaimed).

Staff previously noted in Report PED19125(b) that the proposed definition of "alter", as it relates to certain provisions, would have impacts on workflows because it specifically does not include "to demolish" or "to remove" any heritage attribute. The new definition of "alter" reduces the number of heritage permits that can be delegated to staff if it is proclaimed, because more alterations will be considered a demolition which requires Council approval. Staff previously requested clarification from the Province regarding this matter. If the definition of "alter" is proclaimed the number of non-delegated reports

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going to Council will increase. ERO Posting 019-1348 Decision stated that the Ministry would not be proclaiming the change at this time but did not provide any specific details regarding when it may be proclaimed. Staff will be seeking further clarification from the Province regarding when this will be proclaimed.

Staff note that the proposed changes to Section 42 would have impacts on staff's ability to process heritage permits within existing HCDs in the City of Hamilton. Given the requirement to have attributes identified specifically within the HCD Plans to ensure that heritage attributes are protected from demolition or removal would require all the HCD Plans that exist within the City to be updated. Staff will be seeking clarification from the Province regarding when this will be proclaimed.

Ontario Regulation 385/21

Some provisions of *Ontario Regulation 385/21* have been revised from the draft Regulation provided by the Ministry in September 2020. Changes from the previously circulated draft Regulation include:

- Removal of the Prescribed Principles;
- Removal of the requirement for an employee to describe how Council considered the Prescribed Principles in making its decision to designate;
- Designation By-laws will now only require the inclusion of one of the following: written description, scale drawing or site plan, instead of all three; and,
- Changes in the prescribed exceptions to the 90 day timeline established in Section 29 (1.2) of the *Ontario Heritage Act*, being:
 - the removal of the exception for new and relevant information restarting the 90 day timeline;
 - the addition of a provision that states when two or more prescribed events occur, only one 90 day timeline applies; and,
 - the addition of a provision that states that once the prescribed event is disposed of (i.e. Council provides a decision on an Official Plan Amendment and the appeal period is over), then the 90 day timeline does not apply, and designation could proceed if there is a building, structure or attributes that remain and meet the designation requirements.

The changes to the provisions noted above address several concerns identified by staff in Report PED19125(b) as it relates to:

- Council's decision-making power with regards to the Prescribed Principles;
- Lack of clarity on what constituted an Employee Statement; and,

- Concerns with the Land Registry's Office ability to register a by-law with a site plan (digital file size).

Other modifications to the Regulation also include subsection reference updates, grammatical changes, and revising the title of the Local Planning Appeal Tribunal (LPAT), now the Ontario Land Tribunal (OLT). The above noted modifications have not fully addressed staff's concern or comments outlined in Report PED19125(b) and provided to the Ministry as it relates to the ability to provide a comprehensive review of heritage matters in conjunction with *Planning Act* applications.

Sections 26.0.1 and 39.1.2 of the *Ontario Heritage Act* are being proclaimed on July 1, 2021, and they contain reference to 'Prescribed Principles' which are not in *Ontario Regulation 385/21*. Staff will be seeking clarification from the Province regarding the status of the Prescribed Principles and if there will be future consultation on new Principles should a future proclamation date be established.

ERO Posting 019-1348 Decision provided clarity as it relates to properties that have been subject to a prescribed event which would trigger the 90 day timeline to issue a NOID, that are subject to a subsequent application. The new application would trigger a new 90 day timeline for issuing a NOID, and the restriction would end once the subsequent application has been disposed of under the *Planning Act*.

Staff note that one of the exceptions to extend the 90 day timeline was removed, being the submission of new and relevant information, which would restart the 90 day timeline. ERO Posting 019-1348 Decision stated that some of the submissions were concerned that the exceptions were too flexible and allow municipalities too much latitude.

Staff remain concerned that the 90 day timeline to issue a notice of intention to designate is not sufficient. Staff recommend that Council seek opportunities to utilize the prescribed exceptions, specifically the exception to enter into an agreement with the applicant triggering a prescribed event. The Recommendations of this Report include Council authorization and direct the Director of Planning and Chief Planner to enter into agreements to extend or eliminate the 90 day timeline to ensure a comprehensive review of cultural heritage resources and *Planning Act* applications occurs.

Amending Designation By-laws

Staff note that there are 238 properties with Part IV designation by-laws in the City of Hamilton that came into effect prior to when *Ontario Regulation 9/06 06 – Criteria for Determining Cultural Heritage Value* came into effect in 2006. There is concern that one or more of the pre-2006 designation By-laws may lack the detail established in *Ontario*

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Regulation 9/06 which may impact approvals of heritage permits which may not maintain the intended conservation goals of designation.

Further the Regulation establishes a requirement that in situations where Council agrees or is deemed to have agreed to a heritage permit for a demolition or removal of a heritage attribute, the associated designation By-law needs to be amended. When By-laws need to be amended after a heritage permit has been processed, it should be amended to meet the current standards established in *Ontario Regulation 9/06 – Criteria for Determining Cultural Heritage Value*, which will require additional staff resources and budget.

Consideration should be given to commencing work on prioritizing and updating the 238 Part IV designation by-laws to ensure proactive conservation work can continue based on staff resources and budget.

Transitional Provisions

The Transitional Provisions have been revised as it relates to notices of intention to designate for those properties that have not had designating By-laws passed and any applications to demolish or alter that were made before July 1, 2021. The Transitional Provision states that the notices and applications will continue under the old *Act*. Further, designating By-laws that are outstanding on July 1, 2021 must be passed before July 1, 2022 or the notice will be deemed to be withdrawn unless an extension is agreed to with the property owner. Generally, staff are satisfied with the changes that have been made to the Transitional Provisions.

Ontario Heritage Tool Kit and Supportive Materials

Guidance material to assist with the transition to the new legislative and regulatory processes were provided in an updated draft version of the Ontario Heritage Tool Kit (the Tool Kit), attached as Appendix “B” to Report PED19125(c). The updates to the Tool Kit are intended to assist users in understanding the recent changes to the *Ontario Heritage Act* and associated *Ontario Regulation 385/21*. The draft Tool Kit consists of five guides which are available for comment until June 30, 2021.

A brief summary of the five guides are outlined below:

1. **Designating Heritage Properties:** a guide for municipal designation of individual properties under the *Ontario Heritage Act*. The Guide includes flow charts that outline processes step-by-step.
2. **Heritage Property Evaluation:** a guide for listing, researching and evaluating cultural heritage property in Ontario communities.

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3. Heritage Conservation Districts: a guide for designating districts, containing multiple properties, under the *Ontario Heritage Act* to conserve local character and heritage interest.
4. Your Community, Your Heritage, Your Committee: a guide for establishing and sustaining an effective Municipal Heritage Committee that provides advice to Council.
5. Heritage Places of Worship: a guide for keeping heritage places of worship viable in the community while conserving their cultural heritage value or interest.

Staff have prepared comments on the draft Guides that will be submitted to the ERO Posting ahead of the June 30, 2021 deadline which are included in Appendix "D" to Report PED19125(c). Final versions of the Tool Kit will be published on the Ministry's webpage in the fall of 2021.

The Ministry prepared flowcharts, attached as Appendix "C" to Report PED19125(c) to supplement the changes to the *Ontario Heritage Act*, *Ontario Regulation 385/21* and the Tool Kit. The flowcharts provide guidance on the following work flows:

1. Adding a non-designated property to the Municipal Register of Heritage Properties (*Ontario Heritage Act* Section 27(3)(6));
2. Considering an objection to the inclusion on the Municipal Register (*Ontario Heritage Act* Section 27(7)(8));
3. Designation by Municipal By-law (*Ontario Heritage Act* Section 29);
4. Amendment of Designating By-law (*Ontario Heritage Act* Section 30.1(1));
5. Amendment of Designating By-law with applicable Exception (*Ontario Heritage Act* Section 30.1(2)(16));
6. Council Initiated Repeal of Designating By-law (*Ontario Heritage Act* Section 31);
7. Owner Initiated Repeal of Designating By-law (*Ontario Heritage Act* Section 32);
8. Alteration of a Property (*Ontario Heritage Act* Section 33);
9. Demolition or Removal of a Heritage Building, Structure or Attribute (*Ontario Heritage Act* Section 34, 34.1 and 34.3); and,
10. Designation Process for a Heritage Conservation District Designation (*Ontario Heritage Act* Section 40, 40.1, 41 and 41.1).

While these flowcharts are helpful for understanding the workflows that staff will have to implement internally, it also demonstrates an impact on Council's decision to protect a property using the *Ontario Heritage Act*, specifically as it relates to appeals to the OLT. Previously, Council retained final decision-making authority when there were appeals related to designations to the Conservation Review Board, which no longer exists. As a result of this change, Council must ensure that all notices of intent to designate include defensible evidence including all the new requirements that must be included in a designation By-law as required by *Ontario Regulation 385/21*. The ability of staff to

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ensure that a comprehensive analysis of heritage resources occur if they are associated with a “Prescribed Event” is constrained by the new 90-day timeframe to issue a notice of intention to designate. This challenge was initially described in Report PED19125(b) and remains. Staff recommend utilizing the exceptions to eliminate or extend the 90-day timeframe. The Recommendations of this Report recommended that Council authorize and direct the Director of Planning and Chief Planner to enter into agreements to extend or eliminate the 90 day timeline to ensure a comprehensive review of cultural heritage resources and *Planning Act* applications occurs.

The flowcharts illustrating the process for alterations to a property or demolition or removal of a heritage building, structure or attribute identifies the new requirement to issue a notice of complete or incomplete application within 60 days of receipt. If a notice of complete or incomplete application is not issued, then consent will be deemed to have been given 90 days after the end of the 60-day period. Council will then have to follow the prescribed steps in Section 7 of *Ontario Regulation 385/21* and determine if there is heritage value that remains and if the associated designating By-law needs to be amended. As stated above, amended designation by-laws should be amended to the current standard established by *Ontario Regulation 9/06 – Criteria for Determining Cultural Heritage Value*, which will require additional staff resources and budget.

Staff have prepared additional comments on the flowcharts that are included in Appendix “D” to Report PED19125(c).

Next Steps

Staff have prepared comments to be submitted to the Ministry regarding the Tool Kit and the Regulation. The comments are attached as Appendix “D” for endorsement by Council after they have been submitted due to the ERO Posting closing on June 30, 2021.

Staff are preparing items to assist with the implementation of the amended *Ontario Heritage Act* and the new Regulation to ensure that the City will be able to address all the requirements starting July 1, 2021. These items included revisions to application forms, a new heritage permit application, notice of (in)complete templates and a mutual agreement template.

A future report discussing final implementation measures and staff resources will be prepared by Planning staff for Council’s consideration after the Proclamation date.

ALTERNATIVES FOR CONSIDERATION

- (a) Council can choose to not endorse the comments and instead provide alternative comments; or,
- (b) Council can choose to not endorse the staff comments and provide no comments.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

Healthy and Safe Communities

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

Clean and Green

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

Built Environment and Infrastructure

Hamilton is supported by state-of-the-art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

Culture and Diversity

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" – *Ontario Regulation 385/21*

Appendix "B" – *Draft Ontario Heritage Tool Kit*

Appendix "C" – *Ministry Flow Charts*

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Appendix "D" – Letter to the Province on the Regulations and the draft Ontario Heritage Act Tool Kit

Appendix "E" – ERO-019-1348 Decision

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Français

ONTARIO REGULATION 385/21

made under the

ONTARIO HERITAGE ACT

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GENERAL

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RULES RE SECTION 29 OF THE ACT

Limitation, s. 29 (1.2) of the Act

1. (1) For the purposes of subsection 29 (1.2) of the Act, the following events that occur on or after July 1, 2021 are prescribed in respect of a property in a municipality:
1. A council or planning board, as applicable, has completed giving notice in accordance with clause 22 (6.4) (a) of the *Planning Act* of a request for amendment referred to in that clause, if the subject land to which the proposed amendment applies includes the property.
 2. A council has completed giving notice in accordance with clause 34 (10.7) (a) of the *Planning Act* of an application for an amendment to a by-law referred to in that clause, if the subject land to which the proposed amendment applies includes the property.

3. A council or planning board, as the approval authority, has completed giving notice in accordance with clause 51 (19.4) (a) of the *Planning Act* of an application referred to in that clause, if the subject land to which the application applies includes the property.

(2) The following exceptions are prescribed for the purposes of subsection 29 (1.2) of the Act:

1. The restriction set out in subsection 29 (1.2) of the Act does not apply if an event described in subsection (1) occurs in respect of a property and, at any time after the event occurs, the owner of the property and the council of the municipality agree that the restriction does not apply.

2. If an event described in subsection (1) occurs in respect of a property and the owner of the property and the council of the municipality, within 90 days after the day on which the event occurs, agree to extend the period of time set out in subsection 29 (1.2) of the Act, the period of time for the purposes of that subsection is the period that the council and the owner have agreed upon.

3. If an event described in subsection (1) occurs in respect of a property and the day on which the event occurs falls within a period when an emergency has been declared to exist in the municipality in which the property is situated, or in any part thereof, under the *Emergency Management and Civil Protection Act* by the head of the council of the municipality, the 90-day period set out in subsection 29 (1.2) of the Act does not begin until the day immediately after the day on which the emergency is terminated.

4. If an event described in subsection (1) occurs in respect of a property and during the 90-day period set out in subsection 29 (1.2) of the Act an emergency is declared to exist in the municipality in which the property is situated, or in any part thereof, under the *Emergency Management and Civil Protection Act* by the head of the council of the municipality, the following rules apply:

i. The 90-day period is terminated on the day the emergency is declared.

ii. A new 90-day period commences on the day immediately after the day on which the emergency is terminated.

5. Subject to subsection (4), if an event described in subsection (1) occurs in respect of a property, subsection 29 (1.2) of the Act no longer applies to restrict the council of the municipality in which the property is situated from giving a notice of intention to designate the property as of the date of final disposition of the request or application giving rise to the event, whether by operation of the *Planning Act* or order of the Tribunal.

(3) If an event described in subsection (1) in respect of a property occurs and a subsequent event occurs in respect of the property, the earlier event is deemed not to have occurred in respect of the same property for the purposes of subsection 29 (1.2) of the Act.

(4) If two or more events described in subsection (1) in respect of a property occur on the same day, subsection 29 (1.2) of the Act no longer applies to restrict the council of the municipality in which the property is situated from giving a notice of intention to designate the property as of the latest of the dates on which the requests or applications giving rise to the events are finally disposed of, whether by operation of the *Planning Act* or order of the Tribunal.

Prescribed circumstances, par. 1 of s. 29 (8) of the Act

2. (1) The following circumstances and corresponding periods of time are prescribed for the purpose of paragraph 1 of subsection 29 (8) of the Act:

1. If, before the end of the 120-day period referred to in paragraph 1 of subsection 29 (8) of the Act, the council and the owner of the property agree to extend the period of time set out in that paragraph, the period of time for the purposes of that paragraph is the period that the council and the owner have agreed upon.

2. If any part of the 120-day period referred to in paragraph 1 of subsection 29 (8) of the Act falls within a period when an emergency has been declared to exist in the municipality in which the property is situated, or in any part thereof, under the *Emergency Management and Civil Protection Act* by the head of the council of the municipality, the period of time for the purposes of paragraph 1 of subsection 29 (8) of the Act is 120 days after the day on which the emergency has terminated.

3. If, during the 120-day period referred to in paragraph 1 of subsection 29 (8) of the Act, the council passes a resolution stating that the municipality has received new and relevant information relating to the property and elects, by the same resolution, that the period of time for the purposes of that paragraph is 180 days after the resolution is passed, that is the period of time for the purposes of that paragraph.

(2) If the council has passed a resolution referred to in paragraph 3 of subsection (1), the council shall ensure that notice of the new period of time is served on the owner of the property, and the notice shall include the reasons for the new period.

(3) For purposes of paragraph 3 of subsection (1), "new and relevant information" means information or materials that satisfy the following:

1. The information or material affects or may affect any of the matters set out in paragraph 2 of subsection 29 (8) of the Act.

2. The information or materials are received by council after notice of intention to designate the property has been published under clause 29(3)(b) of the Act.

Designation by municipal by-law, requirements

3. (1) The following requirements are prescribed for the purpose of paragraph 2 of subsection 29 (8) of the Act:

1. The by-law must identify the property by,
 - i. the municipal address of the property, if it exists,
 - ii. the legal description of the property, including the property identifier number that relates to the property, and
 - iii. a general description of where the property is located within the municipality, for example, the name of the neighbourhood in which the property is located and the nearest major intersection to the property.
2. The by-law must contain one or more of the following that identifies each area of the property that has cultural heritage value or interest:
 - i. A site plan.
 - ii. A scale drawing.
 - iii. A description in writing.
3. The statement explaining the cultural heritage value or interest of the property must identify which of the criteria set out in subsection 1 (2) of Ontario Regulation 9/06 (Criteria for Determining Cultural Heritage Value or Interest) made under the Act are met and must explain how each criterion is met.
4. The description of the heritage attributes of the property must explain how each heritage attribute contributes to the cultural heritage value or interest of the property.

(2) Nothing in subsection (1) prevents a by-law from identifying any physical features of a property that are not heritage attributes.

(3) For clarity, the requirements set out in subsection (1) also apply for the purposes of subsection 29 (8) of the Act, as it appears in the Schedule for the purposes of an amending by-law mentioned in subsection 30.1 (1) of the Act.

AMENDMENT OF DESIGNATING BY-LAW — SUBSECTION 30.1 (1) OF THE ACT

Amending by-laws, modified s. 29 of the Act

4. The Schedule sets out section 29 of the Act, as modified, that applies to an amending by-law for the purposes of subsection 30.1 (1) of the Act.

REAPPLICATION FOR REPEAL OF BY-LAW — SUBSECTION 32 (18) OF THE ACT

Prescribed circumstances and time periods

5. For the purposes of subsection 32 (18) of the Act, the following are the prescribed circumstances and corresponding time periods in which an owner of property may not reapply to have a by-law or part thereof designating a property repealed, except with the consent of council:

1. If a council refuses an application under paragraph 1 of subsection 32 (5) of the Act and a notice of appeal is not given within the time period specified in subsection 32 (7) of the Act, the time period is 12 months after the service of the notice of the council's decision under subparagraph 1 i of subsection 32 (5) of the Act.
2. If an owner of the property appeals a decision of council to refuse the application under subsection 32 (7) of the Act and the Tribunal dismisses the appeal under paragraph 1 of subsection 32 (12) of the Act, the time period is 12 months after the date of the Tribunal's decision under paragraph 1 of subsection 32 (12) of the Act.
3. If an owner of the property appeals a decision of council to refuse the application under subsection 32 (7) of the Act and the Tribunal dismisses the appeal under subsection 32 (13) of the Act, the time period is 12 months after the date of the Tribunal's decision under subsection 32 (13) of the Act.
4. If a person appeals the decision of council to consent to an application and to pass a repealing by-law under subsection 32 (8) of the Act and the Tribunal allows the appeal in whole or in part under paragraph 2 of subsection 32 (12) of the Act, the time period is 12 months after the date of the Tribunal's decision under paragraph 2 of subsection 32 (12) of the Act.

INFORMATION AND MATERIAL — SUBSECTIONS 33 (2) AND 34 (2) OF THE ACT

Prescribed information and material

6. (1) For the purpose of subsections 33 (2) and 34 (2) of the Act, the following information and material shall accompany an application:

1. The name, address, telephone number and, if applicable, the email address of the applicant.
2. The name of the municipality from which consent is being requested.
3. A description of the property that is the subject of the application, including such information as the concession and lot numbers, reference plan and part numbers, and street names and numbers.
4. Photographs that depict the existing buildings, structures and heritage attributes that are affected by the application and their condition and context.
5. A site plan or sketch that illustrates the location of the proposed alteration, demolition or removal.
6. Drawings and written specifications of the proposed alteration, demolition or removal.
7. The reasons for the proposed alteration, demolition or removal and the potential impacts to the heritage attributes of the property.
8. All technical cultural heritage studies that are relevant to the proposed alteration, demolition or removal.
9. An affidavit or a sworn declaration by the applicant certifying that the information required under this section and provided by the applicant is accurate.

(2) The information or material referred to in subsection (1) must also include any information or material that is required to accompany an application by a municipal by-law, resolution or official plan.

(3) The owner of the property shall serve an application made under subsection 33 (1) or 34 (1) of the Act on the council of the municipality.

(4) Use of a municipality's electronic system to submit an application mentioned in subsection (3) is a method for the purpose of clause 67(1)(d) of the Act.

(5) Service using a municipality's electronic system is effective on the day the application is submitted unless the application was submitted after 5 p.m., in which case it is effective on the following day. If the day on which service would be effective is a Saturday or a holiday, service is instead effective on the next day that is not a Saturday or a holiday.

(6) For the purpose of paragraph 2 of subsection 33 (7) of the Act and paragraph 2 of subsection 34 (4.3) of the Act, an application is considered to have commenced on the day that it is served on the council of the municipality.

REQUIRED STEPS — SECTION 34.3 OF THE ACT

Council consents to application under s. 34 of the Act

7. (1) The following steps are prescribed for the purposes of subsection 34.3 (1) of the Act:
 1. After the demolition or removal of a building, structure or heritage attribute on the property is complete, the council of the municipality shall, in consultation with the municipal heritage committee established under section 28 of the Act, if one has been established, make one of the following determinations:
 - i. The property continues to have cultural heritage value or interest and, despite the demolition or removal, the statement explaining the cultural heritage value or interest of the property and the description of the heritage attributes of the property are accurate and do not need to be amended.
 - ii. The property continues to have cultural heritage value or interest but, as a result of the demolition or removal, the statement explaining the cultural heritage value or interest of the property or the description of the heritage attributes of the property is no longer accurate and needs to be amended.
 - iii. The property no longer has cultural heritage value or interest as a result of the demolition or removal.
 2. If the council makes the determination described in subparagraph 1 i, the clerk of the municipality shall ensure that notice of the determination is served on the owner of the property and the Trust.
 3. If the council makes the determination described in subparagraph 1 ii,
 - i. the council shall,
 - A. pass a by-law that amends the by-law made under section 29 of the Act designating the property to update the statement of cultural heritage value or interest and the description of the property's heritage attributes to reflect the changes resulting from the demolition or removal, and
 - B. ensure that the amending by-law complies with the requirements set out in section 3 and includes a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property, and
 - ii. the clerk of the municipality shall,
 - A. ensure that a copy of the amending by-law is served on the owner of the property,

- B. publish notice of the amending by-law in a newspaper having general circulation in the municipality, and
 - C. ensure that a copy of the amending by-law is registered against the property affected by the amending by-law in the appropriate land registry office and that a copy of the registered amending by-law is served on the Trust.
4. If the council makes the determination described in subparagraph 1 iii,
- i. the council shall pass a by-law to repeal the by-law or the part thereof designating the property under section 29 of the Act, and
 - ii. the clerk of the municipality shall,
 - A. ensure that a copy of the repealing by-law is served on the owner of the property,
 - B. publish notice of the repealing by-law in a newspaper having general circulation in the municipality,
 - C. ensure that a copy of the repealing by-law is registered against the property affected by the repealing by-law in the appropriate land registry office and that a copy of the registered repealing by-law is served on the Trust, and
 - D. ensure that any reference to the property is deleted from the register referred to in subsection 27 (1) of the Act.
5. If, as part of the removal mentioned in paragraph 1, a building or structure is moved to another property,
- i. the council of a municipality shall, in consultation with the municipal heritage committee established under section 28 of the Act, determine if the other property meets the criteria referred to in clause 29(1)(a) of the Act,
 - ii. if it is determined under subparagraph i that the other property meets the criteria, the council of a municipality may pass a by-law designating the other property to be of cultural heritage value or interest, and
 - iii. if a designating by-law is passed under subparagraph ii, the council of a municipality shall ensure that the by-law complies with the requirements set out in section 3 and includes a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property.
6. If a designating by-law is passed under subparagraph 5 ii, the clerk of the municipality shall,
- i. ensure that a copy of the designating by-law is served on the owner of the property affected by the designating by-law,
 - ii. publish notice of the designating by-law in a newspaper having general circulation in the municipality, and
 - iii. ensure that a copy of the designating by-law is registered against the property affected by the designating by-law in the appropriate land registry office and that a copy of the registered designating by-law is served on the Trust.
- (2) A by-law passed under this section comes into force on the day the by-law is passed.
- (3) A designating by-law passed under subparagraph 5 ii of subsection (1) is deemed to be a by-law passed under subsection 29 (1) of the Act.
- (4) For greater certainty, sections 29, 30.1 and 31 of the Act do not apply in respect of passing a by-law under this section, but sections 30.1 and 31 of the Act apply in respect of an amendment or repeal of a by-law or part thereof passed under this section.

RECORD OF DECISION

Record of decision under s. 29 of the Act

8. (1) If a notice of appeal under section 29 of the Act is given within the time period specified in subsection 29 (11) of the Act, the clerk of the municipality shall ensure that the record of the decision under subsection 29 (8) of the Act to pass a by-law designating a property is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.

(2) The following material and information must be included in a record of the decision referred to in subsection (1):

- 1. A certified copy of the notice of intention to designate the property.
- 2. A certified copy of the by-law.
- 3. A certified copy of the notice referred to in paragraph 4 of subsection 29 (8) of the Act.
- 4. A copy of any report considered by council.
- 5. The original or a certified copy of all written submissions and comments related to the decision and the dates they were received.

6. If a public meeting was held that related to the decision,
 - i. a copy of the minutes, and
 - ii. a list of all persons and public bodies that made oral representations that related to the decision and, if available, the record of those representations.
7. Any additional material or information that the council considered in making its decision.
8. An affidavit or sworn declaration by an employee of the municipality that contains a certificate that all the material and information required under this section is accurate.
- (3) The following material and information must be included in a record of the decision under subsection 29 (6) of the Act to be forwarded to the Tribunal as required by subsection 29 (14) of the Act:
 1. The original or a certified copy of every notice of objection served on the clerk of the municipality under subsection 29 (5) of the Act, and the date on which each notice was served.

Record of decision under s. 30.1 of the Act

9. (1) References in this section to section 29 of the Act are references to that section as it appears in the Schedule for the purposes of an amending by-law mentioned in subsection 30.1 (1) of the Act.
- (2) The following rule applies if the council of a municipality proposes under section 30.1 of the Act to amend a by-law designating property and the exception set out in subsection 30.1 (2) of the Act does not apply to the amending by-law:
 1. If a notice of appeal under section 30.1 of the Act is given within the time period specified in subsection 29 (11) of the Act, the clerk of the municipality shall ensure that the record of the decision under subsection 29 (8) of the Act is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.
- (3) The following material and information must be included in a record of the decision referred to in paragraph 1 of subsection (2):
 1. A certified copy of the notice of proposed amendment to the by-law designating the property.
 2. A certified copy of the by-law that is the subject to the proposed amendment.
 3. A certified copy of the amending by-law.
 4. A certified copy of the notice referred to in paragraph 4 of subsection 29 (8) of the Act.
 5. The material and information described in paragraphs 4 to 8 of subsection 8 (2) of this Regulation.
- (4) The following material and information must be included in a record of the decision under subsection 29 (6) of the Act to be forwarded to the Tribunal as required by subsection 29 (14) of the Act:
 1. The original or a certified copy of every notice of objection served on the clerk of the municipality under subsection 29 (5) of the Act and the date on which it was served.
- (5) The following rule applies if the council of a municipality proposes under section 30.1 of the Act to amend a by-law designating property and the exception set out in subsection 30.1 (2) of the Act applies to the amending by-law:
 1. If a notice of appeal is given within the time period specified in subsection 30.1 (10) of the Act, the clerk of the municipality shall ensure that the record of the decision under subsection 30.1 (9) of the Act to pass an amending by-law is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.
- (6) The following material and information must be included in a record of the decision referred to in paragraph 1 of subsection (5):
 1. A certified copy of the notice referred to in subparagraph 1 ii of subsection 30.1 (9) of the Act.
 2. The material and information described in paragraphs 1, 2, 3 and 5 of subsection (3).
- (7) The following material and information must be included in a record of the decision under subsection 30.1 (7) of the Act to be forwarded to the Tribunal as required by subsection 30.1 (14) of the Act:
 1. The original or a certified copy of every notice of objection filed with the clerk of the municipality under subsection 30.1 (6) of the Act and the date on which it was filed.

Record of decision under s. 31 of the Act

10. (1) If a notice of appeal under section 31 of the Act is given within the time period specified in subsection 31 (9) of the Act, the clerk of the municipality shall ensure that the record of the decision under subsection 31 (8) of the Act to pass a repealing by-law is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.
- (2) The following material and information must be included in a record of the decision referred to in subsection (1):

1. A certified copy of the notice of intention to repeal the by-law or part thereof designating property.
2. A certified copy of the repealing by-law.
3. A certified copy of the by-law that is subject to the repealing by-law.
4. A certified copy of the notice referred to in paragraph 2 of subsection 31 (8) of the Act.

~~5. The material and information described in paragraphs 4 to 8 of subsection 8 (2) of this Regulation.~~

(3) The following material and information must be included in a record of the decision under subsection 31 (6) of the Act to be forwarded to the Tribunal as required by subsection 31 (13) of the Act:

1. The original or a certified copy of every notice of objection served on the clerk of the municipality under subsection 31 (5) of the Act and the date on which it was served.

Record of decision under s. 32 of the Act

11. The following material and information must be included in a record of the decision under subsection 32 (5) of the Act to be forwarded to the Tribunal as required by subsection 32 (11) of the Act:

1. A certified copy of the application to repeal a by-law or part thereof designating the property.
2. A certified copy of the notice of application referred to in subsection 32 (3) of the Act.
3. A certified copy of the by-law designating the property.
4. The original or a certified copy of every notice of objection served on the clerk of the municipality under subsection 32 (4) of the Act and the date it was served.
5. If the appeal relates to a decision to refuse the application, a certified copy of the notice referred to in subparagraph 1 ii of subsection 32 (5) of the Act.
6. If the appeal relates to a decision to consent to the application,
 - i. a certified copy of the by-law repealing the by-law or part thereof, and
 - ii. a certified copy of the notice referred to in subparagraph 2 ii of subsection 32 (5) of the Act.
7. The material and information described in paragraphs 4 to 8 of subsection 8 (2) of this Regulation.

Record of decision under s. 33 of the Act

12. (1) If a notice of appeal under section 33 of the Act is given within the time period specified in subsection 33 (9) of the Act, the clerk of the municipality shall ensure that the record of the decision under subsection 33 (6) of the Act is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.

(2) The following material and information must be included in a record of the decision referred to in subsection (1):

1. A certified copy of the by-law designating the property.
2. The original or a certified copy of the material and information described in section 6 received by the council, and any material or information that the council required under subsection 33 (3) of the Act.
3. A certified copy of the notice informing the applicant that the application is complete that was served on the applicant under subsection 33 (4) of the Act and the date it was served.
4. A certified copy of any records relating to a notification referred to in subsection 33 (5) of the Act.
5. A certified copy of the notice of the council's decision referred to in clause 33 (6) (b) of the Act.
6. The material and information described in paragraphs 4 to 8 of subsection 8 (2) of this Regulation.

Record of decision under s. 34.1 of the Act

13. (1) If a notice of appeal under section 34.1 of the Act is given within the time period specified in subsection 34.1 (2) of the Act, the clerk of the municipality shall ensure that the record of the decision under subsection 34 (4.2) of the Act is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.

(2) The following material and information must be included in a record of the decision referred to in subsection (1):

1. A certified copy of the by-law designating the property.
2. The original or a certified copy of the material and information described in section 6 received by the council, and any material or information that the council required under subsection 34 (3) of the Act.
3. A certified copy of the notice informing the applicant that the application is complete that was served on the applicant under subsection 34 (4) of the Act and the date it was served.

4. A certified copy of any records relating to a notification referred to in subsection 34(4.1) of the Act.
5. The original or a certified copy of the notice of the council's decision referred to in clause 34(4.2)(b) of the Act.
6. The material and information described in paragraphs 4 to 8 of subsection 8(2) of this Regulation.

Record of decision under s. 40.1 of the Act

14. (1) If a notice of appeal under section 40.1 of the Act is given within the time period specified in subsection 40.1(4) of the Act, the clerk of the municipality shall ensure that the record of the decision under subsection 40.1(1) of the Act is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.

- (2) The following material and information must be included in a record of the decision referred to in subsection (1):
 1. A certified copy of the by-law made under subsection 40.1(1) of the Act.
 2. A certified copy of the notice referred to in subsection 40.1(3) of the Act.
 3. The material and information described in paragraphs 4 to 8 of subsection 8(2) of this Regulation.

Record of decision under s. 41 of the Act

15. (1) If a notice of appeal under section 41 of the Act is given within the time period specified in subsection 41(4) of the Act, the clerk of the municipality shall ensure that the record of the decision under subsection 41(1) of the Act is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.

- (2) The following material and information must be included in a record of the decision referred to in subsection (1):
 1. A certified copy of the by-law made under subsection 41(1) of the Act.
 2. A certified copy of the notice referred to in subsection 41(3) of the Act.
 3. A certified copy of the heritage conservation district plan adopted by a by-law under subsection 41.1(1) of the Act.
 4. A certified copy of the information referred to in clause 41.1(6)(a) of the Act.
 5. The original or a certified copy of all written submissions and comments related to the decision, including any written submissions referred to in subsection 41.1(11) of the Act, and the dates they were received.
 6. For every public meeting referred to in clause 41.1(6)(b) of the Act that is held,
 - i. a copy of the notice of the public meeting referred to in subsection 41.1(7) of the Act,
 - ii. a copy of the minutes, and
 - iii. a list of all persons who made oral representations referred to in subsection 41.1(9) of the Act and, if available, the record of those representations.
 7. For every public meeting that is held that related to the decision but was not a meeting referred to in clause 41.1(6)(b) of the Act,
 - i. a copy of the minutes, and
 - ii. a list of all persons and public bodies that made oral representations that related to the decision and, if available, the record of those representations.
 8. The material and information described in paragraphs 4, 7 and 8 of subsection 8(2) of this Regulation.

Record of decision under s. 41.1 of the Act

16. (1) If a notice of appeal under section 41.1 of the Act is given within the time period specified in subsection 41(4) of the Act, as made applicable by subsection 41.1(4) of the Act, the clerk of the municipality shall ensure that the record of the decision under subsection 41.1(2) of the Act is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.

- (2) The following material and information must be included in a record of the decision referred to in subsection (1):
 1. A certified copy of the by-law under subsection 41(1) of the Act.
 2. A certified copy of the by-law under subsection 41.1(2) of the Act.
 3. A certified copy of the heritage conservation district plan adopted by a by-law under subsection 41.1(2) of the Act.
 4. A certified copy of the notice referred to in subsection 41.1(3) of the Act.
 5. A certified copy of the information referred to in clause 41.1(6)(a) of the Act.
 6. The original or a certified copy of all written submissions and comments related to the decision, including the written submissions referred to in subsection 41.1(11) of the Act, and the dates they were received.

7. For every public meeting referred to in clause 41.1 (6) (b) of the Act that is held,
 - i. a copy of the notice of the public meeting referred to in subsection 41.1 (7) of the Act,
 - ii. a copy of the minutes, and
 - iii. a list of all persons who made oral representations referred to in subsection 41.1 (9) of the Act and, if available, the record of those representations.
8. The material and information described in paragraphs 4, 7 and 8 of subsection 8 (2) of this Regulation.

Record of decision under s. 42 of the Act

17. (1) If a notice of appeal under section 42 of the Act is given within the time period specified in subsection 42 (7) of the Act, the clerk of the municipality shall ensure that the record of the decision under subsection 42 (4) of the Act is forwarded to the Tribunal within 15 days after the notice of a appeal is given to the clerk of the municipality.

(2) The following material and information must be included in a record of the decision referred to in subsection (1):

1. If a heritage conservation district plan was adopted by a by-law under subsection 41.1 (1) or (2) of the Act, a certified copy of the plan.
2. The original or a certified copy of the information required under subsection 42 (2.2) of the Act.
3. A certified copy of the notice of receipt referred to in subsection 42 (3) of the Act.
4. If the council refused the application for a permit under section 42 of the Act, a copy of the notice referred to in clause 42 (4) (b) of the Act.
5. If the council approved the application for a permit under section 42 of the Act with terms or conditions attached, a copy of the permit.
6. The material and information described in paragraphs 4 to 8 of subsection 8 (2) of this Regulation.

TRANSITION

Transitional rules

18. (1) Except as provided otherwise, references in this section to a provision of the Act are references to the provision as it read on June 30, 2021.

(2) A matter or proceeding that is mentioned in subsection (3) and commenced before July 1, 2021 shall be continued and disposed of under the Act as it read on June 30, 2021.

(3) For the purposes of subsection (2), a matter or proceeding shall be deemed to have been commenced,

- (a) in the case of the designation of property by by-law under section 29 of the Act, on the date of the publication of a notice of intention to designate under clause 29 (3) (b) of the Act;
- (b) in the case of the amendment of a by-law designating property under section 30.1 of the Act,
 - (i) if subsection 30.1 (2) of the Act does not apply to the notice, on the date of the publication of the notice of proposed amendment under clause 29 (3) (b) of the Act, as made applicable by subsection 30.1 (1) of the Act, or
 - (ii) if subsection 30.1 (2) of the Act applies to the notice, on the day the notice of proposed amendment is received by the owner of the property;
- (c) in the case of the repeal of a by-law or part thereof designating property under section 31 of the Act, on the date of the publication of a notice of intention to repeal a by-law or part thereof under clause 31 (3) (b) of the Act;
- (d) in the case of an application to repeal a by-law or part thereof designating a property under section 32 of the Act, on the day the application is received by the council of the municipality;
- (e) in the case of an application for consent to alter or permit the alteration under section 33 of the Act, on the day the application is received by the council of the municipality;
- (f) in the case of an application for consent to demolish or remove or permit demolition or removal under section 34 of the Act, on the day the application is received by the council of the municipality;
- (g) in the case of an application for consent to alter, demolish or remove or permit the alteration, demolition or removal under section 34.5 of the Act, on the day the application is received by the Minister;
- (h) in the case of the designation of a study area under section 40.1 of the Act, on the day the by-law is passed under that section;
- (i) in the case of the designation of a heritage conservation district under section 41 of the Act, on the day the by-law is passed under that section;

- (j) in the case of the adoption of a heritage conservation district plan under subsection 41.1 (2) of the Act, on the day the by-law is passed under that subsection; and
- (k) in the case of an application described in subsection 42 (2.1) of the Act, on the day the application is received by the council of the municipality.

(4) The following rules apply if a notice of intention to designate a property under subsection 29 (1) of the Act was published in accordance with clause 29 (3) (b) of the Act before July 1, 2021 and the council of the municipality has not, before that day, passed a by-law designating the property or withdrawn the notice of intention to designate before that day:

1. The notice of intention to designate the property is deemed to be withdrawn on the later of the following dates, unless the council of a municipality has passed a by-law in accordance with section 29 of the Act designating the property before that date:
 - i. July 1, 2022.
 - ii. If, before July 1, 2022, the council of the municipality and the owner of the property mutually agree to a period that ends after July 1, 2022, the last day of the agreed upon period.
2. During the period before the notice of intention to designate is deemed to be withdrawn under paragraph 1, the notice of intention shall be continued and disposed of under the Act as it read on June 30, 2021.

(5) For the purposes of paragraph 1 of subsection (4), if a person objects to a proposed designation under subsection 29 (5) of the Act, either before, on or after July 1, 2021, the date that applies for the purpose of that paragraph is extended by the total number of days that are after June 30, 2021 and before the earliest of the following:

1. The day the Review Board makes a report to council under subsection 29 (12) of the Act.
2. If the person who served the notice of objection withdraws the objection, the day on which the person serves notice of withdrawal in accordance with subsection 29 (15) of the Act.

(6) If a notice of intention to designate is deemed to be withdrawn under paragraph 1 of subsection (4), the municipality shall cause a notice of withdrawal,

- (a) to be served on the owner of the property and on the Trust; and
- (b) to be published in a newspaper having general circulation in the municipality.

(7) Despite subsection (2), the following rules apply if an application for consent to demolish or remove or permit demolition or removal under section 34 of the Act is received by the council of the municipality before July 1, 2021 and the council has consented to the application under subclause 34 (2) (a) (i) or (i.1) of the Act or is deemed to have consented to the application under subsection 34 (4) of the Act or the Tribunal has ordered that the municipality give its consent under clause 34.1 (6) (b) of the Act:

1. If the council has not passed a repealing by-law under section 34.3 of the Act before July 1, 2021, the application shall be continued and disposed of in accordance with section 34.3 of the Act as it reads on and after July 1, 2021.
2. If the council has passed a repealing by-law under section 34.3 of the Act before July 1, 2021, the application shall be continued and disposed of in accordance with section 34.3 of the Act as it read on June 30, 2021.

(8) For the purposes of paragraph 1 of subsection (5), on and after the day section 2 of Schedule 6 to the *Accelerating Access to Justice Act, 2021* comes into force, the reference to "Review Board" in subsection 29 (12) of the Act, as it read on June 30, 2021, shall be read as a reference to "Tribunal".

COMMENCEMENT

Commencement

19. This Regulation comes into force on the later of July 1, 2021 and the day it is filed.

SCHEDULE

SECTION 29 OF THE ACT AS MODIFIED FOR THE PURPOSES OF SUBSECTION 30.1 (1) OF THE ACT

Amendment of designating by-law

29. (1) The council of a municipality may, by by-law, amend a by-law designating a property within the municipality to be of cultural heritage value or interest if the amendment is made in accordance with the process set out in this section.

Notice required

(1.1) Subject to subsection (2), if the council of a municipality intends to amend a by-law designating a property within the municipality to be of cultural heritage value or interest, it shall cause a notice of proposed amendment to be given by the clerk of the municipality in accordance with subsection (3).

Consultation

(2) Where the council of a municipality has appointed a municipal heritage committee, the council shall, before giving a notice of proposed amendment, consult with its municipal heritage committee.

Notice of proposed amendment

- (3) A notice of proposed amendment shall be,
- (a) served on the owner of the property and on the Trust; and
 - (b) published in a newspaper having general circulation in the municipality.

Contents of notice

- (4) A notice of proposed amendment that is served on the owner of property and on the Trust under clause (3) (a) shall contain,
- (a) an adequate description of the property so that it may be readily ascertained;
 - (b) an explanation of the purpose and effect of the proposed amendment; and
 - (c) a statement that notice of objection to the notice of proposed amendment may be served on the clerk within 30 days after the date of publication of the notice of proposed amendment in a newspaper of general circulation in the municipality under clause (3) (b).

Same

- (4.1) A notice of proposed amendment that is published in a newspaper of general circulation in a municipality under clause (3) (b) shall contain,
- (a) an adequate description of the property so that it may be readily ascertained;
 - (b) an explanation of the purpose and effect of the proposed amendment;
 - (c) a statement that further information respecting the notice of proposed amendment is available from the municipality; and
 - (d) a statement that notice of objection to the notice of proposed amendment may be served on the clerk within 30 days after the date of publication of the notice of proposed amendment in a newspaper of general circulation in the municipality under clause (3) (b).

Objection

(5) A person who objects to a proposed amendment to a designating by-law shall, within 30 days after the date of publication of the notice of proposed amendment, serve on the clerk of the municipality a notice of objection setting out the reason for the objection and all relevant facts.

Consideration of objection by council

(6) If a notice of objection has been served under subsection (5), the council of the municipality shall consider the objection and make a decision whether or not to withdraw the notice of proposed amendment within 90 days after the end of the 30-day period under subsection (5).

Notice of withdrawal

- (7) If the council of the municipality decides to withdraw the notice of proposed amendment, either of its own initiative at any time or after considering an objection under subsection (6), the council shall withdraw the notice by causing a notice of withdrawal,
- (a) to be served on the owner of the property, on any person who objected under subsection (5) and on the Trust; and
 - (b) to be published in a newspaper having general circulation in the municipality.

If no notice of objection or no withdrawal

(8) If no notice of objection is served within the 30-day period under subsection (5) or a notice of objection is served within that period but the council decides not to withdraw the notice of proposed amendment, the council may pass a by-law amending the by-law designating the property, provided the following requirements are satisfied:

1. The amending by-law must be passed within 365 days after the date of publication of the notice of proposed amendment under clause (3) (b) or within such other period of time that is mutually agreed upon by the council and the owner of the property.
2. The by-law designating the property, as amended, must include a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property and must comply with such requirements in relation to the statement and the description as may be prescribed and with such other requirements as may be prescribed.

3. The council must cause the following to be served on the owner of the property, on any person who objected under subsection (5) and on the Trust:
 - i. A copy of the amending by-law.
 - ii. A notice that any person who objects to the amending by-law may appeal to the Tribunal by giving the Tribunal and the clerk of the municipality, within 30 days after the date of publication under paragraph 4, a notice of appeal setting out the objection to the by-law and the reasons in support of the objection, accompanied by the fee charged by the Tribunal.
4. The council must publish notice of the amending by-law in a newspaper having general circulation in the municipality, which must provide that any person who objects to the by-law may appeal to the Tribunal by giving the Tribunal and the clerk of the municipality, within 30 days after the date of publication under this paragraph, a notice of appeal setting out the objection to the by-law and the reasons in support of the objection, accompanied by the fee charged by the Tribunal.

Deemed withdrawal

(9) If the council of the municipality has not passed an amending by-law under subsection (8) within the time set out in paragraph 1 of that subsection, the notice of proposed amendment is deemed to be withdrawn and the municipality shall cause a notice of withdrawal,

- (a) to be served on the owner of the property, on any person who objected under subsection (5) and on the Trust; and
- (b) to be published in a newspaper having general circulation in the municipality.

Same

(10) For clarity, the deemed withdrawal of a notice of proposed amendment under subsection (9) does not prevent the council from giving a new notice of proposed amendment in accordance with this section.

Appeal to Tribunal

(11) Any person who objects to the amending by-law may appeal to the Tribunal by giving the Tribunal and the clerk of the municipality, within 30 days after the date of publication under paragraph 4 of subsection (8), a notice of appeal setting out the objection to the by-law and the reasons in support of the objection, accompanied by the fee charged by the Tribunal.

If no notice of appeal

(12) If no notice of appeal is given within the time period specified in subsection (11),

- (a) the amending by-law comes into force on the day following the last day of the period; and
- (b) the clerk shall ensure that a copy of the amending by-law is registered against the properties affected by the by-law in the appropriate land registry office and that a copy of the registered by-law is served on the Trust.

If notice of appeal

(13) If a notice of appeal is given within the time period specified in subsection (11), the Tribunal shall hold a hearing and, before holding the hearing, shall give notice of the hearing to such persons or bodies and in such manner as the Tribunal may determine.

Forwarding of record of decision

(14) If the council of the municipality made a decision on a notice of objection under subsection (6) and if a notice of appeal is given within the time period specified in subsection (11), the clerk of the municipality shall ensure that the record of the decision under subsection (6) is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.

Powers of Tribunal

(15) After holding the hearing, the Tribunal shall,

- (a) dismiss the appeal; or
- (b) allow the appeal in whole or in part and,
 - (i) repeal the amending by-law,
 - (ii) amend the amending by-law in such manner as the Tribunal may determine,
 - (iii) direct the council of the municipality to repeal the amending by-law, or
 - (iv) direct the council of the municipality to amend the amending by-law in accordance with the Tribunal's order.

Dismissal without hearing of appeal

(16) Despite the *Statutory Powers Procedure Act* and subsections (13) and (15), the Tribunal may, on its own motion or on the motion of any party, dismiss all or part of the appeal without holding a hearing on the appeal if,

- (a) the Tribunal is of the opinion that,
 - (i) the reasons set out in the notice of appeal do not disclose any apparent ground upon which the Tribunal could allow all or part of the appeal, or
 - (ii) the appeal is not made in good faith, is frivolous or vexatious, or is made only for the purpose of delay;
- (b) the appellant has not provided written reasons in support of the objection to the amending by-law;
- (c) the appellant has not paid the fee charged by the Tribunal; or
- (d) the appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal.

Representations

(17) Before dismissing all or part of an appeal on any of the grounds mentioned in subsection (16), the Tribunal shall,

- (a) notify the appellant of the proposed dismissal; and
- (b) give the appellant an opportunity to make representations with respect to the proposed dismissal.

Coming into force

(18) If one or more notices of appeal are given to the clerk within the time period specified in subsection (11),

- (a) the amending by-law comes into force when all of such appeals have been withdrawn or dismissed;
- (b) if the amending by-law is amended by the Tribunal under subclause (15) (b) (ii), the amending by-law, as amended by the Tribunal, comes into force on the day it is so amended; or
- (c) if the amending by-law is amended by the council pursuant to subclause (15) (b) (iv), the amending by-law, as amended by the council, comes into force on the day it is so amended.

Registration of by-law

(19) The clerk of a municipality shall ensure that a copy of an amending by-law that comes into force under subsection (18) is registered against the properties affected by the by-law in the appropriate land registry office and that a copy of the registered by-law is served on the Trust.

Français

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Your Community, Your Heritage, Your Committee

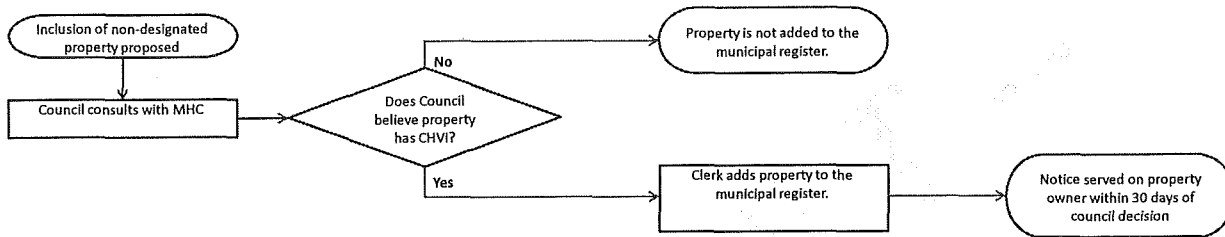


Figure 1. A heritage streetscape in the Downtown Port Perry Heritage Conservation District contributes to a vibrant downtown (Image courtesy of the Ontario Business Improvement Association).

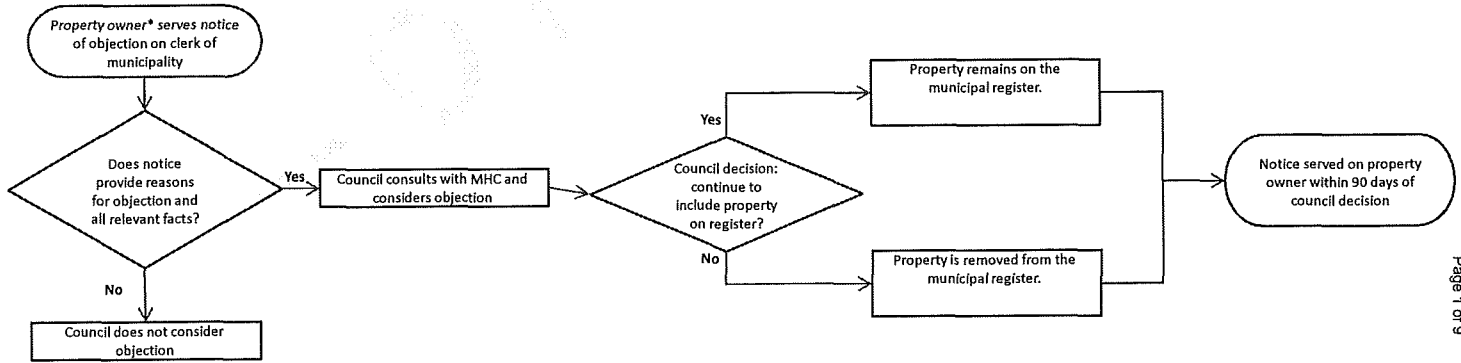
Every day across Ontario, thousands of volunteers work to conserve and celebrate the stories, places and events of the people that shaped our communities. Many of these volunteers are active at the municipal level as members of municipal heritage committees.

Under the *Ontario Heritage Act*, municipalities can establish municipal heritage committees to advise council on identifying, protecting and promoting cultural heritage resources that make our communities unique and sustainable places to live. The fact that so much of Ontario's rich heritage has been conserved is a testament to the good advice and hard work of municipal heritage committees.

Adding a non-designated property to the Municipal Register of Heritage Properties
(Section 27 (3)-(6) of the Ontario Heritage Act)

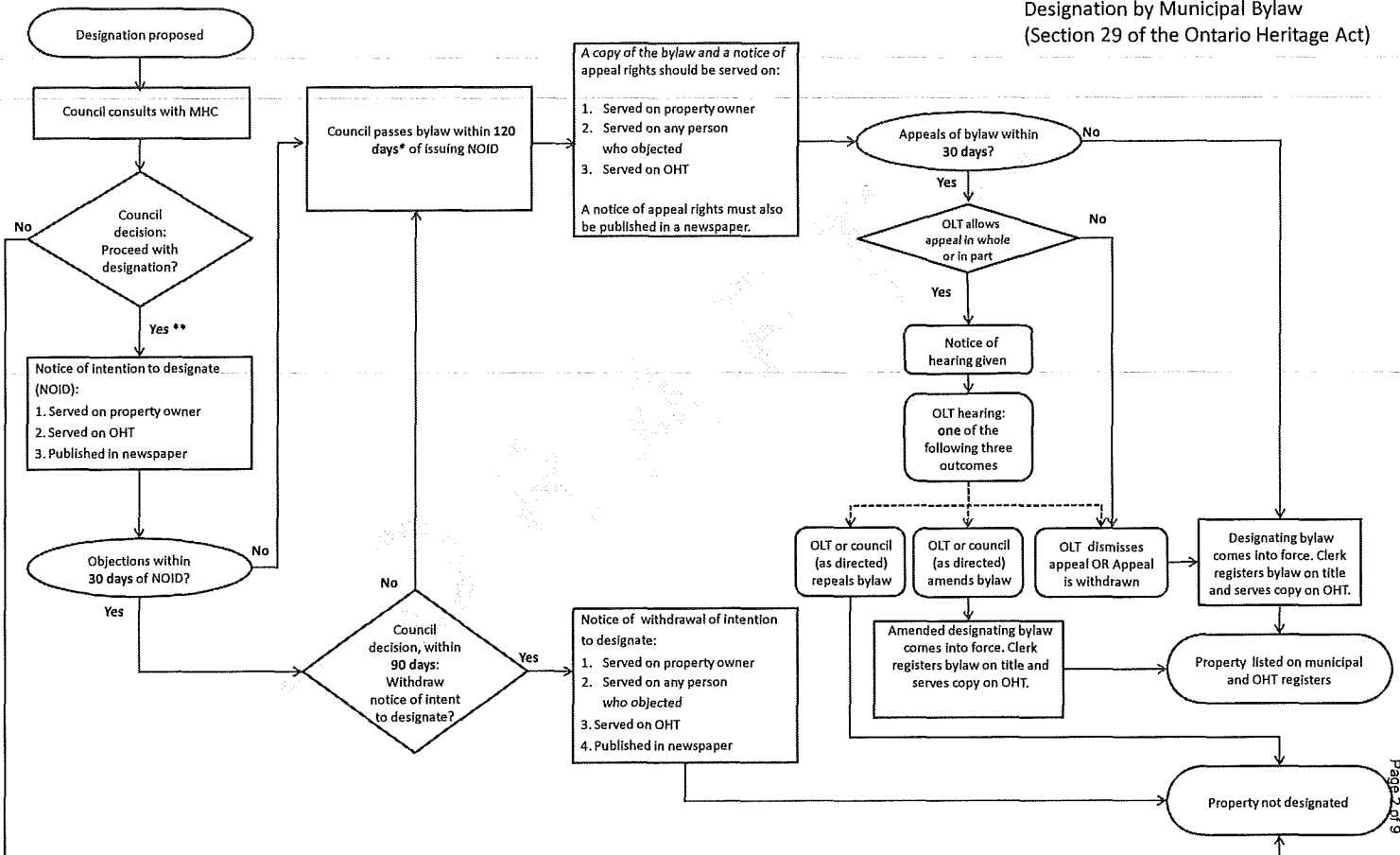


Considering an objection to a property being included on the Municipal Register under Subsection 27 (3)
(Section 27 (7)-(8) of the Ontario Heritage Act)



*The property owner may object at any time

Designation by Municipal Bylaw
(Section 29 of the Ontario Heritage Act)

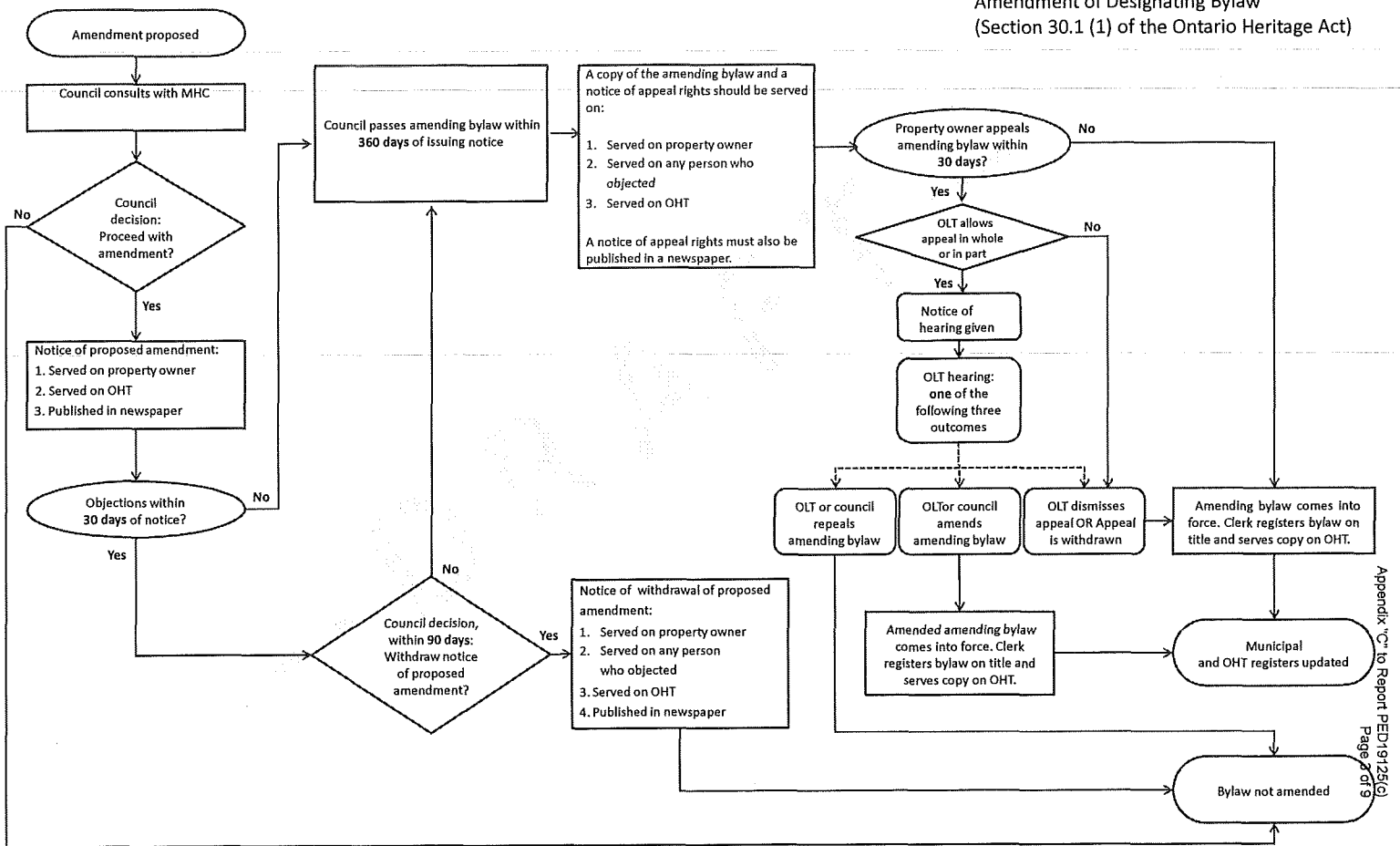


Appendix 'C' to Report PED19125(c)
Page 2 of 9

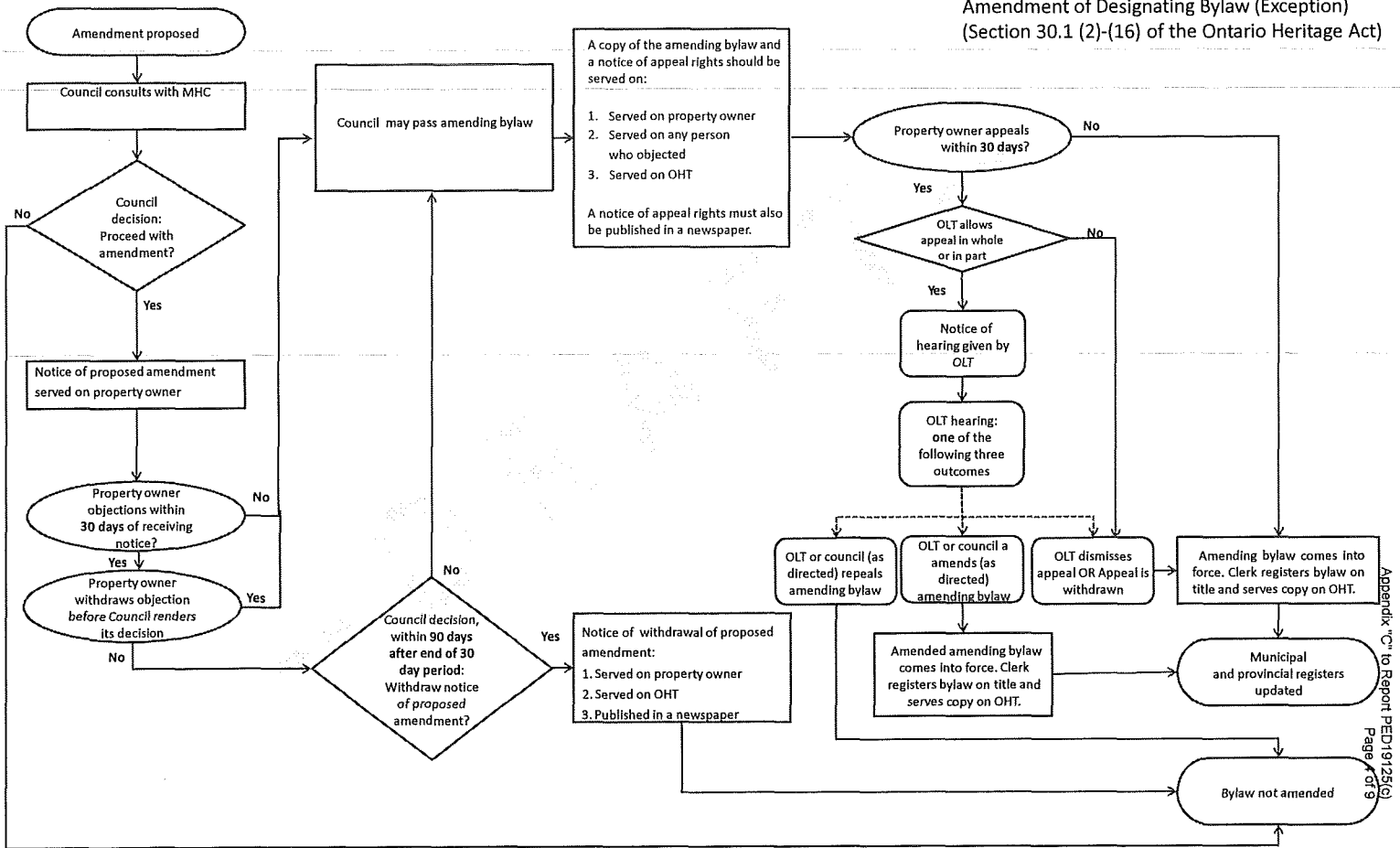
*If council fails to meet these timelines, the NOID will be deemed withdrawn, and council must issue a notice of withdrawal. For exceptions to the 120-day timelines, please consult the guidance text.

** Council has a limited 90 day period to give its notice of intention to designate a property when the property is subject to an official plan amendment, a zoning bylaw amendment, or plan of subdivision.

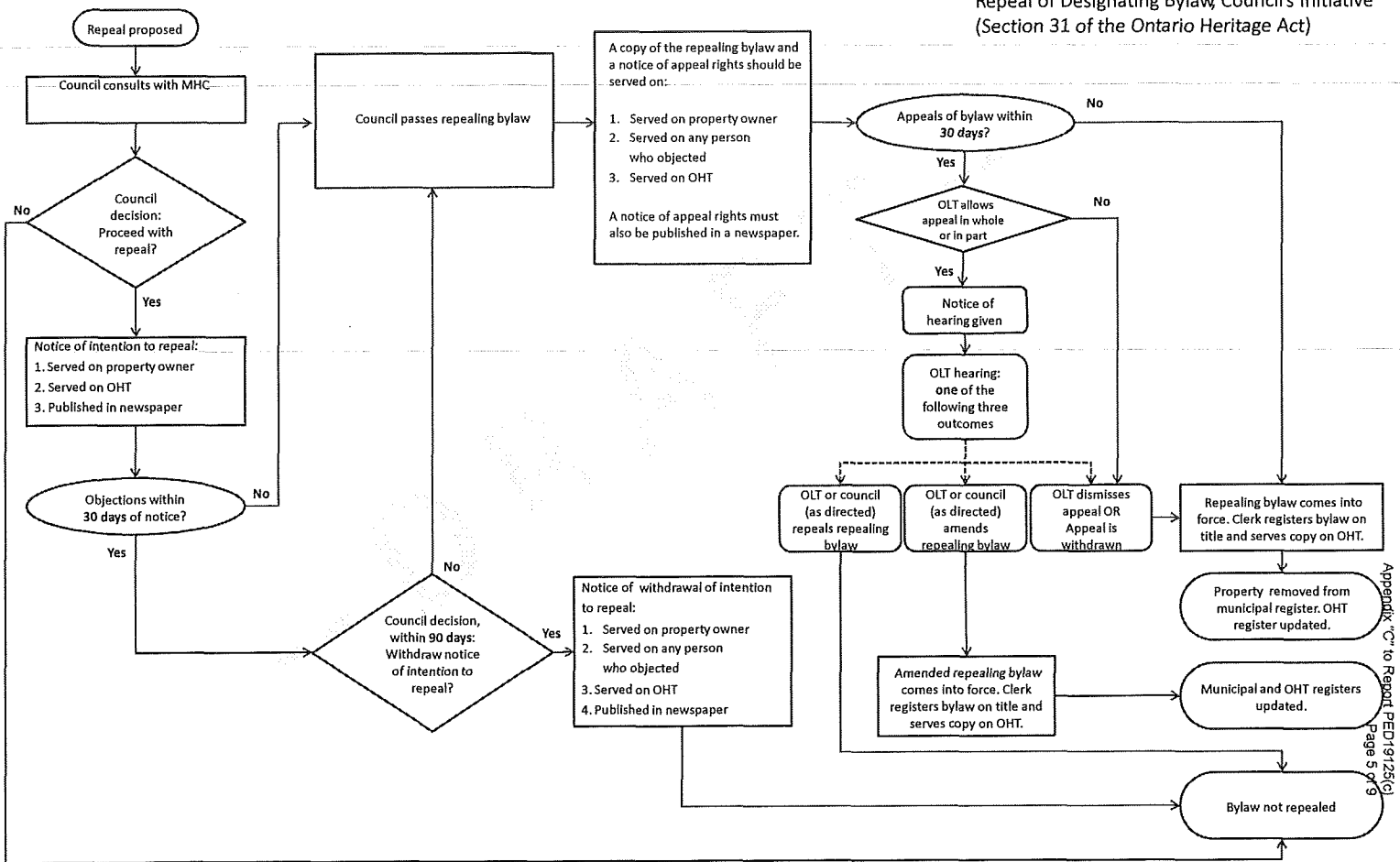
Amendment of Designating Bylaw
(Section 30.1 (1) of the Ontario Heritage Act)



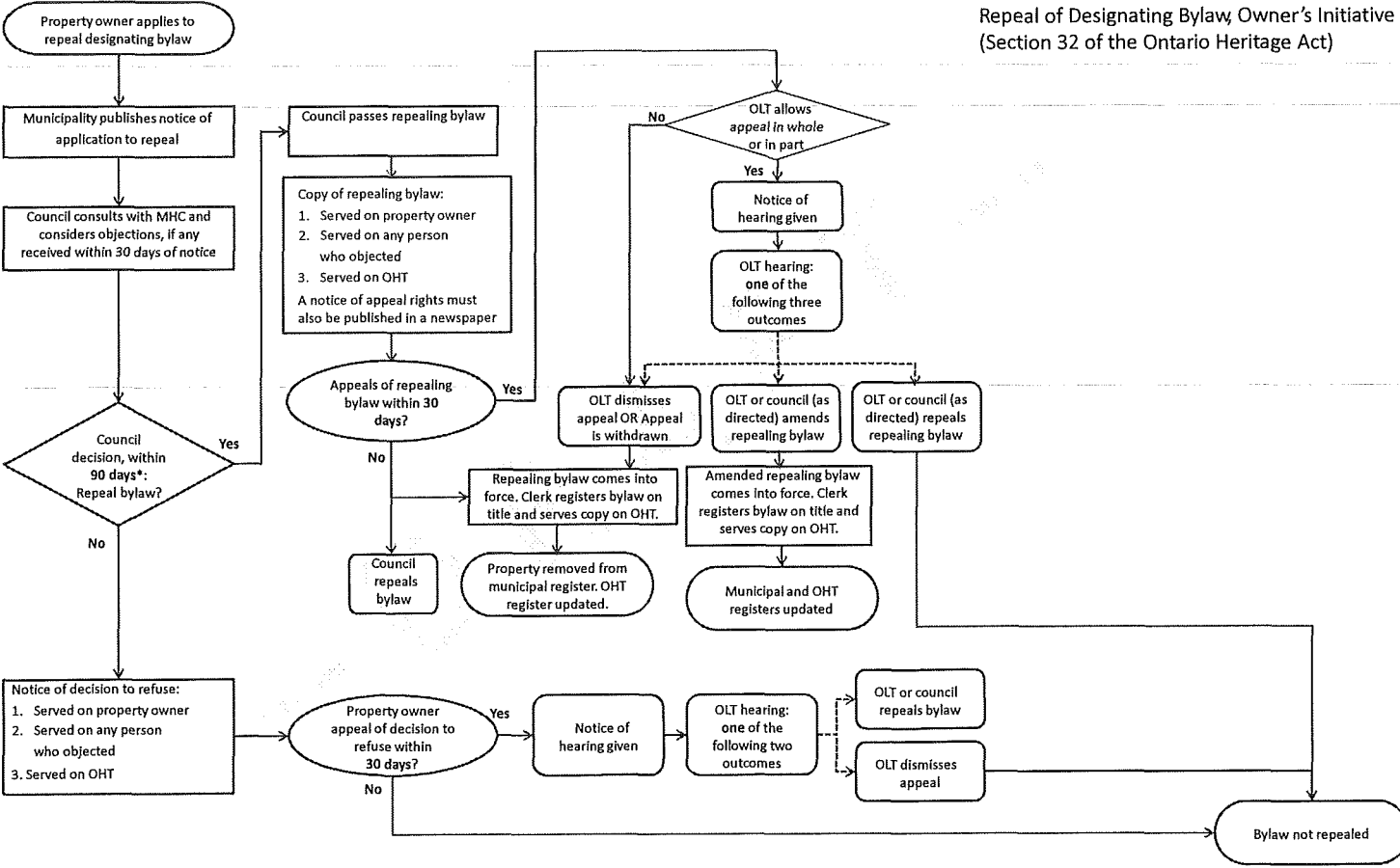
Amendment of Designating Bylaw (Exception)
(Section 30.1 (2)-(16) of the Ontario Heritage Act)



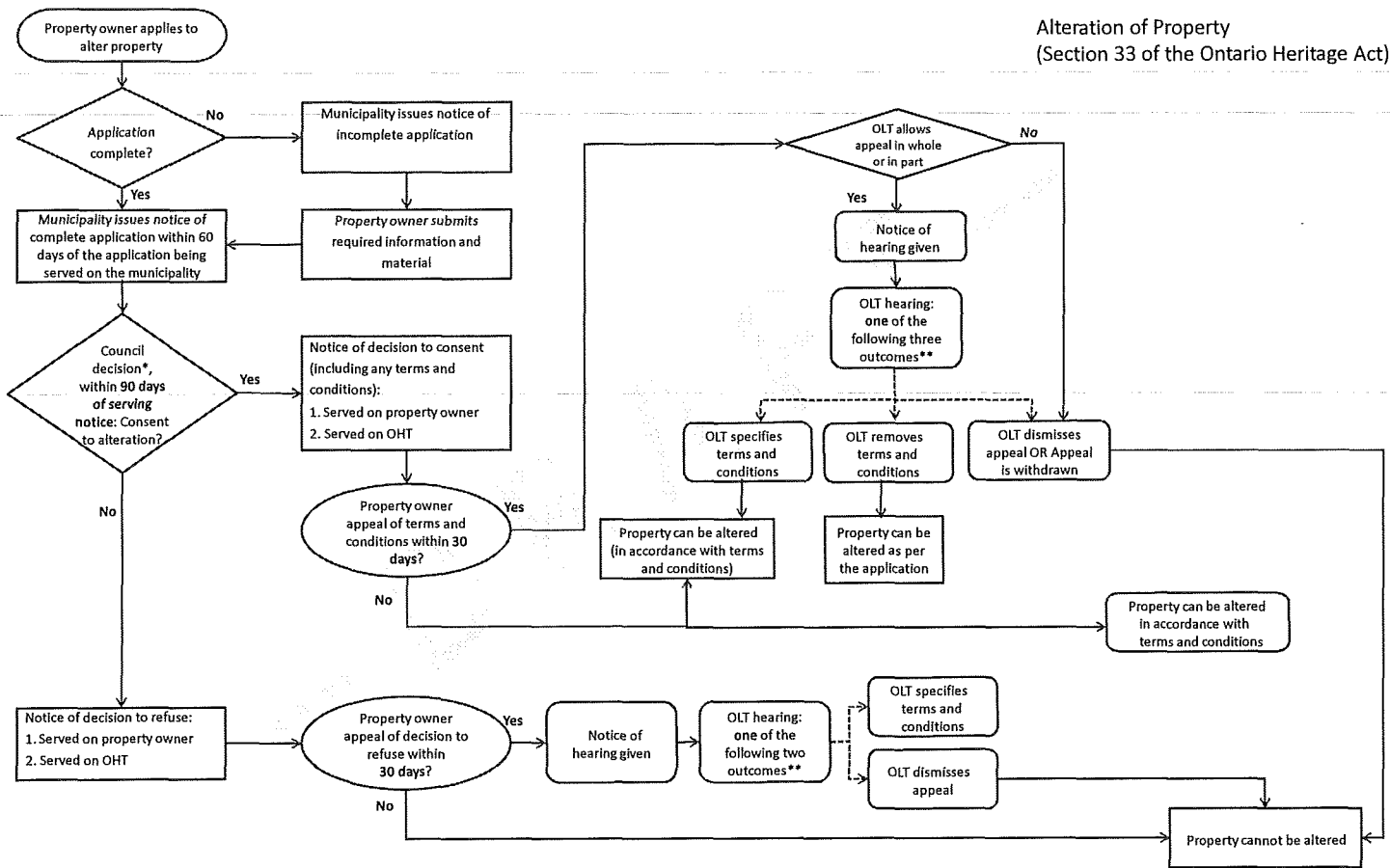
Repeal of Designating Bylaw Council's Initiative
(Section 31 of the Ontario Heritage Act)



Repeal of Designating Bylaw, Owner's Initiative
(Section 32 of the Ontario Heritage Act)



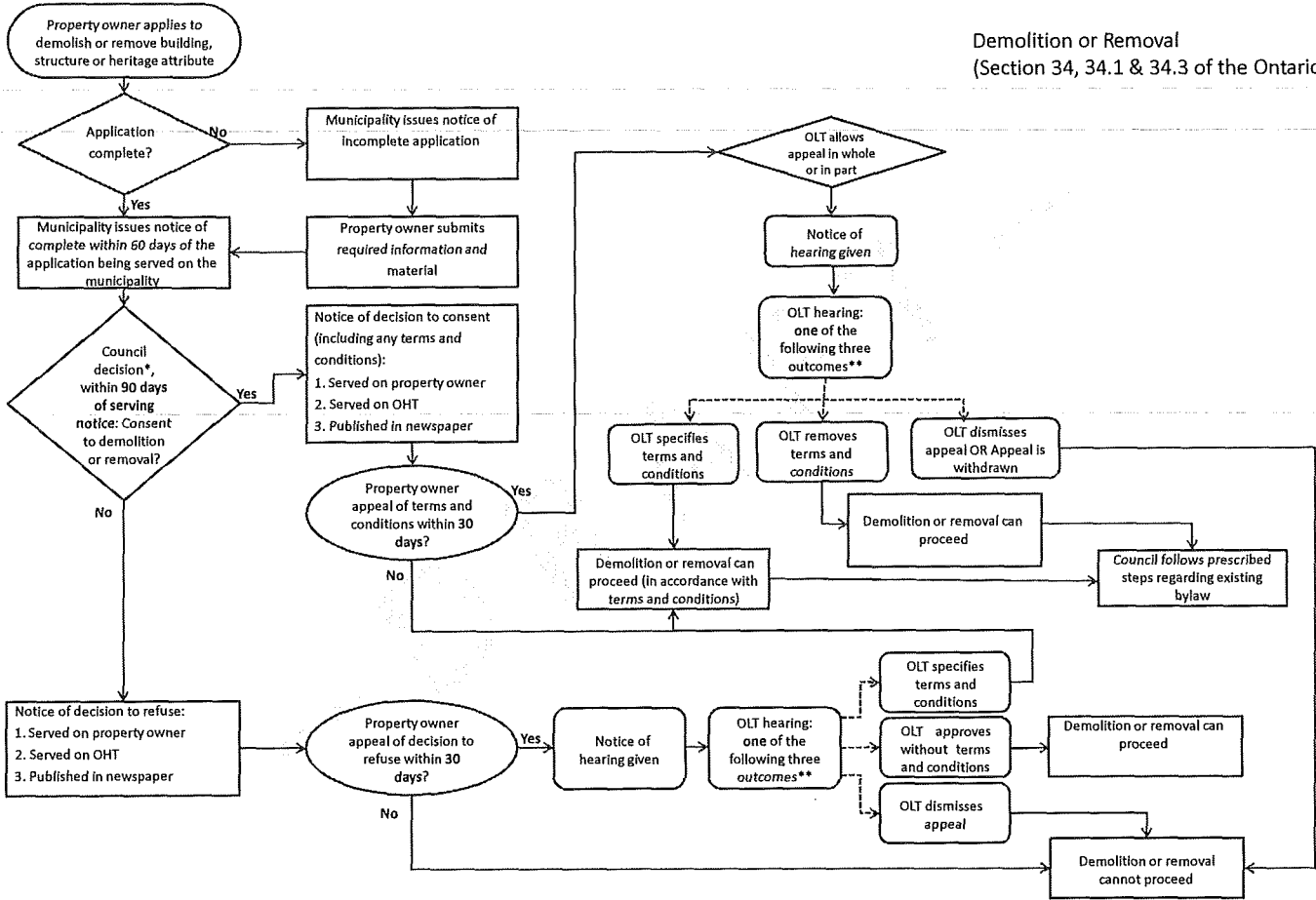
Alteration of Property
(Section 33 of the Ontario Heritage Act)



*If council failed to issue either a notice of complete application or a notice of incomplete application within 60 days after the day the application was served on the municipality, consent will be deemed to have been given 90 days after the end of the 60-day period. In this case, the demolition or removal can proceed, and council must follow the prescribed steps.

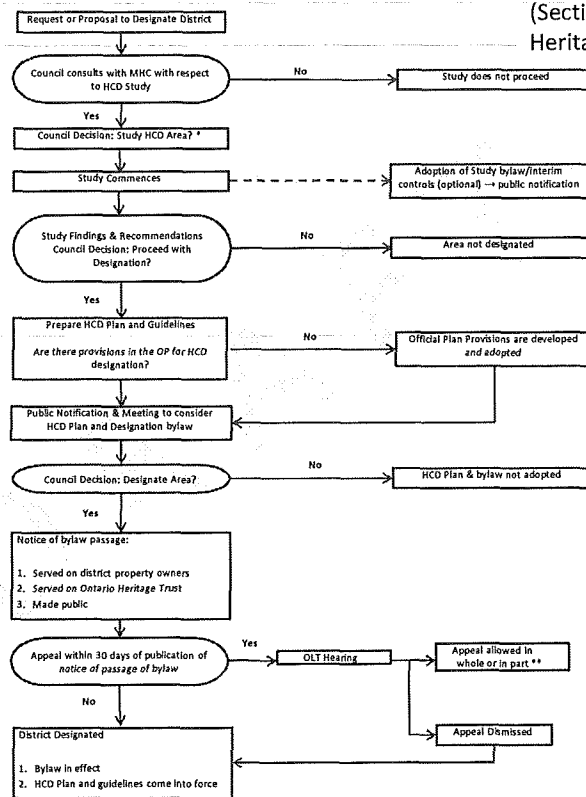
**The municipality must notify the OHT of the OLT decision.

Demolition or Removal
(Section 34, 34.1 & 34.3 of the Ontario Heritage Act)



*If council failed to issue either a notice of complete application or a notice of incomplete application within 60 days after the day the application was served on the municipality, consent will be deemed to have been given 90 days after the end of the 60-day period. In this case, the demolition or removal can proceed, and council must follow the prescribed steps.
**The municipality must notify the OHT of the OLT decision.

Heritage Conservation District Designation Process
 (Sections 40, 40.1, 41, 41.1 of the Ontario Heritage Act)



* The Ontario Heritage Act does not require a study in order to designate a heritage conservation district

** The HCD bylaw may need to be amended for an appeal allowed "in part"



Hamilton

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Planning Division
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June 25, 2021

Lorraine Dooley

Ministry of Heritage, Sport, Tourism and Culture Industries - Culture Policy Unit
401 Bay Street
Suite 1800
Toronto, ON
M7A 0A7

RE: *Ontario Regulation 385/21 to the Ontario Heritage Act and Draft Ontario Heritage Tool Kit*

Dear Madam:

On behalf of the City of Hamilton, I am pleased to provide this letter as City of Hamilton's submission on the *Ontario Regulation 385/21 to the Ontario Heritage Act* and the Draft Ontario Heritage Tool Kit. Please find attached to this letter an outline of the key submissions the City wishes to make on the Regulation and the Draft Ontario Heritage Tool Kit. City staff will be taking a report to Planning Committee on July 6, 2021 and to Council on July 9, 2021 outlining our submission. Council's position will be forwarded to the Province once it has been ratified.

We look forward to seeing the results of the consultation on the Draft Ontario Heritage Tool Kit. City of Hamilton staff would be pleased to meet with you to discuss these comments in greater detail.

Regards,

Steve Robichaud, *MCIP, RPP*
Director of Planning and Chief Planner, Planning Division
Planning and Economic Development Department
City of Hamilton

SR:jr
Attachment

cc: Anita Fabac, Manager of Development Planning, Heritage and Design

City of Hamilton Submissions on *Ontario Regulation 385/21* to the *Ontario Heritage Act* and Draft Ontario Heritage Tool Kit

Staff remain challenged by the administrative burden that the changes to the *Ontario Heritage Act* and implementing Regulation have placed on municipalities. The additional complexity to processes and shortened timeframes remain a concern and have not been addressed through *Ontario Regulation 385/21*.

The following are the City's comments on *Ontario Regulation 385/21* to the *Ontario Heritage Act*:

- Staff would like further clarification on the changes to the *Ontario Heritage Act* that are not being Proclaimed on July 1, 2021. Is there a future Proclamation date that will be scheduled? These Sections in the *Ontario Heritage Act* will have an impact on staff's ability to process heritage permits through delegated authority and may require updates to all the heritage conservation district plans. Staff request that further communication from the Ministry be provided well in advance of those sections being Proclaimed.
- Staff would like confirmation that any future drafts of "Prescribed Principles" be posted on the Environmental Registry of Ontario for comment prior to being proclaimed.
- Staff would like clarification as to why the Exception of the submission of 'new and relevant information' to the 90 Days to issue a notice of intention to designate was removed from the Regulation.
- Staff continue to advise the Province that the 90 day timeline to issue a NOID after a prescribed event aligns with the timeframe to review Zoning By-law Amendments but does not meet the statutory timeframes for review of Official Plan Amendments and Plans of Subdivision, which is 120 days.
- Staff continue to advise the Province that the *Planning Act* Regulations for Official Plan Amendments (O. Reg 543/06), Plans of Subdivision (O. Reg 544/06) and Zoning By-law Amendments (O. Reg 545/06) should be amended to have heritage resource information included on the required information and material to review.
- Staff continue to note that the requirements for a complete application only apply to subsections 33 (2) and 34 (2) of the *Ontario Heritage Act*, meaning that there are no requirements for a complete application for properties designated under Part V (heritage conservation districts). Staff advise the Province that the requirements for complete application should also apply to district properties to ensure comprehensive submissions for those applications and consistent treatment of all designations.

The following are the City's comments on the Draft Ontario Heritage Tool Kit:

- Staff note that a 30 day period to provide a fulsome review is not sufficient. Staff request an extension to the ERO Posting closure of June 30, 2021 to ensure more fulsome consultation with municipalities occurs.
- Staff note it may be helpful to distinguish between new legislated requirements so that the changes to municipal processes can be easily identified and implemented by staff. The inclusion of the legislated references to the *Ontario Heritage Act* and the Regulation in the Final Guides would be beneficial.
- Clarification on whether a newspaper having general circulation must be print or can be in digital format should be included in the Final Guides.
- Inclusion of examples and case studies throughout all the Guides are useful to municipal staff as well as the public's understanding of requirements and practices. Staff recommend additional examples and case studies be included in all the Guides.

The following are the City's comments on *Ontario Regulation 385/21 to the Your Community, Your Heritage, Your Committee Guide*

- Staff note that there have not be legislative changes to the structure and procedures of a Municipal Heritage Committee. Staff would appreciate further understanding of the changes that have been proposed between the current guide and draft guide.
- The draft Guide states that Municipal Heritage Committee member terms typically are for a 3 year period on page 12. Consideration should be given to updating this reference to 4 year terms to generally align with Council terms.
- The Final Guide should continue to include the preferred reporting structure in Section 3.2 on page 18 which states that Municipal Heritage Committees are more effective when they report directly to Council instead of through standing committees. The reporting structure may help ease the length of time it takes to issue a notice of intention to designate associated with a prescribed event or process a complex heritage permit.
- The Final Guide should continue to include the functional relationship of advisory committees to Municipal Heritage Committees in Section 3.2.1 on page 18. The Final Guide would benefit from additional information on the preferred reporting structure of advisory committees.
- Section 4.2.1 – Checklist for Evaluating your Committee's Mission and Vision could be enhanced with a proposed frequency for self-evaluation by Municipal Heritage Committees. A report could be associated with the checklist to

demonstrate examples of how the Municipal Heritage Committee was achieving each criteria.

The following are the City's comments the Heritage Property Evaluation: A Guide to Identifying, Research and Evaluating Heritage Properties in Ontario Communities

- Staff note that on the bottom of page 6 there is reference to screening properties with "preliminary criteria." Staff would appreciate further explanation of where this "preliminary criteria" is established in the legislation or if this is a reference to a streamlined version of the *Ontario Regulation 9/06 - Ontario Criteria for Determining Cultural Heritage Value or Interest*. The Final Guide could benefit in explaining with examples what a preliminary criteria would be.
- At the bottom of the red text box on page 10, the draft Guide states that an initial recommendation for listing a property should make specific reference to the criteria in *Ontario Regulation 9/06*. The guide could benefit from a clear distinction between the level of detail required for a register listing for a property that is not designated and a register listing for a designated property.
- Staff recommend the inclusion of the merits of completing heritage survey work at the same time as Secondary Plan work in Section 2.1 - Making a Comparison.
- Staff note that on page 18 where it discusses the Basics of a Municipal Register of Heritage Properties that there is a difference between what is recommended to be included on register for non-designated properties being placed on the register and what is required by legislation. Clarification in the guide on the distinction between legislated requirements and best practice should be provided. Specifically, the level of detail between the listing of a non-designated and a designated property is not clear. The draft Guide currently states that listings must include a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property, which is the same requirement for a designation.
- Page 18 identifies that some recent structures hold cultural heritage value or interest. The draft Guide could benefit from an example of a recent structure that has been listed on a heritage register.
- Page 21 identifies the *Ontario Building Code Act* timeframes for the review of building permits and staff recommend that this reference be updated to clearly distinguish between types of uses, ie. residential, commercial, industrial and institutional.
- Page 23 refers to 'new and relevant' information being received by Council when a notice of objection is served regarding the addition of a property to the register. A definition of what constitutes 'new and relevant' would be beneficial in the Final Guide. Further, the Final Guide could benefit from an explanation that there

should be no impact on insurance rates and home value should a register listing occur, or a reference to this type of resource.

- Page 28 recognizes the importance of oral evidence in support of register listings for both designated and non-designated properties. The Final Guide could benefit from appropriate methods for documenting these oral histories as evidence so that designations that are appealed to the Ontario Land Tribunal (OLT) will remain defensible. While Section 6.1 – Oral Evidence provides the merits of oral histories, it does not provide the detail needed to ensure these histories can be used as evidence at OLT and be considered defensible evidence.
- Section 5.1 – Conducting the Evaluation and Determination of Cultural Heritage Value or Interest on pages 29 and 30 of the draft Guide would benefit from a clear threshold between the amount of detail needed for a register listing for a non-designated property and when a property meets the threshold for designation.
- Section 5.3 – Assessing Integrity, on pages 30 and 31 is a useful section. In particular, the examples within this section contribute to municipal staff and the public's understanding of the integrity of cultural heritage resources.
- Section 5.5 – Who does the Evaluation, on pages 34 and 35 could benefit from a statement that municipal heritage committees and heritage staff can both complete evaluations, and that it does not have to be one or the other. A number of municipalities have nomination forms where general members of the public nominate properties for consideration on the register. This section of the draft Guide could benefit from further clarification on the role of nomination forms and evaluation of heritage properties.
- Staff have identified a process error on page 35, the last sentence of section 5.5, the Guide states that Council has retained final decision-making authority on whether to proceed with protection. The legislation has been changed to give the Ontario Land Tribunal the final decision-making authority and as a result, this statement of Council still retaining final decision-making authority should be removed.
- Page 38 states that Criterion 2.i of O. Reg 9/06 may not be met if the criterion cannot be substantiated. As previously stated in these comments, further explanation of how oral histories can be considered substantive evidence would be valuable to municipalities in completing assessments. While Section 6.1 – Oral Evidence provides the merits of oral histories, it does not provide the detail needed to ensure these histories can be used as evidence at OLT and be considered defensible evidence.

- Section 5.8 – Written Account of the Research Evaluation on pages 40 and 41 would benefit from distinguishing between the level of detail needed to add a non-designated property to the register compared to a designated property. While staff have made this comment above, it is noted that the draft Guide states that a non-designated register listing needs to provide a statement of cultural heritage value and significance and a list of heritage attributes which generally appears to be the same as a designation. Staff would appreciate further clarification in the Final Guide.
- Page 47 has a reference to an extract the Ontario Archives Land Record index that has not be included. Staff would request the Final Guide include the referenced extract.
- Staff note that Section 6.3.1 – Site Visit on pages 52 and 53 outlines the benefits of site visits. Staff note that consent from a property owner is required for site visits and should be clearly outlined in the Final Guide.
- Page 57 appears to be the start of an example or case study. An introduction in this section would be beneficial to understand how to best apply the information presented in this section.

The following are the City's comments the Designating Heritage Properties Guide:

- Staff note that page 5 lists seven key steps of a designation process. Staff note that it may be helpful to include a step outlining the requirement to register the by-law on title.
- Staff note that there is some duplication between the Guides as it relates to the identification of properties with cultural heritage value or interest. Consideration can be given to reducing the duplication between the Guides. For example, sections 3.1 and 3.2 repeat the information found in the Heritage Property Evaluation Guide.
- Page 8 identifies that there are "many myths and misconceptions about designation that may need to be clarified." Guidance material that is from the Ministry on how to clarify and educate property owners would be of great assistance.
- Page 9 references a "newspaper having general circulation in the municipality." Staff would appreciate clarification if this can be a digital format or if the intent is a print newspaper.
- Staff note that on page 10 the Ministry encourages that a heritage impact assessment or equivalent study be required to evaluate the proposed development and that will demonstrate that significant cultural heritage resources will be conserved. Staff note that to secure any studies as part of a complete

application for an official plan amendment application, zoning by-law amendment application or plan of subdivision application, a formal consultation or pre-consultation should occur which identifies all required studies for an application to be deemed complete. Staff believe the Ministry should identify this step to assist municipalities in ensuring they have all the required materials to assist in the review of cultural heritage resources that are subject to a 'prescribed event.'

- Page 11 explains in detail the impacts of multiple applications on the 90-day timeframe. Specifically, reference to abandoned applications is provided. Clarification from the Ministry should be provided on what constitutes an abandoned application and provide guidance on when a municipality can move to issue a NOID should an application be abandoned. Does an abandoned application constitute as being 'disposed of' under the *Planning Act*?
- Staff recommend additional clarification be given that there is no timeframe associated with other *Planning Act* applications and designations not associated with *Planning Act* applications and the issuance of a NOID within Section 3.3.
- Section 3.3 could benefit from additional numbering to ease navigation of the Final Guide for readers.
- Further clarification should be provided on page 12 where the contents of NOIDs is provided on whether additional detail can be provided in the designation by-law or if the NOID's statement of cultural heritage value or interest and description of heritage attributes must be the exact statement and list in the designation by-law.
- Staff note that the bottom of page 12 provides an overview for municipalities considering objections. Staff note that a Council must consider an objection within 90 days of the end of the 30 day appeal notice period, being the 120 day period to pass a designating by-law. Clarification of this timeline and its legislated basis should be provided in the Final Guide in this section.
- Staff note that the top of page 13 outlines how municipalities can consider objections. The draft Guide states municipalities should establish a public facing procedure for how Councils will consider objections, how to provide suitable notice of objections, and factors Council takes into account when deciding whether to withdraw a notice of intention to designate. Staff note that this requirement does not appear to be based in the legislation and would like clarification as to its basis and if it is a legislated requirement.
- Staff note that clarification or examples of how the Ministry expects municipal Council's to consider objections should be provided (ie. Resolution, full staff report with recommendations, etc.).
- Page 13 provides questions for how a Council should decide whether to withdraw a NOID, including the submission of new and relevant information. The Guide

should identify the legislated exception within this text to extend the 120 day timeline and provide an example for how the Ministry expects Council to extend the 120 day timeline (ie. Resolution).

- Page 13 identifies that issuing a NOID protects a property from demolition or alteration. Since a timeline is not provided in the legislation for the processing of NOIDs that are not associated with *Planning Act* applications and the Guide could benefit from clear communication of this distinction.
- Staff note that the top of page 15 explains situations where new and relevant information can impact the 120 day timeline to pass a designating by-law. Staff would like the Final Guide to include clarification on who can provide new and relevant information.
- Staff suggest that the Final Guide could benefit from additional examples of what constitutes new and relevant information which is found on page 15 of the draft Guide.
- Section 3.6 – Appeals and Coming into Force on page 16 states that the Tribunal can direct a municipality to amend a designation by-law. Clarification should be provided to confirm if the amended by-law can be appealed.
- Staff would like clarification in Section 4 – Preparing the Designation By-law and Related Material on how much additional research and detail can be added to a designation by-law between the issuance of a NOID and the passing of a by-law. Does the NOID's statement of cultural heritage value or interest and description of heritage attributes have to be the exact same statement and list as in the designation by-law?
- Section 4 – Preparing the Designation By-law and Related Material could benefit from a case study or example of excellent and defensible designation by-laws.
- On page 21 where the explanation of how to use a reference to illustrate the land excluded from the designation is provided, the Final Guide could benefit from additional information on how to list specific elements of a property that are not considered heritage attributes. For example, a modern addition to a building with cultural heritage interest could be identified in a list of exclusions that do not constitute part of the designation by-law.
- Staff reiterate the duplication between the Designation Guide and the Heritage Property Evaluation Guide as it relates to the explanation of *Ontario Regulation 9/06*. Consideration can be given to streamlining the Designation Guide, and providing a reference to the Heritage Property Evaluation Guide which provides additional information and is useful to individuals preparing designation by-laws, instead of providing a shorter summary in the Designation Guide.

- Staff note that the examples of designation by-laws provided do not have brief 2 - 3 sentence statements of cultural heritage value or interest as recommended by the draft Guide. Staff suggest different examples be provided or consideration be given to increasing the recommended length of the statements of cultural heritage value or interest.
- Staff note that the Alton Mills example on page 34 outlines key attributes that represent the value of the mill complex as it has evolved and as a landmark. Staff would appreciate understanding the value of distinguishing key attributes this way.
- Staff would appreciate clarification that a new Guide would be developed should the definition of 'alter' be scheduled to be proclaimed in the future, due to the impact this change will have on municipalities (ie. What can be delegated to staff and what requires Council approval). Staff note that the proclamation of the definition of 'alter' would significantly change Section 5.1 of this Guide.
- The sidebar text in the red text box should include a link to the location of the Ministry's advice on Insurance and Heritage Properties on page 37.
- Staff recommend the Ministry provide a separate bullet between 1. Application to Council and 2. Review of Application, on page 39, to emphasize the importance of deeming an application complete or incomplete and the associated timelines as established in *Ontario Regulation 345/21*.
- Staff recommend that on page 40, the information that is required to be forward to the Tribunal be listed out for convenience to the reader.
- Staff have identified that the second paragraph in section 5.2 - Maintenance on page 41 discusses notices of complete application which appears to be located in the incorrect location in the draft Guide.
- The Final Guide could benefit from examples or case studies where a heritage permit is not required and a waiver can be issued instead.
- Throughout Section 6 – Demolition Control, starting on page 44, the Final Guide could benefit from referencing the *Ontario Heritage Act* legislated requirements and implementing regulations in *Ontario Regulation 345/21*.
- On page 46 where the process for demolition or removal of a building, structure or heritage attribute is explained, consideration should be given to adding a step to emphasize the importance of deeming an application complete or incomplete and the associated timelines.
- On page 47, there is reference to the 'aid of concerned citizens' and how they can assist a property owner towards a means to conserving a threatened

property. Staff would appreciate understanding the Ministry's vision for how citizens can participate in the process.

- Staff appreciate the inclusion of the 'Alterations to Cemeteries' information on pages 42 and 43. Staff would also appreciate additional information on Indigenous burial grounds.
- On page 49, an example where the consent to demolition would not impact the property's cultural heritage value or interest or heritage attributes would be useful to include.
- Staff request additional clarification on which regulation is referenced in situations where a demolition leads to an amending by-law. The third sentence in the fourth paragraph simply refers to the 'requirements set out in the regulation'. Does this mean *Ontario Regulation 9/06*? Staff note that this may not be administrative in nature given the age and lack of detail of some designation by-laws that pre-date 2005.
- Staff seek clarification on the process to move a building or structure to a new property. If the structure was designated on its original property and is moved to a new property, how does the land registry office know that there is no longer anything to be registered on title against the original property when the by-law goes through the abbreviated process explained on pages 50 and 51? Does the designation by-law being registered automatically repeal any registration on the original property?
- Clarification should be provided in Section 7.2 – Substantial Amendments to confirm that any by-laws that pre-date *Ontario Regulation 9/06* that are being amended to meet that standard that have not been subject to a heritage permit, would follow the process outlined in this section.
- Staff suggest greater emphasis be placed on the fact that if an amending by-law is appealed to OLT and the Tribunal allows the appeal in full, the amending by-law is repealed and does not come into force, but the original designation by-laws stays as it was before the amendment process. This information is valuable to municipalities which may seek to update designation by-laws that pre-date *Ontario Regulation 9/06* but are concerned that protection of a cultural heritage resource would be lost.
- Staff request that an example with a condominium be included in the Guide that would provide information about notice of intention to designate and by-law registration in the case of large multi-unit condominiums.
- Staff would like detail in the Final Guide explaining whose responsibility it is to provide the requirements for a designation by-law (ie. plans, drawings, photos,

etc.) in situations where a 'Prescribed Event' occurs and a municipality would like to issue a notice of intention to designate.

The following are the City's comments the Heritage Conservation Districts Guide:

- Staff would appreciate understanding how this Guide may change should Sections 41(2.3) and 42(1) of the *Ontario Heritage Act* be proclaimed in the future. Alternatively, staff request that the Ministry provide a revised Guide for comment should Sections 41(2.3) and 42(1) of the *Ontario Heritage Act* be proclaimed in the future.
- Staff recommend that a new section be added discussing the method to amend Heritage Conservation District Plans. Pertinent information should be included such as: does the original by-law become appealable if a new study by-law is passed? How to update old plans?

The following are the City's comments the Places of Worship Guide:

- There are several references to the removal of a heritage attributes being considered a demolition and needing Council approval on pages 34 and 35, which may no longer apply given that the definition of 'alter' is not being proclaimed.
- There is a statement in Section 2.3 that states that Places of Worship will undergo a more rigorous evaluation against the criteria set out in *Ontario Regulation 9/06*. Staff would like to understand if this more rigorous evaluation is established in the legislation or other regulation?
- Section 5 – Managing Disposal of heritage places of worship starting on page 41 could benefit from examples from locations outside of Ontario where feasible financial models have been used.
- Section 5.1 – Deconsecration and Removal of Liturgical Items should note that there may be conflicts with designation by-laws if there are interior attributes that may be removed during this stage.
- Section 5.2 – Sale for Adaptive Reuse should recognize that there are a growing number of churches within urban centres that are being sold as development sites for residential intensification. The Final Guide could benefit from examples where residential intensification and conservation have occurred simultaneously and reference to financial models that support adaptive re-use.
- Staff recommend an additional subsection within Section 5 that outlines good examples of partial retention of places of worship.

- Staff recommend that information regarding salvage efforts of heritage attributes prior to demolition occurring be included in Section 5.5 – Demolition of Heritage Place of Worship.

The following are the City's comments the draft Flow Charts:

- Staff note that the flow charts do not acknowledge the right of a person, other than the property owner to object to notices associated with register listings and notices of intention to designate.
- Amendment of Designating By-law, Exception Flow Chart
 - Staff note the flow chart should be updated to state that amended by-laws should meet current standards established by *Ontario Regulation 9/06 – Criteria for Determining Cultural Heritage Value*.
- Repeal of Designating By-law Flow Chart
 - Staff note that there can be a partial repeal but this is not identified in the flow chart.
- Repeal of Designating By-law, Owner's Initiative Flow Chart
 - First box that states that the property owner applies to repeal a designating by-law. The chart should also indicate how the workflow will change if they appeal for a partial repeal. For example, the flowchart would be changed if it is a partial repeal, because the by-law would not be removed from the register.
- Demolition or Removal Flow Chart
 - Bubble that states "municipality issues notice of complete" should state "municipality issues notice of complete application."
 - Bubble that states that "OLT specifies terms and conditions" should be connected to the bubble that states that "demolition or removal can proceed."
 - Bubble that states "property owner appeal of terms and conditions within 30 days" does not have a leader/workflow path. It should be connected to the bubble that states "demolition or removal can proceed."
 - Staff note that the bubble that states "demolition or removal can proceed" should also include reference to the associated terms and conditions for those permits that do not go on to the OLT.
 - Staff note that appeals are not limited to just the property owner which is not identified in the flowchart.



Proposed Regulation under the Ontario Heritage Act (Bill 108)

ERO (Environmental Registry of Ontario) number	019-1348
Notice type	Regulation
Act	Ontario Heritage Act, R.S.O. 1990
Posted by	Ministry of Heritage, Sport, Tourism and Culture Industries
Notice stage	Decision
Decision posted	June 9, 2021
Comment period	September 21, 2020 - November 5, 2020 (45 days) Closed
Last updated	June 9, 2021

This consultation was open from:

**September 21, 2020
to November 5, 2020**

Decision summary

Ontario Regulation 385/21 (General) implements amendments that were made to the Ontario Heritage Act through the More Homes, More Choice Act, 2019. The amendments and regulation come into force on July 1, 2021.

Decision details

In June 2019, the More Homes, More Choice Act, 2019 (Bill 108) received Royal Assent. Schedule 11 of this Act included amendments to the Ontario Heritage Act (OHA) that were intended to support the Housing Supply Action Plan. The Bill 108 Amendments to the OHA, which come into force on July 1, 2021, provides improved provincial direction on how to use the Act, clearer rules for decision making, and supports consistency in appeals processes.

O. Reg. 385/21 was filed on May 31, 2021, and comes into force on July 1, 2021. The regulation sets out new rules to implement the changes made to the OHA through Bill 108, including:

- Mandatory standards for designation by-laws;
- Events that trigger the new 90-day timeline for issuing a notice of intention to designate, with limited exceptions;
- Exceptions to the new 120-day timeline for passing a designation bylaw;
- Minimum requirements for complete applications for demolition or alteration of a protected property;
- Steps for amending or repealing a designation bylaw following consent for demolition or removal;
- Information and materials to be provided to the Tribunal;
- A modified process for amending bylaws, and restrictions for repeal requests;
- Transition rules to provide clarity on matters that are in progress at the time the amendments come into force;

The government recognizes that every municipality is unique in terms of its capacity and approach to heritage conservation. For that reason, the OHA continues to enable communities to apply a range of tools to conserve heritage properties, while allowing for compatible development.

Comments received	Through the registry	By email	By mail
	27	6	1

[View comments submitted through the registry \(/notice/019-1348/comments\)](/notice/019-1348/comments)

Effects of consultation

Comments received through the Environmental Registry, by email, and in person during the comment period were considered by the government in making the decision to approve the regulation and proclaim the OHA amendments. Several of the comments resulted in changes to the regulation as outlined below.

Commonly expressed themes and the Ministry's responses are as follows:

Mandatory standards for designation bylaws:

- There was general support for the mandatory standards for designation bylaws. Submissions provided specific suggestions to improve clarity and ensure bylaws are compatible with the land registry office system.
- **Ministry response:** Changes have been made to the final regulation to remove the requirement to provide aerial photographs or other images, as the land registry office system does not support images. Municipalities have instead been given the option to provide either a scale drawing or written description of the property's layout. Additionally, the requirement to make descriptions of heritage attributes brief was removed, and instead further guidance will be provided in the Ontario Heritage Tool Kit.

90-day timeline:

- Some submissions commented that the 90-day timeline is too short and noted that there may be resourcing and staffing changes required to respond to designation requests within the new timeline. There were also requests for the ministry to clarify when the restriction on designation would end, and how the restriction works when there are multiple applications submitted for a property.
- **Ministry response:** The timeline itself cannot change because it is established in the legislation. The regulation was amended to clarify that the restriction is limited to the duration of the application and is lifted once the application is disposed of under the Planning Act. The regulation also provides clarity on what happens when there are multiple applications or when a subsequent application triggers the 90-day restriction on designation. In the case of multiple applications that trigger the event at the same time, the restriction ends once all applications are disposed of under the Planning Act. When a subsequent application is received, the new application would trigger a new 90-day timeline for issuing a notice of intention to designate, and the restriction would end once the subsequent application was disposed of under the Planning Act.
- Submissions requested additional triggers be added in addition to Official Plan Amendment, Zoning Bylaw Amendment and Plan of Subdivision applications. Some submissions expressed concerns that exceptions were too flexible and allow municipalities too much latitude.
- **Ministry response:** The ministry explored the option of adding additional triggers for the 90-day timeline, however, the original three

triggers were maintained because they come early in the planning process and have clearly set out timelines within the Planning Act. The regulation was amended to limit exceptions to the 90-day timeline to cases of a declared emergency or when there is mutual agreement between the property owner and the municipality.

120-day timeframe:

- Submissions were generally supportive of the 120-timeline and limited exceptions that have been prescribed. Some submissions expressed concerns that exceptions were too flexible and also requested that municipalities should not be able to issue another notice of intention to designate if the 120 days lapses.
- **Ministry response:** The ministry has not suggested changes to the 120-day timeline exceptions, as the goal of the exceptions was to provide municipalities with flexibility and not to restrict them from moving forward with designation. The regulation making authority could not be used to restrict municipalities from issuing another notice of intention to designate if the 120 days lapses, as this the ability to immediately issue a new notice is set out in the legislation.

Complete applications:

- The complete applications requirements were positively received. Some concerns were raised that additional complete application requirements should only be outlined through official plans and that municipalities should not have the ability to request additional information and materials beyond this.
- **Ministry response:** The ministry has not recommended changes to the regulation. The regulatory authority enabling municipalities to set out complete application requirements states that these requirements can be established through municipal bylaw or another prescribed instrument. Furthermore, the legislation also provides that municipalities can require an applicant to provide any other information that council considers it may need in order to make a decision on an alteration or demolition application.

Information and Materials to be forwarded to the Tribunal:

- Submissions raised concerns about the shifting of designation and alteration appeals to a binding tribunal and called for the Conservation

Review Board to continue to hear matters related to designation and alteration because of their heritage expertise.

- **Ministry response:** The shift in designation and alteration appeals to a binding tribunal was a legislative amendment made through Bill 108. Under the Accelerating Access to Justice Act, 2021 (Bill 245) the Conservation Review Board was consolidated with the Local Planning Appeal Tribunal and other land tribunals into a new tribunal, the Ontario Land Tribunal. To ensure that the expertise of the Conservation Review Board was maintained, its members were continued as members of the Ontario Land Tribunal. Also, the Ontario Land Tribunal is subject to the Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009, including the provisions regarding the appointment of members based on minimum selection criteria, including experience, knowledge or training in the subject matter and legal issues dealt with by the tribunal.

Consent for demolition:

- There was general support for streamlining the process of amending or repealing the designation bylaw following a consent for demolition. Submissions requested that certain decisions be delegated to staff, and that property owners be notified when no changes are made to the designation bylaw.
- Ministry response: While the ministry was able to include the request related to notification of property owners, providing for delegation to staff about decisions related to amending or repealing the bylaw was beyond the scope of the regulation.

Transition:

- Many submissions requested that proclamation of the amendments and regulations be delayed to July 2021 in order to allow municipalities to prepare for implementation of the new requirements.
- **Ministry response:** The ministry delayed proclamation of the amendments for six months, to allow municipalities and heritage stakeholders time to prepare for the new requirements.
- Submissions made suggestions on what processes should proceed under the old regime versus moving into the new regime. For example, having the 90-day restriction on designation only apply to applications received by a municipality on or after proclamation of the amendments

and allowing for an extension of the 365 days to address any outstanding notices of intention to designate through mutual agreement.

- **Ministry response:** The ministry did not make changes to the transition rules for the 90-day timeline. For the purposes of consistency and accuracy, the rule was drafted to align with the event that triggers the start of the 90-day timeline, which is not the submission of the application itself, but the date the notices of complete application have all been given. The ministry has included the allowance for an extension of the 365 days through mutual agreement in the regulation.

Principles:

- Many submissions suggested changes to the principles, including changes to the definition of adaptive reuse. Some submissions raised concerns that the principles do not go far enough to align with the Housing Supply Action Plan and the broader planning priorities of the Provincial Policy Statement.
- **Ministry response:** Principles have not been prescribed in the final regulation. The ministry will be monitoring implementation of the amendments and the regulation to determine if principles should be prescribed at a later time.

Alteration and Demolition:

- Submissions raised concerns about the new definition of "alter" which would result in the loss of flexibility in decision-making and increased burdens, as consent to demolition and removal requests cannot be delegated to municipal staff. Additionally, concerns were raised about amendments made to subsection 42(1) to refer to demolition of a heritage attribute identified in a heritage conservation district plan.
- **Ministry response:** The modified definition of "alter" in the new subsection 1(2) and the changes to subsection 42(1) will not be proclaimed at this time.

Application of the OHA:

- Submissions requested that certain types of properties be excluded from the OHA.
- **Ministry response:** These types of exclusions would be beyond the scope of the regulatory authority and would require a new legislative amendment.

Ontario Heritage Tool Kit:

- Many submissions requested that the Ontario Heritage Tool Kit be updated to facilitate implementation of the regulation and amendments.
- **Ministry response:** The updated draft Tool Kit was posted to the Environmental Registry for a 30 day consultation before the on June 1, 2021.

Supporting materials

Related links

[Ontario Heritage Act Regulation 385/21](https://www.ontario.ca/laws/regulation/r21385)
(<https://www.ontario.ca/laws/regulation/r21385>)

[Ontario Heritage Act](https://www.ontario.ca/laws/statute/90o18) (<https://www.ontario.ca/laws/statute/90o18>)

[More Homes, More Choice Act, 2019](https://www.ontario.ca/laws/statute/s19009)
(<https://www.ontario.ca/laws/statute/s19009>)

Related ERO (Environmental Registry of Ontario) notices

[Updates to the Ontario Heritage Toolkit \(/notice/019-2770\)](/notice/019-2770)

[Bill 108 - \(Schedule 11\) – the proposed More Homes, More Choice Act: Amendments to the Ontario Heritage Act \(/notice/019-0021\)](/notice/019-0021)


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Original proposal

ERO (Environmental Registry of Ontario) number	019-1348
Notice type	Regulation
Act	Ontario Heritage Act, R.S.O. 1990
Posted by	Ministry of Heritage, Sport, Tourism and Culture Industries
Proposal posted	September 21, 2020
Comment period	September 21, 2020 - November 5, 2020 (45 days)

Proposal details

As part of Ontario's Housing Supply Action Plan, the *More Homes, More Choice Act, 2019* made amendments to several pieces of legislation, including the *Ontario Heritage Act (OHA)*. The *OHA (Ontario Heritage Act)* amendments provide clearer direction and timelines for local decision-makers, heritage professionals and development proponents about protecting heritage properties, and create a consistent appeals process, while maintaining local

control over heritage decisions. Some of the amendments require additional details to be prescribed by the Lieutenant Governor in Council through regulation.

The OHA (Ontario Heritage Act) amendments and the associated regulation will help to align municipal decisions in the heritage conservation process with Planning Act processes, improve municipal processes for identifying, designating and managing proposed changes to heritage properties, and improve clarity for property owners and development proponents.

To fulfill the intent of the Housing Supply Action Plan and bring the OHA (Ontario Heritage Act) amendments into force, the following matters are proposed to be prescribed in regulation:

1. Principles that a municipal council shall consider when making decisions under specific parts of the OHA (Ontario Heritage Act).
2. Mandatory content for designation by-laws.
3. Events which would trigger the new 90-day timeline for issuing a notice of intention to designate and exceptions to when the timeline would apply.
4. Exceptions to the new 120-day timeline to pass a designation by-law after a notice of intention to designate has been issued.
5. Minimum requirements for complete applications for alteration or demolition of heritage properties.
6. Steps that must be taken when council has consented to the demolition or removal of a building or structure, or a heritage attribute.
7. Information and material to be provided to Local Planning Appeal Tribunal (LPAT) when there is an appeal of a municipal decision to help ensure that it has all relevant information necessary to make an appropriate decision.
8. Housekeeping amendments related to amending a designation by-law and an owner's reapplication for the repeal of a designation by-law.
9. Transition provisions.

The proposed date for all amendments to the *Ontario Heritage Act* and the proposed regulations to come into force is January 1, 2021.

The ministry will also be updating the Ontario Heritage Tool Kit to reflect the changes to the OHA (Ontario Heritage Act). The Ministry will post drafts of the updated guidance documents for public review and comment later in 2020.

A link to the draft of the proposed regulation prepared for consultation purposes is included in this posting. A summary of the regulatory proposal is set out below.

Regulatory Proposals

1. Principles to guide municipal decision making

The amendments to the *Ontario Heritage Act* give authority to prescribe principles that a municipal council shall consider when making decisions under prescribed provisions of Parts IV and V of the Act. The proposed principles relate to the purpose of the *Ontario Heritage Act* and are intended to help decision-makers better understand what to focus on when making decisions under the Act. The proposed principles are consistent with Ontario's policy framework for cultural heritage conservation.

2. Mandatory content for designation by-laws

The *Ontario Heritage Act* amendments provide a regulatory authority to prescribe mandatory content for designation by-laws. The goal is to achieve greater consistency across municipalities and to provide improved clarity for property owners through designation by-laws including:

- Identifying the property for the purposes of locating it and providing an understanding of its layout and components;
- Establishing minimum requirements for the statement of cultural heritage value or interest; and
- Setting standards for describing heritage attributes.

3. 90-day timeline to issue a Notice of Intention to Designate

Amendments to the *Ontario Heritage Act* establish a new 90-day timeline for issuing a notice of intention to designate (NOID) when the property is subject to prescribed events. It also allows for exceptions to this restriction to be prescribed.

The new timeline is intended to encourage discussions about potential designations with development proponents at an early stage to avoid designation decisions being made late in the land use planning process. The ministry has proposed three triggers which would place this restriction on council's ability to issue a NOID (notice of intention to designate). These are applications submitted to the municipality for either an official plan amendment, a zoning by-law amendment or a plan of subdivision.

The proposed regulation also provides exceptions to when the 90-day timeline applies. The ministry is proposing the following categories of exceptions.

Mutual agreement – Where an extension of, or exemption from, the 90-day restriction on issuing a ~~NOID (notice of intention to designate)~~ is mutually agreed to by the municipality and the property owner who made the application under the *Planning Act*.

Administrative restrictions – Where municipal council or heritage committee are limited in their ability to reasonably fulfill the statutory requirements for issuing a ~~NOID (notice of intention to designate)~~ within the original 90-day timeframe. This would apply in cases of a declared emergency or where a municipal heritage committee would be unable to provide its recommendations to council. The timeframe would be extended by 90 days.

New and relevant information – Where new and relevant information could have an impact on the potential cultural heritage value or interest of the property is revealed and needs further investigation. Council would be able to extend the timeframe through a council resolution. In the case of new and relevant information council would have 180 days from the date of the council resolution to ensure there is sufficient time for further information gathering and analysis to inform council's decision.

Expiration of restriction – The 90-day restriction on council's ability to issue a ~~NOID (notice of intention to designate)~~ would not remain on the property indefinitely and would no longer apply when the application that originally triggered the 90-day timeframe is finally disposed of under the *Planning Act*.

The proposed regulation also provides notification requirements related to the exceptions to the 90-day timeframe restriction.

4. 120-day timeline to pass a designation by-law

Amendments to the *Ontario Heritage Act* establish a new requirement for designation by-laws to be passed within 120 days of issuing a Notice of Intention to Designate (NOID). It also allows for exceptions to be prescribed. The ministry is proposing the following categories for exceptions.

Mutual agreement - Where an extension of, or exemption from, the requirement to pass a by-law within 120 days of issuing a ~~NOID (notice of intention to designate)~~ is mutually agreed to by the municipality and the property owner.

Administrative restrictions – Where municipal council is limited in its ability to reasonably fulfill the statutory requirements for passing a designation bylaw within the original 120-day timeframe. This would apply in cases of a declared emergency.

New and relevant information – Where new and relevant information that could have an impact on the potential cultural heritage value or interest of the property is revealed and needs further investigation. Council would be able to extend the timeframe through a council resolution to ensure there is enough time for further information gathering and analysis to inform its decision.

Council would have an additional 180 days from the date of the council resolution to pass the bylaw.

Exceptions allowing for the extension of the 120-day timeframe for passing a by-law must occur prior to the expiry of the initial 120 days. The proposed regulation includes notification requirements related to the exceptions to the 120-day timeframe.

5. 60-day timeline to confirm complete applications, alteration or demolition and contents of complete applications

Amendments to the *Ontario Heritage Act* establish a new timeline of 60 days for the municipality to respond to a property owner about the completeness of their application for alteration of, or demolition or removal affecting, a designated heritage property. It also provides a regulatory authority for the Province to set out minimum requirements for complete applications.

The purpose of these provincial minimum standards is to ensure transparency so that property owners are aware of what information is required when making an application. The details of what is proposed in regulation reflect current municipal best practices. The proposed regulation also enables municipalities to build on the provincial minimum requirements for complete applications as a way of providing additional flexibility to address specific municipal contexts and practices. Where municipalities choose to add additional requirements, the proposed regulation requires them to use one of the following official instruments: municipal by-law, council resolution or official plan policy.

The proposed regulation establishes that the 60-day timeline for determining if the application is complete and has commenced starts when an application is served on the municipality. It further proposes that applications may now be

served through a municipality's electronic system, in addition to email, mail or in person.

6. Prescribed steps following council's consent to a demolition or removal under s. 34.3

Amendments to the *Ontario Heritage Act* provide that municipal council consent is required for the demolition or removal of any heritage attributes, in addition to the demolition or removal of a building or structure. This is because removal or demolition of a heritage attribute that is not a building or structure, such as a landscape element that has cultural heritage value, could also impact the cultural heritage value or interest of a property.

Prior to the amendments, where council approved a demolition or removal under s. 34, the Act required council to repeal the designation by-law. However, in cases where only certain heritage attributes have been removed or demolished, or where the demolition or removal was of a structure or building that did not have cultural heritage value or interest, the property might still retain cultural heritage value or interest. In these cases, repeal of the by-law would not be appropriate.

The proposed regulation provides municipalities with improved flexibility by requiring council to first determine the impact, if any, of the demolition or removal on the cultural heritage value or interest of the property and the corresponding description of heritage attributes. Based on the determination council makes, it is required to take the appropriate administrative action, which ranges from issuing a notice that no changes to the by-law are required, to amending the by-law as appropriate, to repealing the by-law. Council's determination and the required administrative actions that follow are not appealable to LPAT (Local Planning Appeal Tribunal).

The proposed regulation provides that, where council has agreed to the removal of a building or structure from a designated property to be relocated to a new property, council may follow an abbreviated process for designating the receiving property. The proposed regulation provides a series of administrative steps to support the designation by-law. Council's determination that the new property has cultural heritage value or interest and the subsequent designation by-law made under this proposed regulation would not be appealable to LPAT (Local Planning Appeal Tribunal).

7. Information to be provided to LPAT (Local Planning Appeal Tribunal) upon an appeal

With the exception of decisions made under section 34.3 as described above, all final municipal decisions related to designation, amendment and repeal, as well as alteration of a heritage property under the Act will now be appealable to LPAT (Local Planning Appeal Tribunal), in addition to decisions related to demolition and Heritage Conservation Districts, which were already appealable to LPAT (Local Planning Appeal Tribunal). The decisions of LPAT (Local Planning Appeal Tribunal) are binding. Preliminary objections to designation matters will now be made to the municipality, before the final decision is made. Prior to the amendments, appeals of designation-related notices or appeals of alteration decisions were made to the Conservation Review Board, whose decisions were not binding.

A regulatory authority was added to ensure that appropriate information and materials related to designations, alteration and demolition decisions are forwarded to the LPAT (Local Planning Appeal Tribunal) to inform appeals. The proposed regulation outlines which materials and information must be forwarded for every LPAT (Local Planning Appeal Tribunal) appeal process in the Act by the clerk within 15 calendar days of the municipality's decision.

8. Housekeeping amendments

Amendments to the Act included regulatory authority to address a few housekeeping matters through regulation. Previously, where a municipality proposed to make substantial amendments to an existing designation by-law it stated that the designation process in section 29 applied with necessary modifications. The proposed regulation clearly sets out the modified process, including revised language that is more appropriate for an amending by-law.

The proposed regulation also makes it clear that there is no 90-day restriction on issuing a notice of proposed amendment to a by-law and provides that council has 365 days from issuing the notice of proposed amendment to pass the final amending by-law and that this timeframe can only be extended through mutual agreement.

The proposed regulation also outlines restrictions on a property owner's ability to reapply for repeal of a designation by-law where the application was unsuccessful, unless council consents otherwise. The one-year restriction on an owner's reapplication maintains what had been included in the Act prior to the amendments.

9. Transition

Section 71 of the *Ontario Heritage Act* establishes a regulation-making authority for transitional matters to facilitate the implementation of the amendments, including to deal with any problems or issues arising as a result of amendments. The proposed transition rules provide clarity on matters that are already in progress at the time the amendments come into force.

General Transition Rule

All processes that commenced on a date prior to proclamation would follow the process and requirements set out in the Act as it read the day before proclamation. The proposed regulation sets out the specific triggers for determining if a process had commenced.

Exceptions

Outstanding notices of intention to designate

Where council has published a notice of intention to designate but has not yet withdrawn the notice or passed the by-law at the time of proclamation, the municipality will have 365 days from proclamation to pass the by-law, otherwise the notice will be deemed withdrawn. Where a notice of intention to designate has been referred to the Conservation Review Board, the 365 days would be paused until the Board either issues its report or until the objection has been withdrawn, whichever occurs earlier.

90-Day restriction on issuing a NOID. (notice of intention to designate)

The 90-day restriction on council's ability to issue a NOID would only apply where all notices of complete application have been issued by the municipality in relation to a prescribed Planning Act application, on or after proclamation.

Prescribed steps following council's consent to demolition or removal (s. (section) 34.3)

The ministry is proposing that the prescribed steps would apply following consent to an application by the municipality or by order of the Tribunal, where at the time of proclamation council had not already repealed the by-law under s. (section) 34.3.

Regulatory Impact Assessment

The objective of the proposed regulation is to improve provincial direction on how to use the Ontario Heritage Act, provide clearer rules and tools for decision making, and support consistency in the appeals process. Direct compliance costs and administrative burdens associated with the proposed regulations are unknown at this time. New rules and tools set out in the proposed regulations are expected to result in faster development approvals.

There are anticipated social and environmental benefits as the proposed regulation seeks to achieve greater consistency to protecting and managing heritage property across the province.

Supporting materials

Related files

[General Regulation under the Ontario Heritage Act \(English only draft for consultation\) \(https://prod-environmental-registry.s3.amazonaws.com/2020-09/General%20Regulation%20under%20the%20OntarioHeritage%20Act_Consultation.pdf\)](https://prod-environmental-registry.s3.amazonaws.com/2020-09/General%20Regulation%20under%20the%20OntarioHeritage%20Act_Consultation.pdf)
pdf.(Portable.Document.Format.file) 297.34 KB

Related links

[Ontario Heritage Act \(https://www.ontario.ca/laws/statute/90o18#BK82\)](https://www.ontario.ca/laws/statute/90o18#BK82)

[Bill 108, More Homes, More Choice Act, 2019 \(https://www.ola.org/en/legislative-business/bills/parliament-42/session-1/bill-108\)](https://www.ola.org/en/legislative-business/bills/parliament-42/session-1/bill-108)

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Comment


Commenting is now closed.

This consultation was open from September 21, 2020
to November 5, 2020

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Français

ONTARIO REGULATION 385/21

made under the

ONTARIO HERITAGE ACT

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GENERAL

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RULES RE SECTION 29 OF THE ACT

Limitation, s. 29 (1.2) of the Act

1. (1) For the purposes of subsection 29 (1.2) of the Act, the following events that occur on or after July 1, 2021 are prescribed in respect of a property in a municipality:

1. A council or planning board, as applicable, has completed giving notice in accordance with clause 22 (6.4) (a) of the *Planning Act* of a request for amendment referred to in that clause, if the subject land to which the proposed amendment applies includes the property.
2. A council has completed giving notice in accordance with clause 34 (10.7) (a) of the *Planning Act* of an application for an amendment to a by-law referred to in that clause, if the subject land to which the proposed amendment applies includes the property.

3. A council or planning board, as the approval authority, has completed giving notice in accordance with clause 51 (19.4) (a) of the *Planning Act* of an application referred to in that clause, if the subject land to which the application applies includes the property.
- (2) The following exceptions are prescribed for the purposes of subsection 29 (1.2) of the Act:
 1. The restriction set out in subsection 29 (1.2) of the Act does not apply if an event described in subsection (1) occurs in respect of a property and, at any time after the event occurs, the owner of the property and the council of the municipality agree that the restriction does not apply.
 2. If an event described in subsection (1) occurs in respect of a property and the owner of the property and the council of the municipality, within 90 days after the day on which the event occurs, agree to extend the period of time set out in subsection 29 (1.2) of the Act, the period of time for the purposes of that subsection is the period that the council and the owner have agreed upon.
 3. If an event described in subsection (1) occurs in respect of a property and the day on which the event occurs falls within a period when an emergency has been declared to exist in the municipality in which the property is situated, or in any part thereof, under the *Emergency Management and Civil Protection Act* by the head of the council of the municipality, the 90-day period set out in subsection 29 (1.2) of the Act does not begin until the day immediately after the day on which the emergency is terminated.
 4. If an event described in subsection (1) occurs in respect of a property and during the 90-day period set out in subsection 29 (1.2) of the Act an emergency is declared to exist in the municipality in which the property is situated, or in any part thereof, under the *Emergency Management and Civil Protection Act* by the head of the council of the municipality, the following rules apply:
 - i. The 90-day period is terminated on the day the emergency is declared.
 - ii. A new 90-day period commences on the day immediately after the day on which the emergency is terminated.
 5. Subject to subsection (4), if an event described in subsection (1) occurs in respect of a property, subsection 29 (1.2) of the Act no longer applies to restrict the council of the municipality in which the property is situated from giving a notice of intention to designate the property as of the date of final disposition of the request or application giving rise to the event, whether by operation of the *Planning Act* or order of the Tribunal.
- (3) If an event described in subsection (1) in respect of a property occurs and a subsequent event occurs in respect of the property, the earlier event is deemed not to have occurred in respect of the same property for the purposes of subsection 29 (1.2) of the Act.
- (4) If two or more events described in subsection (1) in respect of a property occur on the same day, subsection 29 (1.2) of the Act no longer applies to restrict the council of the municipality in which the property is situated from giving a notice of intention to designate the property as of the latest of the dates on which the requests or applications giving rise to the events are finally disposed of, whether by operation of the *Planning Act* or order of the Tribunal.

Prescribed circumstances, par. 1 of s. 29 (8) of the Act

2. (1) The following circumstances and corresponding periods of time are prescribed for the purpose of paragraph 1 of subsection 29 (8) of the Act:
 1. If, before the end of the 120-day period referred to in paragraph 1 of subsection 29 (8) of the Act, the council and the owner of the property agree to extend the period of time set out in that paragraph, the period of time for the purposes of that paragraph is the period that the council and the owner have agreed upon.
 2. If any part of the 120-day period referred to in paragraph 1 of subsection 29 (8) of the Act falls within a period when an emergency has been declared to exist in the municipality in which the property is situated, or in any part thereof, under the *Emergency Management and Civil Protection Act* by the head of the council of the municipality, the period of time for the purposes of paragraph 1 of subsection 29 (8) of the Act is 120 days after the day on which the emergency has terminated.
 3. If, during the 120-day period referred to in paragraph 1 of subsection 29 (8) of the Act, the council passes a resolution stating that the municipality has received new and relevant information relating to the property and elects, by the same resolution, that the period of time for the purposes of that paragraph is 180 days after the resolution is passed, that is the period of time for the purposes of that paragraph.
- (2) If the council has passed a resolution referred to in paragraph 3 of subsection (1), the council shall ensure that notice of the new period of time is served on the owner of the property, and the notice shall include the reasons for the new period.
- (3) For purposes of paragraph 3 of subsection (1), “new and relevant information” means information or materials that satisfy the following:
 1. The information or material affects or may affect any of the matters set out in paragraph 2 of subsection 29 (8) of the Act.

2. The information or materials are received by council after notice of intention to designate the property has been published under clause 29(3)(b) of the Act.

Designation by municipal by-law, requirements

3. (1) The following requirements are prescribed for the purpose of paragraph 2 of subsection 29(8) of the Act:

1. The by-law must identify the property by,
 - i. the municipal address of the property, if it exists,
 - ii. the legal description of the property, including the property identifier number that relates to the property, and
 - iii. a general description of where the property is located within the municipality, for example, the name of the neighbourhood in which the property is located and the nearest major intersection to the property.
2. The by-law must contain one or more of the following that identifies each area of the property that has cultural heritage value or interest:
 - i. A site plan.
 - ii. A scale drawing.
 - iii. A description in writing.
3. The statement explaining the cultural heritage value or interest of the property must identify which of the criteria set out in subsection 1(2) of Ontario Regulation 9/06 (Criteria for Determining Cultural Heritage Value or Interest) made under the Act are met and must explain how each criterion is met.
4. The description of the heritage attributes of the property must explain how each heritage attribute contributes to the cultural heritage value or interest of the property.

(2) Nothing in subsection (1) prevents a by-law from identifying any physical features of a property that are not heritage attributes.

(3) For clarity, the requirements set out in subsection (1) also apply for the purposes of subsection 29(8) of the Act, as it appears in the Schedule for the purposes of an amending by-law mentioned in subsection 30.1(1) of the Act.

AMENDMENT OF DESIGNATING BY-LAW — SUBSECTION 30.1(1) OF THE ACT

Amending by-laws, modified s. 29 of the Act

4. The Schedule sets out section 29 of the Act, as modified, that applies to an amending by-law for the purposes of subsection 30.1(1) of the Act.

REAPPLICATION FOR REPEAL OF BY-LAW — SUBSECTION 32(18) OF THE ACT

Prescribed circumstances and time periods

5. For the purposes of subsection 32(18) of the Act, the following are the prescribed circumstances and corresponding time periods in which an owner of property may not reapply to have a by-law or part thereof designating a property repealed, except with the consent of council:

1. If a council refuses an application under paragraph 1 of subsection 32(5) of the Act and a notice of appeal is not given within the time period specified in subsection 32(7) of the Act, the time period is 12 months after the service of the notice of the council's decision under subparagraph 1 i of subsection 32(5) of the Act.
2. If an owner of the property appeals a decision of council to refuse the application under subsection 32(7) of the Act and the Tribunal dismisses the appeal under paragraph 1 of subsection 32(12) of the Act, the time period is 12 months after the date of the Tribunal's decision under paragraph 1 of subsection 32(12) of the Act.
3. If an owner of the property appeals a decision of council to refuse the application under subsection 32(7) of the Act and the Tribunal dismisses the appeal under subsection 32(13) of the Act, the time period is 12 months after the date of the Tribunal's decision under subsection 32(13) of the Act.
4. If a person appeals the decision of council to consent to an application and to pass a repealing by-law under subsection 32(8) of the Act and the Tribunal allows the appeal in whole or in part under paragraph 2 of subsection 32(12) of the Act, the time period is 12 months after the date of the Tribunal's decision under paragraph 2 of subsection 32(12) of the Act.

INFORMATION AND MATERIAL — SUBSECTIONS 33(2) AND 34(2) OF THE ACT

Prescribed information and material

6. (1) For the purpose of subsections 33(2) and 34(2) of the Act, the following information and material shall accompany an application:

1. The name, address, telephone number and, if applicable, the email address of the applicant.
 2. The name of the municipality from which consent is being requested.
 3. A description of the property that is the subject of the application, including such information as the concession and lot numbers, reference plan and part numbers, and street names and numbers.
 4. Photographs that depict the existing buildings, structures and heritage attributes that are affected by the application and their condition and context.
 5. A site plan or sketch that illustrates the location of the proposed alteration, demolition or removal.
 6. Drawings and written specifications of the proposed alteration, demolition or removal.
 7. The reasons for the proposed alteration, demolition or removal and the potential impacts to the heritage attributes of the property.
 8. All technical cultural heritage studies that are relevant to the proposed alteration, demolition or removal.
 9. An affidavit or a sworn declaration by the applicant certifying that the information required under this section and provided by the applicant is accurate.
- (2) The information or material referred to in subsection (1) must also include any information or material that is required to accompany an application by a municipal by-law, resolution or official plan.
- (3) The owner of the property shall serve an application made under subsection 33 (1) or 34 (1) of the Act on the council of the municipality.
- (4) Use of a municipality's electronic system to submit an application mentioned in subsection (3) is a method for the purpose of clause 67 (1) (d) of the Act.
- (5) Service using a municipality's electronic system is effective on the day the application is submitted unless the application was submitted after 5 p.m., in which case it is effective on the following day. If the day on which service would be effective is a Saturday or a holiday, service is instead effective on the next day that is not a Saturday or a holiday.
- (6) For the purpose of paragraph 2 of subsection 33 (7) of the Act and paragraph 2 of subsection 34 (4.3) of the Act, an application is considered to have commenced on the day that it is served on the council of the municipality.

REQUIRED STEPS — SECTION 34.3 OF THE ACT

Council consents to application under s. 34 of the Act

7. (1) The following steps are prescribed for the purposes of subsection 34.3 (1) of the Act:
1. After the demolition or removal of a building, structure or heritage attribute on the property is complete, the council of the municipality shall, in consultation with the municipal heritage committee established under section 28 of the Act, if one has been established, make one of the following determinations:
 - i. The property continues to have cultural heritage value or interest and, despite the demolition or removal, the statement explaining the cultural heritage value or interest of the property and the description of the heritage attributes of the property are accurate and do not need to be amended.
 - ii. The property continues to have cultural heritage value or interest but, as a result of the demolition or removal, the statement explaining the cultural heritage value or interest of the property or the description of the heritage attributes of the property is no longer accurate and needs to be amended.
 - iii. The property no longer has cultural heritage value or interest as a result of the demolition or removal.
 2. If the council makes the determination described in subparagraph 1 i, the clerk of the municipality shall ensure that notice of the determination is served on the owner of the property and the Trust.
 3. If the council makes the determination described in subparagraph 1 ii,
 - i. the council shall,
 - A. pass a by-law that amends the by-law made under section 29 of the Act designating the property to update the statement of cultural heritage value or interest and the description of the property's heritage attributes to reflect the changes resulting from the demolition or removal, and
 - B. ensure that the amending by-law complies with the requirements set out in section 3 and includes a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property, and
 - ii. the clerk of the municipality shall,
 - A. ensure that a copy of the amending by-law is served on the owner of the property,

- B. publish notice of the amending by-law in a newspaper having general circulation in the municipality, and
 - C. ensure that a copy of the amending by-law is registered against the property affected by the amending by-law in the appropriate land registry office and that a copy of the registered amending by-law is served on the Trust.
4. If the council makes the determination described in subparagraph 1 iii,
- i. the council shall pass a by-law to repeal the by-law or the part thereof designating the property under section 29 of the Act, and
 - ii. the clerk of the municipality shall,
 - A. ensure that a copy of the repealing by-law is served on the owner of the property,
 - B. publish notice of the repealing by-law in a newspaper having general circulation in the municipality,
 - C. ensure that a copy of the repealing by-law is registered against the property affected by the repealing by-law in the appropriate land registry office and that a copy of the registered repealing by-law is served on the Trust, and
 - D. ensure that any reference to the property is deleted from the register referred to in subsection 27 (1) of the Act.
5. If, as part of the removal mentioned in paragraph 1, a building or structure is moved to another property,
- i. the council of a municipality shall, in consultation with the municipal heritage committee established under section 28 of the Act, determine if the other property meets the criteria referred to in clause 29(1)(a) of the Act,
 - ii. if it is determined under subparagraph i that the other property meets the criteria, the council of a municipality may pass a by-law designating the other property to be of cultural heritage value or interest, and
 - iii. if a designating by-law is passed under subparagraph ii, the council of a municipality shall ensure that the by-law complies with the requirements set out in section 3 and includes a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property.
6. If a designating by-law is passed under subparagraph 5 ii, the clerk of the municipality shall,
- i. ensure that a copy of the designating by-law is served on the owner of the property affected by the designating by-law,
 - ii. publish notice of the designating by-law in a newspaper having general circulation in the municipality, and
 - iii. ensure that a copy of the designating by-law is registered against the property affected by the designating by-law in the appropriate land registry office and that a copy of the registered designating by-law is served on the Trust.
- (2) A by-law passed under this section comes into force on the day the by-law is passed.
- (3) A designating by-law passed under subparagraph 5 ii of subsection (1) is deemed to be a by-law passed under subsection 29 (1) of the Act.
- (4) For greater certainty, sections 29, 30.1 and 31 of the Act do not apply in respect of passing a by-law under this section, but sections 30.1 and 31 of the Act apply in respect of an amendment or repeal of a by-law or part thereof passed under this section.

RECORD OF DECISION

Record of decision under s. 29 of the Act

- 8.** (1) If a notice of appeal under section 29 of the Act is given within the time period specified in subsection 29 (11) of the Act, the clerk of the municipality shall ensure that the record of the decision under subsection 29 (8) of the Act to pass a by-law designating a property is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.
- (2) The following material and information must be included in a record of the decision referred to in subsection (1):
- 1. A certified copy of the notice of intention to designate the property.
 - 2. A certified copy of the by-law.
 - 3. A certified copy of the notice referred to in paragraph 4 of subsection 29 (8) of the Act.
 - 4. A copy of any report considered by council.
 - 5. The original or a certified copy of all written submissions and comments related to the decision and the dates they were received.

6. If a public meeting was held that related to the decision,
 - i. a copy of the minutes, and
 - ii. a list of all persons and public bodies that made oral representations that related to the decision and, if available, the record of those representations.
 7. Any additional material or information that the council considered in making its decision.
 8. An affidavit or sworn declaration by an employee of the municipality that contains a certificate that all the material and information required under this section is accurate.
- (3) The following material and information must be included in a record of the decision under subsection 29 (6) of the Act to be forwarded to the Tribunal as required by subsection 29 (14) of the Act:
1. The original or a certified copy of every notice of objection served on the clerk of the municipality under subsection 29 (5) of the Act, and the date on which each notice was served.

Record of decision under s. 30.1 of the Act

9. (1) References in this section to section 29 of the Act are references to that section as it appears in the Schedule for the purposes of an amending by-law mentioned in subsection 30.1 (1) of the Act.

(2) The following rule applies if the council of a municipality proposes under section 30.1 of the Act to amend a by-law designating property and the exception set out in subsection 30.1 (2) of the Act does not apply to the amending by-law:

1. If a notice of appeal under section 30.1 of the Act is given within the time period specified in subsection 29 (11) of the Act, the clerk of the municipality shall ensure that the record of the decision under subsection 29 (8) of the Act is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.

(3) The following material and information must be included in a record of the decision referred to in paragraph 1 of subsection (2):

1. A certified copy of the notice of proposed amendment to the by-law designating the property.
2. A certified copy of the by-law that is the subject to the proposed amendment.
3. A certified copy of the amending by-law.
4. A certified copy of the notice referred to in paragraph 4 of subsection 29 (8) of the Act.
5. The material and information described in paragraphs 4 to 8 of subsection 8 (2) of this Regulation.

(4) The following material and information must be included in a record of the decision under subsection 29 (6) of the Act to be forwarded to the Tribunal as required by subsection 29 (14) of the Act:

1. The original or a certified copy of every notice of objection served on the clerk of the municipality under subsection 29 (5) of the Act and the date on which it was served.

(5) The following rule applies if the council of a municipality proposes under section 30.1 of the Act to amend a by-law designating property and the exception set out in subsection 30.1 (2) of the Act applies to the amending by-law:

1. If a notice of appeal is given within the time period specified in subsection 30.1 (10) of the Act, the clerk of the municipality shall ensure that the record of the decision under subsection 30.1 (9) of the Act to pass an amending by-law is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.

(6) The following material and information must be included in a record of the decision referred to in paragraph 1 of subsection (5):

1. A certified copy of the notice referred to in subparagraph 1 ii of subsection 30.1 (9) of the Act.
2. The material and information described in paragraphs 1, 2, 3 and 5 of subsection (3).

(7) The following material and information must be included in a record of the decision under subsection 30.1 (7) of the Act to be forwarded to the Tribunal as required by subsection 30.1 (14) of the Act:

1. The original or a certified copy of every notice of objection filed with the clerk of the municipality under subsection 30.1 (6) of the Act and the date on which it was filed.

Record of decision under s. 31 of the Act

10. (1) If a notice of appeal under section 31 of the Act is given within the time period specified in subsection 31 (9) of the Act, the clerk of the municipality shall ensure that the record of the decision under subsection 31 (8) of the Act to pass a repealing by-law is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.

- (2) The following material and information must be included in a record of the decision referred to in subsection (1):

1. A certified copy of the notice of intention to repeal the by-law or part thereof designating property.
 2. A certified copy of the repealing by-law.
 3. A certified copy of the by-law that is subject to the repealing by-law.
 4. A certified copy of the notice referred to in paragraph 2 of subsection 31 (8) of the Act.
 5. The material and information described in paragraphs 4 to 8 of subsection 8 (2) of this Regulation.
- (3) The following material and information must be included in a record of the decision under subsection 31 (6) of the Act to be forwarded to the Tribunal as required by subsection 31 (13) of the Act:
1. The original or a certified copy of every notice of objection served on the clerk of the municipality under subsection 31 (5) of the Act and the date on which it was served.

Record of decision under s. 32 of the Act

- 11.** The following material and information must be included in a record of the decision under subsection 32 (5) of the Act to be forwarded to the Tribunal as required by subsection 32 (11) of the Act:
1. A certified copy of the application to repeal a by-law or part thereof designating the property.
 2. A certified copy of the notice of application referred to in subsection 32 (3) of the Act.
 3. A certified copy of the by-law designating the property.
 4. The original or a certified copy of every notice of objection served on the clerk of the municipality under subsection 32 (4) of the Act and the date it was served.
 5. If the appeal relates to a decision to refuse the application, a certified copy of the notice referred to in subparagraph 1 ii of subsection 32 (5) of the Act.
 6. If the appeal relates to a decision to consent to the application,
 - i. a certified copy of the by-law repealing the by-law or part thereof, and
 - ii. a certified copy of the notice referred to in subparagraph 2 ii of subsection 32 (5) of the Act.
 7. The material and information described in paragraphs 4 to 8 of subsection 8 (2) of this Regulation.

Record of decision under s. 33 of the Act

- 12.** (1) If a notice of appeal under section 33 of the Act is given within the time period specified in subsection 33 (9) of the Act, the clerk of the municipality shall ensure that the record of the decision under subsection 33 (6) of the Act is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.
- (2) The following material and information must be included in a record of the decision referred to in subsection (1):
1. A certified copy of the by-law designating the property.
 2. The original or a certified copy of the material and information described in section 6 received by the council, and any material or information that the council required under subsection 33 (3) of the Act.
 3. A certified copy of the notice informing the applicant that the application is complete that was served on the applicant under subsection 33 (4) of the Act and the date it was served.
 4. A certified copy of any records relating to a notification referred to in subsection 33 (5) of the Act.
 5. A certified copy of the notice of the council's decision referred to in clause 33 (6) (b) of the Act.
 6. The material and information described in paragraphs 4 to 8 of subsection 8 (2) of this Regulation.

Record of decision under s. 34.1 of the Act

- 13.** (1) If a notice of appeal under section 34.1 of the Act is given within the time period specified in subsection 34.1 (2) of the Act, the clerk of the municipality shall ensure that the record of the decision under subsection 34 (4.2) of the Act is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.
- (2) The following material and information must be included in a record of the decision referred to in subsection (1):
1. A certified copy of the by-law designating the property.
 2. The original or a certified copy of the material and information described in section 6 received by the council, and any material or information that the council required under subsection 34 (3) of the Act.
 3. A certified copy of the notice informing the applicant that the application is complete that was served on the applicant under subsection 34 (4) of the Act and the date it was served.

4. A certified copy of any records relating to a notification referred to in subsection 34(4.1) of the Act.
5. The original or a certified copy of the notice of the council's decision referred to in clause 34(4.2)(b) of the Act.
6. The material and information described in paragraphs 4 to 8 of subsection 8(2) of this Regulation.

Record of decision under s. 40.1 of the Act

14. (1) If a notice of appeal under section 40.1 of the Act is given within the time period specified in subsection 40.1(4) of the Act, the clerk of the municipality shall ensure that the record of the decision under subsection 40.1(1) of the Act is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.

(2) The following material and information must be included in a record of the decision referred to in subsection (1):

1. A certified copy of the by-law made under subsection 40.1(1) of the Act.
2. A certified copy of the notice referred to in subsection 40.1(3) of the Act.
3. The material and information described in paragraphs 4 to 8 of subsection 8(2) of this Regulation.

Record of decision under s. 41 of the Act

15. (1) If a notice of appeal under section 41 of the Act is given within the time period specified in subsection 41(4) of the Act, the clerk of the municipality shall ensure that the record of the decision under subsection 41(1) of the Act is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.

(2) The following material and information must be included in a record of the decision referred to in subsection (1):

1. A certified copy of the by-law made under subsection 41(1) of the Act.
2. A certified copy of the notice referred to in subsection 41(3) of the Act.
3. A certified copy of the heritage conservation district plan adopted by a by-law under subsection 41.1(1) of the Act.
4. A certified copy of the information referred to in clause 41.1(6)(a) of the Act.
5. The original or a certified copy of all written submissions and comments related to the decision, including any written submissions referred to in subsection 41.1(1) of the Act, and the dates they were received.
6. For every public meeting referred to in clause 41.1(6)(b) of the Act that is held,
 - i. a copy of the notice of the public meeting referred to in subsection 41.1(7) of the Act,
 - ii. a copy of the minutes, and
 - iii. a list of all persons who made oral representations referred to in subsection 41.1(9) of the Act and, if available, the record of those representations.
7. For every public meeting that is held that related to the decision but was not a meeting referred to in clause 41.1(6)(b) of the Act,
 - i. a copy of the minutes, and
 - ii. a list of all persons and public bodies that made oral representations that related to the decision and, if available, the record of those representations.
8. The material and information described in paragraphs 4, 7 and 8 of subsection 8(2) of this Regulation.

Record of decision under s. 41.1 of the Act

16. (1) If a notice of appeal under section 41.1 of the Act is given within the time period specified in subsection 41(4) of the Act, as made applicable by subsection 41.1(4) of the Act, the clerk of the municipality shall ensure that the record of the decision under subsection 41.1(2) of the Act is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.

(2) The following material and information must be included in a record of the decision referred to in subsection (1):

1. A certified copy of the by-law under subsection 41(1) of the Act.
2. A certified copy of the by-law under subsection 41.1(2) of the Act.
3. A certified copy of the heritage conservation district plan adopted by a by-law under subsection 41.1(2) of the Act.
4. A certified copy of the notice referred to in subsection 41.1(3) of the Act.
5. A certified copy of the information referred to in clause 41.1(6)(a) of the Act.
6. The original or a certified copy of all written submissions and comments related to the decision, including the written submissions referred to in subsection 41.1(1) of the Act, and the dates they were received.

7. For every public meeting referred to in clause 41.1 (6) (b) of the Act that is held,
 - i. a copy of the notice of the public meeting referred to in subsection 41.1 (7) of the Act,
 - ii. a copy of the minutes, and
 - iii. a list of all persons who made oral representations referred to in subsection 41.1 (9) of the Act and, if available, the record of those representations.
8. The material and information described in paragraphs 4, 7 and 8 of subsection 8 (2) of this Regulation.

Record of decision under s. 42 of the Act

17. (1) If a notice of appeal under section 42 of the Act is given within the time period specified in subsection 42 (7) of the Act, the clerk of the municipality shall ensure that the record of the decision under subsection 42 (4) of the Act is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.

(2) The following material and information must be included in a record of the decision referred to in subsection (1):

1. If a heritage conservation district plan was adopted by a by-law under subsection 41.1 (1) or (2) of the Act, a certified copy of the plan.
2. The original or a certified copy of the information required under subsection 42 (2.2) of the Act.
3. A certified copy of the notice of receipt referred to in subsection 42 (3) of the Act.
4. If the council refused the application for a permit under section 42 of the Act, a copy of the notice referred to in clause 42 (4) (b) of the Act.
5. If the council approved the application for a permit under section 42 of the Act with terms or conditions attached, a copy of the permit.
6. The material and information described in paragraphs 4 to 8 of subsection 8 (2) of this Regulation.

TRANSITION

Transitional rules

18. (1) Except as provided otherwise, references in this section to a provision of the Act are references to the provision as it read on June 30, 2021.

(2) A matter or proceeding that is mentioned in subsection (3) and commenced before July 1, 2021 shall be continued and disposed of under the Act as it read on June 30, 2021.

(3) For the purposes of subsection (2), a matter or proceeding shall be deemed to have been commenced,

- (a) in the case of the designation of property by by-law under section 29 of the Act, on the date of the publication of a notice of intention to designate under clause 29 (3) (b) of the Act;
- (b) in the case of the amendment of a by-law designating property under section 30.1 of the Act,
 - (i) if subsection 30.1 (2) of the Act does not apply to the notice, on the date of the publication of the notice of proposed amendment under clause 29 (3) (b) of the Act, as made applicable by subsection 30.1 (1) of the Act, or
 - (ii) if subsection 30.1 (2) of the Act applies to the notice, on the day the notice of proposed amendment is received by the owner of the property;
- (c) in the case of the repeal of a by-law or part thereof designating property under section 31 of the Act, on the date of the publication of a notice of intention to repeal a by-law or part thereof under clause 31 (3) (b) of the Act;
- (d) in the case of an application to repeal a by-law or part thereof designating a property under section 32 of the Act, on the day the application is received by the council of the municipality;
- (e) in the case of an application for consent to alter or permit the alteration under section 33 of the Act, on the day the application is received by the council of the municipality;
- (f) in the case of an application for consent to demolish or remove or permit demolition or removal under section 34 of the Act, on the day the application is received by the council of the municipality;
- (g) in the case of an application for consent to alter, demolish or remove or permit the alteration, demolition or removal under section 34.5 of the Act, on the day the application is received by the Minister;
- (h) in the case of the designation of a study area under section 40.1 of the Act, on the day the by-law is passed under that section;
- (i) in the case of the designation of a heritage conservation district under section 41 of the Act, on the day the by-law is passed under that section;

- (j) in the case of the adoption of a heritage conservation district plan under subsection 41.1 (2) of the Act, on the day the by-law is passed under that subsection; and
 - (k) in the case of an application described in subsection 42 (2.1) of the Act, on the day the application is received by the council of the municipality.
- (4) The following rules apply if a notice of intention to designate a property under subsection 29 (1) of the Act was published in accordance with clause 29 (3) (b) of the Act before July 1, 2021 and the council of the municipality has not, before that day, passed a by-law designating the property or withdrawn the notice of intention to designate before that day:
- 1. The notice of intention to designate the property is deemed to be withdrawn on the later of the following dates, unless the council of a municipality has passed a by-law in accordance with section 29 of the Act designating the property before that date:
 - i. July 1, 2022.
 - ii. If, before July 1, 2022, the council of the municipality and the owner of the property mutually agree to a period that ends after July 1, 2022, the last day of the agreed upon period.
 - 2. During the period before the notice of intention to designate is deemed to be withdrawn under paragraph 1, the notice of intention shall be continued and disposed of under the Act as it read on June 30, 2021.
- (5) For the purposes of paragraph 1 of subsection (4), if a person objects to a proposed designation under subsection 29 (5) of the Act, either before, on or after July 1, 2021, the date that applies for the purpose of that paragraph is extended by the total number of days that are after June 30, 2021 and before the earliest of the following:
- 1. The day the Review Board makes a report to council under subsection 29 (12) of the Act.
 - 2. If the person who served the notice of objection withdraws the objection, the day on which the person serves notice of withdrawal in accordance with subsection 29 (15) of the Act.
- (6) If a notice of intention to designate is deemed to be withdrawn under paragraph 1 of subsection (4), the municipality shall cause a notice of withdrawal,
- (a) to be served on the owner of the property and on the Trust; and
 - (b) to be published in a newspaper having general circulation in the municipality.
- (7) Despite subsection (2), the following rules apply if an application for consent to demolish or remove or permit demolition or removal under section 34 of the Act is received by the council of the municipality before July 1, 2021 and the council has consented to the application under subclause 34 (2) (a) (i) or (i.1) of the Act or is deemed to have consented to the application under subsection 34 (4) of the Act or the Tribunal has ordered that the municipality give its consent under clause 34.1 (6) (b) of the Act:
- 1. If the council has not passed a repealing by-law under section 34.3 of the Act before July 1, 2021, the application shall be continued and disposed of in accordance with section 34.3 of the Act as it reads on and after July 1, 2021.
 - 2. If the council has passed a repealing by-law under section 34.3 of the Act before July 1, 2021, the application shall be continued and disposed of in accordance with section 34.3 of the Act as it read on June 30, 2021.
- (8) For the purposes of paragraph 1 of subsection (5), on and after the day section 2 of Schedule 6 to the *Accelerating Access to Justice Act, 2021* comes into force, the reference to "Review Board" in subsection 29 (12) of the Act, as it read on June 30, 2021, shall be read as a reference to "Tribunal".

COMMENCEMENT

Commencement

19. This Regulation comes into force on the later of July 1, 2021 and the day it is filed.

SCHEDULE

SECTION 29 OF THE ACT AS MODIFIED FOR THE PURPOSES OF SUBSECTION 30.1 (1) OF THE ACT

Amendment of designating by-law

29. (1) The council of a municipality may, by by-law, amend a by-law designating a property within the municipality to be of cultural heritage value or interest if the amendment is made in accordance with the process set out in this section.

Notice required

(1.1) Subject to subsection (2), if the council of a municipality intends to amend a by-law designating a property within the municipality to be of cultural heritage value or interest, it shall cause a notice of proposed amendment to be given by the clerk of the municipality in accordance with subsection (3).

Consultation

(2) Where the council of a municipality has appointed a municipal heritage committee, the council shall, before giving a notice of proposed amendment, consult with its municipal heritage committee.

Notice of proposed amendment

- (3) A notice of proposed amendment shall be,
- (a) served on the owner of the property and on the Trust; and
 - (b) published in a newspaper having general circulation in the municipality.

Contents of notice

- (4) A notice of proposed amendment that is served on the owner of property and on the Trust under clause (3) (a) shall contain,
- (a) an adequate description of the property so that it may be readily ascertained;
 - (b) an explanation of the purpose and effect of the proposed amendment; and
 - (c) a statement that notice of objection to the notice of proposed amendment may be served on the clerk within 30 days after the date of publication of the notice of proposed amendment in a newspaper of general circulation in the municipality under clause (3) (b).

Same

- (4.1) A notice of proposed amendment that is published in a newspaper of general circulation in a municipality under clause (3) (b) shall contain,
- (a) an adequate description of the property so that it may be readily ascertained;
 - (b) an explanation of the purpose and effect of the proposed amendment;
 - (c) a statement that further information respecting the notice of proposed amendment is available from the municipality; and
 - (d) a statement that notice of objection to the notice of proposed amendment may be served on the clerk within 30 days after the date of publication of the notice of proposed amendment in a newspaper of general circulation in the municipality under clause (3) (b).

Objection

(5) A person who objects to a proposed amendment to a designating by-law shall, within 30 days after the date of publication of the notice of proposed amendment, serve on the clerk of the municipality a notice of objection setting out the reason for the objection and all relevant facts.

Consideration of objection by council

(6) If a notice of objection has been served under subsection (5), the council of the municipality shall consider the objection and make a decision whether or not to withdraw the notice of proposed amendment within 90 days after the end of the 30-day period under subsection (5).

Notice of withdrawal

(7) If the council of the municipality decides to withdraw the notice of proposed amendment, either of its own initiative at any time or after considering an objection under subsection (6), the council shall withdraw the notice by causing a notice of withdrawal,

- (a) to be served on the owner of the property, on any person who objected under subsection (5) and on the Trust; and
- (b) to be published in a newspaper having general circulation in the municipality.

If no notice of objection or no withdrawal

(8) If no notice of objection is served within the 30-day period under subsection (5) or a notice of objection is served within that period but the council decides not to withdraw the notice of proposed amendment, the council may pass a by-law amending the by-law designating the property, provided the following requirements are satisfied:

1. The amending by-law must be passed within 365 days after the date of publication of the notice of proposed amendment under clause (3) (b) or within such other period of time that is mutually agreed upon by the council and the owner of the property.
2. The by-law designating the property, as amended, must include a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property and must comply with such requirements in relation to the statement and the description as may be prescribed and with such other requirements as may be prescribed.

3. The council must cause the following to be served on the owner of the property, on any person who objected under subsection (5) and on the Trust:
 - i. A copy of the amending by-law.
 - ii. A notice that any person who objects to the amending by-law may appeal to the Tribunal by giving the Tribunal and the clerk of the municipality, within 30 days after the date of publication under paragraph 4, a notice of appeal setting out the objection to the by-law and the reasons in support of the objection, accompanied by the fee charged by the Tribunal.
4. The council must publish notice of the amending by-law in a newspaper having general circulation in the municipality, which must provide that any person who objects to the by-law may appeal to the Tribunal by giving the Tribunal and the clerk of the municipality, within 30 days after the date of publication under this paragraph, a notice of appeal setting out the objection to the by-law and the reasons in support of the objection, accompanied by the fee charged by the Tribunal.

Deemed withdrawal

(9) If the council of the municipality has not passed an amending by-law under subsection (8) within the time set out in paragraph 1 of that subsection, the notice of proposed amendment is deemed to be withdrawn and the municipality shall cause a notice of withdrawal,

- (a) to be served on the owner of the property, on any person who objected under subsection (5) and on the Trust; and
- (b) to be published in a newspaper having general circulation in the municipality.

Same

(10) For clarity, the deemed withdrawal of a notice of proposed amendment under subsection (9) does not prevent the council from giving a new notice of proposed amendment in accordance with this section.

Appeal to Tribunal

(11) Any person who objects to the amending by-law may appeal to the Tribunal by giving the Tribunal and the clerk of the municipality, within 30 days after the date of publication under paragraph 4 of subsection (8), a notice of appeal setting out the objection to the by-law and the reasons in support of the objection, accompanied by the fee charged by the Tribunal.

If no notice of appeal

(12) If no notice of appeal is given within the time period specified in subsection (11),

- (a) the amending by-law comes into force on the day following the last day of the period; and
- (b) the clerk shall ensure that a copy of the amending by-law is registered against the properties affected by the by-law in the appropriate land registry office and that a copy of the registered by-law is served on the Trust.

If notice of appeal

(13) If a notice of appeal is given within the time period specified in subsection (11), the Tribunal shall hold a hearing and, before holding the hearing, shall give notice of the hearing to such persons or bodies and in such manner as the Tribunal may determine.

Forwarding of record of decision

(14) If the council of the municipality made a decision on a notice of objection under subsection (6) and if a notice of appeal is given within the time period specified in subsection (11), the clerk of the municipality shall ensure that the record of the decision under subsection (6) is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.

Powers of Tribunal

(15) After holding the hearing, the Tribunal shall,

- (a) dismiss the appeal; or
- (b) allow the appeal in whole or in part and,
 - (i) repeal the amending by-law,
 - (ii) amend the amending by-law in such manner as the Tribunal may determine,
 - (iii) direct the council of the municipality to repeal the amending by-law, or
 - (iv) direct the council of the municipality to amend the amending by-law in accordance with the Tribunal's order.

Dismissal without hearing of appeal

(16) Despite the *Statutory Powers Procedure Act* and subsections (13) and (15), the Tribunal may, on its own motion or on the motion of any party, dismiss all or part of the appeal without holding a hearing on the appeal if,

- (a) the Tribunal is of the opinion that,
 - (i) the reasons set out in the notice of appeal do not disclose any apparent ground upon which the Tribunal could allow all or part of the appeal, or
 - (ii) the appeal is not made in good faith, is frivolous or vexatious, or is made only for the purpose of delay;
- (b) the appellant has not provided written reasons in support of the objection to the amending by-law;
- (c) the appellant has not paid the fee charged by the Tribunal; or
- (d) the appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal.

Representations

(17) Before dismissing all or part of an appeal on any of the grounds mentioned in subsection (16), the Tribunal shall,

- (a) notify the appellant of the proposed dismissal; and
- (b) give the appellant an opportunity to make representations with respect to the proposed dismissal.

Coming into force

(18) If one or more notices of appeal are given to the clerk within the time period specified in subsection (11),

- (a) the amending by-law comes into force when all of such appeals have been withdrawn or dismissed;
- (b) if the amending by-law is amended by the Tribunal under subclause (15) (b) (ii), the amending by-law, as amended by the Tribunal, comes into force on the day it is so amended; or
- (c) if the amending by-law is amended by the council pursuant to subclause (15) (b) (iv), the amending by-law, as amended by the council, comes into force on the day it is so amended.

Registration of by-law

(19) The clerk of a municipality shall ensure that a copy of an amending by-law that comes into force under subsection (18) is registered against the properties affected by the by-law in the appropriate land registry office and that a copy of the registered by-law is served on the Trust.

Français

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Your Community, Your Heritage, Your Committee



Figure 1. A heritage streetscape in the Downtown Port Perry Heritage Conservation District contributes to a vibrant downtown (Image courtesy of the Ontario Business Improvement Association).

Every day across Ontario, thousands of volunteers work to conserve and celebrate the stories, places and events of the people that shaped our communities. Many of these volunteers are active at the municipal level as members of municipal heritage committees.

Under the *Ontario Heritage Act*, municipalities can establish municipal heritage committees to advise council on identifying, protecting and promoting cultural heritage resources that make our communities unique and sustainable places to live. The fact that so much of Ontario's rich heritage has been conserved is a testament to the good advice and hard work of municipal heritage committees.

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Establishing a municipal heritage committee is often described as a municipality's first and most important step in engaging its community in heritage conservation. Committee members build strong relationships with property owners to encourage good stewardship of heritage resources. They facilitate the exchange of ideas and expertise that contribute to the economic and cultural development of cities, towns, villages, neighbourhoods and landscapes across the province. They also bring unparalleled passion and dedication to finding solutions towards heritage conservation.

Municipal heritage committees involve their communities in conserving cultural heritage resources that inspire current and future generations.

This guide is designed for municipalities interested in establishing a municipal heritage committee, and for existing committee members who want to gain a better understanding of their roles and responsibilities under the *Ontario Heritage Act*.

What's in this guide?

1. An Overview of the Role of Municipal Heritage Committees
2. Setting Up an Effective Municipal Heritage Committee
 - 2.1. Step 1: Establishing a Municipal Heritage Committee
 - 2.2. Step 2: Establishing the Terms of Reference
 - 2.3. Step 3: Building a Strong Membership for Your Municipal Heritage Committee
 - 2.4. Step 4: Establishing a Municipal Heritage Committee Budget
3. Fulfilling Your Municipal Heritage Committee Mandate
 - 3.1. Step 1: Understanding the Role of Council in Heritage Conservation
 - 3.2. Step 2: Understanding the Municipal Heritage Committee's Reporting Relationship to Council
 - 3.3. Step 3: Identifying Municipal Staff to Support Your Committee's Activities
4. Tools for Building and Sustaining Your Municipal Heritage Committee
 - 4.1. Identify or Reviewing Your Mission and Vision
 - 4.2. Achieving Your Mission and Vision
 - 4.3. Checklist for Evaluating Your Committee's Mission and Vision
 - 4.4. Growing Community Support
5. The Benefits of Establishing and Sustaining a Municipal Heritage Committee

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6. Resources and Further Information
6.1. Other key organizations

This guide is one of several published by the Ministry of Heritage, Sport, Tourism and Culture Industries as part of the Ontario Heritage Tool Kit. The Ministry has published these guidance materials as an aid to municipalities and others working with the Ontario Heritage Act. The information in this guidance is not intended to take the place of legal advice. In the event of any conflict between this guidance and any applicable legislation or regulations, including the Ontario Heritage Act and its regulations, the legislation or regulations prevails.



Figure 2. The Regent Theatre, in Prince Edward County is a notable example of an Edwardian opera house. A non-profit community group has restored its original 1920s façade and adapted the interior of the building to support cinema, live performances, and artists' and community gathering space (Image courtesy of Image Ontario).

1 An Overview of the Role of Municipal Heritage Committees

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The *Ontario Heritage Act* gives municipal councils the power to identify, protect and support the ongoing conservation of cultural heritage resources within their municipalities. Most of council's powers under the *Ontario Heritage Act* are implemented through municipal bylaws.

The act gives council the ability to appoint a municipal heritage committee (MHC) to advise and assist it on all matters relating to the conservation of property of cultural heritage value or interest. This includes adding properties to the municipal register of heritage properties, designation of individual properties, creation of heritage conservation districts and other heritage matters as specified by the terms of reference that council sets for the committee.

1.1 The MHC's role is advisory and consultative.

Once council has established a municipal heritage committee then council is required under the *Ontario Heritage Act* to consult with the MHC on:

- The designation of individual properties and of heritage conservation districts;
- Applications to alter designated properties;
- Applications to demolish or remove properties of cultural heritage value or interest;
- Applications to repeal designation bylaws; and,
- Easements or covenants.

Under Part IV of the *Ontario Heritage Act*, council is required to consult with the MHC:

- When updating the municipal register of heritage properties (for more information on the register, please refer to *Heritage Property Evaluation: A Guide to Listing, Researching and Evaluating Cultural Heritage Property in Ontario Communities*;
- Before serving notice of intent to designate a property;
- Before amending a bylaw of designated property;
- Before repealing a bylaw, or part thereof, designating a property;
- Before considering an application from an owner of a designated property to repeal the bylaw, or part thereof, designating the property;
- On an application to alter a designated property where the alteration is likely to affect the heritage attributes (listed in the statement of cultural heritage value or interest) as set out in the bylaw designating the property;
- Before delegating power to an employee or official of the municipality to consent to minor alterations of individually designated property;
- On an application to demolish or remove any building or structure on designated property; and,

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- Before passing bylaws to establish easements or covenants with owners of real property for conserving properties of cultural heritage value or interest.

Under Part V, council is required to consult with the MHC (where one exists):

- Before passing a bylaw to define a study area for a future heritage conservation district;
- Before a proposed heritage conservation district plan is passed;
- Before council delegates, by bylaw, its power to grant permits for the alteration of property situated in a heritage conservation district; and,
- On an application to demolish or remove any building or structure on property in a heritage conservation district.

SIDEBAR: How does the Ontario Heritage Act enable the Work of Municipal Heritage Committees?

Section 28. (1) The council of a municipality may, by bylaw, establish a municipal heritage committee to advise and assist the council on matters relating to Part IV (the designation of individual properties), matters relating to Part V (the designation of heritage conservation districts) and such other heritage matters as the council may specify by bylaw.

SIDEBAR: What's in a Name?

From 1975 until 2002, municipal heritage committees were known under the Ontario Heritage Act as Local Architectural Conservation Advisory Committees (LACACs).

In November 2002, the Government Efficiency Act made changes to the Ontario Heritage Act, including changing the name of LACACs to municipal heritage committees (MHCs). This change supported the change in emphasis of the act away from "architectural conservation" toward the more inclusive concept of conservation of properties of cultural heritage value or interest.

1.2 Other MHC Responsibilities

In addition to its advisory and consultative roles to council, other responsibilities of an MHC may include:

1.2.1 Identifying Properties of Cultural Heritage Value or Interest

Many municipalities begin their heritage conservation programs by examining, researching and evaluating properties and areas that may deserve protection now and in the future. The results of such a survey or inventory can make individual designation decisions easier and more

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objective. An inventory is also an effective tool for showcasing a community's properties of cultural heritage value or interest. For more information, please refer to Heritage Property Evaluation: A Guide to Listing, Researching and Evaluating Cultural Heritage Property in Ontario Communities.



Figure 3. Hanover Heritage Committee worked in partnership with Grey County to create the [Hanover Heritage Story Map](#). This web-based tool provides a glimpse into Hanover's past by telling the stories of its older physical properties with archival photos of the building's past (Image courtesy of The Town of Hanover).

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1.2.2 Involving the Community and Developing Partnerships

The MHC enables the community to express its interests in heritage conservation through a municipally-recognized body, and to understand heritage conservation opportunities and issues in their jurisdiction.

Cooperation, partnerships and consultation with other heritage and community organizations expand the possibilities for community involvement. The annual Ontario Heritage Trust Doors Open events throughout Ontario aimed at showcasing Ontario's valued heritage assets are an excellent example of MHCs partnering with tourism marketing agencies to engage residents and visitors in celebrating the province's heritage. These events also build greater knowledge and stewardship for the role heritage plays in creating a sense of place.



Figure 4. The Canadian International Dry Stone Wall Festival, Amherst Island. A member of the Loyalist Township Heritage Committee started a project to document historic walls on the island and helped to create the bylaw that would protect those walls. The popular festival followed in 2015 (Image courtesy of MHSTCI).

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1.2.3 Educating and Informing the Community

In addition to its advisory role, an MHC can play an active role in promoting heritage conservation within communities. This may include advising heritage property owners on appropriate conservation and maintenance practices. MHCs often produce newsletters, descriptive guides, maps, plaques, exhibits and other educational material about notable buildings, streets, landscapes and districts to raise awareness of the municipality's properties of cultural heritage value or interest and other cultural heritage resources.

February 18, 2017 | 1 pm - 4 pm
Niagara Falls Library, LaMarsh Room
4848 Victoria Avenue

FEATURING
Sherman Zavitz | Historian
Ruth-Ann Nieuwesteeg | Patterson Funeral Home
Phil Ritchie | Kefer Developments

**WARREN SPENCE CARRIAGE WORKS,
NIAGARA FALLS, ONTARIO**

Niagara Falls Municipal Heritage Committee Presents
A TEST OF TIME
Stamford, Elgin
& Drummondville

Free!
NEW LOCATION
NIAGARA FALLS
PUBLIC LIBRARY

You are invited to join the Municipal Heritage Committee for an interesting afternoon of heritage. The built heritage of Stamford, Drummondville and Elgin will be discussed. Listen to how the buildings and open spaces shaped the communities and the potential they hold for the future. Our guest speakers will share their wealth of knowledge about these areas and how they developed. This afternoon event will also feature the Third Annual **Heritage Recognition Awards** recognizing properties in Niagara Falls that have done an outstanding job of preserving a portion of the history of the City.

Please Join Us!

OLD ST. JOHN'S CHURCH, NIAGARA FALLS, ONTARIO

POST OFFICE/CUSTOMS HOUSE, NIAGARA FALLS, ONTARIO

Niagara Falls

Figure 5. Heritage awards help raise awareness of outstanding heritage conservation (Image courtesy of Mari-Lynne Eastland).

1.2.4 Working with Other Legislation Affecting Cultural Heritage Resources

While MHCs have a formal role to give advice for matters falling under the *Ontario Heritage Act*, other legislation governing the powers of municipalities, such as the *Planning Act* and

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Building Code Act, may have implications for heritage conservation. MHCs can ensure that the *Ontario Heritage Act* is considered within the context of other legislation. The committee can achieve this by providing or supporting the provision of cultural heritage data, reviewing and commenting on heritage studies, advising on mitigation measures, developing heritage conservation policies for the municipal Official Plan and reviewing zoning bylaws, among other activities. In some cases, the role of the MHC is already defined in legislation or related processes. For those situations, Council should specify in the terms of reference whether or not an MHC is expected to play a role in giving advice relating to heritage matters affected by other legislation, and what the scope of this advice should be.



Figure 6. This building has been retrofitted to be compliant with the [Accessibility for Ontarians with Disabilities Act, 2005 \(AODA\)](#), while minimizing impact on its heritage attributes (Image courtesy of ERA Architects).

SIDEBAR: Municipal Heritage Committee Support for Broader Municipal Planning Activities

Many Ontario municipalities choose to adopt a variety of planning documents to guide long-term decision making. These are not empowered under specific legislation but are tools to establish municipal goals and identify the steps needed to achieve these goals.

These long-term plans are typically developed by staff and/or consultants hired by the municipality. The development process should include extensive public consultation. An MHC

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may provide valuable contributions to these and other long-term plans, by drawing on its expertise and local knowledge relating to the cultural heritage resources and activities that fall within its mandate.

These high-level plans may include:

- *Strategic Plans*
 - *provide a roadmap for all municipal decision-making and action over a long period of time (often ten or twenty years)*
- *Cultural Plans*
 - *give direction to municipal decision-making and action specifically relating to the broad array of cultural resources, industries and activities in the municipality, including action that leverages all of the above to support community development and long-term economic prosperity*
- *Cultural Heritage Management Plans*
 - *give direction to municipal decision making and action to support the conservation and management of cultural heritage resources in the municipality, including built heritage resources, cultural heritage landscapes, movable heritage property (e.g., museum collections and artifacts) and intangible heritage (e.g., community stories, traditions, heritage skills and activities)*

2 Setting Up an Effective Municipal Heritage Committee

The *Ontario Heritage Act* provides a framework for helping municipalities conserve properties of significant cultural heritage value or interest.

2.1 Step 1: Establishing a Municipal Heritage Committee

The impetus for forming a municipal heritage committee can originate from any number of sources: a property owner, a community group, or a member of council. Ultimately, it is a decision of municipal council to establish the committee. A municipal heritage committee can be established at any time by bylaw. Its members are appointed by municipal council.

In establishing a municipal heritage committee, council recognizes the importance of heritage conservation.

2.2 Step 2: Establishing the Terms of Reference

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It is the responsibility of council and community members with an interest in heritage conservation to formulate the terms of reference to establish a municipal heritage committee for approval by council.

A clear, well-defined mandate will go a long way towards maintaining a harmonious and productive relationship. A sample bylaw and terms of reference are provided in Appendix A. Municipalities are best served when there is complete understanding of the roles and responsibilities of the committee and its members, and their duties to the municipal council.

A common practice is to require that specific terms of reference for the committee be stated in the bylaw establishing the MHC.

Clear, well-defined terms of reference should include:

1. **An unambiguous statement of purpose for the committee:** the Mission Statement;
2. **The mandate of the committee:** its goals and objectives;
3. **The time frame:** when the committee will start, how frequently it will meet, how much time committee work will take;
4. **The resources required:** staff, expenses, equipment;
5. **The powers of the committee:** its authority and parameters for activities such as the hiring of individuals for specific projects, web design, co-ordinating events and so on;
6. **Accountability of the committee to council:** to whom, reporting lines, in what form – reports, studies, minutes;
7. **Connections of the committee to important activities:** such as downtown revitalization committees. Municipal Cultural Planning initiatives, Doors Open events, Heritage week celebrations and more;
8. **Size and potential membership of the committee:** Each council should carefully consider the size of its municipal heritage committee. Although the *Ontario Heritage Act* sets a minimum of five members for municipal heritage committees, many communities have found that a larger membership of seven to eleven serves them better since the workload can be more evenly spread out. Based on the size of the municipality, its reporting structure and the extent of its heritage programs, each council must determine the qualifications and the size of membership that best meets the community's needs. A municipal heritage committee will often include roles such as chair, co-chair, treasurer, and secretary.
9. **Recruitment and membership vacancies:**
 - a. **Terms of Service:** Terms of service for MHC members tend to vary. The terms of reference for the MHC should state how long a person serves on the committee and for how many terms they may be reappointed.

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- b. A fixed term is recommended. Many committees limit MHC membership to two consecutive three-year terms to encourage renewal. Each MHC should look at the pattern of terms of appointment in its municipality to determine what is appropriate.
 - c. In order not to lose the expertise and experience of former committee members, some MHCs have set up a category of non-voting associate members. These non-voting members are consulted on issues and undertake special projects.
10. **Communication process:** including staff and others who should know about the committee and its work, how should information be communicated; and
11. **Evaluation format:** how to measure the effectiveness of your municipal heritage committee.

Many municipalities also have procedure bylaws for their standing committees governing appointments to the committee, procedures, rules and duties. MHC members should obtain a copy of the municipality's procedural bylaw from the clerk for reference.

See the following links for examples of municipal heritage committee Terms of Reference:

- [*Municipality of Chatham-Kent;*](#)
- [*City of London;*](#)
- [*Town of Gravenhurst;*](#)
- [*Town of Ajax;*](#)
- [*City of Kawartha Lakes; and*](#)
- [*Town of Oakville.*](#)

2.3 Step 3: Building a Strong Membership for Your Municipal Heritage Committee



Figure 7. The Canfield Black Settlement Marker

Heritage Haldimand MHC spearheaded the placement of a marker to commemorate the community of Black settlers who arrived in Canfield beginning in 1837 after fleeing slavery along the Underground Railroad (Image courtesy of the Municipality of Haldimand).

2.3.1 A Membership as Diverse as your Heritage

One of the roles of municipal heritage committees is to engage citizens in protecting our heritage. Committees should endeavour to attract representatives with diverse demographics – age, culture, geography (i.e., urban and rural), to help recognize, protect and promote all aspects of a community's heritage.

2.3.2 Developing Your Committee's Capacities

Successful municipal heritage committees consist of active community members with a demonstrated interest in heritage conservation and an ability to work together to advise and support council on matters relating to heritage conservation.



Figure 8: Poster for an orientation event for MHC members (Image courtesy of the City of Ajax)

2.3.3 Build on your Community's Expertise

Since heritage conservation issues are complex, look for specific skills, not solely individuals whose names may be recognized locally. Decision and policy-making must be based on reliable technical and professional advice. To provide council with this expertise, an MHC should possess a wide range of skills and knowledge, including:

- an understanding of heritage conservation approaches (e.g., buildings, structures and landscapes);
- a knowledge of historical research (e.g., analysis and interpretations);
- trades-work (e.g., stonemasonry or heritage carpentry);
- expertise in architectural history including local vernacular architecture (e.g., farm buildings);

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- knowledge of land-use planning policies and regulations;
- understanding of municipal procedures and legislations;
- effective marketing strategies and approaches;
- knowledge of legal issues; and,
- research and writing.

Municipal heritage committee membership could also draw from local institutions and organizations already playing a role in heritage conservation including:

- community museums;
- historical societies and associations;
- archives;
- libraries;
- Doors Open Committees;
- Business Improvement Associations (BIA), Chambers of Commerce;
- cultural tourism; and,
- organizations involved in Municipal Cultural Planning.

Committee members do not need to be experts. The most important qualification is a keen interest in heritage! Creating an MHC with a full range of skills is not always possible. Often municipalities will support committee members who wish to develop their skills through workshops or other training.

2.3.3.1 Declaring Conflicts of Interest

The *Municipal Conflict of Interest Act* applies to members of municipal heritage committees. The application of that act is beyond the scope of this guide. Information on what situations are a conflict of interest under the *Municipal Conflict of Interest Act* and what steps a member must take to avoid a conflict of interest are usually available from the municipal clerk or the municipal solicitor.

2.3.4 Step 4: Establishing a Municipal Heritage Committee Budget

Municipal council is responsible for providing its municipal heritage committee with a budget. Budgets vary widely across the province reflecting not only the availability of municipal resources, but also the level of municipal concern for heritage conservation.

The municipal heritage committee should submit an operating budget once a year to the finance committee or directly to municipal council outlining its activities, expenses and

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revenues. The budget process also acts as a strategic planning exercise by encouraging the committee to set its program objectives and goals for the year.

The operating budget should include the following essential budget items (in no particular order):

- Publication costs (e.g., for pamphlets promoting designation, inventories, heritage reports and studies);
- Advertising costs (for upcoming events and for publishing notices of intention to designate in the local papers);
- Program costs (e.g., for inventories, for plaques or markers, or for establishing programs such as 'Doors Open');
- Communication costs (e.g., for telephone, fax and Internet expenses);
- Office supplies;
- Mileage for transportation needs (e.g., for inventories, assessing properties for designation and traveling to conferences);
- Training and seminars (e.g., for learning about heritage conservation techniques or writing statements of cultural heritage value or interest);
- Harmonized Sales Tax (HST); and,
- Miscellaneous expenses.

A special funding budget could include the following items:

- A fund to allow for grants supporting the restoration of designated properties;
- Loans for helping property owners restore designated heritage attributes;
- Consultants' costs for special studies (e.g., Heritage Conservation District Studies).

In addition to council support for the resources needed by the MHC, the committee may consider seeking support from private or service sectors for special projects. This can take the form of donations of services, supplies and project-specific funding. When seeking financial support outside municipal council, the MHC should follow local municipal guidelines/policies.

2.3.4.1 Zero Base Budgets

Municipalities may also consider Zero Base Budget (ZBB) for their municipal heritage committee. ZBB is not related the spending of the prior year and requires the MHC to begin with a budget of zero and to justify the need for each service as the year progresses.

3 Fulfilling your Municipal Heritage Committee Mandate

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Once a municipal heritage committee is established by council, its work can begin. But the question remains: where does a committee begin? Understanding the role of municipal council in heritage conservation is critical for establishing your committee's priorities.



Figure 9. Members of the Niagara Falls MHC conduct a site visit at a heritage property (Courtesy of the City of Niagara Falls).

3.1 Step 1: Understanding the Role of Council in Heritage Conservation

To understand the relationship between a municipal council and a municipal heritage committee, the role of council in heritage conservation under the *Ontario Heritage Act* must first be examined.

Council is empowered under the act to:

- Designate individual property and designate districts or areas;
- Issue or refuse permits to alter or demolish a designated property;
- Repeal designation bylaws;
- Purchase or lease individually designated property;
- Expropriate designated property;
- Provide grants and loans to designated property owners; and
- Enter into easements and covenants.

These statutory powers give rise to the following responsibilities of a municipal council:

- Setting the municipal budget to be used for heritage conservation;

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- Carrying out heritage conservation policies in the Official Plan and its amendments; and,
- Receiving recommendations and consulting with the MHC, where one is established, and having due regard for the committee's advice on designation, alterations to designated property, demolition, repeal of designation bylaws, and other matters relating to heritage conservation in the municipality.

3.2 Step 2: Understanding the Municipal Heritage Committee's Reporting Relationship to Council

To properly fulfill its role, an MHC should have a direct reporting relationship to council. While some committees may be organized to report administratively through standing committees such as planning advisory or community development committees, or even through the municipal chief administrative officer, when a municipal heritage committee provides its advice in a direct reporting relationship to Council it has proven to be more effective.

Most councils and MHCs have found that having one or two municipal council representatives on the municipal heritage committee helps to maintain consistent communication between council and its municipal heritage committee. For instance, the council member can update fellow councillors on the MHC's activities, introduce bylaws at the appropriate time, and inform the committee of the council's expectations and requirements.

Council's role and involvement is critical in the implementation of a successful heritage conservation program in the community. Council should be informed at all times of MHC's operations and recommendations through the committee's minutes, reports to council, annual reports and involvement in committee activities.

3.2.1 Understanding the Role of Advisory Committees

Municipal advisory committees assist municipal councils in gathering and communicating community input on local issues. Committees can help municipal councillors and staff understand the challenges and needs for meeting community goals. Their role is to advise and make recommendations as defined by the terms of reference approved by municipal council.

The committee members are volunteers drawn from the community and represent a cross-section of interests and perspectives. As a representative of the community, the advisory committee is recognized as a vehicle for conveying community interests.

The role of an advisory committee may be summarized as follows:

- To advise and recommend;
- To provide knowledge and expertise;
- To facilitate community awareness, support and education about the issues at hand;

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- To assist in the work of the municipality by ensuring open dialogue on specific issues;
- To create a climate of consensus;
- To enable and share best practices;
- To be sensitive to the range of views in the community which it represents;
- To promote good-will and trust within the community; and
- To act as a liaison between politicians, organizational staff, members of the public, and other stakeholders.

Similarly, the municipal heritage committee has an advisory and consultative role. However, in addition to the terms of reference the council sets out, the committee also has a mandate defined in the *Ontario Heritage Act*. Where a council has established a municipal heritage committee, it is required to consult with the committee before making decisions on matters affecting cultural heritage resources.

3.3 Step 3: Identifying Municipal Staff to Support Your Committee's Activities

The role and scope of involvement of municipal staff with the municipal heritage committee varies from municipality to municipality since staff roles are often dependent on municipal resources.

MHCs interact and deal with a number of different municipal departments or staff, including the clerk's office, planning, building, legal, recreation and parks, bylaw enforcement, property standards, and so on.

Often, councils appoint one or more municipal staff persons to support the municipal heritage committee. The value in having a staff person involved is consistency in guiding the municipal heritage committee through municipal procedures. The appointed staff may also be able to answer routine enquiries from the public and forward literature on behalf of the MHC when the volunteer committee members are not available.

In larger municipalities, the MHC may be assigned to a particular department such as Planning or the Clerk's Office. The department should identify which of its resources the MHC should reasonably expect, e.g., a staff liaison, photocopying, meeting space, translation services, refreshments, letterhead, records management, typing, etc. Council may also find it useful to assign the clerk, municipal solicitor, building inspector or planner (by virtue of their position) as non-voting members of the committee.

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Figure 10. A heritage planner for the City of Kingston provides training to heritage committee members (Image courtesy of Community Heritage Ontario).

4 Tools for Building and Sustaining your Municipal Heritage Committee

4.1 Identify or Review your Mission and Vision

MHC's heritage conservation purpose is commonly embodied in a mission statement. It tells council, members of the public and potential partners why your committee exists. A mission statement is a concise summary of what your MHC intends to do.

The difference between a mission and a vision is one of intent. While the mission statement tells what your MHC is going to do, a vision statement identifies what the organization hopes to achieve.

4.2 Achieving Your Mission and Vision

To achieve your MHC's mission and vision, you need to think strategically about what is happening in your community – the economic, cultural and land-use planning trends that may impact your heritage conservation goals in the long-term. It means identifying:

- opportunities for continued success;
- risks and mitigation strategies;
- champions that will promote heritage conservation in your community; and,
- specific actions that will help your committee achieve its mission and visions.

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4.2.1 Checklist for Evaluating your Committee's Mission and Vision

- Drives your future activities;
- Leads to action and improves results;
- Emphasizes what needs to be different, what needs to change;
- Provides a benchmark against which future decisions can be assessed;
- Solves problems;
- Clarifies roles and builds stronger teams;
- Provides a base against which progress can be measured;
- Drives the budgeting process;
- Facilitates collective ownership
by municipal heritage committee members, municipal staff and elected officials for
concrete results;
- Accepts accountability to the community;
- Requires an openness to questioning the status quo;
- Leads to strategic management (pursuing the most important decisions and actions) and
innovative use of resources;
- Results in an achievable, long-term strategic plan.

If strategic planning is new to your municipal heritage committee, find a local facilitator such as a municipal staff member or contact the [regional development advisor of the Ministry of Heritage, Sport, Tourism and Culture Industries](#) for your area for support. Skilled facilitators can help your municipal heritage committee crystallize your framework for action.

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Figure 11. Image courtesy of the City of Timmins

4.2.2 Growing Community Support

Many municipal heritage committees have found that strategic planning helps them maintain a balance between proactive and reactive heritage conservation activities. In addition to advising on the use of heritage legislation to protect local properties, they undertake activities that build appreciation for heritage conservation (e.g., walking tours, Doors Open events, and owner-led designations). This ensures sustained community support for heritage conservation initiatives.

4.2.2.1 Evaluate Your Effectiveness and Celebrate Your Successes

It is important to take a step back and look at what your committee has been able to accomplish periodically and over the course of its mandate. Consider establishing performance indicators that will assist you in measuring the effectiveness and efficiency of your MHC. Measure your committee's accomplishments in both quantitative and qualitative terms.

How many properties were designated? How many plaques were erected, or heritage awards given? Was an important inventory undertaken or educational program established? How many people attended your Doors Open event?

Did the committee work with any new groups or partners that they hadn't worked with before? Did the media or the general public take a greater interest in heritage? Did the committee manage a particularly difficult heritage controversy? What was the outcome?

Once you've accomplished your goals, it's time to celebrate your successes! Heritage Week, every third week of February, provides a great opportunity to showcase the committee's accomplishments and promote them to council and the broader public.

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You may also want to recognize particular individuals for their contributions. It is thanks to the thousands of volunteer hours put in by committee members, advocates and property owners alike that heritage conservation is achieved.

Recognizing and celebrating these contributions will help committee members stay engaged and excited about the work they are doing, and keep projects moving forward.

Figure 14. Chesley's Inn Bed & Breakfast, Cornwall's oldest inn, receives a new heritage plaque after extensive renovations by new owner Robert Prowse. Committee members presenting (left to right) are Carole Libbey, Ginette Guy, owner Robert Prowse and Marjorie Vallée (Image Courtesy of Community Heritage Ontario).



5 The Benefits of Establishing and Sustaining a Municipal Heritage Committee

Creating and sustaining a municipal heritage committee is an opportunity for heritage conservation, as it signals that your municipality is committed to:

- Identifying and protecting properties of cultural heritage value or interest;
- Celebrating the stories, places and events of the people that have shaped your community;
- Harnessing local talent and expertise for conserving your heritage;

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- Making heritage conservation a priority;
- Honouring its past in order to assure the community's long-term prosperity, sustainability and social well-being;
- Building relationships with, and recognizing the efforts of heritage property owners; and,
- Taking advantage of the powers afforded to them by the *Ontario Heritage Act*.

Establishing and supporting a municipal heritage committee is an investment for building your community's heritage conservation legacy.

6 Resources and Further Information

For more information on municipal heritage committees, the *Ontario Heritage Act* and conserving your community heritage, contact:

Ministry of Heritage, Sport, Tourism and Culture Industries

www.ontario.ca/page/ministry-heritage-sport-tourism-culture-industries

Ontario Heritage Trust

www.heritagetrust.on.ca

6.1 Other key organizations:

Community Heritage Ontario (CHO)

CHO/PCO is a non-profit organization dedicated to Ontario municipal heritage committees. It represents more than 110 municipal heritage committees containing more than 1,000 volunteer members, providing them with services including workshops, training webinars and an annual conference. They produce a quarterly newsletter, CHO News.

24 Conlins Road

Scarborough, ON M1C 1C3

Tel: (416) 282-2710

info@communityheritageontario.ca

Website: www.heritageontario.org

Architectural Conservancy of Ontario (ACO)

401 Richmond Street West, Suite 201

Toronto, ON M5V 3A8

Tel: (416) 367-8075

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info@ontario.ca

Website: www.ontario.ca

Ontario Historical Society (OHS)

34 Parkview Avenue

Willowdale, ON M2N 3Y2

Tel: (416) 226-9011

ohs@ontariohistoricalsociety.ca

Website: www.ontariohistoricalsociety.ca

Canadian Association of Heritage Professionals (CAHP)

190 Bronson Ave.

Ottawa, ON K1R 6H4

Tel: (613)-569-7455

admin@cahp-acecp.ca

Website: www.cahp-acecp.ca/

Centre franco-ontarien de folklore (CFOF)

1169, rue Dollard

Sudbury (Ontario) P3A 4G7

Tel : (705) 675-8986

cfofdir@vianet.ca

Site Web: <http://www.lecentrefranco.caw>

Réseau du patrimoine franco-ontarien (RPFO)

Unité 336,

435, rue Donald,

Ottawa, ON K1K 4X5

Tel: (613) 729-5769

admin@rpfo.ca

Site web: mes-racines.ca/



Figure 1: Griffin House National Historic Site - Eneals Griffin came to Upper Canada with his family, settling here in 1834. Their descendants have been members of the Ancaster community ever since (Image courtesy of the City of Hamilton).

Heritage Property Evaluation: A Guide to Identifying, Researching and Evaluating Heritage Properties in Ontario Communities

All across Ontario, communities are working together to protect and promote our cultural heritage properties.

Our cultural heritage reflects the expressions and aspirations of those who have gone before us as well as today's culturally diverse communities.

Cultural heritage can take many forms – buildings and monuments, bridges and roadways, streetscapes and landscapes, barns and industrial complexes, cemeteries, museums, archives

and folktales. They enrich us, inspire us and guide us forward to build vibrant, liveable communities for present and future generations.

The conservation of cultural heritage properties is vital to a community's overall cultural and economic development plan. An integrated approach to cultural and economic planning leads to the revitalization of main streets, neighbourhoods and individual properties, creates employment, encourages new business, brings tourist dollars and can even increase property values.

Identification and evaluation are a vital part of the conservation process. This guide is designed to help identify and evaluate the cultural heritage value or interest of properties in our communities. It outlines the *Ontario Heritage Act* requirements ([section 27](#)) for a municipal register of property of cultural heritage value or interest. It also provides guidance in evaluating properties using the criteria prescribed in [Ontario Regulation 9/06](#) of the *Ontario Heritage Act*.

What's in this guide?

1. Heritage Properties

This section describes what is meant by “heritage property” and “cultural heritage value or interest,” and outlines the framework for heritage conservation in Ontario.

2. Getting Started

This section outlines the first steps to identify potential heritage properties.

3. Municipal Register of Heritage Properties

The requirements of the *Ontario Heritage Act* and the basics for compiling a municipal register of heritage properties are outlined.

4. Research and Site Analysis

This section explains why it is important to research and conduct site analysis. It also gives an overview of the steps to be taken.

5. Evaluation

This section provides guidance on the process for describing a property; evaluating a property for its cultural heritage value or interest applying the criteria in [Ontario Regulation 9/06](#); and the appropriate documentation of all available information.

6. Researching a Property

This is a how-to guide for undertaking historical research and examining the oral, documentary and physical evidence of a property.

7. Resources and Further Information

[Section not included in this draft]

This guide is one of several published by the Ministry of Heritage, Sport, Tourism and Culture Industries as part of the Ontario Heritage Tool Kit. The Ministry has published these guidance materials as an aid to municipalities and others working with the Ontario Heritage Act. The information in this guidance is not intended to take the place of legal advice. In the event of any conflict between this guidance and any applicable legislation or regulations, including the Ontario Heritage Act and its regulations, the legislation or regulations prevails.

Heritage Properties

The *Ontario Heritage Act* provides a framework for the conservation of properties and geographic features or areas that are valued for the important contribution they make to our understanding and appreciation of the history of a place, an event or people.

These properties or areas contain cultural heritage resources which may include built heritage resources, cultural heritage landscapes, archaeological resources and/or areas of archaeological potential that have cultural heritage value or interest. These are heritage properties that are important in the life of communities, contributing to a sense of place, and helping to guide planning.



Figure 2: Typical postwar single-family dwelling (Image courtesy of the City of Ajax).



Figure 3. The Western Counties Health and Occupation Centre is a listed on the City of London's Register of Cultural Heritage Resources (Image courtesy of the City of London).

The *Ontario Planning Act* and Provincial Policy Statement support heritage conservation as part of land-use planning.

Cultural heritage resources may include:

- Residential, commercial, institutional, agricultural or industrial buildings
- Monuments, such as a cenotaph, public art or a statue
- Structures, such as a water tower, culvert, fence or bridge
- Natural features that have cultural heritage value or interest
- Cemeteries, gravestones or cemetery markers
- Landscapes, such as parks and battlefields
- Spiritual and sacred sites
- Building interiors
- Ruins

- Archaeological sites, including marine archaeology
- Areas of archaeological potential

The task for each municipality is to conserve those cultural heritage resources that have lasting cultural heritage value or interest to their community. This process begins with compiling a register of properties of cultural heritage value or interest to the community. Throughout the guide we will be using the term “heritage property” to mean:

- property that has been designated under Part IV, V or VI of the *Ontario Heritage Act*;
- property subject to a heritage conservation easement under Parts II or IV of the *Ontario Heritage Act*;
- property identified by the province and prescribed public bodies as provincial heritage property under the [Standards and Guidelines for Conservation of Provincial Heritage Properties](#) (under Part III.1 of the *Ontario Heritage Act*);
- property protected under federal heritage policy; and,
- UNESCO World Heritage Sites.

The conservation of heritage properties encompasses a range of activities directed at identification, evaluation, protection or formal recognition, promotion and celebration in a manner that ensures their cultural heritage value or interest is retained and expressed or communicated.

1.1. Conservation of Heritage Properties: From Understanding to Celebration

- Understand the cultural heritage of the community
 - **Investigate** the historical context of the property or study area
 - **Investigate** the community’s understanding of the property(ies)
 - **Establish** local historical themes
 - **Survey** properties in the community using a recording form
 - **Screen** the surveyed properties using preliminary criteria
- **Identify** screened properties that may have cultural heritage value or interest
- **Assess** the cultural heritage value of properties that are candidates for protection
 - **Research and Evaluate** properties for protection and determine best means of conservation
- **Protect** properties through inclusion on the municipal register of heritage properties, designation bylaws or heritage conservation easement agreements under the *Ontario Heritage Act* or other conservation measures
- **Manage** protected heritage properties
- **Promote and celebrate** heritage properties

For more information on protection and management of heritage properties, see other Ontario Heritage Toolkit guides: *Designating Heritage Properties*, *Heritage Conservation Districts* and *A Guide to Cultural Heritage Resources in the Land Use Planning Process*.

2. Getting Started

Each municipality can decide on the best approach for surveying and researching properties in the community. This decision is based on the available resources and expertise.

A first step can be as simple as completing a survey or recording form and photographing properties from the nearest public vantage point. Best practice includes ensuring that the essential details of street address and legal property description, type of cultural heritage resource, and general observations on the physical characteristics and context are recorded, by description and photography. If maintained as an electronic database, this information can easily be cross-referenced, updated, studied and made available for research.

Individuals with some training or expertise in recognizing and evaluating heritage properties are best suited to undertake the task of identifying potential heritage properties. An inexperienced recorder is more likely to identify the obvious “old looking” buildings or landmarks in good condition. An experienced recorder or heritage consultant will be able to see past the current appearance of a property and recognize its potential for cultural heritage value or interest.

Councils of municipalities with a municipal heritage committee could assign the task of identifying potential heritage properties to the committee and provide any municipal resources and staff support that might be needed.

The Ministry of Heritage, Sport, Tourism and Culture Industries developed screening checklists to assist municipalities, property owners, developers, consultants and others to identify known (previously recognized) and potential built heritage resources and cultural heritage landscapes: [Criteria for Evaluating Potential for Built Heritage Resources and Cultural Heritage Landscapes](#).



Figure 4. Built in 1792, the Hay Bay Church near Adolphus town is the oldest United Church in existence today (MHSTCI).

SIDEBAR:

Example: Property Survey Record

This list itemizes the information that would be useful to record when undertaking a survey of properties that may be included on the municipal register of heritage properties. Other information items of local importance can be added. Recordors are encouraged to learn about the heritage of the community as a whole before undertaking a survey.

Recorder

- *Date of recording*
- *Name of recorder*
 - *Municipal Heritage Committee*
 - *Municipal Staff*
 - *Heritage Consultant*
 - *Student*
 - *Other*

- *What is your level of expertise in identifying and describing a cultural heritage property?*
 - *Beginner*
 - *Some Experience*
 - *Expert*

Property Identification

- *Street address and legal description*
- *Location/context*
- *Name of Property, if any*
- *Use (original and current)*
- *Name and address of owner*

Physical Description and Design Information

- *Property Type:*

Examples: Residential, commercial, institutional, agricultural or industrial building; monument such as a cenotaph, statue or public art; structure such as a water tower, culvert, fence or bridge; natural feature that has cultural heritage value or interest; cemetery, gravestone or cemetery marker; cultural heritage landscape; spiritual site; interior; ruins or other feature

- *Property Features*
- *Materials used*

Examples: Wood, stone, metal, plastic or other

- *Style*
- *Construction/Date*
- *Any previous work or alteration*
- *Condition – Identify any physical or other risks to the condition and/or integrity of the property and/or individual features*
- *Architect/Builder*

Historical or Associative Information

- *List sources from research or local traditions*

- *Identify any features similar to other properties*

Photographs

- *Photographs should be taken from the nearest publicly accessible viewpoint. (Do not enter a property without permission). The front or prominent feature will be used as the key image. Identify all images with north, south, east and west orientation.*

Recommendation

- *Make an initial recommendation or comment on whether or not to list the property and whether it likely has cultural heritage value or interest with specific reference to the criteria in [Ontario Regulation 9/06](#).*

2.1. Making Comparisons

Undertaking broader surveys are an opportunity for a municipality to learn a great deal about its heritage properties during the surveying phase.

The benefits of larger, more comprehensive surveys where the information is recorded in a consistent and objective way, is that patterns or themes in the cultural heritage value or interest often emerge.

For example, the survey may reveal that one architectural style is characteristic of a neighbourhood; a certain type of technology is used for several industries; there is a popular local building material; there were design changes in types of engineering works such as bridges; or some cemetery headstones have unique markings. A particular decorative motif in the gable of a house may be a clue to the work of a local artisan; a change in that motif may have some significance.

A comprehensive survey will also show differences and similarities in the features or attributes of the properties. Typical or similar examples can be compared to each other and will also highlight the uniqueness of other examples. Several properties may be associated with a particular event, but only one may stand out as a vivid expression of what that event truly meant to the community.

These survey exercises may reveal that there is a need to further research a specific type of heritage property. For example, separate surveys for barns, cultural heritage landscapes or very old and increasingly rare buildings such as those that predate Canada's confederation in 1867 will help the evaluation of these types of heritage properties.

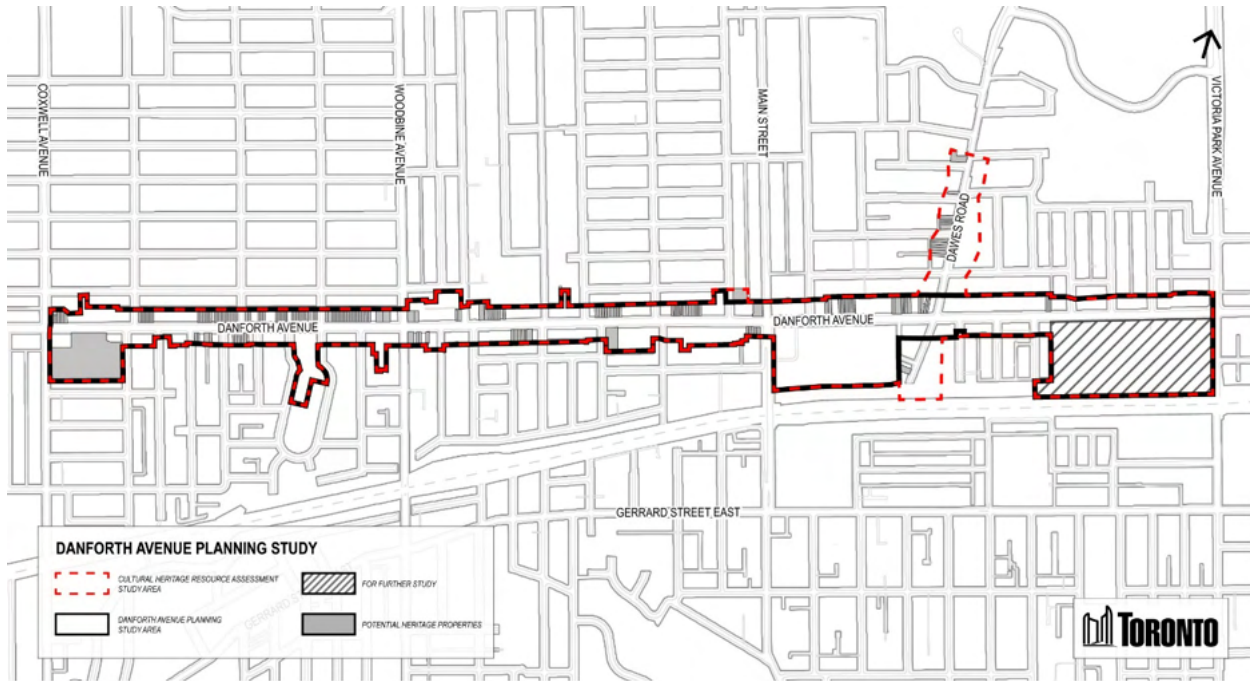


Figure 5. The Danforth Ave Planning Study included a broad heritage survey in the form of a Cultural Heritage Resource Assessment (CHRA). As a result of heritage survey work, the boundaries of the CHRA were expanded beyond the planning study area to include Dawes Road, which may have been based on an Indigenous trail and was an historically important road within the community (Image courtesy of the City of Toronto).

2.2. Know Your Community

To help guide the identification and evaluation of potential heritage properties within a community, it is recommended that the main themes and key developments, and any specific events, activities, people and circumstances that have shaped the community be identified. This is the important community context that should ensure that those properties with characteristics that hold cultural heritage value or interest to the community will be captured and considered for protection under the *Ontario Heritage Act*. Much of this background information can be learned from oral and published histories, as well as libraries, museums, archives, historical associations, and from residents. Whoever undertakes the identification of potential heritage properties should be familiar with the heritage of the community, including minority and Indigenous communities, as this will give them local knowledge and perspective when identifying properties for including on the municipal register of heritage properties and when proceeding with designation. Formally compiling this information and keeping it as a reference resource will help with ongoing identification of potential heritage property.

For example, knowing the boundaries of Indigenous campsites, trade routes, settlements or the first town plan or survey can help identify where the oldest cultural heritage resources may be found. Knowing the patterns of settlement, transportation routes and other local

developments may indicate likely locations of former industrial sites, battlefields or landmarks where ruins or structures associated with that activity or event may exist. Areas that were annexed as the town grew may also have value or interest to their original municipality before annexation, such as a bordering hamlet or township.

The more that is known about the overall history and development of a community, the easier it will be to make sense of the property research puzzle. Secondary sources such as community, family, institutional and business histories can outline the community context and help answer some initial questions such as:

- When and why was the community established?
- What Indigenous communities have a claim, presence, interest or history in the area?
- Where is the property located relative to local development? Is it in the historic core or an area of later growth? Is it near an early waterway, road, crossroads or railway line?
- Do any people, events, places, commercial activities or other factors contribute to the cultural heritage of the community?
- What communities have been left out of official histories?
- Were there any floods, fires, tornadoes or other disasters that may have altered the property?
- When were the local mills, brickworks, iron foundries or other manufacturers of products relevant to the property established?
- When did the railway arrive to bring imported products?
- Are there any traditions associated with a former occupant, builder, event, design, type of engineering or use of the property?



Figure 6. Mossington Bridge, Georgina (Image courtesy of the Town of Georgina).

2.3. The Process of Compiling a Register

The process of compiling a municipal register of heritage properties may include:

- listing all properties that are protected by the municipality and the Minister of Heritage, Sport, Tourism and Culture Industries;
- adding a property that is not designated but considered by the municipal council to be of cultural heritage value or interest; and
- adding properties that are subject to a heritage conservation easement and/or recognized by provincial or federal jurisdictions.

Councils of municipalities without a municipal heritage committee may ask municipal staff to seek the assistance of a local heritage or community organization. Another option is to engage a heritage consultant with expertise in heritage properties. The Ministry of Heritage, Sport, Tourism and Culture Industries can be contacted for guidance on how to develop the municipal register of heritage properties.

In most Ontario municipalities, it is impractical to survey every (heritage and non-heritage) property and undertake sufficient research and analysis to confidently eliminate those with no cultural heritage value or interest. Some preliminary rationale or criterion for adding a property is needed to make compiling the municipal register of heritage properties an efficient task that is achievable within a reasonable time frame.

[Ontario Regulation 9/06](#) must be applied to properties being considered for designation under section 29 of the *Ontario Heritage Act*. Screening properties for potential protection in accordance with the criteria in the regulation is a higher test than required for adding non-designated properties on the register. The evaluation approach and categories of Design/Physical Value, Historical/Associative Value, and Contextual Value set out in the regulation are, however, useful to consider when developing a preliminary rationale or criteria for including properties. This also will provide continuity in the evaluation of properties on the register that may later be considered for designation under [section 29](#).

2.4. Selecting Properties for Further Research

Recognizing patterns, themes, similarities and differences is an important part of studying and understanding a community's heritage. It also makes easier to identify property that truly reflects what holds cultural heritage value or interest in the community. It can help with choosing properties that warrant further research and heritage conservation.

For example, a community may have been founded when a prospector discovered a valuable mineral. The earliest industrial structures, dwellings and institutions date to the opening of the mine and the first years of the mine's operation. The mine may now be closed and a secondary economy may have taken its place. The heritage properties associated with the mining heritage of the community are found, through the survey of community properties, to be disappearing. The properties associated with mining will have a higher priority for further research and possibly protection under the *Ontario Heritage Act*.



Figure 7. Townsite Shaft 1 Headframe in Cobalt (MHSTCI).

Another example could be in a community where a fire destroyed structures built on the main street. Any structures or remnants that survived the fire, or have evidence of the fire, are likely rare. These are important to understanding the character of this early, pre-fire period of the community history. Their loss now would have consequences to the study of the community's heritage. These properties should be given priority in undertaking further research and conservation.

Municipalities may find it useful to develop a system for prioritizing properties to be included on the municipal register of heritage properties (rather than ratings for protection). This can help with setting priorities for further research, full evaluation against the criteria in [Ontario Regulation 9/06](#) or with determining an order to bring properties that merit designation forward to council for long-term protection under the *Ontario Heritage Act*.



Figure 8. Toronto Fire 1904 (Image courtesy of Archives of Ontario).

2.5. A Work-in-Progress

The identification of potential heritage properties within a municipality is a work-in-progress that is revised and updated as needed and as local resources become available. The municipal register of heritage properties is never a finite document; it should continue to grow, change and be updated as the community understands more about its cultural heritage value or interest. No final decisions about the cultural heritage value or interest of a property on the municipal register of heritage properties should be made without undertaking further historical research and site analysis of that specific property. Any further historical research and site analysis should be situated within a current understanding of the community's heritage, informed by local knowledge and Elders, where appropriate.



Figure 9. Walkerville Post Office - Built in 1914 by the Federal department of public works to serve the former town of Walkerville (Image courtesy of the City of Windsor).



Figure 10. Gosfield Black (Negro) Cemetery, Kingsville (Image courtesy of Kingsville Municipal Heritage Advisory Committee).

SIDEBAR:**Basics of a Municipal Register of Heritage Properties**

1. The *Ontario Heritage Act* (OHA) requires that the register list all properties that are protected by the municipality (under [section 29](#)) or by the Minister of Heritage, Sport, Tourism and Culture Industries (under [section 34.5](#)) ([OHA, ss.27\(2\)](#)). For these properties there must be:
 - a legal description of the property;
 - the name and address of the owner; and
 - a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property.
2. The *Ontario Heritage Act* allows a municipality to include on the municipal register property that is not designated but considered by the municipal council to be of cultural heritage value or interest. There must be a sufficient description to readily ascertain the property ([OHA, ss.27\(3\)](#)).
3. A municipality may consider including properties on the municipal register of heritage properties that are subject to a heritage conservation easement and/or recognized by provincial or federal jurisdictions.
4. If a municipal heritage committee has been appointed by council, the municipal heritage committee shall be consulted by council before including a property that has not been designated in the municipal register of heritage properties or removing that property from the register ([OHA, ss.27\(4\)](#)).
5. The rationale or selection criteria used to survey the community and compile the municipal register of heritage properties should be clearly stated.
6. The recorder(s) undertaking the survey of properties should have knowledge of the heritage of the community and some training in identifying and evaluating potential heritage properties.
7. Information about all properties should be recorded in a consistent and objective way.
8. Not all heritage properties are old. Many recent structures hold cultural heritage value or interest in their design, craftsmanship, function, ownership or for other reasons.
9. Using physical condition as a determining factor in whether or not to add a property to the municipal register of heritage properties is not advised. A property may be in an altered or deteriorated condition, but this may not be affecting its cultural heritage value or interest.
10. A commitment to maintaining and revising the municipal register of heritage properties through historical research and analysis of the included properties will give the register more credibility in local heritage conservation and planning.
11. The register should be readily available to municipal staff and officials, property owners and the public.

12. The municipal register of heritage properties can be a valuable tool for land-use planners, educators, tourism, and economic developers. For example, it can be used to plan Doors Open events, educational programs, celebrate historic events and anniversaries, promote a community and encourage innovative development.



Figure 11. The Minto Bridge spanning the Rideau Canal (Image courtesy of the City of Ottawa).

3. Municipal Register of Heritage Properties

Identifying properties of cultural heritage value or interest is an essential part of a municipality's role in heritage conservation. Including a property of cultural heritage value or interest on the municipal register of heritage properties is one step a municipality can take in the conservation process. This can help with identification and evaluation of a property that may warrant some form of heritage conservation, recognition and/or long-term protection such as designation.

3.1 What is the Municipal Register of Heritage Properties?

[Section 27](#) of the *Ontario Heritage Act* requires the clerk of every municipality to keep a municipal register of heritage properties that includes all properties in the municipality that are

designated under Part IV of the *Ontario Heritage Act* by the municipality or by the Minister of Heritage, Sport, Tourism and Culture Industries. The clerk of a municipality shall issue extracts from the register to any person on payment of the fee set by the municipality by by-law. Some municipalities have made their registers publicly accessible.

For properties designated under Part IV, the municipal register must include:

- (a) a legal description of the property;
- (b) the name and address of the owner; and
- (c) a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property. ([OHA, ss.27\(2\)](#))

The *Ontario Heritage Act* ([subsection 27\(3\)](#)) also allows a municipality to include properties of cultural heritage value or interest that have not been designated in its register but that the council of the municipality believes to be of cultural heritage value or interest.

The municipal register of heritage properties is a planning document that can be consulted by municipal decision makers when development proposals or permits are being considered. Mapping properties on the municipal register of heritage properties using Geographic Information Systems (GIS) or other cultural mapping can be a useful component of the broader data collection and management framework of the municipality. Property owners and the public should be aware of the existence of the municipal register of heritage properties, mapping and other heritage property management tools.

3.2 Why should a municipality include properties that have not been designated in its municipal register?

Including non-designated properties in the municipal register is a means to identify properties that have cultural heritage value or interest to the community. The municipal register is an important tool in planning for the conservation of heritage properties and provides interim protection from demolition.

3.2.1 A Comprehensive Register of Heritage Properties:

- Recognizes properties of cultural heritage value or interest in the community
- Demonstrates a municipal council's commitments to conserve cultural heritage resources
- Enhances knowledge and an understanding of the community's cultural heritage

- Provides a database of properties of cultural heritage value or interest for land-use planners, property owners, developers, the tourism industry, educators and the general public
- Should be consulted by municipal decision makers when reviewing development proposals or permit applications
- Provides interim protection from demolition (see below)

3.3 How does inclusion in the municipal register provide interim protection from demolition?

An approved building permit from the municipality is required prior to demolition of a building. The *Ontario Building Code Act* provides mandatory timeframes for the review of building permit applications. These include, for example, 10 days for a house and 20 days for a large building.

These building permit review times may not provide enough time for a municipality and its municipal heritage committee to assess the cultural heritage value or interest of properties where demolition is proposed.

To address this issue, the *Ontario Heritage Act* provides interim protection for non-designated properties that are included in the municipal register (see [subsection 27\(9\)-\(11\)](#)). Owners of a property shall not demolish or remove a building or structure on the property or permit the demolition or removal of the building or structure unless they give the council of the municipality at least 60 days notice in writing of their intention to do so. This allows time for the municipality to decide whether to begin the designation process.

3.4 What is the process to include properties in the municipal register of heritage properties?

When a municipal council decides to include a property that has not been previously designated in the municipal register of heritage properties, council shall, within 30 days after including the property in the register, provide the owner of the property with notice that the property has been included in the register.¹ ([OHA, ss.27\(5-6\)](#))

The notice must include the following:

- a statement explaining why the council of the municipality believes the property to be of cultural heritage value or interest.
- a description of the property that is sufficient to readily ascertain the property.
- a statement that if the owner of the property objects to the property being included in the register, the owner may object to the property's inclusion by serving on the clerk of

¹ This new provision came into effect on July 1, 2021.

the municipality a notice of objection setting out the reasons for the objection and all the relevant facts.

- an explanation of the restriction concerning the demolition or removal, or the permitting of the demolition or removal, of a building or structure on the property as set out in subsection (9).

Although detailed research and evaluation of the property is not required, the municipality should consider the Criteria for Determining Cultural Heritage Value or Interest in [Ontario Regulation 9/06](#) under the *Ontario Heritage Act* when deciding which properties to include in the municipal register of heritage properties. These considerations can also help the municipality prepare the statement explaining why council believes the property is of cultural heritage value or interest.

In a municipality with a municipal heritage committee, council must consult with its municipal heritage committee before a property that has not been designated under Part IV is added or removed from the municipal register of heritage properties. ([OHA, ss.27\(4\)](#))

Discussion with the broader community may also be helpful. For example, a municipality could hold a public forum to help decide which properties of cultural heritage value or interest should be included in its municipal register of heritage properties.

Requests to include a property in the municipal register of heritage properties may come from anyone, including property owners, a municipal heritage committee, municipal staff, local historical societies or residents' associations.

The owner of a property who objects to a property being included in the municipal register of heritage properties under subsection (3) shall serve on the clerk of the municipality a notice of objection setting out the reasons for the objection and all relevant facts ([OHA, ss. 27\(7\)](#)).



Figure 12. Coboconk Lime kilns - Limestone became an important part of the local economy as it was often refined and sold for range of use in construction, industry and agriculture (Image Courtesy of the City of Kawartha Lakes).

3.5 What happens if there is a notice of objection?

If a notice of objection has been served by the property owner, council shall:

- a. consider the notice and make a decision as to whether the property should continue to be included in the register or whether it should be removed; and
- b. provide notice of the council's decision to the property owner, in such form as the council considers proper, within 90 days after the decision. ([OHA, ss.27\(8\)](#))

Questions council may ask about the inclusion of a property on the municipal register of heritage properties may include:

- Has any new or relevant information come to light about the potential cultural heritage value or interest of the property since the property was included in the municipal register of heritage properties?
- Are there concerns, inaccuracies or discrepancies, or some other issue with information about the property or other documentation related to the inclusion in the municipal register of heritage properties?

3.6 What about existing heritage inventories?

In addition to the required municipal register of heritage properties, many municipalities have existing inventories or lists of properties of potential cultural heritage value or interest. These could be a separate list that is continuously added to, or ones generated through previous studies or research undertaken by municipal heritage committees, consultants or heritage organizations.

If your municipality has an existing inventory of properties of cultural heritage value or interest, and these properties have not been designated, you may wish to consider the following questions when determining whether to include all or part of the inventory in the municipal register of heritage properties:

- Was the inventory previously adopted by the municipal heritage committee and/or municipal council?
- Is the inventory recognized in planning policy, such as the municipal Official Plan?
- Was the public consulted as part of the development of the inventory?
- Does the list consider the full range of properties that may have cultural heritage value or interest? For example, does the inventory include cultural heritage landscapes?

There are examples of municipal councils who have elected to “roll” all or part of an existing inventory into the municipal register of heritage properties, while others have undertaken a new process to identify properties. This would be an appropriate time to consider whether older inventories were compiled using criteria that are consistent with current heritage conservation best practice. Unless a council adopts an inventory of properties that have not been designated and adds it to the municipal register of heritage properties, the properties on the inventory will not be subject to the restriction on demolition provided in the [OHA s. 27\(3\)](#).



Figure 13. The City of Hamilton’s Built Heritage Inventory Proces (Image courtesy of the City of Hamilton).

3.7 Can provincially or federally owned/recognized heritage properties be included in the municipal register of heritage properties?

A municipal council may also choose to include other properties that have not or cannot be designated under Part IV, for example: properties subject to heritage conservation easements under Parts II or IV of the *Ontario Heritage Act*; property identified by the Province and prescribed public bodies as provincial heritage property under the [Standards and Guidelines for Conservation of Provincial Heritage Properties](#); properties protected under federal legislation and/or recognized by federal jurisdiction, such as properties commemorated by the Historic Sites and Monuments Board of Canada, and UNESCO World Heritage Sites.

The *Ontario Heritage Act* allows a municipality to include provincially-owned heritage properties in the municipal register of heritage properties. Provincially-owned heritage properties are exempt from the provisions of Part IV of the *Ontario Heritage Act*, including the requirement to provide notice of intention to demolish or remove a building or structure on the property. Provincially-owned heritage properties are not subject to designation by municipalities. Provincially-owned heritage properties are protected under the [Standards and Guidelines for Conservation of Provincial Heritage Properties](#), prepared pursuant to Part III.1 of the *Ontario Heritage Act*. The Standards and Guidelines set out the criteria and the process for the identification of provincial properties that have cultural heritage value or interest, and set standards for the protection, maintenance, use and disposal of these properties. The Standards and Guidelines apply to property that is owned or controlled by the provincial government. All provincial ministries and prescribed public bodies listed in [Ontario Regulation 157/10](#) must comply with the Standards and Guidelines.

Including a provincially owned heritage property (i.e. a provincial heritage property) in the municipal register of heritage properties indicates to the Province, as the property owner/manager, that the property has cultural heritage value or interest to the local community. The Standards and Guidelines require that decisions regarding provincial heritage properties be made in an open, accountable way, taking into account the views of interested persons and communities.



Figure 14. The Rideau Canal Corridor is a UNESCO World Heritage Site and federally owned cultural heritage landscape (Photo Copyright 2006 Ontario Tourism).



Figure 15. Inge-Va is a provincially owned property (Image courtesy of Ontario Heritage Trust).

4. The Importance of Research and Site Analysis

Understanding the cultural heritage value of a property supports all parties with appropriate information to make decisions about the future of a property. Thorough research is essential in ensuring sufficient information for the evaluation of a property's cultural heritage value or interest. The results of the research and a description of how it was undertaken will form part of the final written account, such as a Cultural Heritage Evaluation Report (CHER), or designation report.

The historical research and site analysis needed for including a property on a municipal register of heritage properties is often preliminary in its scope. Properties being proposed for designation under the *Ontario Heritage Act* require more in-depth study by a qualified person or municipal heritage committee. This involves:

- Understanding and knowledge of the overall context of a community's heritage and how the property being evaluated fits within this context;
- Researching the history and cultural associations of the property being evaluated; and
- Examining the property for any physical evidence of its features or attributes, past use or cultural associations. The physical context and site are also important to examine. For example, other buildings, structures or infrastructure nearby may be associated with this particular property.

This background information is best compiled through extensive historical research and site analysis. Neither is useful without the other. For example, the historical research might suggest that a house was built at a certain date. The architectural style, construction techniques and building materials may confirm or deny this as the date of construction.

Research is the process of consulting records and other documents to learn about the history of a property and associations it may have.



Figure 16. The property at 743 Colborne Street was recommended for designation based upon its association with a former Chief of a First Nation. This property was identified as part of the City of Brantford's Heritage Register Project, which included Indigenous engagement (Image courtesy of the City of Brantford).

Research is necessary for compiling the specific history and development of a property and to identify any association it has to the broader context of community heritage. This involves the use of land records, maps, photographs, publications, archival materials, local knowledge, oral history and other documentation.

Research should reveal significant people or events associated with a property, technologies, dates of construction, original and later uses, philosophy, factors such as natural disasters or fires and other details about the property. This information is useful in the identification and evaluation of the cultural heritage value or interest of the property. It also provides clues for examining and interpreting the physical evidence.

4.1 Documenting the Research for Evaluation

A comprehensive research methodology involves a review of documentary, physical and oral evidence. Research materials should:

- merge and summarize the oral, documentary and physical evidence to provide a comprehensive history of the property (through written narrative, sketches, drawings, photographs, charts, etc.), and explain:
 - the principal physical features associated with the property's history;
 - its cultural associations/meanings;
 - changes and the reasons for change over time, including the relationships between the past and present features of the property; and,
 - the overall historic context.
- be collated in a logical manner so that the data readily identifies key information, such as archaeological potential, community and/or Indigenous input; and
- assist with an accurate and full application of the criteria of [Ontario Regulation 9/06](#), i.e., substantiate whether the property is of significance to the community or the province.

The results of the research as well as a description of how it was undertaken will form part of the final written account.

For further information on how to conduct research, refer to Section 6: Researching a Property.

5. Evaluation

Non-designated properties included on the municipal register of heritage properties and newly identified properties may be candidates for designation under section 29 of the *Ontario Heritage Act*. Heritage designation is a protection mechanism with long-term implications for the alteration and demolition of a heritage property.

Properties being considered for individual designation must undergo a more rigorous evaluation than is required for including non-designated properties on the municipal register of heritage properties. The evaluation criteria set out in [Ontario Regulation 9/06](#) form a test against which properties must be assessed.

To ensure a thorough, objective and consistent evaluation across the province, and to assist municipalities with the process, [Ontario Regulation 9/06](#) prescribes the criteria for determining property of cultural heritage value or interest in a municipality. The regulation requires that, to be designated, a property must meet “one or more” of the criteria grouped into the categories of Design/Physical Value, Historical/ Associative Value and Contextual Value. A property’s cultural heritage value or interest is expressed through specific heritage attributes that are identified through the evaluation process.

This does not mean that the property is only evaluated within “one” category or must meet a criterion in each category in order to allow for protection. When more categories are applied, more is learned about the property and its relative cultural heritage value or interest. The resulting evaluation will provide thorough evidence to support decisions about heritage conservation measures. Council must be satisfied that the property meets at least one of the criteria set out in [Ontario Regulation 9/06](#) before it can be designated under section 29. Meeting one criterion is the minimum threshold, but raising that threshold is not appropriate, e.g., by requiring that a property meet two or more criteria or by adding other “local” criteria.

5.1 Conducting the Evaluation and Determination of Cultural Heritage Value or Interest

The relevant information documented through the research should be evaluated against each of the criteria as described in [Ontario Regulation 9/06](#) to determine the property’s cultural heritage value or interest.

The evaluation should determine:

- the rationale to support a property’s cultural heritage value or interest against the regulatory criteria that will be included in a report or designation report for the property; and
- which heritage attributes reflect the property’s cultural heritage value or interest.

Through the evaluation of the property, it should be possible to:

- Recognize a property that warrants long-term protection under section 29, and give reasons;

- Recognize a property for which levels of heritage conservation, other than section 29, are more appropriate;
- Determine that a property has no cultural heritage value or interest to the jurisdiction;
- Formulate the statement explaining the cultural heritage value or interest of the property, including how to identify which criteria are met and explain how the criteria are met, as required for a section 29 designation bylaw; and,
- Identify clearly the physical features or heritage attributes that contribute to, or support, the cultural heritage value or interest, as required in a section 29 designation bylaw.

It is advisable that an approach or model to evaluating potential heritage properties be adopted as a standard municipal procedure or policy. The adoption of a policy or standard practice enables council, municipal heritage committees, municipal staff including planning and building officials, land use planners, heritage organizations, property owners and the public to apply the process in a consistent and defensible manner. This can also help municipal council apply the principle of openness and transparency about the evaluation of potential heritage properties.

5.2 Identifying the Heritage Attributes or Physical Features

The heritage attributes of the property, its buildings and/or structures are evaluated based on their contribution to support the property's cultural heritage value or interest. These can include the physical materials, forms, location and spatial configurations that together characterize the cultural heritage value or interest, and should be retained to conserve that cultural heritage value or interest.

Their merit will be assessed on the basis of whether the physical features or elements:

- are key for the conservation of the cultural heritage value or interest;
- the relationship between the attributes and cultural heritage value or interest has been clearly demonstrated; and
- currently exist.

For further information on heritage attributes refer to Section 4.2 (Statement of Cultural Heritage Value) of the *Designating Heritage Properties Guide*.

5.3 Assessing Integrity

A heritage property does not need to be in original condition. Few survive without alterations on the long journey between their date of origin and today. Integrity is a question of whether

the surviving physical features (heritage attributes) continue to represent or support the cultural heritage value or interest of the property.

For example, a building that is identified as being important because it is the work of a local architect, but has been irreversibly altered without consideration for design, may not be worthy of long-term protection for its physical quality. The surviving features no longer represent the design; the integrity has been lost. If this same building had a prominent owner, or if a celebrated event took place there, it may hold cultural heritage value or interest for these reasons, but not for its association with the architect.

Cultural heritage value or interest may be intertwined with location or an association with another structure or environment. If these have been removed, the integrity of the property may be seriously diminished. Similarly, removal of historically significant materials, or extensive reworking of the original craftsmanship, would warrant an assessment of the integrity.

There can be value or interest found in the evolution of a heritage property. Much can be learned about social, economic, technological and other trends over time. The challenge is being able to differentiate between alterations that are part of an historic evolution, and those that are expedient and offer no informational value.

An example would be a sawmill originally powered by a waterwheel. Many mills were converted to steam turbine technology, and later to diesel or electrical power. Being able to document or present the evolution in power generation, as evidenced in this mill, has cultural heritage value or interest.



Figure 17. As can be seen in these photos depicting the restoration of 339 Queen Street East in Toronto, material changes to a property do not necessarily result in a loss of integrity. In this case, the building was restored by reinstating the features that contribute to its cultural heritage value (Image courtesy of the City of Toronto).

5.4 Physical Condition

Physical condition is another consideration. Some heritage properties are found in a deteriorated state but may still maintain all or part of their cultural heritage value or interest. The ability of the structure to exist for the long term, and determining at what point repair and

reconstruction erode the integrity of the heritage attributes, must be weighed against the cultural heritage value or interest held by the property.

Case Study:

The Case of St. Raphael's Roman Catholic Church

St. Raphael's Roman Catholic Church in South Glengarry County was built in 1818 under the supervision of Alexander Macdonell, the vicar general who was appointed in 1826 as the first Roman Catholic Bishop of Upper Canada. This large stone church served a congregation of Scottish Highlanders who had settled in the easternmost county of Upper Canada in 1786. St. Raphael's is recognized as the founding church for the English-speaking Catholics of Ontario. A fire in 1970 destroyed the roof, 1830s-era tower and the interior decorations. However, the outer walls were spared and thus the building's plan, impressive scale and fine masonry work remain.

Despite its fire-damaged condition, the property was designated under the Ontario Heritage Act and in the 1990s was declared a National Historic Site. Its condition did not take away its cultural heritage value and interest. The ruins silhouetted against the rural landscape "powerfully engages the minds of all who see it, evoking those early days in the history of the Church and preserving the memory of those intrepid settlers."

(Source: Friends of St. Raphael's Ruins)

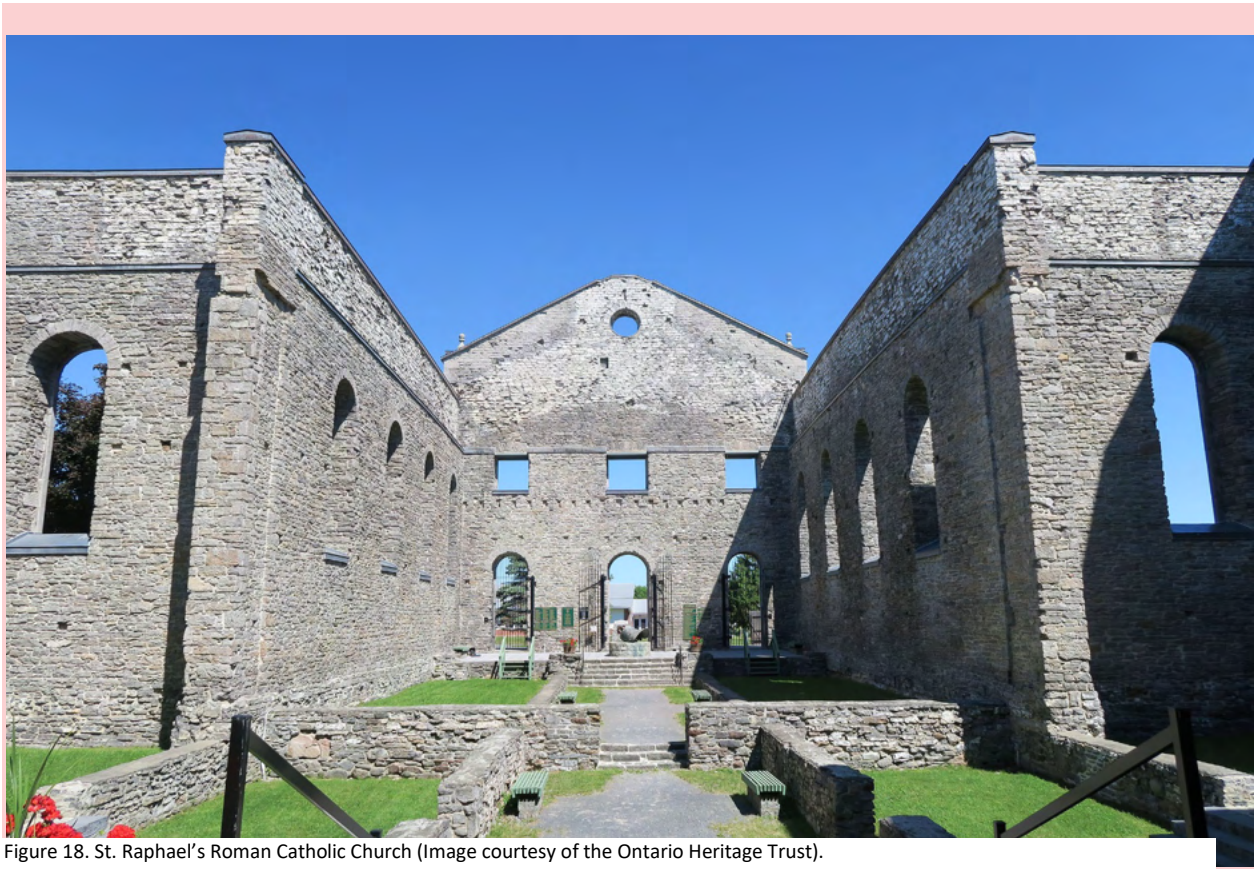


Figure 18. St. Raphael's Roman Catholic Church (Image courtesy of the Ontario Heritage Trust).

5.5 Who does the Evaluation?

Under the *Ontario Heritage Act*, a municipal heritage committee can be appointed to advise council on matters relating to the Act and other heritage conservation matters. This can include identifying potential heritage properties, compiling the municipal register of heritage properties and using criteria for evaluating the cultural heritage value or interest of those properties. By using a committee, the objectivity of the evaluation is maintained.

For municipalities without a municipal heritage committee, others such as heritage planning staff, municipal staff, community or heritage organizations, an external heritage consultant, or other qualified person who understands the purpose of evaluating the cultural heritage value or interest of a property, could undertake the evaluation.

Regardless of academic or professional background, the person conducting the evaluation should have:

- understanding of *Ontario Heritage Act* framework;
- knowledge of the cultural heritage of the community;

- expertise, qualifications and/or experience in the identification, evaluation and documentation of cultural heritage resources, relevant to the type of resource being considered; and,
- recent experience in the identification, evaluation and conservation of cultural heritage resources (e.g., within the last three to five years).

When a municipality needs to engage the services of a heritage consultant, it is advisable to ensure that any contract includes requirements for recognized heritage qualifications. When a municipality engages the services of volunteers, municipal staff with heritage qualifications will be a valuable resource to guide the work.

An individual may be considered a qualified person by an Indigenous community if they are:

- they are an individual who is recognized within the relevant Indigenous community, such as an Elder or respected community researcher, or;
- someone who has been appointed by Chief and Council for the purpose of contributing to a cultural heritage study or evaluation.

Experience in all three cultural heritage resources – built heritage resources, cultural heritage landscapes and archaeological sites – is not essential. Rather, the experience should fit the type of resources that is being evaluated.

Identifying and evaluating heritage properties may require a variety of expertise that usually exceeds what any one person may have. Individuals with specialized knowledge and experience may be needed for many aspects of the work or for specific activities.

Ultimately, a municipal designation bylaw and its statement of cultural heritage value or interest is subject to appeal at the Ontario Land Tribunal, whose decisions regarding appeals of designation bylaws are final. Council has the final decision on whether to proceed with protection under the *Ontario Heritage Act*.

5.6 [Ontario Regulation 9/06](#) under the Ontario Heritage Act

5.6.1 Criteria for Determining Cultural Heritage Value or Interest

Criteria

1. The property has design value or physical value because it,
 - i. is a rare, unique, representative or early example of a style, type, expression, material or construction method,

- ii. displays a high degree of craftsmanship or artistic merit, or
 - iii. demonstrates a high degree of technical or scientific achievement.
1. The property has historical value or associative value because it,
 - i. has direct associations with a theme, event, belief, person, activity, organization or institution that is significant to a community,
 - ii. yields, or has the potential to yield, information that contributes to an understanding of a community or culture, or
 - iii. demonstrates or reflects the work or ideas of an architect, artist, builder, designer or theorist who is significant to a community.
 2. The property has contextual value because it,
 - i. is important in defining, maintaining or supporting the character of an area,
 - ii. is physically, functionally, visually or historically linked to its surroundings, or
 - iii. is a landmark.

5.7 Explanation of [Ontario Regulation 9/06](#)

The following provides guidance on how to apply the criteria.

5.7.1 Category 1: Design value or physical value

Note: Criteria 1.i to 1.iii address the material elements or features of a property, including their arrangement, composition or configuration, and any substantial components (i.e., aspects that can be seen or touched).

Criterion 1.i The property is a rare, unique, representative or early example of a style, type, expression, material or construction method

To satisfy this criterion the property should:

1. illustrate or exemplify:
 - a style (shared characteristics that make up a recognizable look or appearance of a building or constructed landscape – typical of a particular group, time or place);
 - a type (a particular kind or group usually with a common function, activity or use, e.g., schools, hospitals, courthouses, parks, etc. and may include subtypes);
 - an expression (to display, show, embody or be the physical symbol of a way of life, belief, tradition, etc.);
 - a material;
 - construction method; and
2. be:

- rare (because there were few in number originally, or there are few in number today due to subsequent loss);
- unique (the only one of its kind or a prototype);
- representative (serving as a portrayal or symbol); and/or
- early example (in the context of time and place).

Criterion 1.ii The property displays a high degree of craftsmanship or artistic merit

The property satisfies this criterion if it currently demonstrates or presents craftsmanship or artistic merit in a greater than normal quality or at an intensity well above an industry standard.

Criterion 1.ii considers the quality of execution in the assembly of materials, construction methods, spatial arrangements, etc.

SIDEBAR:

Craftsmanship: the quality of execution or technical skill on a product.

Artistic merit: quality of a product relating to the creative process and its value as a work of art; showing imaginative skill in arrangement or execution. In some cases, artistic merit may be recognized today but in other cases it may only be recognized at the time of its creation.

Criterion 1.iii The property demonstrates a high degree of technical or scientific achievement

The property satisfies this criterion if it currently displays or presents technical or scientific achievement in a greater than normal quality or at an intensity well above an industry standard.

Criterion 1.iii considers the characteristics and evolution of construction techniques and the use of materials within the local historic context. A property may represent a technical or scientific innovation or a change in techniques or materials as it relates to:

- technical expertise in its construction methods;
- scientific achievement in the use or adaptation of materials, forms, spatial arrangements; and/or
- breakthroughs in design or construction techniques.

5.7.2 Category 2: Historical value or associative value

Note: Criteria 2.i to 2.iii address aspects of the property that are often intangible and require research and interpretation.

Criterion 2.i The property has direct associations with a theme, event, belief, person, activity, organization or institution that is significant to a community

To satisfy this criterion the property should meet two tests:

1. the association is direct – whether the property exemplifies or has strong evidence of its connection to a theme, event, belief, person, activity, organization or institution. For example, the property may be the product of, or was influenced, or was the site of – an event, theme, belief, activity, organization.
2. it is significant to the community – because a theme, event, belief, person, activity, organization or institution has made a strong, noticeable or influential contribution to the evolution or pattern of settlement and development in the community.

A property may satisfy this criterion if little else survives to illustrate a particular aspect of the community's history, e.g., the property is the last of its kind or provides rare early evidence.

A property may not meet criterion 2.i, if its association is either incidental (minor, secondary) or cannot be substantiated.

For further information on Historic Context refer to Section 6: Researching a Property.

Criterion 2.ii The property yields, or has the potential to yield, information that contributes to an understanding of a community or culture

Criterion 2.ii considers whether a property has, or can have, the ability to provide evidence of one or more notable or influential aspects of a community's history or the history of a culture. The culture may not be currently associated with the property.

To meet this criterion, the evidence should, e.g., offer new knowledge or a greater understanding of particular aspects of the community's history or the history of the culture, or contribute to a comparative analysis of similar properties, etc. The evidence may be demonstrated through the property, or the combination of the property and associated documentary material or artifacts, or oral evidence.

Criterion 2.ii is often associated with the assessment of the cultural heritage value of archaeological sites.

Criterion 2.iii The property demonstrates or reflects the work or ideas of an architect, artist, builder, designer or theorist who is significant to a community.

To satisfy this criterion the property should:

- display or present the work or ideas of an architect, artist, builder, designer or theorist; and
- be significant to the community – because of an architect, artist, builder, designer or theorist has made a strong, noticeable or influential contribution. The contribution may have been recognized in its day or through subsequent interpretation.

The evidence of the work or ideas needs to be explicitly identified, thoroughly supported in research, and be essential to understanding or interpreting the importance that the architect, artist, builder, designer or theorist has in the community's history. Incidental association does not satisfy this criterion.

Criterion 2.iii differs from 1.ii in that it is related to a property's association with an individual's portfolio of work, and is distinct from its craftsmanship/ artistic merit alone.

5.7.3 Category 3: Contextual value

Note: for Criteria 3.i to 3.iii to determine if the property has contextual value, it is necessary to look at it in a broader setting, understand its relationship to the setting and its meaning to a community.

Criterion 3.i The property is important in defining, maintaining or supporting the character of an area

To meet this criterion the property needs to be in an area that has a definable character and it is desirable to maintain the character. The character of a place need not be attractive or picturesque for it to be meaningful. For example, places with an industrial character can be of cultural heritage value.

The research needs to consider how much or to what degree, the property contributes to determining, establishing, or affirming the character. For example, the research should consider what would happen to the character of the area if the property was considerably altered or lost.

SIDEBAR:

Character: the combination of physical elements that together provide a place with a distinctive sense of identity. It may include geomorphology, natural features, pattern of roads, open spaces, buildings and structures, but it may also include the activities or beliefs that support the perceptions associated with the character.

Area: refers to a street, neighbourhood, park, landscape, community, district, region, etc.

Criterion 3.ii The property is physically, functionally, visually or historically linked to its surroundings

To satisfy this criterion a property needs to have a relationship to its broader context that is important to understand the meaning of the property and/or its context. The relationship may be:

- Physical – i.e., when there is a material connection between the property and its surroundings; or
- Functional – i.e., necessary to fulfill a particular purpose; or
- Visual – i.e., when there is a visual connection between it and at least one feature in the context. It is not visually linked merely because adjacent properties can be seen from it; or
- Historical -i.e., when there is a connection to the historic context.

Criterion 3.iii The property is a landmark

This criterion considers whether the property is, or includes a landmark that is, meaningful to a community.

The key physical characteristic of a landmark is its prominence within its context, e.g., a well-known marker in the community. Landmarks are usually memorable and easily discernible. They often serve as orientation guides and/or local/regional tourist attractions.

SIDEBAR:

Landmark: a recognizable natural or human-made feature used for a point of reference that helps orienting in a familiar or unfamiliar environment; it may mark an event or development; it may be conspicuous.

5.8 Written Account of the Research and Evaluation

The research and evaluation for each property should be documented in a report. The report should contain sufficient information to understand the property and provide a record of the evaluation process and articulate the results of the evaluation.

The documentation will be organized to provide an understanding of the property and will include:

- a summary of the research and the manner in which it was undertaken;
- an analysis of the research against the criteria to determine whether the property has cultural heritage value or interest and its conclusions;

- a chronological record of any changes over time to the use, design or integrity of the property;
- maps, illustrations, photographs and drawings, as required, to illustrate the research and evaluation; and
- a draft Statement of Cultural Heritage Value when it is found that a property has cultural heritage value or interest (or a rationale if a property is found not to have cultural heritage value or interest or does not have physical attributes to support the cultural heritage value or interest).

For further information on preparing a Statement of Cultural Heritage Value refer to Section 4.2 of the *Designating Heritage Properties Guide*.

5.8.1 Example of a Written Account of the Research and Evaluation : Cultural Heritage Evaluation Report (CHER) Outline

Executive Summary (1-2 page maximum)

This section is the summary of the evaluation. It describes the arguments for or against the identification of a property as a heritage property and recommendations for its protection.

1. Introduction

This section sets out the context for the report and provides a brief overview of how and why the research was undertaken and who was engaged and/or consulted in the process.

2. Description of the Property

This section provides an overview of the location of the property and a description of its type (e.g., a farm, a mine site, a transportation route, park, etc.) along with a description of the primary features, buildings and/or structures on the property. The description also includes any current heritage recognitions (e.g., included on the municipal register of heritage properties, national historical site, etc.) and whether the property is considered a single property, district or part thereof, or a landscape.

3. Research

This section describes what type of research was undertaken for the property and why. It records the findings of the research in a logical and chronological order and uses maps, photographs, illustrations, etc. to augment the information. It evaluates the property's integrity and cross-references the results of the community input, comparative studies, and any archaeological reports or the need to identify any archaeological potential. This section

identifies in detail the findings and summarizes those findings in reference to the value and attributes identified for the property and the themes and sub-themes as they relate to the municipality's historic context.

4. Community Engagement

This section outlines what, when and how community input was undertaken as part of the research methodology for the property. It also outlines the process used to determine the outcomes of the community input exercise(s) and describes the results.

5. Evaluation

This section describes how the criteria in [Ontario Regulation 9/06](#) were applied to determine the property's cultural heritage value or interest, if any. It presents a rationale supporting why each criterion was met or not met, and describes the attributes that support or contribute to the property's cultural heritage value or interest, if any.

6. Conclusions

The conclusion summarizes whether the information and evaluation against the criteria was sufficient to determine cultural heritage value or interest for the property.

7. Draft Statement of Cultural Heritage Value

This section, when required, provides a brief description of the property and a written summary of the cultural heritage value of the property and identifies its level of significance. It describes the heritage attributes that support the cultural heritage value and that need to be conserved in order to protect the significance of the heritage property.

Appendices

Appendix A: References/ Bibliography

Provide a list of all sources used (whether referenced or not) in the process of researching.

Appendix B: Supplementary Documentation

Include documentation that may have not been depicted as part of the report but may be of assistance in understanding the property.

Appendix C: Project Personnel

List the personnel involved in preparing the report, indicating their qualifications and their role in preparing the report.

6. Researching a Property

Researching a heritage property for its cultural heritage value or interest means:

- reviewing primary and secondary documentary sources (both current and archival written accounts, maps, drawings, plans and images);
- examining physical evidence (site visits, photos and observations);
- engaging groups and individuals who have a past and/or present association with the property;
- merging documentary information with physical and oral evidence; and
- making conclusions about the property's cultural heritage value or interest based on its history and evolution.

PLACEHOLDER: MHSTCI would like to include an image of a public park and/or landscapes, either designated or included on the municipal register. Please send suggested images to joseph.harvey@ontario.ca

6.1 Oral Evidence

The Oral History Association defines oral history as a “method of gathering, preserving and interpreting the voices and memories of people, communities, and participants in past events.”

Oral evidence is usually obtained through community input. Oral histories associated with the property's past and/or present can:

- reveal new sources of information;
- provide information which may have not been previously recorded, but is relevant to understanding the cultural heritage value or interest of the property; and
- provide greater context for understanding of documentary evidence.

The role of oral evidence and testimony is of utmost importance in building our understanding of the past, particularly in the identification and evaluation of heritage resources from communities that rely on oral history as a form of storytelling, learning and commemorating. Oral histories let communities teach about their own cultures in their own words. Today,

academics, researchers and museum curators use such sources to highlight diverse and marginalized perspectives.

PLACEHOLDER: MHSTCI would like to include images of heritage properties associated with Indigenous communities. Please send suggested images to joseph.harvey@ontario.ca

6.2 Documentary Evidence

Documentary evidence, needed to substantiate the history and cultural associations of the property, is found at local, provincial and/or national archives, libraries, museums and historical societies. Analysis of documentary evidence should provide the historic context of the property and involve consulting:

- archival records;
- results of screening for archaeological potential based on MHSTCI's [Criteria for Evaluating Archaeological Potential](#)
- archaeological reports, which will be reviewed for evidence related to the property's overall evaluation; and
- comparative studies or analyses, which explain the importance of the property within a municipal context by comparing it to similar properties locally. Effective comparative studies are based on:
 - sound methodology and processes for identifying properties and property characteristic of comparative value; and/or
 - properties that may or may not be already included on the municipal register or other provincial and/or federal registers.

6.2.1 Primary Research Sources

Archival records are an important source of historical information about the property, including its date/nature of construction, its original and subsequent uses, its role in community development and/or its association with significant people or events, such as natural disasters or fires.

Libraries, archives and heritage organizations acquire, preserve, and provide access to archival materials that document the historic presence of Black, Indigenous and immigrant communities that can transform understanding of properties and neighbourhoods. See the Resources and Further Information section for some of these organizations.

Examples of archival records include:

Source	Type of Information	Location
Land registry documents (e.g., pre-patent documents, property abstracts, building permits, deeds, etc.)	Reveal common or known name of the property, its boundaries, date of original construction and, if applicable, subsequent additions/alterations. May contain the names of architect, designer and/or contractor. See below for more detailed information.	Municipality Ontario Land Registry Online Provincial Archives National Archives
Tax Assessment Rolls	Can help trace history of ownership/occupancy, building/land improvements and alterations. May contain the names of architect, designer and/or contractor. See below for more detailed information.	Local Archives/library Municipality
Survey Plans	Illustrate the precise area associated with land title. May reveal changes to property boundaries and/or ownership over time. See below for more detailed information.	Provincial Archives Local Archives
Fire Insurance Maps (Schematic diagrams used by insurance providers)	Reveal construction materials and their relation to other aspects of the property. May also be useful for determining dates of construction, additions and alterations, and for an overview of streetscapes at a particular time. Insurance maps of urban areas are	Provincial Archives Local Archives Local Museums

	measured outlines of structures coded for type of construction, building materials, use and fire risk.	
Town plans and historical atlases	Reveal construction date, history of ownership, and/or changes to the property boundaries over time, etc. May provide insight to the history of the surrounding landscape. Illustrated atlases may plot buildings on a map and have artistic depictions of structures and landscapes. Historic maps can also be useful.	Online
Architectural plans/drawings	Show original plans and, if applicable, changes to the building/property over time.	Local library/archives Provincial Archives Personal Collections Corporate or Institutional Collections
Photographs (Aerial and personal photographs, postcards, etc.)	May reveal changes in the landscape or context (e.g., comparison of early and more recent aerial photos).	Local, Provincial and National Archives Personal collections Corporate or Institutional collections
Other archival sources (e.g., directories, newspapers, census business, and personal records)	May reveal information about the history of ownership, associations with significant people or events, and/or importance to the community. For example,	Local library/archives Provincial or National Archives Personal, Corporate or Institutional collections

	<ul style="list-style-type: none"> personal and agricultural census records exist online for most jurisdictions each decade from 1842 to 1921. Some identify individuals and family groups, location, dwelling, industries, production rates, and other information. Directories are published lists of individuals and businesses organized by location. 	Heritage organizations collections
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6.2.1.1 Archival Records

Land Records

Determining dates of construction and use of a heritage property starts with tracing the legal ownership of the real property or land. In Ontario, it is the parcel of land that is bought and sold, not the individual improvements on it (except for condominiums). Few land records accurately record what buildings or features exist on the property over time.

Historically, once an area was surveyed by the Crown (province) into a grid of concessions and lots, ranges, or plans, it was opened for settlement. The survey created the legal description. This is not the same as the street address. This legal description, for example, Lot 12, Concession 6, Oro Township, or Lot 6, north side, Blake Street, Plan 6, is key to finding the relevant land records.

Pre-Patent Land Records

An application by an individual for a grant or purchase of Crown land was called a petition. It contained an explanation of why the petitioner might be entitled to receive a land grant (free or paying fees only); or is a request to buy or lease Crown land.

If the Crown approved the petition, the surveyor general assigned a lot and issued a Ticket of Location stating required settlement duties, such as clearing part of the lot and erecting a shanty. Government land agents might later inspect the lot to verify the satisfactory completion

of these duties. (Township Papers Collection) Once all requirements were met, a first deed was issued.

The final step in transferring ownership from the Crown involved having the lot surveyed and paying a fee for the Crown patent. The patent was only mandatory when the lot was to be sold to a non-family member. Generations of one family could live on the lot before the patent was issued. This needs to be considered when studying early structures and compiling a complete history of the lot. The patent date is rarely the date of arrival of the owner or the date of construction of the first features on the property. Many of these events predate the patent.

The Ontario Archives Land Record Index is organized alphabetically by surname of the locatee (person issued the lot) and by township/town/city. Each entry is coded and notes the archival reference to the original record ("RG Series, Vol., Pg"). *The extract provided above* is by locatee: The first entry in the above sample indicates that James Drinkwater was a resident of Chinguacousy township when he received the east half of Lot 20, Concession 4, West Hurontario Street ("E1/2 20 4WHST") by an Order-in-Council (Date ID "8") issued November 24, 1824. This was a free grant (Transaction type "FG") for which he paid full fees (Type FG."FF"). He was "located" (Date ID "1" issued a Ticket of Location) on December 8, 1824.

It is also possible that the person issued the patent is not the original occupant of the lot. The patentee may have been a non-resident owner who leased the lot to a tenant. The first occupant may have abandoned the lot before receiving the patent and the lot was re-issued by the Crown. The first occupant may have negotiated the "sale" of the lot on the condition that the next "owner" could apply for the patent using the occupant's name. (This was a common, but illegal, practice.)

When disputes arose over who was entitled to apply for the patent, the matter was referred to the Heir and Devisee Commission. The heir or family descendant, devisee (recipient through a will), or person "sold" the lot by the first occupant, could present evidence of their patent claim to this court of review.

The early system of granting Crown land in Ontario involved several steps and was frequently adjusted. Before making any conclusions about the early history of a property, several records should be checked. Hopefully, the findings will collaborate and give some insight into the origin of the earliest physical evidence on the property.

Several collections relating to pre-patent transactions are indexed as the Ontario Archives Land Record Index (1780s to about 1918). The Upper Canada Land Petitions, Heir and Devisee Commission records (1804-1895), and Township Papers are available at the Ontario Archives in

Toronto and the National Archives of Canada in Ottawa. Some public libraries, regional archives, and genealogical resource centres may have copies.

Ontario Land Registry

It is only when the patent is issued that a file for the lot is opened in the Ontario Land Registry. There are two systems of filing all subsequent legal documents relating to the lot: the land registry system and the land titles system.

In the land registry system, the lot file is known as the conveyances abstract or Abstract of Title. It starts with the patent and assigns a number to each legally registered transaction (called instruments) for the lot, listing them in chronological order to today. These include mortgages, deeds (sometimes called Bargain and Sales, B&S), grants, leases, discharges, deposits, liens, bylaws, wills, court orders, surveys, site plans and other documents regarding the property. The Abstract is the index to these registered instruments.

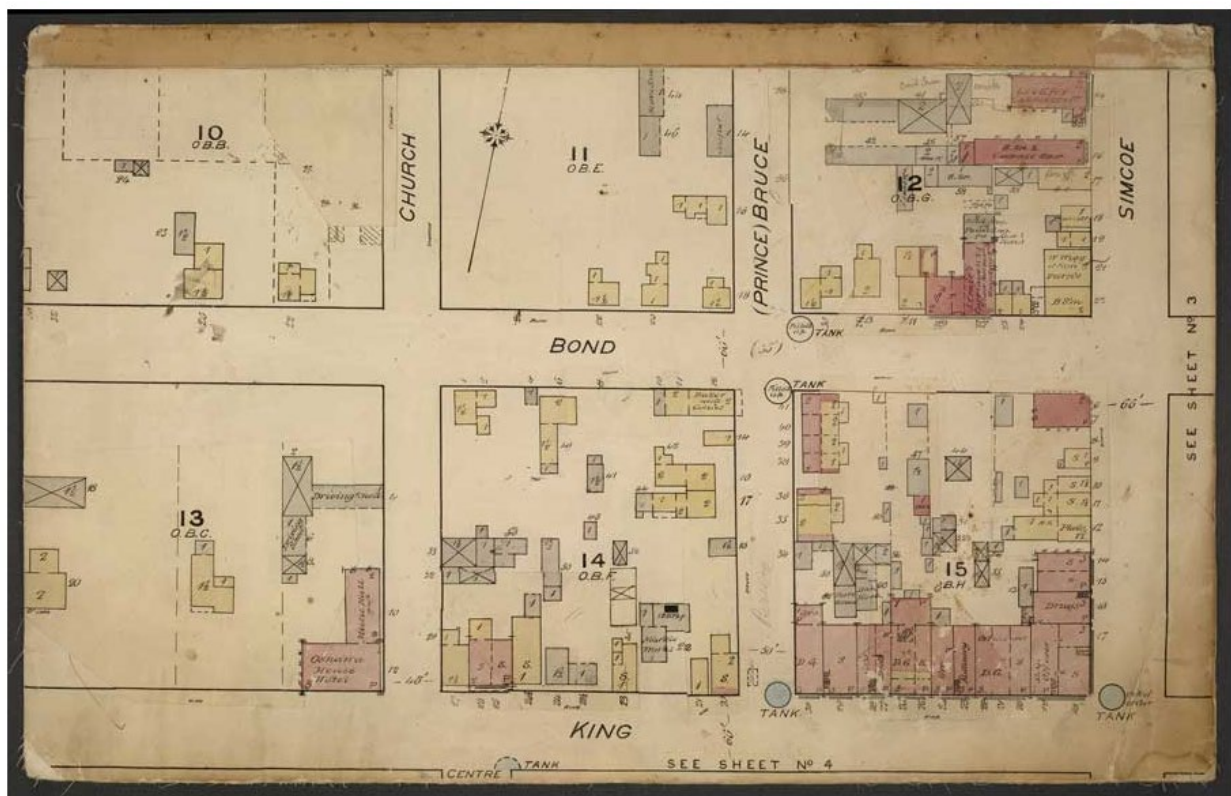


Figure 21. Fire insurance plans are a useful source of information (Image courtesy of the Archives of Ontario).

The land titles system was primarily used in northern Ontario. The legal ownership of the lot is certified and entered into land titles. When the lot is sold again, it is not necessary to verify any transactions earlier than the date it was entered into land titles. Lots in the land registry system

have been slowly converted to land titles. A system based on land titles is now used by the Ontario Land Registry. Each parcel of land is assigned a Property Identification Number (PIN). The PIN number is used to access the recent (40-year average) history of a parcel of land.

For historical research, it is usually necessary to go beyond the 40-year history.

The current legal description (or PIN) of the parcel of land being researched is the key to accessing the Abstract and instruments that relate to the parcel and eventually to the larger lot of which the parcel may only be a part. The history or "root" of the parcel is traced from today, back through all the subdivisions, to the original size of the whole lot at the date of the patent. It is critical to trace only the chronology of the specific parcel of interest by tracking the survey boundaries or assigned description of that parcel. It may be necessary to look at a second or third Abstract, as the parcel is reconstituted to its original lot and concession or plan description.

Reading the Abstract and the instruments can reveal information about a property. Clues such as the occupation of the owner, for example an innkeeper or miller, may identify the use of the property. When a parcel too small for farming is severed from a larger lot, it may mean the construction of possibly a second dwelling, inn, church, school or cemetery. When industries are sold, the physical assets may be described. Right of way agreements suggest the need to access a new or existing structure, water source, road or railway line. Family relationships, court settlements, mechanic's liens describing unpaid work done and other clues contained in the instruments establish a framework of names, dates and uses that are relevant to the property and needed to search other documentary sources.

Ontario Land Registry services are now all online and registry records are available at onland.ca. Abstracts and instruments before 1958 are also available on microfilm at the Archives of Ontario.

Property Tax Assessment Rolls

Property tax assessment rolls have been compiled annually since the early 19th century. The rolls that survive are usually found in municipal offices, regional archives, museums and in provincial and national archives. Each identifies the name of the occupant (tenant or owner), the legal description, some personal and statistical information and a breakdown of real and personal property assessed values. Real property includes the land, buildings and fixed assets. Personal property includes taxable income and movable assets such as carriages and livestock. An increase in the assessed value is a good indicator of some improvement on the property being completed, such as building construction. A few municipalities have dates of construction recorded on the tax roll.

The tax rolls should be reviewed for each year but particularly for the years that correspond to significant names or dates obtained through the Ontario Land Registry. The information in each tax roll needs to be compared within the single year and from one year to the next. There are several possible comparisons:

- Compare the real property value with nearby properties of equal size, as examples:
 - A lot is assessed at \$50 and most lots in the vicinity are assessed at \$200 each, it may be that the lot is vacant; or,
 - A lot is assessed at \$200 and comparable lots are valued at \$400, the lot may have a frame house while the others are brick and therefore of a higher assessed value; or,
 - A lot may be assessed at \$3,000, in which case it may be a substantial estate, or it has other assets such as a commercial or industrial operation.
- This answer may be obvious from the occupation of the resident (and other research findings).
- Note the changes in the assessed value of the real property from one year to the next. For example, in 1875 and 1876 the value is \$50, but in 1877, it rises to \$400. A building may have been completed enough by 1877 to account for the higher assessed value. This may coincide with a change in ownership or mortgaging registered at the Ontario Land Registry.

There are some factors to consider when using tax assessment rolls. Few assessors made annual inspections of each lot so any change in value may be one to several years behind the actual date of the improvement. A slight increase in the assessed value may be indicative of a major renovation to an existing structure, not new construction.

Fluctuation in value can be the result of a widespread economic situation, such as a recession that devalues the real estate market. There is also the possibility that the structure burned, was not reassessed during reconstruction and returned at the same assessed value as before the fire. Investigating other research sources should explain these apparent puzzles and inconsistencies.

6.2.1.2 Other Research Sources

- Business records, private manuscript materials (for example, diaries, letters, scrapbooks) and municipal records may provide relevant information.
- Other materials held by the National Archives of Canada, Ontario Archives, local archives and libraries, museums, and historical, architectural and genealogical research societies and groups.

6.2.2 Secondary Sources

Secondary sources supplement primary source materials and serve to enhance understanding of the property's history, including its community context. They may reveal significant patterns, events, and persons associated with the property and/or its surrounding area. Property specific information may include additional knowledge regarding land occupancy, ownership and use of the site. Information about the larger context may include settlement patterns and important historic events in evolution of the landscape. Secondary sources include:

- published local histories (e.g., Tweedsmuir History, guidebooks etc.);
- municipal bylaws and records; and/or
- previously published reports, such as cultural heritage evaluation reports (CHER), archaeological assessment and conditions reports, comparative studies, etc.

The municipal resources – e.g., a municipal heritage committee or a municipal planner – can often supply a wealth of secondary research materials. A wide-ranging use of secondary research materials also provides an opportunity to elevate the voices of communities whose cultural heritage value has not always been recognized. Embracing this opportunity will require direct and continued community engagement that ensures the active participation of recognized community leaders.

6.3 Site Analysis and Physical Evidence

6.3.1 Site Visit

The property itself is a primary source of information. A site visit to the property provides the most accurate information about its present state and may serve as a starting point for archival research. Valuable site visit records can be written and/or visual.

Written records can include information on:

- current location and setting, design, materials, workmanship as well as on character and associations;
- interior and exterior features that are either distinctive and/or diminished (i.e., an estimate of intrusions or missing elements on the basis of what remains);
- obvious signs of previous activities (e.g., alterations in foundations, wells); and,
- physical context (relations with nearby buildings, structures or associated infrastructure).

Visual records (sketches, measured drawings, photographs) can capture:

- relationship of features to one another, to the property and to the larger context; and,

- views and vistas, which are particularly important if the property is a known or potential cultural heritage landscape.

A site visit is a useful way to understand the condition and context of the property. Many municipalities have codes of conduct for site visits or site review. It involves an examination of the grounds, buildings and structures (inside and out) to:

- provide current and accurate information about the property;
- record the distinctive features including, but not limited to: obvious alterations, evidence of previous buildings or activities such as foundations or wells, and paths, vegetation, fences or other features; and,
- photograph vistas and views, especially if the property is a known or potential cultural heritage landscape.

Photographs should document the relationship of features of a property to one another, to the property and to the larger context. Photographs provide documentation of location, design, setting, materials, workmanship, character and associations between present and past. The photographs may also reveal intrusions and/or missing features.

More than a single visit may be necessary, depending on the complexity of the property, documentary research, community input, or additional information acquired through research. Municipal policies and guidelines for site visits should be followed and use caution to respect rights to privacy and applicable laws.

Ideally, a property being evaluated should be examined at least twice. A preliminary site visit will give some context and raise questions to be addressed by the historical research.

The historical research findings may reveal use of the property, key dates or associations not previously known. A second site visit is an opportunity to look for physical evidence of these findings. Explanations or inconsistencies may be revealed in the existing features, missing elements or some hint or remnant that can now be examined in more detail. These will assist with further analysis and interpretation.

Recording the property using photographs, measurements and notes will help when applying evaluation criteria and compiling a description of heritage attributes. The evolution of architectural style, construction techniques, materials, technology, associated landscapes and other factors are important information when analyzing a heritage property.

Through historical research, a profile of the ownership, use, history, development and associations of a property should begin to emerge. For some properties, it is the association

with certain people, events or aspects of the community that have value or interest, and there may not be physical features (heritage attributes) to support that cultural heritage value or interest. For other properties, the physical features may not be immediately evident, or they have been obscured and therefore there is a need to examine, interpret, and evaluate the physical evidence. When trying to identify and interpret any physical evidence presented by the property, knowledge of the following topics is useful:

- architectural styles
- construction technology
- building materials and hardware
- building types including residential, commercial, institutional, agricultural and industrial
- interiors
- infrastructure such as bridges, canals, roads, fences, culverts, municipal and other engineering works
- landscaping and gardens
- cemeteries and monuments
- spiritual places

Having a sense of what to look for will help develop observation skills and answer some important questions such as:

- What is the architectural style? When was it popular in your community? Are there additions or upgrades that can be dated based on style?
- What elements or features are typical of the architectural style or building type?
- What level or type of technology seems to be original? For example, are there remnants of earlier methods of accomplishing some mechanical task?
- What building materials are used in the basic construction and any additions? Is it log, frame, concrete, steel, glass or some unique material?
- Are there any processes and materials in nature that influenced the historical development or use? For example, a human response to geomorphology, geology, hydrology, ecology, climate or native vegetation.
- Are there any historical activities that influenced development or modification? For example, activities in the landscape that have formed, modified, shaped, or organized the landscape as a result of human interaction.
- Are there any historical systems for human movement? For example, paths, roads, streams, canals, highways, railways and waterways.
- Are there any historical manifestations of collective cultural identity? For example, features that indicate practices that have influenced the development of a landscape in terms of

land use, patterns of land division, building forms, stylistic preferences, and the use of materials.

- Are there any historical, human-created shapes of the ground plane? For example, a three-dimensional configuration of the landscape surface characterized by features, orientation, and elevation such as earthworks, drainage ditches, knolls, and terraces or cultural or traditional adaptations of land use in response to natural topography.
- What are the decorative features such as coloured and patterned brick, terracotta tiles, ornamental stone, wood trim, brackets or carvings? Do they appear to be unique or help define the character of a property or a community (Some of these innovations and trends can be dated.)
- Are similar examples of the style, form, type, decoration or engineering works found elsewhere in the community?
- What is the original shape of the window opening and type of sash?

6.3.2 Context and Environment

A heritage property may have a single feature, or it may be in some context or environment that has associative value or interest. These could be, for example, a unique landscape feature, garden, pathways or outbuildings. An industrial site may have evidence of the flow of the production process. The neighbourhood may have workers' cottages. A former tollbooth or dock may be near a bridge. There may be ruins on the property that represent an earlier or associated use. These elements are also important to examine for clues to the property. There is often evidence of these "lost" landscape features or remnants such as fences, hedgerows, gardens, specimen and commemorative trees, unusual plantings, gazebos, ponds, water features or walkways. These may have made a significant difference to how all components of the property related to each other or to the street.

Consideration should always be given to adjacent properties. This is especially important in an urban or traditional town setting where properties abut. The front, side and rear yard setbacks may have been prescribed by early zoning regulations within a planned community, or perhaps evolved over time without any plan.

The views to and from a property can also be significant. Views can be considered from an historic perspective, how did views develop or was there a conscious effort to create and/or protect views), and the relevance of views to and from the site today.

6.3.3 Historic Context

In order to determine the historic context of the property the research should provide:

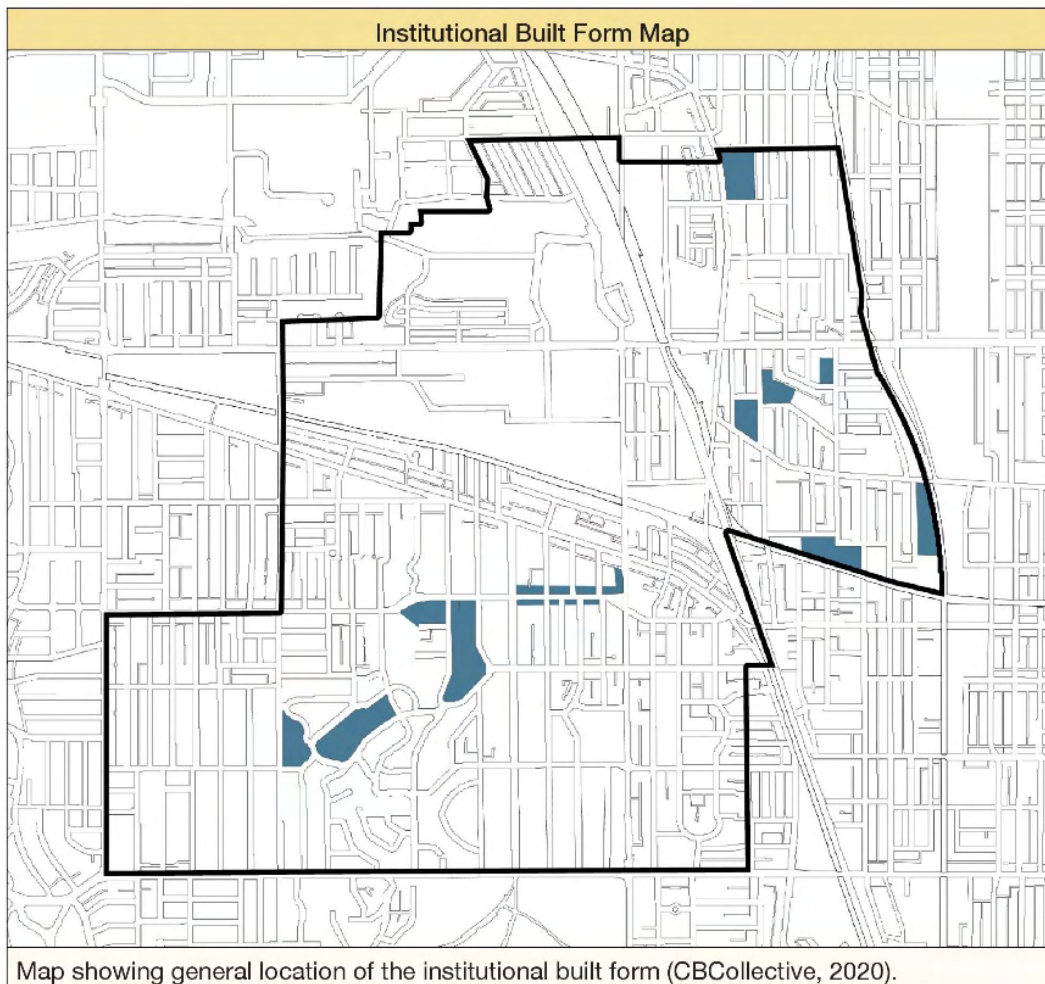
- an understanding and knowledge of the history of the province, the local community, province and the cultural associations; and,
- evidence of historic patterns or trends that explain meaning and significance of a specific occurrence, property, or a site.

Thematic framework documents assist with determining the property's historic context. A thematic framework is a way to organize or define history to identify and place sites, persons and events in context. A theme is considered significant if it can be demonstrated, through scholarly research, to be important to the community's or Ontario's history. Using the thematic frameworks for heritage evaluations (or assessments) is a well-established practice. Themes are selected to ensure a comprehensive representation of the history and heritage of the area to be evaluated. Using a thematic framework differs from traditional approaches to history as it allows a focus on key historical and cultural processes, rather than topics or a chronological treatment. It aims to identify the key human activities that have shaped our environment. Themes are not arranged in a hierarchy or chronological order. They are designed to be applied and interlinked regardless of place or period. They can be used flexibly for different periods, places and regions. This approach suggests a lively and dynamic history, giving a sense of ongoing activities over time rather than a static and vanished past.

4.4 INSTITUTIONAL BUILT FORM

The institutional built form describes places in the study area that were purpose-built for the benefit of a community, by both governments and private groups. Forms include:

- A. Schools
- B. Libraries
- C. Places of Worship
- D. Lodges & Halls
- E. Fire Stations, Police Stations & Offices
- F. Public Works



Figures 23,24,25. The West Toronto Junction Historic Context Statement was initiated by the City of Toronto in order to pilot a contextual approach to heritage evaluation. Historic context statements explain the contemporary form and character of an area through the identification and analysis of significant periods and themes and allow the City to consider the significance of a property or area in relation to these themes (Images courtesy of the City of Toronto).

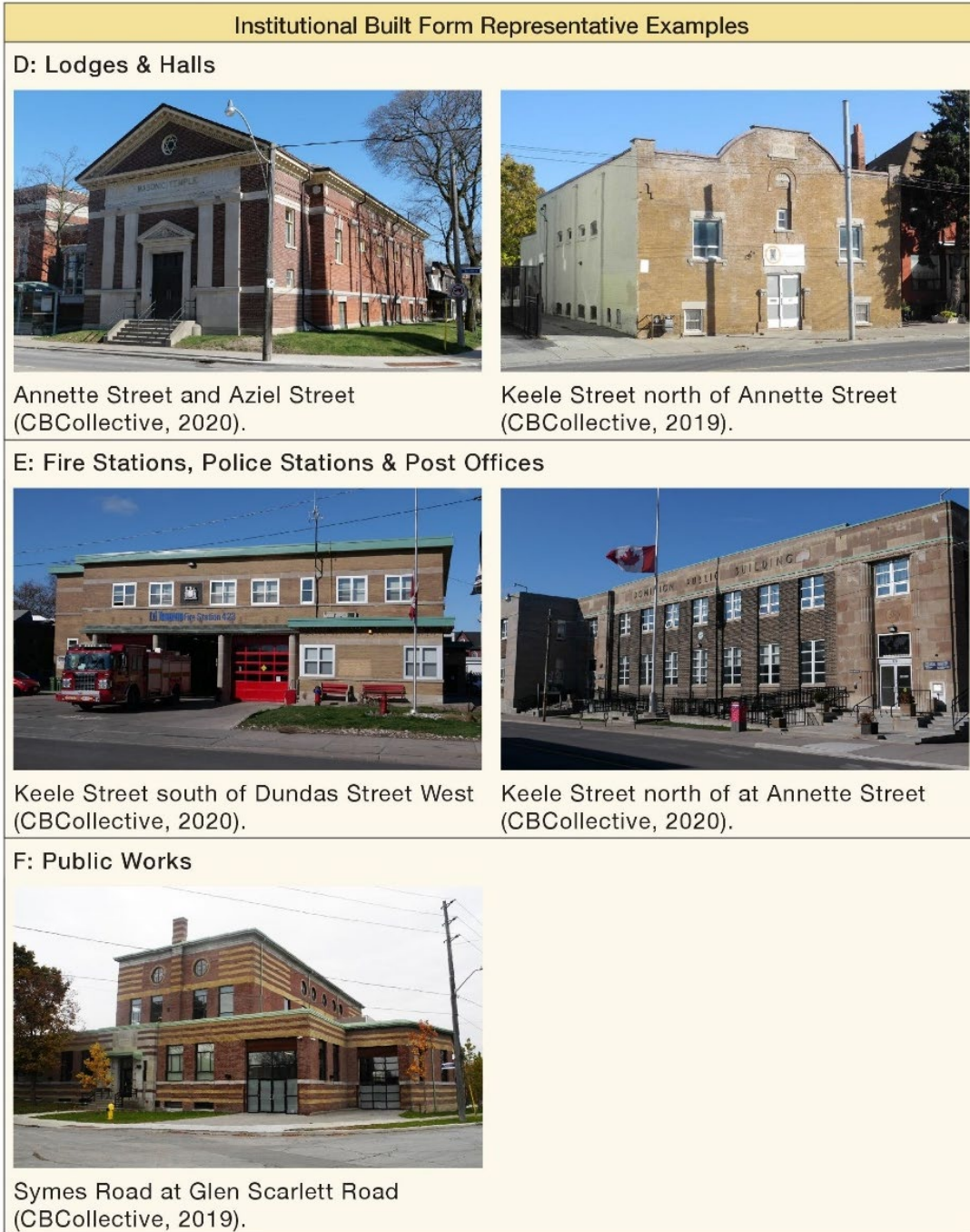


Figure 24. Institutional built form representative examples



Figure 25. Detail of 1869 military reconnaissance plan with the area encompassing the West Toronto Junction Historic Context Statement highlighted in blue

6.3.4 Benchmark Dates

There are benchmark dates for the popularity of an architectural style, new developments in construction techniques, building materials, philosophies toward a particular practice and other innovations. This is true overall for Ontario but also applies to when each community was willing and able to incorporate these developments and innovations locally. It is this variation in local experience that is the key factor in identifying which properties have cultural heritage value or interest to each community.

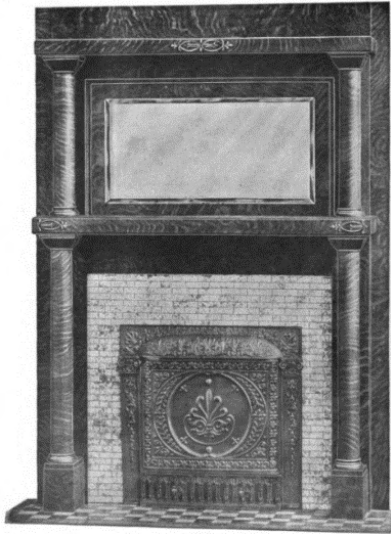


Figure 26. Illustrated example of a fireplace mantel (1904 Universal Design Book).

6.3.5 Building Materials

The closer the initial development of a property is to the date of the founding of a community, the more likely the building materials were locally available. The most common early structures used logs cut from the lot, notched together and raised to the height that could be reached by non-mechanical means. Timber framing, where the logs were squared with an axe or pit sawn, was the next level of sophistication. It required someone capable of joining the structural frame together using, for example, mortise and tenon construction. Communities with an abundance of natural building stone could have early stone structures.

The early 19th century development of steam power reliable enough to drive sawmill machinery resulted in the production of standard dimension lumber. The use of logs and timbers for construction could be replaced with lumber. The availability of lumber and the development of cut or “square” nails that were less expensive than blacksmith made nails signalled an end to the complex joinery of mortise and tenon construction. Dimensioned lumber could be quickly nailed together to create a building frame.

The 19th century also witnessed the decline in hand craftsmanship and the rise in manufactured products produced locally or stocked by local suppliers. Examples are the planing mills producing mouldings and trim; lath mills that meant the narrow strips of wood needed for plastered walls no longer needed to be hand split; window sash and door factories; and foundries casting iron support columns, decorative ironworks and hardware. Knowing the dates these mills or manufacturers were established or their products available locally can help to date a structure.

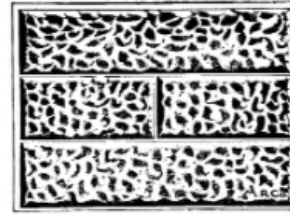
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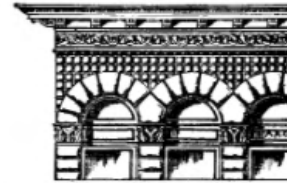
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It makes a most desirable fire-proof finish—can be very easily applied—and gives a specially handsome effect at a moderate cost.



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Figure 27. Advertisement, 1899 (Image Canadian Architect and Builder Volume 12, Issue 6, 1899).

Brick making is an old technology but brick construction was not universal in Ontario. Enough bricks needed for the fireplace hearth and chimney or a brick structure could be made in a temporary kiln on the site. Communities on waterways may have acquired the bricks used by ships as ballast weight and removed to reload the hull with cargo. Once a machine to commercially produce bricks was patented, and the expansion of the railway network allowed their transport, more communities had the option of brick construction. Opening local brickworks would, over time, change the look of a community. Locally available clay and sand may have produced a regional brick colour and texture. A local mason may have favoured a combination of brick colours and laid them in a particular bond and decorative pattern.

The 20th century brought innovations such as structural steel, reinforced concrete, elevators, plastics, composite materials and artificial stone.

These resulted in increased height, scale, interior spaciousness and embellishment to structures. Structural steel and reinforced concrete also allowed load bearing to be allocated to selected points. Now window openings could be large, delicate and thinly separated as they were no longer integral to the structural strength of the wall. A new approach to design developed in the architectural community.

Glassmaking made advances from hand blown with obvious imperfections, to glass rolled in sheets. The size of the glass for window panes increased, while the number of panes used in each window sash, decreased. A window with two sashes of 12 panes each (12 x 12), became a 6 x 6, then a 2 x 2, 1 x 1, until large sheets of glass were capable of becoming a wall structure. The exception to this chronology are the 20th century Period Revival styles that used multipaned sash to introduce a sense of antiquity.

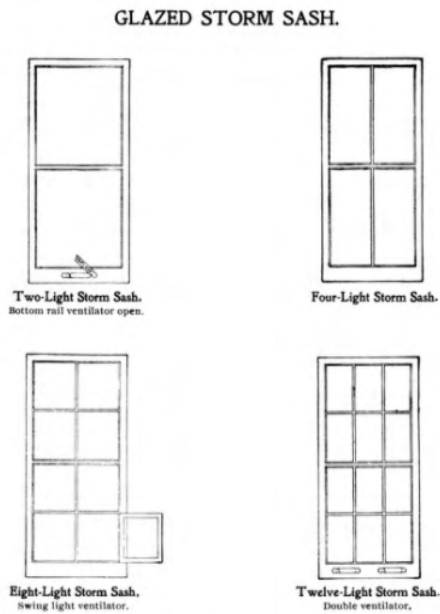


Figure 28. Examples of Glazed Storm Sash (Image: Universal Design Book).

Some architectural styles favoured certain shapes of window openings such as flat, pointed or round-headed. Gothic Revival re-introduced the use of stained glass.

As urban areas became densely populated, etched and art glass was used to let in light and maintain privacy. Glass was used as door panels, transoms over doors and dividers in an attempt to lighten otherwise dimly lit interiors.

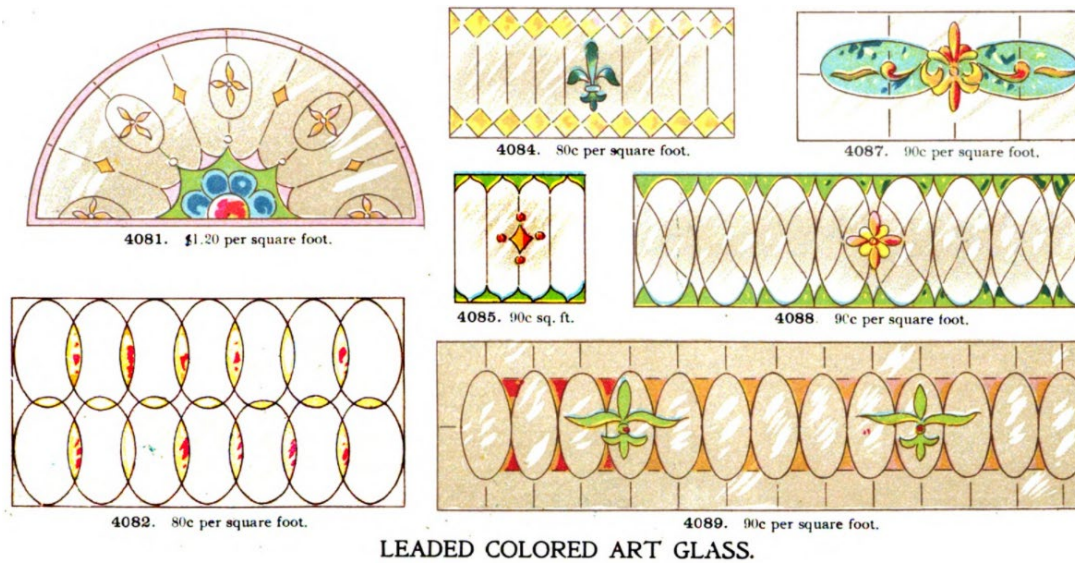


Figure 29. Examples of Leaded Colored Art Glass (Image: Universal Design Book).

6.3.6 Architectural Style

In Ontario, the architectural styles of settler society in the 18th and early 19th century are Georgian, Neoclassical and Regency.

The Gothic Revival style and its increasing level of complexity and decoration dominated the 19th century, but there were other popular styles during this period. The 20th century saw the rise of Period Revivals and “modern” styles with simple lines and often innovative designs made possible by the new materials available.

Many publications about architectural styles are available as reference. These will also identify which design features or elements are typical of each style.

For example, the balanced façade, returned eaves and classical doorcase with its sidelights and a transom, are elements typical of Georgian styling.

Pointed window openings and roof gables, steep roofs and fanciful trim are featured on Gothic Revival buildings.

Although many structures are a mix of styles, most have a dominant style impression. Recognizing that dominant style is a clue to its date.



Figure 30. Georgian Style, McGregor-Cowan House, Windsor (Image courtesy of the City of Windsor).



Figure 31. Gothic Revival Style, Hilary House, Aurora (Image courtesy of Town of Aurora).

6.3.7 Interiors

Interiors also changed with technological developments. For example, in some communities the fireplace as the only source of heat, cooking and evening light may have dominated the interior of a settlement period dwelling. Open hearths were a fire hazard and as soon as possible the kitchen was segregated to an outbuilding, basement, rear or side wing. Smaller heating fireplaces and heating stoves were installed in the main house and eventually replaced with central heating. As cooking stoves became safer and affordable, more kitchens became part of the main floor plan. (Just as many bathrooms came indoors with the invention of flush toilets and availability of pressurized water.)

Physical evidence of this evolution may be found, for example, in the discovery of the hearth behind a wall, or stovepipe holes that were later cut through a wall as they were not part of the original framing.

Another example of technological evolution is in lighting. By the mid 19th century, candle and oil lamps were being replaced with kerosene lamps. Gaslight was soon available but its sulphurous fume killed plants, tarnished metal, and discoloured paint. Most kept it outside until the 1886 invention of a safer gas mantle. It brought brilliant light into rooms after dark and changed the way interiors were designed. If a local gasworks was established, gaslight became possible and buildings were equipped with the necessary pipes and fixtures. The early 20th century witnessed the development of local hydroelectric plants, changing the standard in many communities to electric lighting.

Each change in lighting may have left some physical evidence such as ceiling hooks for oil and kerosene lamps, gas pipes and early knob and tube electrical wiring.

PLACEHOLDER: MHSTCI would like to include an image of a building interior identified in a designation bylaw. Please send materials to joseph.harvey@ontario.ca

Evaluation

A heritage property does not have to be a pure form or best example of a style, or incorporate the latest available in technological innovation, materials or philosophy.

Its cultural heritage value or interest is in what was created given the resources of the community at a particular time in its history. Ultimately, the questions to be answered are

those posed in the criteria for determining property of cultural heritage value or interest as outlined in this guide.

Researching a Property

Community Context

- Learn about community history and activities that may hold cultural heritage value or interest

Visit the property

Historical Research

- Search pre-patent land records for early properties
- Search Land Registry Office property Abstracts and registered documents
- Review property tax assessment rolls
- Review sources such as census records, directories, photographs, maps, newspapers, insurance plans, business records and family materials

Site Analysis and Physical Evidence

- Develop knowledge of construction, materials, architectural style and other related topics
- Analyse and record the physical characteristics of the property

Evaluation and Report

- Merge the historical research information with the oral, documentary and physical evidence
- Make conclusions and deductions based on the supporting documentation
- Identify any cultural heritage value or interest of the property
- Describe the heritage attributes that support that value or interest

Resources and Further Information [this section under development]

The Ontario Heritage Trust, as an agency of the Ministry of Heritage, Sport, Tourism and Culture Industries, maintains a register of all designated properties in Ontario. Visit the Ontario Heritage Act Register at <https://www.heritagetrust.on.ca/en/pages/tools/ontario-heritage-act-register>. If you have questions or cannot locate the information you are looking for, email or call the Provincial Heritage Registrar at registrar@heritagetrust.on.ca or 437-246-9092.

For more information on the *Ontario Heritage Act* and conserving your community heritage, visit the Ministry of Heritage, Sport, Tourism and Culture Industries' website at [website]. Questions can be directed to heritage@ontario.ca.

Acknowledgements

Thanks to the many members of Ontario's heritage community who helped with the development and review of this guide. The ongoing assistance, thoughtful comments and advice to the ministry are very much appreciated. In particular, we would like to recognize our colleagues at the Ontario Heritage Trust for their contributions.



Figure 1. "10268 Yonge Street – Built in 1897, the original Richmond Hill High School was later used as the town hall and a library. It is now a well-loved coffee house. It was restored by the City of Richmond Hill and integrated into the newly built Richmond Hill Centre for the Performing Arts (Images courtesy of the City of Richmond Hill).

Designating Heritage Properties

Every community in Ontario has its own unique culture and heritage. Each city, town, township or county has places, spaces and stories that enrich it, inspire it, enlighten it and guide it in its growth and development.

These places are integral parts of the identity of our communities, and they play a significant role in economic development by helping to enhance a community's quality of life, strengthen its distinctiveness, stimulate revitalization and attract tourist dollars.

Under the Ontario Heritage Act, municipalities can pass bylaws to formally designate properties of cultural heritage value or interest. Formal designation of heritage properties is one way of publicly acknowledging a property's heritage value to a community. At the same time, designation helps to ensure the conservation of these important places for the benefit and enjoyment of present and future generations.

Amendments to the Ontario Heritage Act proclaimed in January 2021 seek to increase transparency and efficiency in municipal decision-making, while continuing to protect the heritage properties that communities value.

Properties can be designated individually or as part of a larger area or heritage conservation district. This guide concentrates on individual property designation under section 29 in Part IV of the Ontario Heritage Act. It explains what designation is, describes the steps in the process, and explores how it helps to conserve heritage properties into the future. For more information about heritage conservation districts, please see *Heritage Conservation Districts: A Guide to District Designation Under the Ontario Heritage Act*.

1. What's in this guide?

2. Introduction to Designation

This section describes what designation is and how it works to protect cultural heritage properties.

3. The Designation Process

A step-by-step description of the designation process is provided, including a discussion of the role of the municipality, the municipal heritage committee and the property owner.

4. Preparing the Designation Bylaw and Related Material

This section explains each of the different written requirements for a designation and provides advice on how these should be prepared.

5. Conserving the Heritage Value of a Designated Property

This section describes how designation can work to conserve the heritage value of a property by managing alterations and supporting ongoing maintenance and conservation.

6. Demolition Control

This part of the guide relates to a request for demolition or removal of a building, structure or heritage attribute on a designated property and how demolition can be avoided,

7. Amending a Designation Bylaw

When and how should a designation bylaw be amended? This section helps to answer these questions and also discusses when and how a designation bylaw would be repealed.

8. Resources and Further Information

Appendix: Designation Flowcharts

Although the individual processes are described throughout this guide, this appendix provides a series of detailed flowcharts for easy reference.

This guide is one of several published by the Ministry of Heritage, Sport, Tourism and Culture Industries as part of the Ontario Heritage Tool Kit. The Ministry has published these guidance materials as an aid to municipalities and others working with the Ontario Heritage Act. The information in this guidance is not intended to take the place of legal advice. In the event of any conflict between this guidance and any applicable legislation or regulations, including the Ontario Heritage Act and its regulations, the legislation or regulations prevails.



Figure 2. The Elam Martin Farmstead was designated in 2001 as one of the last remaining Mennonite farmsteads in the City of Waterloo (Image courtesy of the City of Waterloo).

2. Introduction to designation

Our cultural heritage is what we value from the past, and what we want to preserve for future generations.

Identifying and protecting places in our communities that have cultural heritage value is an important part of planning for the future, and of helping to guide change while keeping the buildings, structures and landscapes that give each of our communities its unique identity.

Municipalities have a key role to play in conserving places that have cultural heritage value. The designation of individual properties under the Ontario Heritage Act is one tool that municipalities have used to protect thousands of heritage properties in hundreds of communities across Ontario.

Heritage designation:

- Recognizes the importance of a property to the local community;
- Protects the property's cultural heritage value;
- Encourages good stewardship and conservation; and
- Promotes knowledge and understanding about the property.

Designation under the Ontario Heritage Act applies to real property, and helps to recognize and protect the heritage features on that property.

Property designation is not limited to buildings or structures but can include groups of buildings, cemeteries, natural features, cultural heritage landscapes or landscape features, ruins, or archaeological sites.

Designation not only publicly recognizes and promotes awareness of heritage properties, it also provides a process for ensuring that changes to a heritage property are appropriately managed and that these changes respect the property's cultural heritage value. This includes protection from demolition.

3. The designation process

There are seven key steps to designating an individual property under section 29 of the Ontario Heritage Act. These include:

- Identifying the property as a candidate for designation;
- Researching and evaluating the property;
- Serving a notice of intention to designate, with an opportunity for objection;
- Passing the designation bylaw;
- Appeals and coming into force;
- Listing the property on the municipal register; and
- Including property on the Ontario Heritage Trust register.

A flowchart outlining the designation process is provided in the appendix.



Figure 3. Harrison Park is recognized for its central role in defining the community of Owen Sound. The Black History Cairn commemorates the contribution of the community's black settlers (Images courtesy of Owen Sound).

3.1.Step 1: Identifying the property

Identifying local heritage resources is the first step toward conserving and protecting them.

Properties of cultural heritage value or interest are usually identified by municipal heritage committees, or through a local community process such as an inventory of cultural resources, a municipal cultural planning process, or a community planning study.

Many municipalities keep registers of property of cultural heritage value or interest. The Ontario Heritage Act allows property that has not been designated, but that municipal council believes to be of cultural heritage value or interest, to be listed on the municipal register. Many of these listed properties are eventually recommended for designation. See *Heritage Property Evaluation: A Guide to Listing, Researching and Evaluating Cultural Heritage Property in Ontario Communities* for more information about the municipal register.

A property can also be recommended for designation by a property owner, or through the suggestion of an individual or group in the community. In some cases, this can occur because a property is about to undergo alteration, demolition or development. Initiating a designation is one way of protecting a property of potential heritage value to allow more time for considering options and alternatives. For properties going through certain planning approvals, the ability to issue a notice of intention to designate is limited. See “Step 3: Serving Notice of Intention to Designate.”

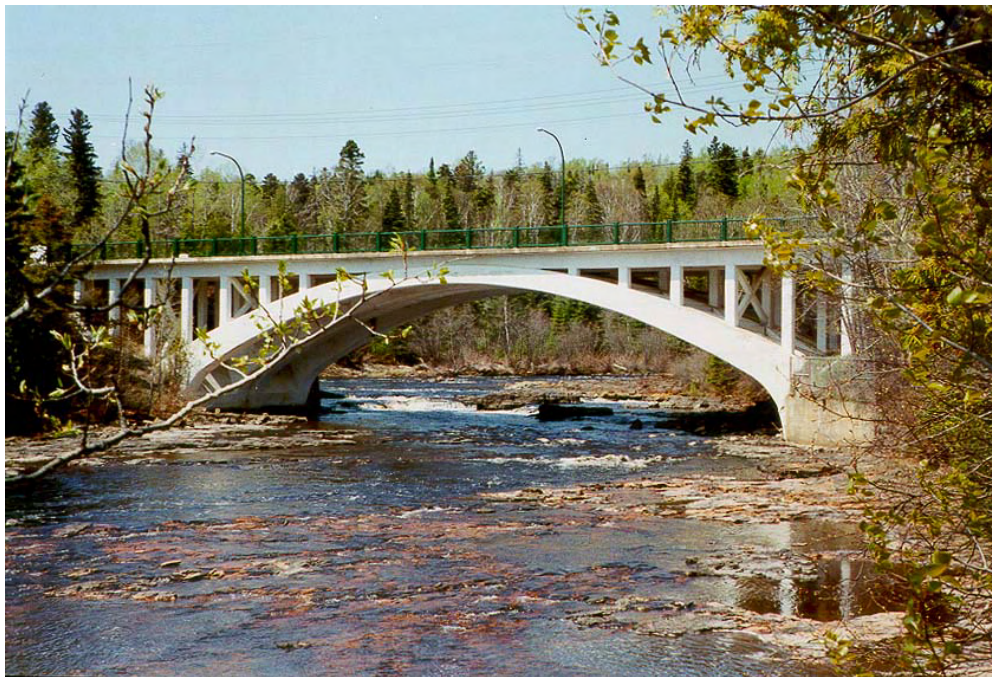


Figure 4. The Black Bay bridge in the city of Thunder Bay was one of the first single spandrel reinforced concrete bridges ever constructed (MHSTCI).

3.2.Step 2: Researching and evaluating the property

Careful research and an evaluation of the candidate property must be done before a property can be recommended for designation. Criteria are set out in a regulation made under the Ontario Heritage Act to determine whether property is of cultural heritage value or interest. See the Heritage Property Evaluation guide for further information on this process – this guide provides advice on evaluating properties to determine their cultural heritage value or interest.

A designation report should be prepared for council's consideration, containing the written statements and descriptions required to support the designation. These are discussed in more detail in the next chapter.

Before deciding whether or not to proceed with a designation, council must consult with its municipal heritage committee (where one has been established). A municipal heritage committee is instrumental in ensuring that all relevant heritage information is considered and assisting in the evaluation of the property.

Designation and the property owner

The property owner is a key player in a designation under the *Ontario Heritage Act*. As early as possible in the process, designation should be discussed with owners to ensure that they are actively engaged in the process. There are many myths and misconceptions about designation that may need to be clarified. Once they understand the process, many owners are interested in designation as a way of expressing pride in their property and ensuring it is protected for the future.

Municipal heritage committees across Ontario have built positive relationships with owners of designated properties to support them in their conservation efforts, and owners value the advice and information committee members and municipal staff provide.



Figure 5. An award is presented to a homeowner for maintaining their heritage property with pride (Image courtesy of Community Heritage Ontario).

In cases where a property being considered for designation is occupied by tenants, owners should be encouraged to notify those tenants of the potential designation and any implications it may have for work they plan to undertake on the property.

3.3.Step 3: Serving Notice of Intention to Designate

If council passes a motion to proceed with designating a property, it must notify the owner as well as the Ontario Heritage Trust and publish a notice of intention to designate in a newspaper having general circulation in the municipality.

Timeframes

Council has a limited period to give its notice of intention to designate a property when the property is subject to one of the following applications under the Planning Act:

- An official plan amendment (s. 22);
- A zoning bylaw amendment (s.34);
- A plan of subdivision (s.51).

See the Ministry of Municipal Affairs and Housing's website on [Applying for changes to land use](https://www.ontario.ca/page/applying-changes-land-use) at www.ontario.ca/page/applying-changes-land-use to learn more about these types of applications.

The limited period of 90 days starts after a council or planning board has completed giving all the required public notices for a complete application. In many municipalities, the clerk will sign an affidavit that these notice requirements have been fulfilled, signalling the start of the 90 days. Council should use this time to decide whether to issue a notice of intention to designate for any property that is part of the application.

As part of these planning applications, a municipality or approval authority should require a heritage impact assessment (or equivalent study) to evaluate proposed development or site alteration to demonstrate that significant cultural heritage resources will be conserved. Mitigative (avoidance) measures or alternative development or site alteration approaches may be required. There may be a municipal checklist or management plan to identify properties of potential heritage significance. The Ministry offers a checklist for Evaluating Potential for Built Heritage Resources and Cultural Heritage Landscapes. For more information on identifying cultural heritage resources during Planning Act processes, please see the ministry's A Guide to Cultural Heritage Resources in the Land Use Planning Process.

Exceptions to the 90-Day Restriction

Mutual Agreement

The municipality and the property owner can agree at any time to extend this 90-day period or for the timeframe not to apply with respect to the Planning Act applications. This may be a useful option to explore in many circumstances. For example, if a project needs a building to be temporarily moved to accommodate construction staging, after which the building is moved back to the property, or when a development proposal will result in the subdivision or severance of land, and only a portion of the original property is of cultural heritage value or interest and would be designated.

Municipal Emergency Period

There are times where administrative restrictions could impact a council's ability to issue the notice of intention to designate within those 90 days. An exception is provided for where the head of a council declares a period of emergency under the *Emergency Management and Civil Protection Act*. If any part of the 90 days falls within a municipally declared emergency period, council will have 90 days from the end of the emergency period to issue the notice of intention to designate.

End of 90-day limitation

The 90-day limitation ceases to apply when the Planning Act application that triggered it is finally disposed of either by operation of the Planning Act or through an order of the Tribunal. This would include where:

- A request for an official plan amendment is approved and adopted by the municipality;
- A zoning bylaw amendment is approved and in effect;
- A plan of subdivision is registered;
- The municipality refuses the planning application or request and there is no appeal;
- There is an appeal to the Ontario Land Tribunal, the appeal is complete, a decision has been issued, and that decision is in effect.

Once the 90-day limitation timeframe (or an extended timeframe when an exception has been invoked) no longer applies, the municipality can issue a notice of intention to designate.

Multiple Applications

It may be the case that a municipality receives a subsequent Planning Act application that applies to the same property that would also trigger the 90-day restriction. For example, first a request for an official plan amendment is submitted and while awaiting a decision on that application, the property owner submits a request for a zoning bylaw amendment that affects the same property. Alternatively, some requests or applications are abandoned and receive no decision and later a new and different request or application is made.

A subsequent request or application made for the same property cancels the restriction placed on the property by the previous application. This includes any exceptions that may have been made to the original 90-day timeframe by either a mutual agreement or through others that may have applied or were invoked by the municipality. With the new application, the municipality now has a new 90-day timeframe to issue a notice of intention to designate the property. The date the council or planning board has completed giving all the required public notices for a complete application for the subsequent application is what governs the new 90-day restriction, both for the purposes of applying any exceptions and for determining when the restriction finally ends.

Where a property owner coordinates the submission of multiple applications for the same property, and council or the planning board completes giving all the required public notices for all the applications on the same day, they are effectively considered a single event for the purposes of the 90-day restriction and applying the exceptions for extending the 90-days, as appropriate. However, the restriction on council's ability to issue a notice of intention to

designate ends as the last date on which all of the requests or applications are finally disposed of under the Planning Act.

Contents of the notice of intention to designate and public notices

Under section 29 of the Ontario Heritage Act, the notice of intention to designate served on the owner and the Ontario Heritage Trust must include the following:

- The description of property so that it can be readily ascertained;
- The statement of cultural heritage value or interest, which identifies the property's heritage significance;
- The description of heritage attributes outlining the particular features that should be protected for the future; and
- A statement that any notice of objection to the notice of intention to designate the property must be filed with the municipality within 30 days after the date of publication of the newspaper notice.

The notice in the newspaper must include the above information, except for the description of heritage attributes. The newspaper notice must say that further information about the proposed designation is available from the municipality.

Considering objections

The 2019 amendments to the Ontario Heritage Act introduced a new review role for municipal councils.

If an objection to a notice of intention to designate is filed with the municipality within the 30-day period from the date of publication of notice in the newspaper, council must consider the objection, then decide whether to withdraw the notice or proceed with designation.

Council must consider the objection and make a decision whether or not to withdraw within 90 days after the end of the 30-day notice period. If council fails to meet this deadline, the notice will be deemed withdrawn, and council will have to issue a notice of withdrawal.

This notice of withdrawal must be given to the property owner, any person who objected, and the Ontario Heritage Trust. The notice must also be published in a newspaper.

As part of its overall heritage conservation approach, a municipality should establish public facing procedures for how council will consider objections to notices of intention to designate property of cultural heritage value or interest.

These procedures should specify how to provide a suitable notice of objection, including how to set out the reason for the objection and all relevant facts. They should also include factors or criteria a council takes into account when deciding whether to withdraw the notice.

Questions council should ask in deciding whether to withdraw the notice of intention to designate may include:

- Has any new or relevant information come to light about the cultural heritage value or interest of the property since the notice was given?
- Are there concerns, inaccuracies or discrepancies, or some other issue with the property evaluation or other documentation related to the notice of intention to designate raised by one or more objections?

If council decides to withdraw the notice of intention to designate, it must issue a notice of withdrawal.

Protecting a property of heritage value

Sometimes, it is only when change is imminent that a community recognizes a property's heritage value. Municipal councils can use the notice of intention to designate as a way of avoiding the demolition or alteration of a property that may be worthy of designation. This gives council an opportunity to consider the significance of the property, and alternatives to alteration or demolition, before irreversible change takes place.

If a notice of intention to designate is issued for a property, the property will be subject to certain interim protections. Any existing permit that allowed for the alteration or demolition of the property, including a building permit or a demolition permit, becomes void. Proposed activities that will require council's consent during the period of interim protection include any:

- Alteration affecting the property's heritage attributes;
- Demolition or removal of heritage attributes; or
- Demolition or removal of a building or structure.

The owner's consent is not required for a designation to proceed. The owner's objections can be considered by following the objection procedure described above.

3.4.Step 4: Passing the heritage designation bylaw

If there are no objections filed within the required time period, or council decides not to withdraw the notice of intention to designate following such an objection, council may then pass a designation bylaw. The bylaw must include the description of property, the statement

explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property

The 2019 amendments to the Ontario Heritage Act introduced two new requirements for bylaws: one relating to content, the other to process.

Content requirement

New bylaws must now comply with the requirements set out in regulation XXX/21. See more information on preparing the designation bylaw in chapter 4.

Timeframe requirement

Council must pass the bylaw within 120 days after publishing the notice of intention to designate in a newspaper. If council fails to meet this deadline the notice will be deemed withdrawn, and council will have to issue a notice of withdrawal.

If a notice is deemed withdrawn, council may issue a new notice. Council needs to ensure, however, that no prescribed events have occurred that might trigger the 90-day limit on giving notice of intention to designate.

Exceptions to the 120-day timeframe for passing a designating by-law

Mutual Agreement

The municipality and the property owner can agree at any time within the 120-day period to extend the timeframe by any amount of time.

Municipal Emergency Period

An exception is provided for where the head of a council declares a period of emergency under the *Emergency Management and Civil Protection Act*. If any part of the 120 days falls within a municipally declared emergency period, council will have 120 days from the end of the emergency period to pass the designating bylaw.

New and relevant information

The 120-day timeframe applies to passing a bylaw following a notice of intention to designate. The research required to produce the notice should have been thorough. However, circumstances may result in the discovery of new and relevant information. Examples could include, but are not limited to:

- A peer review of a heritage impact assessment that was part of required documentation for a development proposal might identify inaccurate information or information that was missed in the report about the property's cultural heritage value or interest.
- An adjacent property may be subject to a development proposal or other change (e.g., fire) that might affect the proposed cultural heritage value or interest of the property in question.
- Information that came to light during the municipal council's consideration of any objections of the notice of intention to designate

The municipality can extend the timeframe if it determines that new and relevant information has come to light that could have an impact on the potential cultural heritage value or interest of the property, and that information was received after the notice of intention to designate was issued. Further investigation may be needed.

Where new and relevant information is revealed, the municipality may pass a resolution to state that new and relevant information that could impact the potential cultural heritage value or interest of the property has been received and that it will have 180 days from the date of the resolution to pass the designating bylaw. The 180 days allows for where further information, including a technical cultural heritage study, may also be required to determine if the municipality wishes to pass the designating bylaw. Council must ensure that notice of the extension is served on the owner. The notice must include the reasons for the extension and state the period of the extension.

3.5.Step 5 : Providing notice of bylaw

Should council pass the bylaw following the process set out in section 29, it must ensure that the following are served on the property owner, the Ontario Heritage Trust and anyone who objected to the notice of intention to designate in accordance with the requirements under section 29:

- A copy of the bylaw;
- In accordance with the requirements under section 29, a notice that any person who objects to the bylaw may appeal to the Ontario Land Tribunal and the clerk of the municipality, within 30 days after the date of publication of newspaper notice.

Notice that the bylaw has passed is also published in the newspaper. The public notice in the newspaper must also include the information about appeal rights in accordance with the requirements under section 29. Appeal rights are broad: a person does not have to have

objected to the notice of intention to designate to retain the right to appeal the bylaw to the Ontario Land Tribunal.

3.6.Step 6: Appeals and coming into force

Anyone who objects to council's decision to designate a property through bylaw may appeal to the Ontario Land Tribunal.

An appeal must be made within 30 days of publication of notice in the newspaper. The appeal must set out the reason for the objection to the bylaw and all relevant facts.

The appeal must also be accompanied by the fee charged under the Ontario Land Tribunal Act.

If a hearing is held, the tribunal would decide whether to dismiss the appeal, to repeal or amend the bylaw, or to order the municipality to repeal or amend the bylaw.

Coming into force

The bylaw comes into force on the day after the 30-day notice period ends, if there were no appeals given within that time period.

If there were appeals given within the 30 day period, the bylaw comes into force automatically if the appeals are withdrawn or dismissed.

If the tribunal orders the bylaw amended, or directs the municipality to amend the bylaw, the bylaw comes into force the day it is amended.

Once the bylaw comes into force, the municipality must register a copy of the final bylaw on against the properties affected by the by-law in the appropriate land registry office and serve a copy of the registered bylaw to the Ontario Heritage Trust.



Figure 6. The Pagani House, built in 1961 and designed by architect Richard Pagani as his own home, is one of the best examples in Guelph of modern design (Image courtesy of Frank Hochtchenbach).

3.7.Step 7: Listing the property on the municipal register

Under section 27 of the Ontario Heritage Act, designated properties must then be listed on the municipal register of property that is of cultural heritage value or interest, kept by the municipal clerk. The listing includes the following:

- Legal description of the property;
- Name and address of the owner;
- Statement explaining the cultural heritage value or interest of the property; and
- Description of heritage attributes of the property.

3.8.Step 8: Including the property on the Ontario Heritage Trust register

Once a bylaw comes into force and the registered copy has been sent to the Ontario Heritage Trust, the property is then listed on the provincial register of heritage properties. This register, which can be accessed at www.heritagetrust.on.ca/en/index.php/pages/tools/ontario-heritage-act-register, is a valuable resource tool for learning about and promoting heritage properties across the province. It also sets heritage properties in a provincial context. With access to a computer, any person can search the OHT's register by keyword, property type or municipality.

PLACE HOLDER: MHSTCI is interested in obtaining images of heritage properties that illustrate the cultural diversity of Ontario's communities. Please send suggested images to joseph.harvey@ontario.ca

4. Preparing the designation bylaw and related material

In putting forward a property for designation, there are four key pieces of information that must be prepared.

1. Description of property (so that the property can be readily ascertained);
2. Statement of cultural heritage value or interest;
3. Description of heritage attributes; and
4. Legal description.

How should these statements and descriptions be written?

Municipal staff, property owners and others are generally familiar with the concept of a legal description, which describes the property and its boundaries using legal terminology and reference plans (where appropriate). The other statements noted above may, however, be less familiar.

These statements and descriptions must be carefully written so as to:

- Raise community awareness and understanding about the importance of the property;
- Help the property owner, council, municipal heritage committee and municipal staff make good decisions about alterations to the property.



Figure 8. Designed by Ludwig Mies van der Rohe, the TD Centre in Toronto was the tallest building in Canada from 1967-1972. A leading example of the international style it altered the Toronto city scape and influenced many building throughout the country (MHSTCI)

4.1. When are designation statements and descriptions used?

Before a designation bylaw is passed (OHA, subsection 29(4))

The notice of intention to designate published in a newspaper, sent to the property owner and sent to the Ontario Heritage Trust, must include an adequate description of property and a statement explaining the cultural heritage value or interest of the property. This statement and description inform the public about what is being designated and why. The statement of cultural heritage value or interest is also the basis upon which any person can object to or question the notice of intention to designate.

Notice to the Ontario Heritage Trust and the property owner must include a description of property, a statement explaining the cultural heritage value or interest and a description of the heritage attributes of the property.

In the designation bylaw (OHA, subsection 29(8), paragraph 2))

Designation bylaws must include a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property. Best practice is to include them in the designation bylaw as schedules. The bylaw is registered on the title of the property, so that subsequent owners and decision-makers will know the property's cultural heritage value and its heritage attributes.

On the municipal register of property of cultural heritage value or interest (OHA, subsection 27(2))

The legal description of the property, the name and address of the owner, the statement explaining the cultural heritage value or interest and the description of heritage attributes of for designated properties are included in the municipal register, maintained by the clerk of the municipality.

When changes are proposed to a designated property (OHA, section 33 and 34)

The statement of cultural heritage value or interest and the description of heritage attributes help to guide future decisions about alteration and demolition proposals by clearly identifying the heritage attributes of the property that should be protected and conserved.

4.2. Mandatory requirements

The designation bylaw must include the following information to conform to regulation XXX.

1. Description of property – describes what will be designated so that the property can be readily ascertained.

The legal description of the property is always required to register the bylaw against the property in the land registry office. The by-law must identify the property by:

1. the municipal address of the property, if it exists,
2. the legal description of the property, including the property identifier number that relates to the property, and
3. a general description of where the property is located within the municipality, for example, the name of the neighbourhood in which the property is located and the nearest major intersection to the property.

4. a site plan or scale drawing that identifies each area of the property that has cultural heritage value or interest. Alternatively, a description may be provided in writing to clarify the areas of the property that has cultural heritage value or interest.

Under the Ontario Heritage Act, designation of a heritage property applies to real property — the land itself and the buildings and structures on it. In some cases only a portion of a property may be considered to have cultural heritage value or interest, not the entire property. In such cases, a registerable description (usually a reference plan) is used to define the area of the property that is included in the designation.

For example, imagine a 100-acre farm where council considers only the historic farmhouse and the barn to be of cultural heritage value or interest and worthy of designation under the Ontario Heritage Act. The remaining farmland could be excluded from the designation bylaw. A reference plan can be used to identify the protected area.

The description of property would, in most cases, be no longer than two or three sentences.

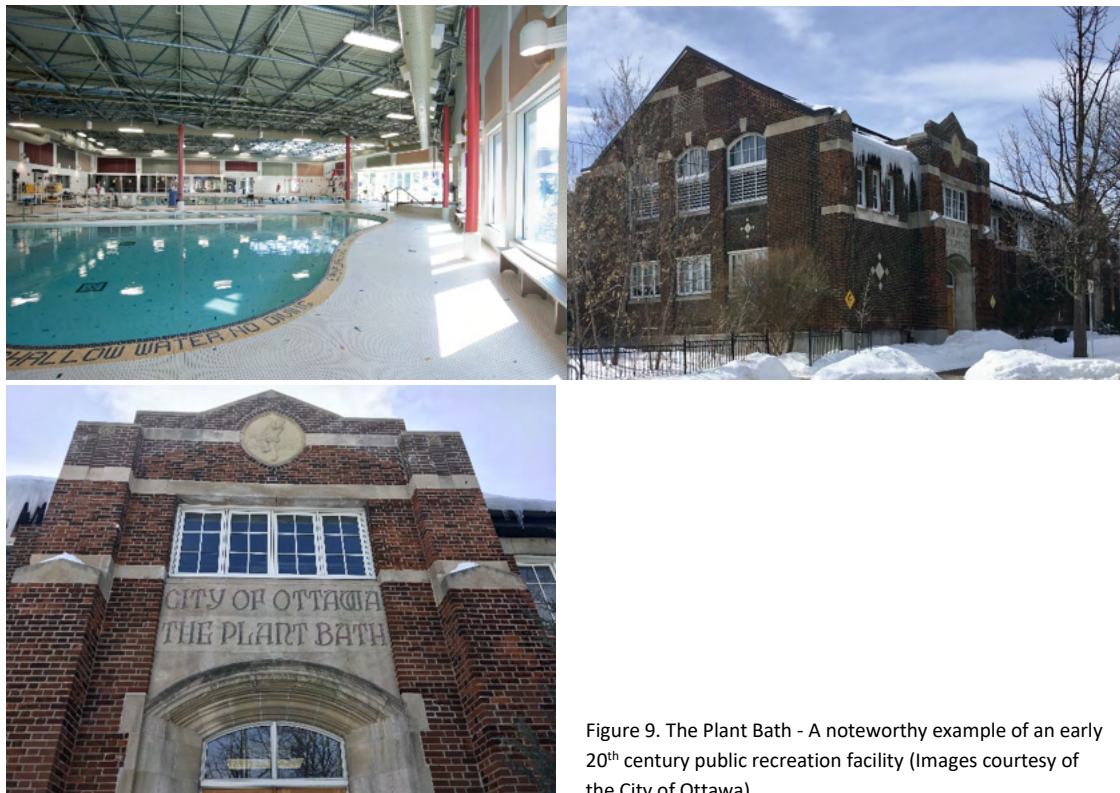


Figure 9. The Plant Bath - A noteworthy example of an early 20th century public recreation facility (Images courtesy of the City of Ottawa).

2. Statement of cultural heritage value or interest – describes why the property is being designated.

It conveys why the property is important and merits designation, explaining cultural meanings, associations and connections the property holds for the community. This statement must reflect the relevant criteria for determining cultural heritage value or interest prescribed in Ontario Regulation 9/06 of the Ontario Heritage Act.



Figure 10. Hamilton's first skyscraper is a representative example of the Art Deco and Gothic Revival Architectural styles (Image courtesy of the city of Hamilton).

These criteria include:

- Design or physical value, meaning that the property:
 - Is a rare, unique, representative or early example of a style, type, expression, material or construction method; or
 - Displays a high degree of craftsmanship or artistic merit; or
 - Demonstrates a high degree of technical or scientific achievement.



Figure 11. J.E.H Macdonald House – Associated with the Group of Seven the property continues to be a center of artistic activity in the community of Vaughan (Images courtesy of the Archives and Records Management Services Division, Office of the City Clerk, City of Vaughan).

- Historical or associative value, meaning that the property:
 - Has direct associations with a theme, event, belief, person, activity, organization, or institution that is significant to a community; or
 - Yields, or has potential to yield, information that contributes to an understanding of a community or culture; or

- Demonstrates or reflects the work or ideas of an architect, artist, builder, designer or theorist who is significant to a community.



Figure 12. The light house is a recognized landmark within the community of Kincardine on Lake Huron. It reflects both the community's and lake's maritime history (Images courtesy of the Town of Kincardine).

- Contextual value, meaning that the property:
 - Is important in defining, maintaining or supporting the character of an area; or
 - Is physically, functionally, visually or historically linked to its surroundings; or
 - Is a landmark.

Refer to the [Heritage Property Evaluation](#) guide for information on how to apply the criteria in Ontario Regulation 9/06.

The statement of cultural heritage value or interest should be brief. It should provide enough information to explain how each described attribute contributes to the cultural heritage value or interest of the property. The statement should be no longer than two or three paragraphs, explaining the core aspects of the property's cultural heritage value. It should not provide a broad history of the property, but should focus on what makes the property important. A detailed description of the property's history can be included in the broader designation report and kept on file with other supporting documentation.



Figure 13. Brazel Chambers House – This home reflects the building technologies of upper Canada in the mid 19th century. The designation includes its original doors windows and shutters (Image courtesy of Bradford West Gwillimbury).

3. Description of heritage attributes – describes the physical features or elements of the property that must be retained to conserve its cultural heritage value or interest.

Heritage attributes are those physical features or elements of the property, and of buildings and structures on the property, that contribute to the property's cultural heritage value or interest. They work together to characterize the property's cultural heritage value or interest. When these features are clearly identified decision makers can more effectively ensure that future changes to the property do not adversely impact its cultural heritage value or interest.

Readers should be able to understand how an identified heritage attribute contributes to the cultural heritage value or interest of the property. Brief explanations may be required to explain each attribute.

Heritage attributes may include, but are not limited to:

- Style, massing, scale or composition of built forms;
- Features of a property related to its function or design;
- Features related to a property's historical associations;
- Interior spatial configurations, or exterior layout;
- Materials and craftsmanship; or
- Relationship between a property and its broader setting.

4.3.Examples



Figure 14. Images courtesy of the City of Ottawa

SIDEBAR:

Example 1: a property that includes a single building

Description of property – Lipsett House, 37 Oriole Drive, Ottawa

The Lipsett House, 37 Oriole Drive, is a two-storey, flat-roofed, rectangular structure constructed in 1959 and located on the west side of Oriole Drive in Rothwell Heights.

Statement of cultural heritage value or interest

The cultural heritage value of the Lipsett House lies in it being an excellent example of Modernist residential architecture of the mid-20th century in Ottawa, its historical associations with the growth of the National Capital Region and the development of Rothwell Heights during the post-war period and its associations with architect Paul Schoeler, and its contextual value for its contribution to the character of the Rothwell Heights neighbourhood.

The Lipsett House has design value as an excellent example of Modernist architecture. Popular in Canada from 1940 to 1970, Modernist architecture emphasized the simplification of form and lack of decorative features or historical references. The Modern style is expressed in the Lipsett House through its modest footprint, simple rectangular plan, low profile flat roof, attached and integrated open carport, minimal entranceway protected by a simple canopy, simplification of form and the elimination of decorative features, and large floor-to-ceiling rectangular windows, some with exterior spandrel panels.

The Lipsett House has historical value for its associations with the development of Rothwell Heights, the expansion of the National Capital Region in the Post-war era and as an early example of the work of architect Paul Schoeler. Schoeler is considered to be a pioneer of Modernist architecture in Ottawa. Other examples of his work include the Public Service Alliance of Canada Building (1968), the Canadian Brotherhood of Railway Transport Building (1973), and the Canadian Labour Congress Building (1973).

The Lipsett House has contextual value as one of several experimental Modernist buildings in Rothwell Heights. The house was carefully designed and sited to be in harmony with its surrounding natural environment. The lot is well treed and is in keeping with the architectural and forested character of Rothwell Heights.

Description of heritage attributes

Key exterior elements that contribute to the heritage value as an excellent example of the Modern style in Ottawa include its:

- *Simple rectangular plan, small footprint and the siting of the building on the lot;*
- *Asymmetrical main façade with three evenly spaced rectangular windows with spandrel panels below;*
- *Rectangular windows with slender frames;*
- *Entranceway with simple canopy;*
- *Exterior cladding materials including vertically laid cedar siding;*
- *Use of exposed concrete block as a construction material and design element;*
- *Wood-lined, three-season porch on the south side of the building;*

- *Open deck on the rear west façade; and,*
- *Attached and integrated open carport.*

Key interior elements that contribute to the heritage value as an excellent example of the Modern style in Ottawa include:

- *The floating staircase and railing; and,*
- *The large, centrally located open-concept living room with views of the escarpment.*

Key exterior attributes that contribute to the contextual heritage value are:

- *The well-treed lot;*
- *The escarpment and views towards it; and,*
- *The ratio of the house to the lot.*



Figure 15. Images courtesy of the Town of Caledon

SIDEBAR:

Example 2: a cultural heritage landscape

Description of property – Walker Farm, 89 Walker Road West, Town of Caledon

Statement of cultural heritage value or interest

The property known municipally as 89 Walker Road West was the Walker farm from possibly as early as 1844 to about 1901. Walker Road West began as Walker's Lane, an access road between the north edge of the village of Caledon East on the east and this Walker farm to the west. The property contains a Georgian style stone dwelling built in or about 1863 by James Walker. This was the second Walker dwelling on the property, the first being an 1840s log house that was abandoned when the stone house was completed. The rare split level "bank house" form of the stone house, combined with its quality stone craftsmanship and 19th century interior and exterior features, make it an important component of the built heritage of the Town of Caledon. The stone house and other heritage attributes are existing and archaeological evidence of the evolution of this property as the Walker farmstead.

Description of heritage attributes

The heritage attributes of this property are the estimated 1863 Georgian style, stone house (excluding the north addition and south verandah); the stone outbuilding at the north of the stone dwelling; the stone foundation wall ruin at the north of the dwelling; the stone retaining wall at the south side of the dwelling; the tree lined laneway from Walker Road West; and the viewshed south from the stone dwelling to Walker Road West. The following elements of these heritage attributes are important to the cultural heritage value or interest of this property:

1863 Georgian Revival Style, Stone Dwelling

This includes the main section of the 1863 stone house but excludes the north addition and the south verandah.

Exterior:

- *the 1.5 storey with basement, split level or bank form, massing, and scale of the main section of the house*
- *the 3-bay front façade*
- *the overall symmetry of the Georgian Revival styling*
- *the medium pitched gable roof with returned eaves (as original, not current boxed)*
- *all window openings*
- *all original window frames, 6x6 panes type sashes, trim, and lugsills*
- *all original basement window openings*
- *all original basement window 4-pane sash and wells*
- *all elements of the stone masonry and original tooled (incised) lime mix mortar type*
- *the stone lintels over each door and window opening, including the basement level*
- *all elements of the 1863 south doorcase (entranceway) including the diamond glazed transom, panelled embrasures (side recesses), moulded cornice, and sidelights (with*

lower wood and upper glazed panels, but not the existing glazing type), not including the door

- *all original builder's hardware (locks, hinges, fasteners, etc.)*
- *the existence of period brick chimneys in the east and west gables of the main roof*

Interior

- *all original builder's hardware (locks, hinges, knobs, hooks, etc.)*
- *all 1860s components of the main staircase*
- *all components of the original fireplace (pier, hearth, hardware, chimney, etc.)*
- *all 1860s woodwork including door and window trim, baseboards, original doors, panelling, and other ornamentation*
- *all 1860s flooring*
- *all elements of the 1863 south doorcase including the diamond glazed transom, panelled embrasures (side recesses), moulded cornice, and sidelights (with lower wood and upper glazed panels, but not the existing glazing), not including the door*
- *representative evidence of original construction technology, including the roof framing, use of handsplit lath, plasterwork, etc.*

Stone Outbuilding

The form, massing, and stone construction of the outbuilding at the north side of the 1863 house, but not including recent materials or changes to the original form and massing that can be proven.

Cultural Heritage Landscape Elements

The intent is to maintain a 19th century rural context for the cluster of buildings, ruins, and elements that form the dwelling site; and to retain any historic archaeological evidence that may contribute to the understanding of the evolution of the structures within this part of the property.

- *the private, tree lined laneway from Walker Road West to the south side of the stone dwelling and north to the stone outbuilding*
- *the south viewshed from the stone dwelling to Walker Road West*
- *the stone retaining wall along the south side of the 1863 dwelling*
- *the stone retaining wall on the east side of the 1863 dwelling, north of the main house*
- *all elements of the stone foundation wall ruin abutting the stone outbuilding on the east, (north of the dwelling) for building archaeology information purposes*

Archaeological Resources

- registered archaeological site AIGw-73



Figure 16. Images courtesy of the Town of Caledon

SIDE BAR:

Example 3: a complex of buildings on a single property

Description of property – Alton Mill, 1402 Queen Street, Alton

The Alton Mill is a late 19th-century industrial stone complex located on the bank of Shaw's Creek in the heart of the village of Alton. The 3.4 hectare property comprises the main two-storey stone mill building and three-storey water tower, a brick chimney stack, a stone livery, the remains of the stone wool warehouse and the adjacent mill pond and dam.

Statement of cultural heritage value or interest

The Alton Mill is one of only two late 19th-century industrial stone complexes remaining in the once-thriving industrial village of Alton. Established in 1881 as the Beaver Knitting Mill by industrialist and 'free thinker' William Algie, it was renowned nation-wide for the production of fleece-lined long underwear. The mill, often referred to as the 'Lower Mill', was subsequently owned by two other leading local industrialists, John Dods of the Dods Knitting Company and Frederick N. Stubbs of the Western Rubber Company. Stubbs purchased and converted the mill for the manufacture of rubber products in the mid-1930s.

The mill complex represents the longest-running, water-powered mill on the upper Credit River system, remaining in operation until 1982. Built between 1881 and 1913, the existing mill buildings are typical of industrial stone construction of the late 19th century, and reflect alterations, changes in use and the effects of flood and fire over a century of industrial operation.

Situated in the heart of the village amidst residential buildings of a similar age, the Alton Mill complex is a well-known local landmark that has defined the industrial character and history of the village of Alton since its construction.

Description of heritage attributes

Key attributes that express the value of the mill complex as an example of late 19th-century industrial style that reflects alterations, changes in use and the effects of flood and fire throughout a century of operation include its:

- plain but imposing design of rectangular buildings of coursed stone construction;*
- varied ashlar renderings and symmetrical fenestration patterns associated with different period additions;*
- interior features of the main mill building including steel fire doors and hardware, plank flooring, interior wood columns and steel tie-rod support systems, office paneling and glazing and remnant industrial machinery; and*
- ancillary features including a square stone water tower with brick quoins and a hipped roof, a brick chimney stack, a remnant stone wool warehouse; a stone livery; the mill pond and associated dam and mill race.*

Key attributes that express the value of the mill complex as a landmark that continues to define the industrial character and history of the village include:

- its location in the village core, adjacent to the mill pond and creek in the heart of the village, which forms significant vistas from Queen Street, a principal road running parallel to the creek and mill pond, and the 'Pinnacle', a prominent landform directly*

north of the mill.



Figure 17. Heritage buildings can be adapted to wide range of new uses, as can be seen in Kenora where a firehall was adapted for use as a brewery (Image Courtesy of the City of Kenora).

5. Conserving the heritage value of a designated property

Property owners and municipalities share a mutual interest in the cultural heritage value of the heritage property. They understand that caring for the property's heritage attributes protects its heritage value.

If a property is important for its architectural design or original details, and that design is irreparably changed, it loses its heritage value and its integrity. Imagine the difference between a Georgian house built at the beginning of the 19th-century that has its original floors, windows and details, compared with a house of a similar vintage, that has been covered with aluminium siding and has been "updated" with unsympathetic windows and modern finishes.

If a property is designated for its association with a significant person or event, but the physical evidence from that period has disappeared, the property's cultural heritage value is diminished. What a difference it makes to see the symbols and hideaway places associated with the Underground Railroad in a building, compared with only the ability to say "this happened here."

The same consideration applies to properties that are designated for their contextual qualities – trees that have stood for a hundred years, a view that was seen by generations before us, a complex of industrial buildings that tell the story of the work that went on there. A building, structure or other feature that has lost its context, has lost an important part of its heritage value.

Designation of heritage properties provides a process for ensuring that their cultural heritage value is considered when change is proposed. The following section focuses on how alterations to designated properties are managed, and the kinds of support that can be provided to assist with conservation.

5.1. Making alterations to designated properties

The alteration process under section 33 of the Ontario Heritage Act helps to ensure that the heritage attributes of a designated property, and therefore its heritage value, are conserved. If the owner of a designated property wishes to make alterations to the property that affect the property's heritage attributes, the owner must obtain written consent from council.

This applies not only to alterations of buildings or structures but also to alterations of other aspects of a designated property, such as landscape features or natural features, which have been identified as heritage attributes.

Designation under section 29 of the act does not guarantee the continuing existence or preservation of all elements of a property. Alterations to the property or the passage of time could affect the property and the elements that contribute to its heritage value. For example, natural degradation can take its toll. Maintenance of unoccupied lands can be costly. Well-meaning maintenance interventions may turn out to have negative impacts on the fabric of a property.

Designation is not intended to prohibit any future site alteration or development on the property. Provisions of the act enable change within the context of a review and consent process.

Good outcomes can result from continued care using established conservation principles and careful consideration through proper decision-making frameworks. Not all designated

properties are best as static museums or historic sites. Often, their ongoing stability, viability, and historic integrity are the result of innovative alteration, development, and use.

In general, the alteration review should be a cooperative process, where a property owner submits an application for the proposed work, and receives advice and guidance from the Municipal Heritage Committee and/or municipal staff. Council makes the final decision on consenting to applications unless this power has been delegated to municipal staff under Section 33(15) of the Ontario Heritage Act.

SIDEBAR: Insurance and designated properties

Designation itself does not place additional requirements on the insurer and therefore should not affect premiums. For more information, refer to the ministry's advice in Insurance and Heritage Properties.

The process for alterations is described below and outlined in a flowchart (hyperlink) provided in the appendix of this guide.



Figure 18. Cold Water Mill - A two-storey addition was added to the back of the Mill with barrier free entrance and washrooms. A cultural centre and Indigenous Gallery is planned for the second floor (Image courtesy of Coldwater Mill Heritage Foundation).

1. Application to council

The owner applies to council to alter the property. Municipalities can set up an online system for receiving electronic applications. Relevant information, including any plans and other information the council requires, should be included. When all the information required by council has been received, notice of receipt of the complete application is sent to the owner.

Council may, at any time, notify the owner that information from the application has not been provided.

The minimum information and material required by council is listed in Ontario Regulation XXX/21.

The minimum application requirements are:

1. The name, address, telephone number and, if applicable, the email address of the applicant.
2. The name of the municipality from which consent is being requested.

3. A description of the property that is the subject of the application, including such information as the concession and lot numbers, reference plan and part numbers, and street names and numbers.
4. Photographs that depict the existing buildings, structures and heritage attributes that are affected by the application and their condition and context.
5. A site plan or sketch that illustrates the location of the proposed alteration
6. Drawings and written specifications of the proposed alteration
7. The reasons for the proposed alteration, demolition or removal and the potential impacts to the heritage attributes of the property.
8. All technical cultural heritage studies that are relevant to the proposed alteration,
9. An affidavit or a sworn declaration by the applicant certifying that the information required under this section and provided by the applicant is accurate

Council can build on these provincial minimum application requirements. This must be done by bylaw, council resolution or official plan policy. These application requirements could be part of an overall heritage conservation bylaw, with other administrative requirements (e.g., register extract fee, municipal heritage committee terms of reference, alteration consent delegation, building standards, purchase/lease, expropriations, easements/covenants, grants or loans, inspectors or heritage property tax relief).

2. Review of application

Council or its delegate has a decision period of 90 days from the date the notice of complete application is served on the owner to review the application and seek the advice of its municipal heritage committee, where one has been established. In some municipalities, applications for alterations are sent directly to the committee or to municipal staff.

There may be some cases where council has not provided either a notice of complete application or of incomplete application within 60 days of the application being served on the municipality. If this is the case, the decision period is 90 days from the end of the 60-day period from the time the application was served on the municipality to review the application and seek advice of its municipal heritage committee, where one has been established. In other words, 150 days from the day the application started. Note, the decision period can be extended through mutual agreement between the property owner and council.

3. Decision

Within the 90-day decision period referred to above, council or its delegate decides whether to consent to the alteration, to consent with terms and conditions, or to refuse the application

altogether. Council notifies the applicant and the Ontario Heritage Trust of its decision.

4. Appeals

If the property owner objects to council's decision to refuse an application, or to consent to it with terms and conditions, the owner may appeal to the Ontario Land Tribunal.

An appeal must be made within 30 days of receipt of council's decision. The appeal must set out the objection to the decision and the reasons in support of the objection. The appeal must also be accompanied by the fee prescribed under the Ontario Land Tribunal Act.

Following receipt of the notice of appeal, the tribunal gives notice of the hearing date and then holds the hearing.

Council must ensure that the tribunal receives a record of its decision within 15 days after receiving the notice of appeal. Ontario Regulation XXX/21 outlines what material and information that a municipality must forward to the tribunal as part of the record of decision.

5. Tribunal's decision

After holding the hearing, the tribunal decides whether to dismiss the appeal or order that the municipality consent to the application without any terms and conditions, or with terms and conditions that the tribunal specifies. The municipality must provide notice of the tribunal's decision on the Trust.





Figure 19. Quaker Meeting House – Recently upgraded with a new front entrance and rear addition, and interior accessibility modifications (Images courtesy of the City of Ajax).

5.2.Maintenance

General maintenance work, such as repainting exterior trim or replacement or repairs to an existing asphalt roof, and alterations and repairs to property features that are not listed as heritage attributes in the designation bylaw do not usually require heritage approvals. However, property owners may still need a building permit, and should be encouraged to check with their local building department.

Unless an extension is agreed upon, failure of council to notify the owner within 90 days (after the applicant is notified that their application is complete, or if there has been no notice, 150 days after the application is received by the municipality) shall be deemed consent.

Owners of designated properties, like all other property owners, must maintain their properties to the basic standards set out in municipal maintenance and occupancy bylaws. The Ontario Heritage Act allows municipal councils to stipulate special minimum maintenance standards for the heritage attributes of designated properties. Councils can pass a bylaw under section 35.3 if the municipality has an existing property standards bylaw under the Building Code Act. The Ontario Heritage Act bylaw can set out minimum standards for maintaining heritage attributes of designated properties. In this way, council can require a property owner to maintain their property to clear and objective standards.

Setting out maintenance expectations for owners of designated property in a transparent way can help council to encourage heritage conservation in the community. A heritage property standards bylaw can also rely on established conservation principles to ensure that any changes to a heritage property adhere to best practices.

International charters and agreements have established guiding principles for the conservation of heritage properties around the world. Conservation guidelines based on these principles have been developed at all levels of government. For more information on making sensitive alterations to heritage properties, you may wish to refer to:

- The eight guiding principles for heritage conservation on the Ministry of Heritage, Sport, Tourism and Culture Industries website at www.mtc.gov.on.ca/en/publications/InfoSheet_8%20Guiding_Principles.pdf [OR www.mtc.gov.on.ca/en/heritage/tools.shtml];
- “Well Preserved” – the Ontario Heritage Trust’s Manual of Principles and Practice for Architectural Conservation; and
- Parks Canada’s Standards and Guidelines for the Conservation of Historic Places in Canada at www.historicplaces.ca can be a useful reference document.

SIDEBAR:

Alterations to cemeteries

The operation and management of cemeteries in Ontario falls under the Funeral, Burial and Cremation Services Act, administered by the Ministry of Government and Consumer Services and the Bereavement Authority of Ontario. Many municipalities have taken an increasing interest in designation as a way of recognizing and protecting cemeteries – either through individual designation under Part IV of the Ontario Heritage Act, or as part of Heritage Conservation Districts under Part V.

If a cemetery is designated under the Ontario Heritage Act, most day-to-day activities, including new burials, would not require council’s written consent. As with other kinds of designated properties, a permit would be required if an activity or alteration is to be made that would affect the heritage attributes outlined in the designation. These might include the relocation of original markers, the removal of trees or other important landscape features, etc.

The Funeral, Burial and Cremation Services Act contains specific procedures for the closure (i.e., removal) of cemeteries if the Registrar of cemeteries determines that the closure is “in the public interest.” These provisions apply to all cemeteries in Ontario including those that have been designated under the Ontario Heritage Act. For more information on closing designated cemeteries, refer to the Ministry of Government and Consumer Services.

Fortunately, many of Ontario’s older cemeteries remain substantially intact, but they deserve thoughtful, long-term conservation planning. The Ministry of Heritage, Sport, Tourism and Culture Industries’ Landscapes of Memories – A Guide for Conserving Historic Cemeteries:

Repairing Tombstones, contains information and technical advice intended to encourage the conservation of Ontario's heritage cemeteries in a way that recognizes their value as an irreplaceable heritage resource.

Heritage organizations in Ontario with a special interest in cemeteries, such as the Ontario Historical Society and the Ontario Genealogical Society, may also provide useful information.



Figure 20. These stones mark the final resting place of many Irish immigrants who died at Chaffey's Lock during the construction of the Rideau Canal (MHSTCI).

PLACEHOLDER – MHSTCI is interested in obtaining imagery from an individual property's heritage conservation plan. Please send suggested materials to joseph.harvey@ontario.ca

5.3. Providing support for conservation of designated properties

Municipal heritage committees and municipal staff can work with property owners to create conservation plans for heritage properties.

Many municipalities have also established financial incentive programs to assist property owners with the conservation of their designated heritage properties.

These include heritage property tax relief programs to support ongoing maintenance and conservation of designated properties. The province shares in the cost of these programs by funding the education portion of the property tax relief. For more information, refer to the Ministry of Heritage, Sport, Tourism and Culture Industries' publication entitled, Getting Started: Heritage Property Tax Relief – A Guide for Municipalities at www.ontario.ca/mhstci.

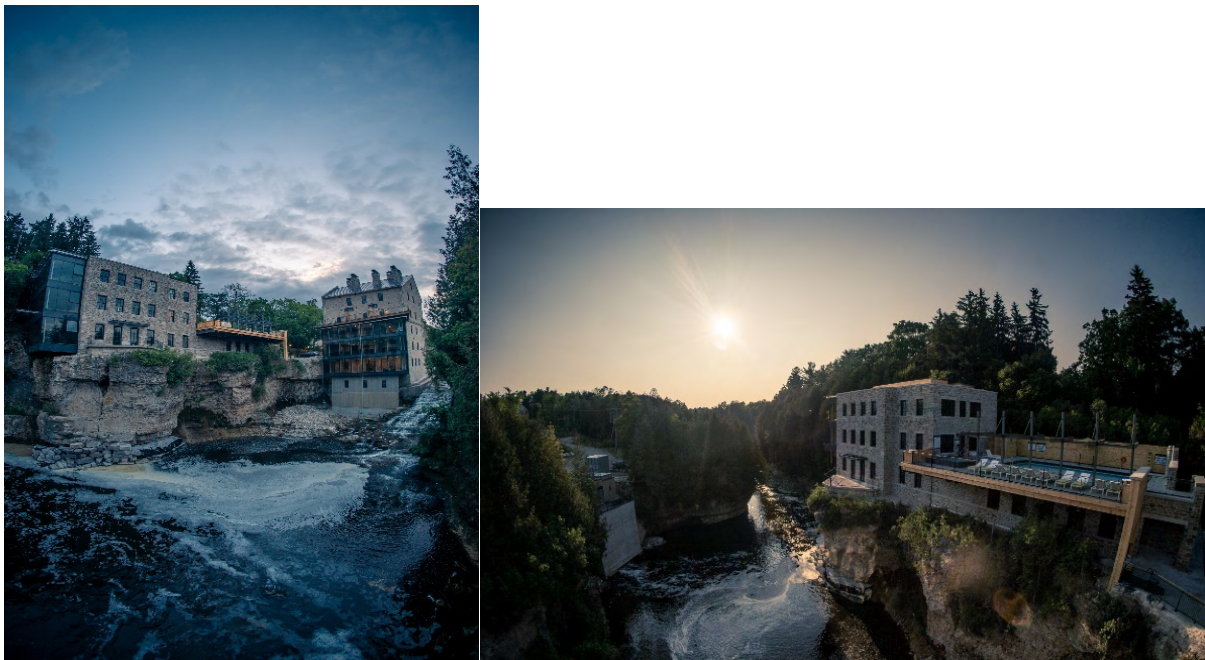


Figure 22. The former mill in Elora is now operated as an inn and restaurant – a very successful adaptive reuse of a heritage property (Images courtesy of Image Ontario).

6. Demolition control

Designation of a heritage property under the Ontario Heritage Act gives council the power to refuse an application for the demolition or removal of a building, structure or heritage attribute on a heritage property. If the owner of a designated property wishes to demolish or remove a building, structure or a heritage attribute, the owner must obtain written consent from council.

6.1. Buildings and structures

Any building or structure on the designated property is subject to the demolition control provisions of the Ontario Heritage Act. As outlined in chapter 6, the legal description of the property in the designation bylaw specifies what is subject to designation, which could be an area smaller than the parcel of land. If a building or structure falls outside the legal description of the property, it would not be subject to the demolition control provisions of the Ontario Heritage Act.

PLACE HOLDER – MHSTCI is interested in obtaining images illustrating the temporary removal or alteration of heritage attributes to support the overall conservation of a heritage property. Please send suggested materials to joseph.harvey@ontario.ca

6.2. Heritage attributes

Demolishing or removing heritage attributes can have a significant impact on the cultural heritage value or interest of a property. Thorough evaluation and designation documentation supports a clear and defensible description of heritage attributes. This information assists council's decision whether to allow a property owner to alter, demolish or remove heritage attributes.

A temporary removal can be beneficial for a heritage attribute. For example, many property owners find that repairing or restoring wooden elements such as windows, doors, or decorative features on the ground or in a workshop setting provides better control, improves the quality of the repair, or is more viable than work in place. Extending the service life of heritage attributes through continuing, smaller-scale maintenance has proven more economical over the life of an asset than full replacement with systems that are incompatible with a property's cultural heritage value or interest.

In limited circumstances a permanent removal and replacement may be the only viable option.

For example, removal of components may be required to conserve a heritage attribute properly, such as in:

- A project to repair a brick wall where some bricks have deteriorated,
- Work to remedy earlier incompatible repairs, or
- A long-term restoration where an attribute needs to be stored for later work.

A heritage attribute may come to the end of its service life. Consider a cedar shingle roof on a Loyalist cottage or a picture window in a mid-century modern house. Building systems can fail and often the only option is a full removal and replacement with like materials. Landscape features such as pathways or grading may require renewal following changes in ground conditions. Maintaining shrubs and other living plants involves careful pruning (removal) of branches. Preserving significant views may require removal of whole plants.

When heritage properties suffer severe damage due to fire, inclement weather, or other unforeseeable events, a property owner may need to remove a heritage attribute to facilitate saving as much of a property as possible. In such cases, the removal of a heritage attribute may be considered beneficial.

The process for considering the demolition or removal of a building, structure or heritage attribute on a heritage property, under section 34, 34.1 & 34.3 of the Ontario Heritage Act, is as follows:

1. Application to council

The owner applies to council for consent to demolish or remove. The application process and requirements are the same as those outlined for applications for alteration to a designated heritage property. These include provincially established minimum application requirements, which municipalities can build on, and the ability to request additional information as part of an application, where necessary. The same rules regarding notification of complete applications also apply to requests for demolition and removal. For further details, see flowchart in the appendix of this guide.

2. Review of application

Council has a decision period of 90 days from the date the notice of complete application is served on the owner to review the application and seek the advice of its municipal heritage committee, where one has been established.

There may be some cases where council has not provided either a notice of complete application or of incomplete application within 60 days of the application being served on the municipality. If this is the case, the decision period is 90 days from the end of the 60-day period to review the application and seek advice of its municipal heritage committee, where one has been established. In other words, the municipality has 150 days from the day the application started to issue a decision.

In many cases, an alternative to demolition can be negotiated with the owner and agreed to at this stage. Council, with the aid of its municipal heritage committee and concerned citizens, has an opportunity to work with the property owner toward a means to conserve the threatened property.

Depending on the circumstances, there are several approaches:

- Sharing information with the owner about the property's heritage value and the benefits of heritage conservation;
- Exploring ideas about how the building or structure might contribute to a proposed development or future use of the site;
- Suggesting alternative uses for the building or the property;
- Relocation of a building or structure to a new property;
- Providing an opportunity for the owner to sell the heritage property to the municipality or a purchaser who will conserve it; or
- Expropriating the property.

3. Decision

Within the 90-day decision period referred to above, and after considering the advice of the municipal heritage committee, council must decide whether to refuse the application, consent to it, or consent with terms and conditions.

If council does choose to allow the demolition, it is advisable to include terms and conditions. For example, council can require that the owner obtain a building permit for a replacement building on the property. This helps to prevent valuable heritage structures from being replaced by vacant lots. The owner would need to apply for the building permit through the normal municipal process, and will only receive such a permit for a new building that meets applicable zoning and other requirements.

At minimum, council should require full documentation of a heritage attribute, or a heritage building or structure prior to its removal or demolition, as well as documentation of any other cultural heritage resources on the property that may be affected.

Recording the property helps to provide an understanding of the past for future generations and to help conserve similar resources that remain. Thorough documentation of any heritage attribute that would be completely removed as a result of council's consent may help a future property owner reproduce that heritage attribute should they choose to do so.

Council notifies the applicant and the Ontario Heritage Trust of its decision. Council also publishes its decision in a newspaper of general circulation in the municipality.

Failure of council to notify the owner of a decision within the decision period shall be deemed consent.

SIDEBAR:

Where there is a potential impact on archaeological resources, an archeological assessment should be undertaken in accordance with the Ontario Heritage Act.

4. Appeal process

If the owner objects to council's decision to refuse an application, or consent to it with terms and conditions, the owner may appeal to the Ontario Land Tribunal.

An appeal must be made within 30 days of receipt of council's decision. The appeal must set out the reasons for the objection to the decision. The appeal must also be accompanied by the fee prescribed under the Ontario Land Tribunal Act.

Following receipt of the notice of appeal, the tribunal gives notice of the hearing date and then holds the hearing.

Council must ensure that the tribunal receives certain records within 15 days after receiving the notice of appeal. Ontario Regulation XXX/21 outlines what materials a municipality must forward to the tribunal as part of the record of decision.

5. Tribunal decision

After holding the hearing, the tribunal decides whether to dismiss the appeal, to order the municipality to consent to the demolition, or to consent with such terms and conditions as the tribunal specifies. The municipality must provide notice of the tribunal's decision to the Ontario Heritage Trust.

A detailed flowchart outlining the demolition application process is provided in the appendix to this guide.

6. Prescribed steps following Council consent to demolition

When the council-approved demolition or removal is complete, council must consult with its municipal heritage committee to determine what actions, if any, must be taken in respect of the designation bylaw. In some instances, the demolition or removal may result in a change to the property's cultural heritage value or its heritage attributes.

No Change to a property's cultural heritage value or interest or heritage attributes

It is possible that a demolition or removal of a building or structure or heritage attribute would not impact the property's cultural heritage value or interest. Where there is no change required to either the statement of cultural heritage value or interest or the list of heritage attributes, the clerk of the municipality must serve notice of council's determination on the owner of the property and the Trust and keep a copy of the determination on file.

Change to the statement of cultural heritage value or interest or list of heritage attributes

The demolition or removal of a building, structure or heritage attribute may not result in the complete loss of a property's cultural heritage value or interest. For example, a property that includes a complex of buildings, all of which contribute to the property's cultural heritage value or interest, but where only one was demolished. Where this is the case, the municipality must pass an amending bylaw that updates the statement of cultural heritage value or interest and the description of the property's heritage attributes to reflect the changes resulting from the demolition or removal.

This is an administrative step to clean up the bylaw registered against the property. Therefore, passing the amending bylaw does not require notice of council's intention and there is no opportunity for objection or appeal. Once council passes the amending bylaw and ensures that the amending bylaw complies with the requirements set out in the regulation and includes a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property, the clerk of the municipality is responsible for the following steps:

- Ensure that a copy of the amending by-law is served on the owner of the property,
- Publish notice of the amending by-law in a newspaper having general circulation in the municipality, and
- Ensure that a copy of the amending by-law is registered against the property affected by the amending by-law in the appropriate land registry office and that a copy of the registered amending by-law is served on the Trust.

Complete loss of cultural heritage value or interest

Sometimes, the demolition or removal of a building, structure or heritage attribute will result in the complete loss of all physical elements that reflected the cultural heritage value or interest of a property. Where this is the case, the designation must be repealed.

This is an administrative step to clean up the property's title. Therefore, passing the repealing bylaw does not require notice of council's intention and there is no opportunity for objection or appeal. Once council passes the repealing bylaw, the clerk of the municipality is responsible for the following steps:

- ensuring a copy of the repealing by-law is served on the owner of the property and the Trust,
- publishing notice of the repealing by-law in a newspaper having general circulation in the municipality,
- ensuring a copy of the repealing by-law is registered against the property affected by the repealing by-law in the appropriate land registry office, and
- ensuring that any reference to the property is deleted from the municipal register of heritage properties

Relocation of a building or structure to a new property

In some instances, the only means of preventing the complete loss of a building or structure is to relocate it to a new property. The relocation of a building or structure is a significant undertaking which requires agreement from all parties. Those willing to undertake such a relocation often see the value in saving the building or structure because of its cultural heritage value or interest. Council, in consultation with its municipal heritage committee, may determine that the receiving property to which the building or structure has been relocated has cultural heritage value or interest. Council may then rely on the abbreviated process enabled through Ontario Regulation XXX/21 for designating the new property. For further details, see flowchart in chapter 7 of this guide.

This process does not require notice of council's intent to designate the property and does not include an objection or appeals process. Therefore, the option should be discussed with the property owner in advance of passing the designation bylaw. Where council has used the abbreviated process to pass the designation bylaw, the clerk is responsible for completing the following steps once passed:

- ensuring a copy of the designating by-law and a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property is served on the owner of the property and the Trust,
- publishing notice of the designating by-law in a newspaper having general circulation in the municipality, and
- ensuring a copy of the designating by-law is registered against the property affected by the designating by-law in the appropriate land registry office.

PLACE HOLDER – MHSTCI would like to obtain images of heritage properties where the designation bylaw has been amended. Please send suggested materials to joseph.harvey@ontario.ca

7. Amending a designation bylaw

Over time, municipal councils may need to update different parts of an existing designation bylaw. Generally, a bylaw may need to be amended because:

- Changes affecting the statement of cultural heritage value or interest or the description of heritage attributes have been made to the property or new information has emerged about the property's significance;
- the legal description has changed or must be corrected; or
- the information provided in the original bylaw does not provide sufficient information to guide and manage alterations to the property.

There are two processes for amendments: one for substantial amendments and one for minor amendments. Any amendments to a designation bylaw, whether they are substantial or minor, must ensure that the amended bylaw meets the requirements discussed in chapter 6.

A municipality should seek the advice of its solicitor when considering the options for amending a bylaw.

7.1.Minor amendments

For minor amendments to a designation bylaw, municipalities can follow an abbreviated process. Subsections 30.1(2) to (16) of the Ontario Heritage Act provide a process for amending designation bylaws that does not require the public notice of the proposed amendment, and where only the property owner can object to the notice of proposed amendment and/or appeal the final amending bylaw.

Bylaws can be amended under subsections 30.1(2) to (16) to:

- clarify or correct the statement of cultural heritage value or interest or the description of heritage attributes;
- correct the legal description of the property; or
- revise the language of the bylaw to make it consistent with the current requirements of the act or its regulations, including changes that would make a bylaw consistent with the requirements of the Act as per the mandatory standards for designation bylaws included in Ontario Regulation XXX/21 and outlined above.

Notice of the proposed amendment is sent to the owner of the property, who is given the opportunity to object. If the owner chooses to object, council must consider the objection in a process similar to the objection process for designation. As with designations, council must consider the objection before deciding to go ahead with the amendment or to withdraw its intention to amend the designation.

If there is no objection, or council decides not to withdraw the notice of proposed amendment, council may then pass an amending bylaw, providing notice to the owner and the Ontario Heritage Trust.

A flowchart outlining this process is provided in the appendix.

7.2.Substantial amendments

Substantial amendments to an existing bylaw are subject to the procedure set out in Ontario Regulation XXX/21.

Substantial amendments may include circumstances where:

- Changes to statement of cultural heritage value or interest or the description of heritage attributes go beyond clarification or correction
- A new lot is created out of a designated property following a severance process
- Amendments are required to facilitate a development application

Notice of the proposed amendment is sent to the owner of the property and to the Ontario Heritage Trust, and published in a newspaper.

The notice of proposed amendment must include the following:

- The adequate description of property so that it can be readily ascertained;
- An explanation of the purpose and effect of the proposed amendment;
- A statement explaining the amendments, if any, to the cultural heritage value or interest of the property and/or to the description of the heritage attributes of the property;
- The statement of cultural heritage value or interest and the description of heritage attributes, as amended; and
- A statement that notice of objection to the notice of intention to amend the bylaw must be filed with the municipality within 30 days after the date of publication of the newspaper notice.

The public notice must also include a statement that further information respecting the proposed amendment is available from the municipality.

If anyone objects to the proposed amendment, council must consider the objection in a process similar to the objection process for designation. As with designations, council must consider the objection before deciding to go ahead with the amendment or to withdraw its proposed amendment.

If there is no objection, or council decides not to withdraw the notice of proposed amendment, council may then pass an amending bylaw within 365 days (or any time if mutually agreed on between council and owner) of the date of publication of the newspaper notice. The municipality provides notice of the bylaw to the owner and the Ontario Heritage Trust and anyone who objected to the proposed amendment.

A flowchart outlining this process is provided in the appendix.

7.3.Appeals

For substantial amendments, anyone can appeal the amending bylaw to the Ontario Land Tribunal within 30 days of the publication of the notice. For minor amendments, the property owner may appeal the amending bylaw to the Ontario Land Tribunal within 30 days of receiving notice.

The appeal must set out the reasons for the objection to the decision. The appeal must also be accompanied by the fee as prescribed under the Ontario Land Tribunal Act.

Following receipt of the notice of appeal, the tribunal gives notice of the hearing date and then holds the hearing.

Council must ensure that the tribunal receives certain records within 15 days after receiving the notice of appeal. Ontario Regulation XXX/21 outlines what materials a municipality must forward to the tribunal as part of the record of decision.

After holding the hearing, the tribunal decides whether to dismiss the appeal, to repeal or amend the amending bylaw, or to order the municipality to repeal or amend the amending bylaw.

7.4. Coming into force

The amending bylaw comes into force on the day after the 30-day notice period ends, if there were no appeals.

If there were appeals, the bylaw comes into force if and when the appeals are withdrawn or dismissed. If the tribunal allows the appeal in full, the amending bylaw is repealed and does not come into force, and the designation stays as it was before the amendment process started. If the tribunal allows the appeal in part, the amending bylaw may be changed, either by the tribunal itself or by the municipality as directed by the Tribunal. The final amending bylaw would come into force the day it is changed.

The final bylaw is registered on the title of the property with Land Registry Ontario and sent to the Ontario Heritage Trust.

A flowchart outlining this process is provided in the appendix to this guide.

7.5. Repeal of designation bylaws

There are rare instances where a designation bylaw may need to be repealed. As with the amending process, flowcharts outlining the repeal process are provided in the appendix to this guide.

In a case where an owner requests a repeal of the bylaw designating the owner's property, it is important to determine the nature of the owner's concerns. It is advisable for the municipality, through the municipal heritage committee or municipal staff, to discuss the matter with the owner. Because properties are designated to protect and conserve them for all generations, the repeal of a designation bylaw is a serious matter that should be given careful consideration. If

the property owner decides to proceed with a repeal request, and the request is unsuccessful, the property owner cannot reapply for a repeal until 12 months have passed since the decision.

8. Resources and further information

Heritage designation is an important way for communities to recognize and protect places of cultural heritage value. The efforts made today to conserve community heritage will ensure a lasting legacy for future generations.

For more information on the Ontario Heritage Act and conserving your community heritage, contact the Ministry of Heritage, Sport, Tourism and Culture Industries or the Ontario Heritage Trust at:

Ministry of Heritage, Sport, Tourism and Culture Industries

www.ontario.ca/page/ministry-heritage-sport-tourism-culture-industries

Ontario Heritage Trust

www.heritagetrust.on.ca



Figure 1. The Square Goderich (Image courtesy of the Town of Goderich)

Heritage Conservation Districts

This guide is one of several published by the Ministry of Heritage, Sport, Tourism and Culture Industries as part of the Ontario Heritage Tool Kit. It is designed to help municipal Councils, municipal staff, Municipal Heritage Committees, land use planners, heritage professionals, heritage organizations, property owners, and others understand the heritage conservation process in Ontario.

Travelling through the downtowns and the back roads of Ontario you will find remarkable places rich in history and character – bustling market squares and commercial areas, picturesque villages in the heart of large cities, residential neighbourhoods that evoke the past, and landscapes that maintain a strong rural identity.

In many cases these areas have maintained their uniqueness and sense of place because the local municipality has taken the opportunity to designate them as heritage conservation districts (HCDs).

Following the designation of the first HCD in 1980, over 120 areas have been designated in recognition of their cultural heritage value.

This guide is designed to assist municipal staff, municipal heritage committee members and heritage community groups develop effective plans, policies and guidelines to ensure long-term protection and enhancement of heritage conservation districts for the enjoyment of current and future generations.

Amendments to the Ontario Heritage Act proclaimed in January 2020 seek to increase transparency and efficiency in municipal decision-making, while continuing to protect the heritage properties that communities value.

What's in this guide?

1. 1 Overview of Heritage Conservation District Designation
 - 1.1. What is a Heritage Conservation District?
 - 1.2. What are the benefits of district designation?
 - 1.3. Characteristics of heritage conservation districts

2. Designating a District
 - 2.1. Step 1 – Request to designate
 - 2.2. Step 2 – Consultation with the Municipal Heritage Committee
 - 2.3. Step 3 – The area of study and interim control
 - 2.4. Step 4 – Determination of cultural heritage value or interest and identification of heritage attributes
 - 2.5. Step 5 – Delineation of the boundary of an HCD
 - 2.6. Step 6 – Public consultation

3. The Heritage Conservation District Plan
 - 3.1. Step 1 – Preparation of the HCD plan and guidelines
 - 3.2. Step 2 – Passing the designation bylaw and adoption of the HCD plan
 - 3.3. Step 3 – Registration of bylaw on title
 - 3.4. Step 4 – Proposed changes to bylaws and Official Plan provisions
 - 3.5. Step 5 – Implementing the HCD plan
 - 3.6. Adoption of HCD plans for previously designated districts

4. Management of the District
 - 4.1. Review of alteration, new construction, demolition and removal
 - 4.2. Property maintenance standards
 - 4.3. Easements and covenants
 - 4.4. Acquisition and expropriation
 - 4.5. Incentives and other support for heritage conservation

5. Resources and Further Information [Section not included in this draft guide]

This guide is one of several published by the Ministry of Heritage, Sport, Tourism and Culture Industries as part of the Ontario Heritage Tool Kit. The Ministry has published these guidance materials as an aid to municipalities and others working with the Ontario Heritage Act. The information in this guidance is not intended to take the place of legal advice. In the event of any

conflict between this guidance and any applicable legislation or regulations, including the Ontario Heritage Act and its regulations, the legislation or regulations prevails.



Figure 2. Seaforth Heritage Conservation District (MHSTCI)

1 Overview of heritage conservation district designation

1.1 What is a heritage conservation district?

Subsection 41 (1) in Part V of the *Ontario Heritage Act* enables the council of a municipality to designate the entire municipality or any defined area or areas of the municipality as a heritage conservation district (HCD).

District designation enables the council of a municipality to manage and guide future change in the district through adoption of a district plan with policies and guidelines for conservation, protection and enhancement of the area's character or appearance.

An HCD has no predetermined size or footprint. It may comprise a few properties in a small area with a tightly-arranged group or complex of buildings, or a large area with a scattering of buildings and properties. It may also comprise an entire municipality with a cluster of heritage resources sharing a significant historic association that distinguishes it from its surroundings.

Potential districts can be found in urban and rural environments. They may include residential, commercial and industrial areas, rural landscapes, or entire villages or hamlets with features and land patterns that contribute to a definable character and appearance.

Heritage conservation districts form an integral part of our cultural heritage. They contribute to an understanding and appreciation of the cultural identity of the local community, region, province or nation.

The significance of an HCD often extends beyond its built heritage, structures, streets, landscape and other physical and spatial elements, to include important vistas and views between and towards buildings and spaces within the district. The quality and interest of a district may also depend on the diversity of the lifestyle and the traditions of the people who live and work there. As the users and the ultimate guardians, the community forms a vital part of a district.

Apart from a small number of districts where the main use is institutional, the majority of Ontario's designated HCDs comprise residential or commercial "main streets" districts.

The following examples help to illustrate the range and diversity of Ontario's HCDs:



Figure 3. MHSTCI

- Galt downtown, a late 19th century commercial block in the City of Cambridge;

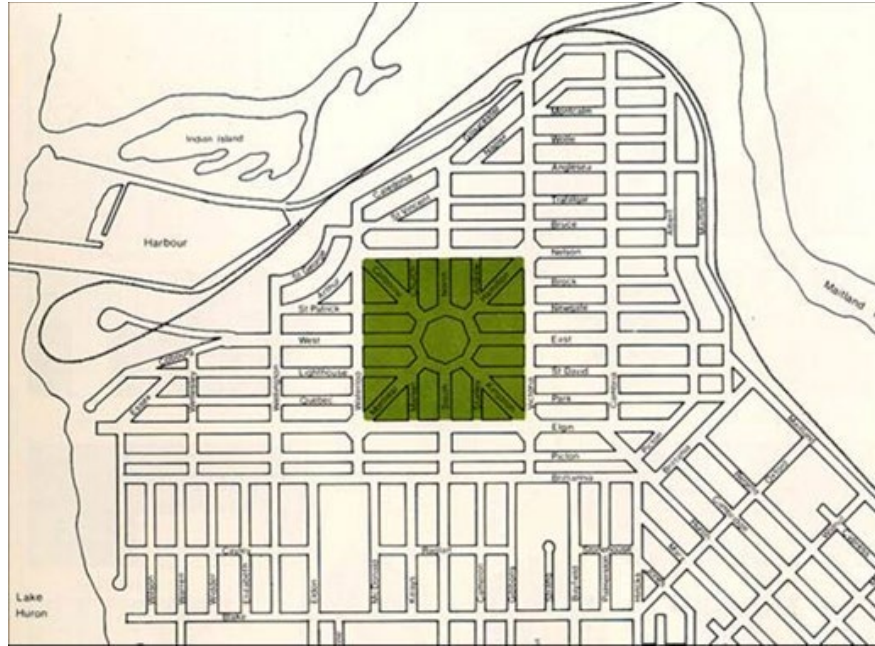


Figure 4. The Square Heritage Conservation District Plan

- The Square in Goderich, a 19th century urban square with a unique layout based on classical design principles;
- Kleinburg-Nashville in the City of Vaughan, a discontinuous district which links two scattered former mill villages within their natural setting;



Figure 6. Image courtesy of Kitchener-Waterloo Record Photo Collection, the Library University of

- St. Mary's in the City of Kitchener, a post-World War II veteran housing project comprising small scale homes of relatively simple design in a landscape setting;



Figure 7. Image courtesy of the City of Toronto

- The HCDs in Cabbagetown and North and South Rosedale in the City of Toronto, Ontario's largest residential districts, with over two thousand properties in total;

- Waverley Park in Thunder Bay, which includes a mix of residential, institutional and park uses.

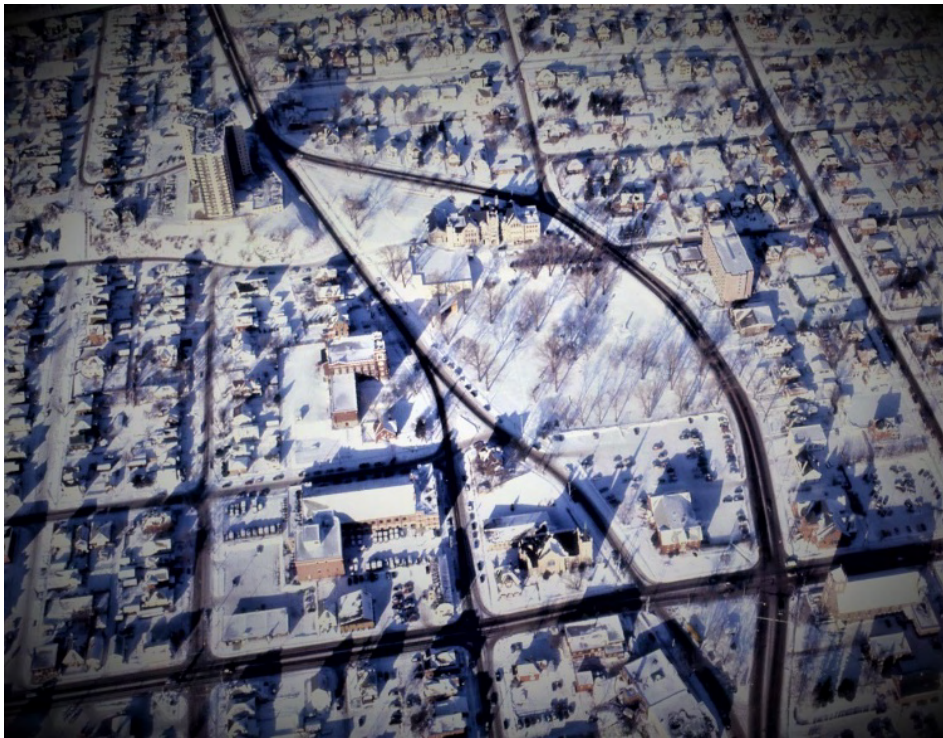


Figure 8. Image courtesy of The City of Thunder Bay Archives

The list of Ontario's HCDs can be viewed at:

www.mtc.gov.on.ca/en/heritage/heritage_conserving_list.shtml

1.2 What are the benefits of district designation?

1.2.1 A unique planning framework

The immediate benefit of HCD designation is a planning process that respects a community's history and identity. District designation is one of the best ways to ensure that this identity is conserved. The adoption of an HCD plan as part of the designation process ensures that the community's heritage conservation objectives and stewardship will be respected during the decision-making process.

1.2.2 Enhanced quality of life and sense of place



Figure 9. Almonte Heritage Conservation District, Mississippi Mills (Image courtesy of Ryan Gordon Photography) .

Designation allows a community to recognize and commemorate what it values within an area, that contributes to its sense of place. It provides a process for sustaining these elements into the future. Sense of place refers to the way people experience and give meaning to their surroundings. A community's sense of place relies on understanding three things: what defines community character or cultural identity, why that identity is valued, and how it contributes to quality of life and visitor experience.

During the study and research phase there is opportunity for the community to develop an understanding and appreciation of the community's cultural heritage resources and the strong relationship between people and the physical environment (buildings, structures, streetscapes, land forms and natural features). Heritage district designation allows these resources and relationships to be identified, protected and interpreted.



Figure 10. The 18th century legacy of Unionville’s first settlers provides a rich setting for thriving commercial and other supportive uses. Unionville Heritage Conservation District attracts over 1 million visitors per year (Image courtesy of the Ontario Business Improvement Association).

1.2.3 Cultural and economic vitality

Homeowners, entrepreneurs, local government and property developers all appreciate the benefits of culturally vibrant and established urban and rural communities.

Heritage conservation district designation supports long-term economic prosperity by encouraging a sense of place through the protection of a sustainable physical and cultural environment. Such places are able to offer a wide variety of lifestyle options and economic activities while still maintaining physical continuity and social cohesion. These are often attractive areas for commercial, residential and mixed-use investment.

In areas where there are heritage incentive programs, heritage conservation district designation offers specific economic benefits to property owners by making them eligible to apply for a grant, loan or tax relief from the municipality to carry out restoration or conservation work.



Figure 11. Heritage Conservation Districts can be a tourist draw (Fort York Collection 2005).

1.2.4 Healthy cultural tourism

There is a strong relationship between HCD designation and cultural tourism. Designation can be used both to encourage and manage tourism activity in rural and urban areas.

Heritage conservation district designation based on careful research and evaluation, promotes understanding and appreciation of an area's cultural heritage value and heritage attributes. The development and adoption of a district plan provides the community with an important tool for ensuring the conservation, enhancement and sustainability of the area's unique cultural heritage resources and for managing the impacts of cultural tourism on the environment.

1.3 Characteristics of heritage conservation districts

Although each is unique, districts often have similar characteristics. These may include having:



- Figure 12. Oil Springs Industrial Heritage Conservation District (MHSTCI)
A cluster of buildings, sites, structures, designed landscapes, and natural areas that are linked by their aesthetic, historical, or socio-cultural contexts or by their usage.





Figure 13. Greenfield Heritage Conservation district (Images courtesy of the Township of North Dumfries).

- A combination of elements including natural features such as topography, land forms, landscapes, water courses together with built forms such as pathways and street patterns, landmarks, nodes or intersections, approaches and edges.



Figure 14. Limestone Townhouses in Kingston's Old Sydenham Heritage Conservation District (Image courtesy of the City of Kingston).

- A definable visual harmony through such elements as building scale, mass, height, shape, construction materials, proportion, colour, etc., that convey a distinct sense of time and place.



Figure 15. Syndicate Housing Heritage Conservation District. Three of ten semi-detached houses built in 1883 by local business owners for workers of the Beardmore Tannery. Each pair of houses is unique and a mirror image of each other (Images courtesy of Halton Hills).

- A commonality or a heterogeneity which heterogeneity, which enables a district to be recognised and distinguishable from its surroundings or from neighbouring areas.

2 Designating a district

Before designating a heritage conservation district, a municipality's Official Plan must contain a policy relating to the establishment of HCDs.

The recommended components of an HCD that complies with best practices are:

- A sound examination of the rationale for district designation, especially for the delineation of district boundaries;
- Active public participation in the designation process;
- A clear and complete designation bylaw; and,
- A clear and well-publicized HCD plan and policies to manage change in the district to protect and enhance its character.

The following are the steps in the process to designate an HCD (see chart on next page):

The Study Phase

- Step 1 – Request to designate
- Step 2 – Consultation with the Municipal Heritage Committee
- Step 3 – The Area Study and Interim Control
- Step 4 – Determination of cultural heritage value or interest and identification of heritage attributes
- Step 5 – Delineation of boundary of an HCD
- Step 6 – Public consultation

The Implementation Phase

- Step 1 – Preparation of the HCD plan and guidelines
- Step 2 – Passing the designation bylaw and adoption of the HCD plan
- Step 3 – Registration of bylaw on title
- Step 4 – Proposed changes to existing bylaws and Official Plan provisions
- Step 5 – Implementing the HCD plan

2.1 Step 1 – Request to designate

There is no formal process for requesting the designation of an HCD. The initial request usually comes from the municipal heritage committee or a local residents' or heritage organization.

Any individual resident, business or property owner can, however, request that an area be considered for designation. Requests can be made through the municipal clerk, local councillor, municipal planner or municipal heritage committee member. Following consultation with the municipal heritage committee (where appointed), it is up to council to decide whether to proceed with the designation of the area as an HCD. Council can also decide of its own accord to designate an HCD without request from the public.

While the act does not require that a study be carried out before the passing of the bylaw to designate any area as an HCD, a study is important for the preparation of an HCD plan required for every HCD designated under the *Ontario Heritage Act* since 2005.

2.2 Step 2 – Consultation with the municipal heritage committee

A municipality does not need a municipal heritage committee (MHC) to designate an HCD. There are, however, advantages in having an MHC or local steering committee in place, to help with the identification of heritage objectives for a district study and to guide the designation and implementation process. Where an MHC exists, and council undertakes the study of an area to consider the designation of an HCD, the Act requires that council consult with the committee about the study.

In areas where there is no appointed MHC or municipal heritage planner, council should seek advice from a local heritage or community organization or a heritage consultant on the suitability of the area being considered, and on boundaries for the study area.

2.3 Step 3 – The area of study and interim control

2.3.1 Scope of Study

Subsection 40 (2) of the Act sets out the scope of an HCD study.

The study shall:

- Examine character and appearance of the area including buildings, structures and other property features.

- Examine and recommend area boundaries.
- Consider and recommend objectives of designation and content of the HCD plan.
- Recommend changes to Official Plan and municipal bylaws including zoning bylaws.

The character of a candidate heritage conservation district is established by its physical features, past or present usages and activities and/or its historical or cultural associations. An area's buildings and open spaces, their relationship with each other, and the stories that give them meaning are what the designation of a heritage conservation district seeks to protect and enhance. Elements such as the street layout, open spaces and the visual components of the public realm all contribute to a district's character and appearance.

Together, they provide an overall impression that both residents and visitors appreciate and would want to retain, promote and enhance. Appearance is about the visual elements that define the outward aspect of a place. Those elements may include:

- its profile or skyline;
- the arrangement, massing, proportions, and dimensions of its parts;
- use of materials, colours, and detailed features;
- presence (or absence) of natural elements such as landforms, plants and trees; and
- its significant views or vistas (visual links).

2.3.2 Designation of heritage conservation study area (optional)

Once a decision has been made to initiate a study, council must decide whether to formalize the process by adoption of a bylaw under subsection 40.1 (1) of the *Ontario Heritage Act* to designate an HCD Study Area. The advantage of this approach is that it alerts all property owners in the study area about the commencement of a study and it may limit development within the area while it's being studied (see Interim Control, below).

The study area bylaw is optional. Since the bylaw is only effective for a one-year period, municipalities may prefer to proceed without this bylaw until the initial research phase has been completed. When there is community interest, and the heritage attributes and potential boundaries for the district are clearer, the study area bylaw can be adopted, but is not required for the designation of a district.

2.3.3 Interim control (Optional)

Subsection 40.1(2) of the OHA provides council with the option to put in place interim control measures within the study area when it designates an area as a Heritage Conservation Study Area. The interim control measures prohibit or set limitations with respect to alterations of property, and new construction, demolition or removal of buildings or structures.

The purpose of interim controls is to protect the cultural heritage value or interest of the area while a study is underway. Interim control measures are in effect for a maximum period of one year.

The municipality cannot extend study area interim controls beyond the one-year period. The controls are also subject to appeal to the Ontario Land Tribunal, which can delay the completion of the study.

Also, the municipality cannot pass another bylaw to designate another study area which includes a previously designated study area for a three-year period.

Interim control measures should, therefore, only be considered where there is a clear and immediate risk of adverse impacts from alteration or development activities in the area. The three- year restriction applies following any study area bylaw, whether or not council chooses to adopt interim control measures in the bylaw.

The municipality must publish notice of the bylaw in a newspaper having general circulation in the municipality and notify every property owner in the area individually. Municipalities must also send documents about designated heritage conservation districts to the Ontario Heritage Trust. If there are objections to the bylaw, it can be appealed to the Ontario Land Tribunal. The Tribunal will hold a hearing to hear the objections and will decide on the acceptability of the study area bylaw or any interim controls adopted under the bylaw. The decision made by the Tribunal is binding to the municipality.

2.3.4 Organizing the study

Depending on the size and type of area, it may be convenient to divide the study into several stages.

Typical stages of an area study include:

- **Historical and documentary research** should be used to understand environmental conditions and human activities that have shaped the area over time. Attention should be

paid to design intentions as well as design results, and to the technological, economic, and cultural conditions that have affected the character of the area. Modest vernacular buildings may represent as much of a triumph over circumstance as high-style structures. Gardens and landscape features and agricultural practices may reveal as much about a community as its buildings. Public investments in an area may reflect cultural attitudes and biases as much as private property developments. The presence of institutions may be important in defining the character and appearance of a heritage conservation district.



Figure 16. Excerpt from 1878 Plan of town of Picton (Image courtesy of the town of Picton)



Figure 17. View of Picton early 20th century (Image courtesy of the Archives of Ontario)

- **Field studies** should be carried out to document and study the area and identify key visual elements. Field studies can document the existing physical environment and related patterns of activity. These observations can then be added to the findings of the documentary research. The historical record is thus brought forward into the present.

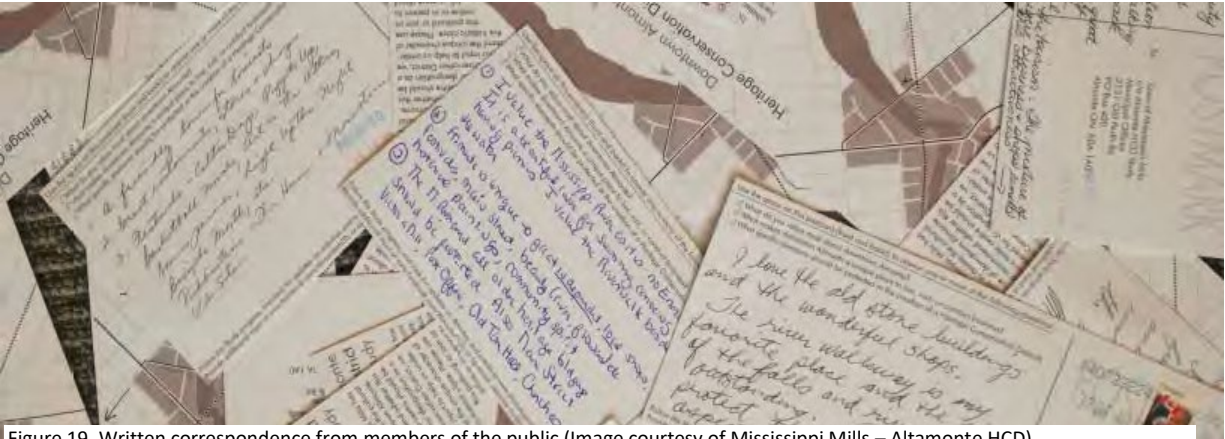


Figure 19. Written correspondence from members of the public (Image courtesy of Mississippi Mills – Altamonte HCD).

- **Public participation** is critical to the designation and implementation of an HCD. People who live in the study area need to express and communicate the value of the area. As residents, they are often best able to identify important landmarks, nodes, boundaries and other elements that define the existing character of a place. They should be appropriately engaged and fully informed in the examination of future options for their area.

The historical and documentary research together with field studies present a composite view of an area. The community's perspectives add value and meaning to the various elements. As these come together, a district's potential boundaries and its heritage attributes become clearer.



Figure 20. Sheave Tower (MHSTCI)

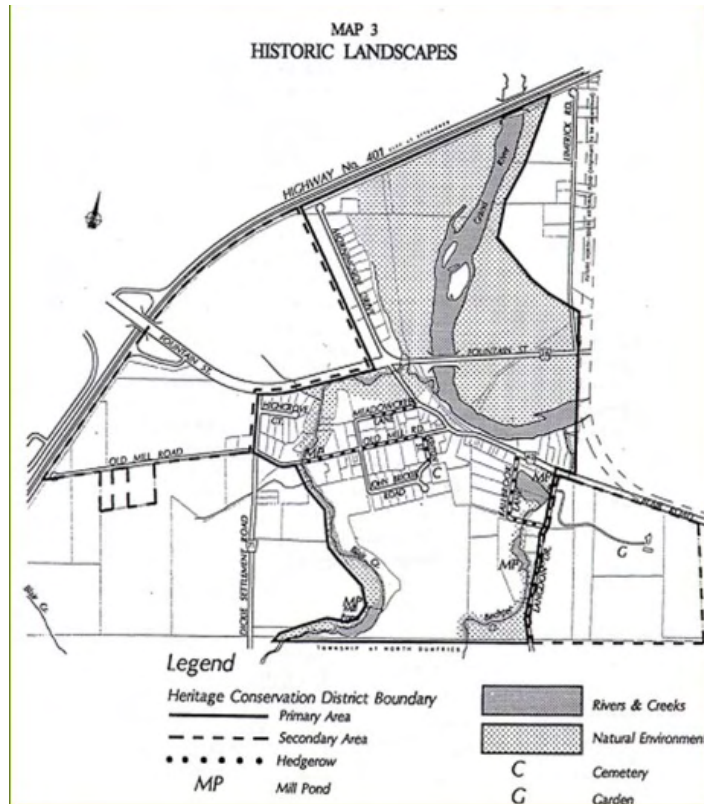


Figure 21. Graphic: Nicholas Hill



Figure 22. Blair, a village located just outside Galt on the Grand River, was designated as a Heritage Conservation District

2.4 Step 4 – Determination of cultural heritage value or interest and identification of heritage attributes

Careful assessment of a district's cultural heritage value or interest is key to its protection and is critical for an understanding of the distinctiveness of an area within its larger context.

Distinctiveness may be attributable not only to natural and built forms, but also to historic interest derived from associations to people, events or themes of cultural significance.

The province has developed criteria for determining cultural heritage value or interest, which are set out in Ontario Regulation 9/06. These criteria are mandatory for designation of individual properties under Part IV of the act. They should also be applied when determining cultural heritage value or interest of heritage conservation districts.

Determining the cultural heritage value or interest of an urban HCD will usually involve considering an aggregate of buildings, streets, natural features, and open spaces that, as a group, are valued by the community. With a rural HCD, the focus will more likely to be on the concentration or continuity of landscape components and how these are united, modified, or interpreted by human use and past events.

The examination of a district may require evaluation of each part, or individual property based on:

- **Design/Physical Value:**
 - Buildings or structures within the district may contribute to the study of the architecture or construction of a specific period or area, or the work of an important builder, designer, or architect. Specific architectural considerations should include style, use of materials and details, colours, textures.
 - An area where buildings make use of local forms and materials may be important to the community's heritage.
- **Historical/Associative Value:**
 - The area may have been associated with the life of a historic person or group, or have played some role in an important historical event or episode.
- **Contextual Value:**
 - Where a building or structure is an integral part of a distinctive area of a community, or is considered to be a landmark, its contribution to the neighbourhood character may be of cultural heritage value or interest.
 - Other examples of heritage attributes that may have contextual value in an HCD include: lighting, windows, doors, signs, ornaments, that are specific to the area and help to create continuity between neighbouring buildings, structures, or sites.

For more information about the evaluation of cultural heritage resources please see the Ontario Heritage Tool Kit's *Heritage Property Evaluation Guide*.

2.4.1 Additional Considerations in an HCD

Assessing the cultural heritage value or interest of a district may also require examination of how the district fits into its broader context, as well as a consideration of the connections between the various sites, buildings, structures, landmarks within the HCD. Understanding a district's context may include the following considerations:

PLACE HOLDER – MHSTCI is interested in receiving images of landscapes and public open spaces related to an HCD. Please send images to joseph.harvey@ontario.ca

- **Landscapes and public open spaces.** The study of a potential district should also include public spaces such as sidewalks, roads and streets, and parks or gardens. These features often play roles as conspicuous as those of buildings in the environment. Open spaces provide settings and places from which to view built forms, and can also be valued landscapes in their own right. Public open spaces are often features of the original plan of a settlement or community and can be focal points for ordering and organizing streets, buildings, and other features within the settlement area.



Figure 24. The views of Mill Street, the main commercial street in Almonte HCD, are determined by the streets S-curve which provides travelers with an alternating view of the streetscape when passing through (Image courtesy of Ryan Gordon Photography).

- **Overall spatial pattern.** A spatial pattern is a perceived arrangement of things on land (and/or water) and of the spaces in between those objects. A pattern may be recognized because of the layout of its parts, e.g., in a line, or a cluster, or an array when spread out

over a wide area. An identified pattern acquires greater meaning if it is shown to have design value, or associative value, or contextual value.

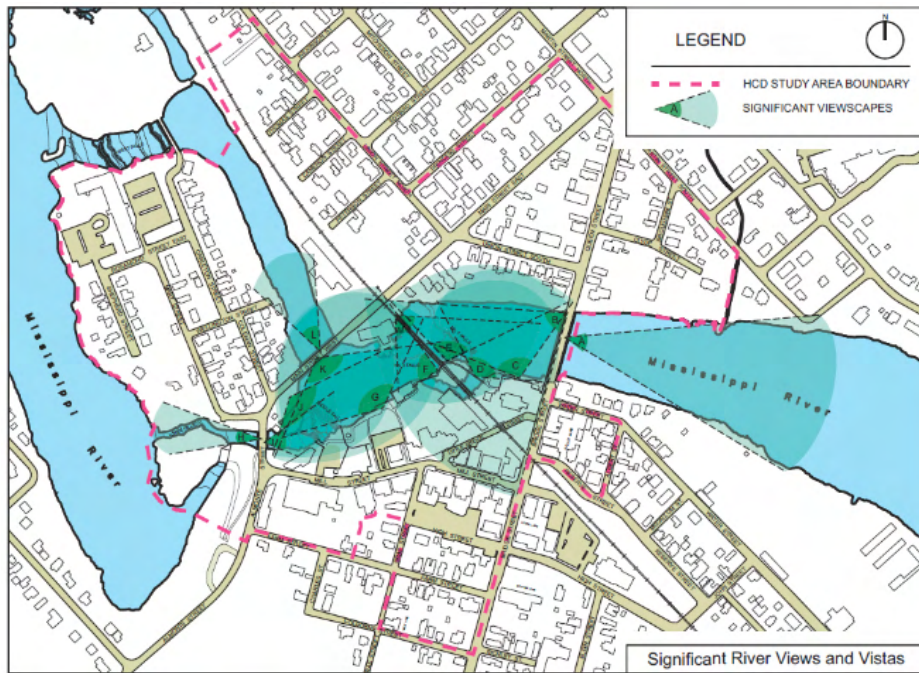


Figure 25. Viewshed map of Almonte HCD (Image courtesy of Mississippi Mills)

- **Views or vistas.** Visual settings can be important heritage attributes of a heritage conservation district. Views or vistas can be defined or framed by buildings and other structures, land-forms, vegetation patterns or structures. Panoramic views, and particularly ones that the public has been appreciating for many years, can offer a “visual mosaic” of the district, and can help tell the story of past or existing land uses and other activity.

2.5 Step 5 – Delineation of the boundary of an HCD

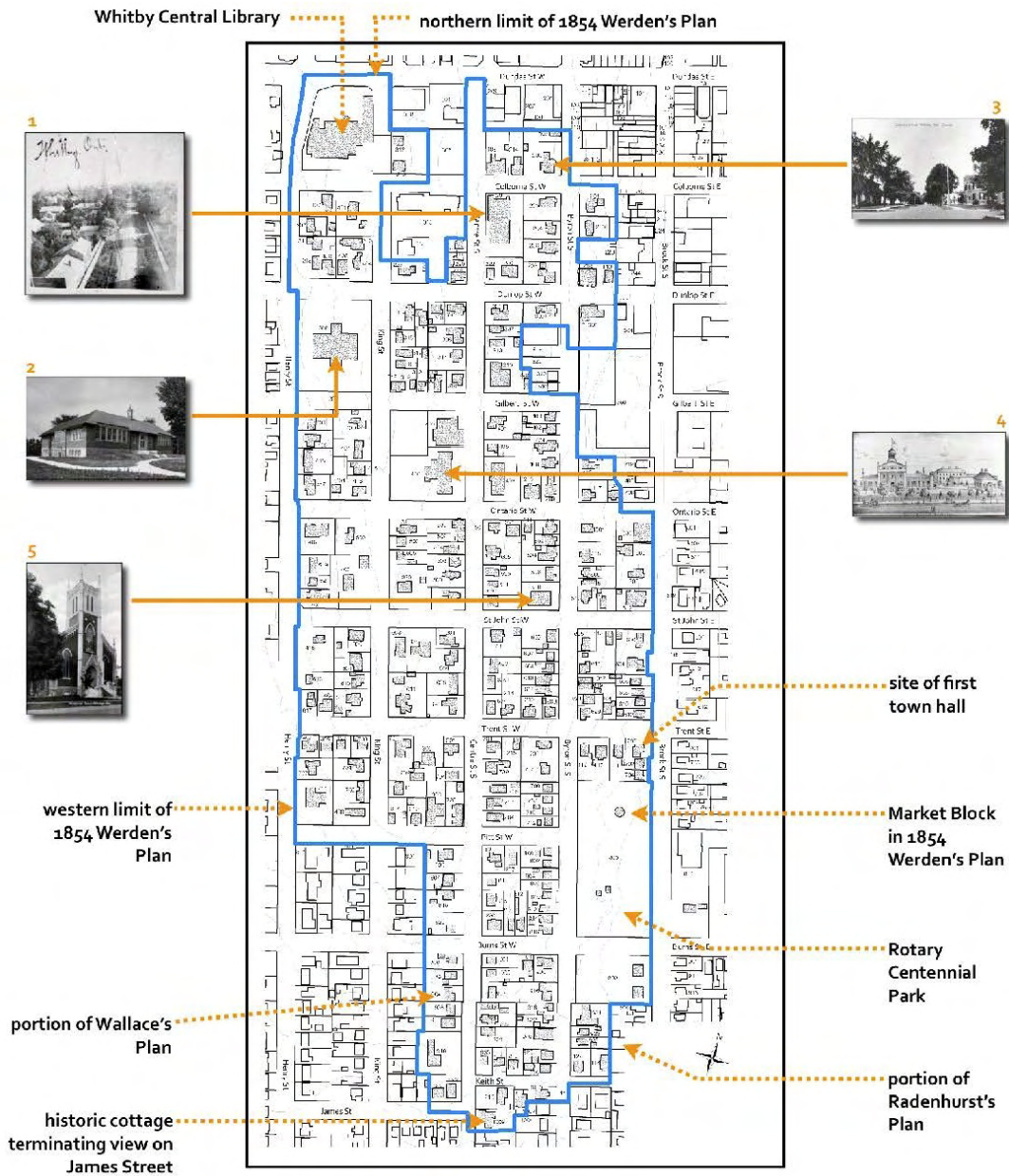


Figure 26. Werden's Plan Neighborhood HCD - Map depicting features important in delineating district boundaries (Image courtesy of the Town of Whitby)

Boundary delineation is a critical task during the study phase of the district designation process. Some study areas have an obvious character and a clear set of boundaries. Others are more difficult to define. They may include both cultural and natural features. They may cross

jurisdictional boundaries. They may have evolved over time. The initial research phase can be used to decide the possible boundaries of a district.

The final definition of boundaries should come from the findings of the research and the community consultation process.

SIDEBAR:

The boundary of a district could be determined using the following considerations:

Historical factors such as the boundary of an original settlement or an early planned community, concentrations of early buildings and sites;

Visual factors determined by a windshield survey or a detailed analysis of the visual character or topography of an area;

Physical features such as man-made transportation corridors (railways and roadways), major open spaces, natural features (rivers, treelines and marshland), existing boundaries (walls, fences, and embankments), gateways, entrances and vistas to and from a potential district;

Legal or planning factors which include less visible elements such as municipal boundaries, property or lot lines, land use designations in Official Plans or boundaries for particular uses or densities in the zoning bylaw, may also influence the delineation of the boundary, especially as they may affect its eventual legal description in the bylaw.

SIDEBAR:

Visual Perceptions

- *Distinctive architecture, design, scale, style, layout, setting, materials, workmanship.*
- *Marked change in the arrangement of buildings (massing, height, setback, etc.).*
- *Distinct changes in topography or landform.*
- *“Gateways” (i.e., a primary arrival and departure point, often offering a significant view or vista), vantage points, views and vistas to and from an area.*

Physical Situation

- *Railroads and major highways.*
- *Streets, public utilities and rights-of-way.*
- *Rivers, shorelines, ravines and other natural features.*
- *Major open spaces.*

- *Limits of a settled area.*
- *Major changes in land or building use.*
- *Walls, embankments, fences.*

Historical Evolution

- *Boundaries of an original settlement, or early planned settlement.*
- *Concentration of early buildings and sites.*
- *Defined areas affected by specific historic events.*

“Paper” Lines and Other Factors

- *Property lines.*
- *Setbacks of other zoning lines regulating building form.*
- *Land use zones or official plan boundaries.*
- *Boundaries of legal jurisdiction.*

Boundaries should be drawn to include not only buildings or structures of interest but also the whole property on which they are located. Vacant land, infill sites, public open space and contemporary buildings may also be included within the district to ensure that their future development is in keeping with the character of the area. Buildings and structures that contribute to the scale or scenic amenity of the area, may also be included.

When setting the extents of a district – in drawing the edges on a two-dimensional map -- always consider how that line will be perceived by residents and different user groups, in three dimensions, over time, when moving through the district. Though a district’s legal implementation depends on the two-dimensional lines, its ultimate effect will be judged by how well it protects and conserves the real, visible, three-dimensional character of the district embraced by those lines.

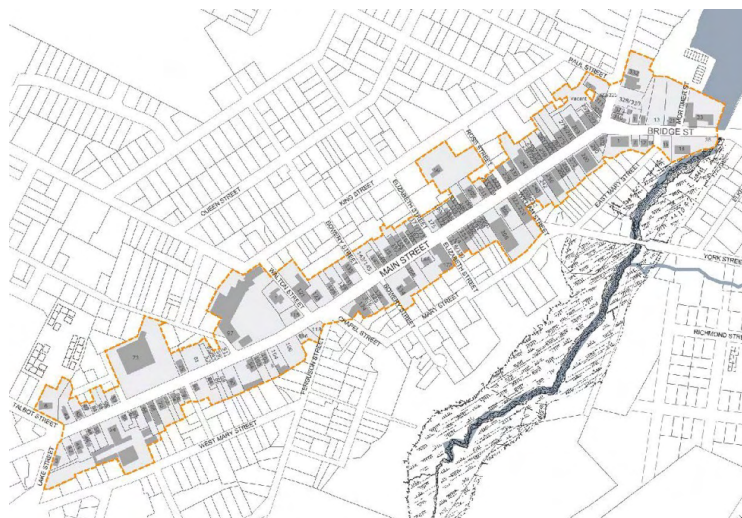


Figure 27. Map of Picton’s Mainstreet HCD (Image courtesy of the Town of Picton)

2.6 Step 6 – Public consultation



Figure 28. Community and stakeholder consultation, such as that undertaken as part of the Cabbagetown Southwest HCD Study, is an integral part of the study of potential Heritage Conservation Districts (Image Courtesy of the City of Toronto).

Successful implementation of a district will ultimately depend on wide-spread public support for district designation based on a clear understanding of the objectives for designation and appreciation of the proposed HCD plan, policies and guidelines.

Decisions about policies and guidelines should to be made in an open forum, where the benefits of designation and the responsibilities that come with it can be clearly communicated. There should be a clear agenda and timetable for proceeding with the district study and well-publicized public meetings at important stages, to allow for comprehensive discussion of the issues with area residents and property owners.

The *Ontario Heritage Act* only requires one public meeting before passing the bylaw to designate the district. It is recommended that there be three or more well-advertised public meetings before the draft district plan and bylaw are submitted for public comment at the statutory public meeting.

Meetings can be conducted as follows:

- The initial public meeting allows municipal staff and municipal heritage committee members to explain the process for district designation and its potential benefits, and to receive initial comments and views.
- The second meeting allows for consultation and discussion of the proposed boundary and other results of the study.
- The third public meeting provides opportunity for review of the draft plan and guidelines.

Depending on the outcome of the third meeting, further meetings may be required, possibly with smaller groups, to resolve any outstanding issues before the draft district plan is finalized.

It may be advantageous to appoint a local steering or advisory committee with representation from local residents, businesses and other property owners and stakeholders, to oversee the study and to work with the municipal heritage committee (where appointed) in advising Council on future heritage permit applications after the district is designated.

3 The heritage conservation district plan

3.1 Step 1 – Preparation of the HCD plan and guidelines

The *Ontario Heritage Act* requires municipalities to adopt an HCD plan when they pass the bylaw to designate an area as an HCD.

3.1.1 Statement of objectives

An HCD plan must include a statement of the objectives to be achieved in designating the area as a heritage conservation district. The overall objective of an HCD plan is to provide policies and guidelines that will assist in the protection and enhancement of the cultural heritage value of the district. The district and its current condition should be briefly described, as should the community's goals and aspirations for its future. Once the district plan is adopted, its policies and objectives will take precedence in the event of a conflict with existing municipal zoning and other bylaws that were in place before the designation of the district.

The HCD plan should provide policy statements, guidelines and procedures for achieving the plan's objectives and managing change. Alterations and new development within a district should be guided by the Plan with the intent to both protect and enhance the identified cultural heritage value. The plan should not be created as a means to control development but rather as a commitment to take positive action to safeguard and enhance the appearance, character and value of the heritage conservation district.

The objectives may include:

- To identify and enhance the vitality and viability of the area;
- To encourage a sense of place by conserving features that help define character;
- To develop design guidelines which define appropriate change for new construction and alterations to existing buildings; and
- To recommend implementation and management procedures.

Side Bar:

Summary – Contents of the HCD plan required by the Ontario Heritage Act

- *Statement of objectives to be achieved in designation of area as an HCD*
- *Statement of district's cultural heritage value or interest*

- *Description of district's heritage attributes and those of properties within the district*
- *Policy statements, guidelines and procedures for achieving stated objectives and managing changes in the district*
- *Description of external alterations or classes of external alterations that are of a minor nature that an owner can carry out without obtaining a permit*

3.1.2 Statement of district's cultural heritage value or interest

The statement describes the cultural heritage value of the district. A clear statement will help to promote understanding of the district's cultural heritage value and will assist decision-makers in ensuring that future changes and interventions contribute to, rather than detract from, the character of the area. Statements should relate specifically to evaluation criteria the district satisfies.

3.1.3 Description of heritage attributes

3.1.3.1 Summary of heritage attributes

The description of heritage attributes should include a summary of those components (e.g., buildings, landscape, archaeological and other property features, etc.), that were identified in the evaluation phase. There should be an emphasis on common characteristics plus unusual features or landmarks.

3.1.3.2 Detailed description of heritage attributes

There should also be a more detailed listing and description of the heritage attributes of the district and of the properties within it. It should briefly explain how the heritage attributes contribute to the district's cultural heritage value or interest. For example, in some districts the architectural detail of building façades is an important contributor.

A detailed description and photographs of the heritage attributes should be provided. Their location should be indicated on a map wherever possible.

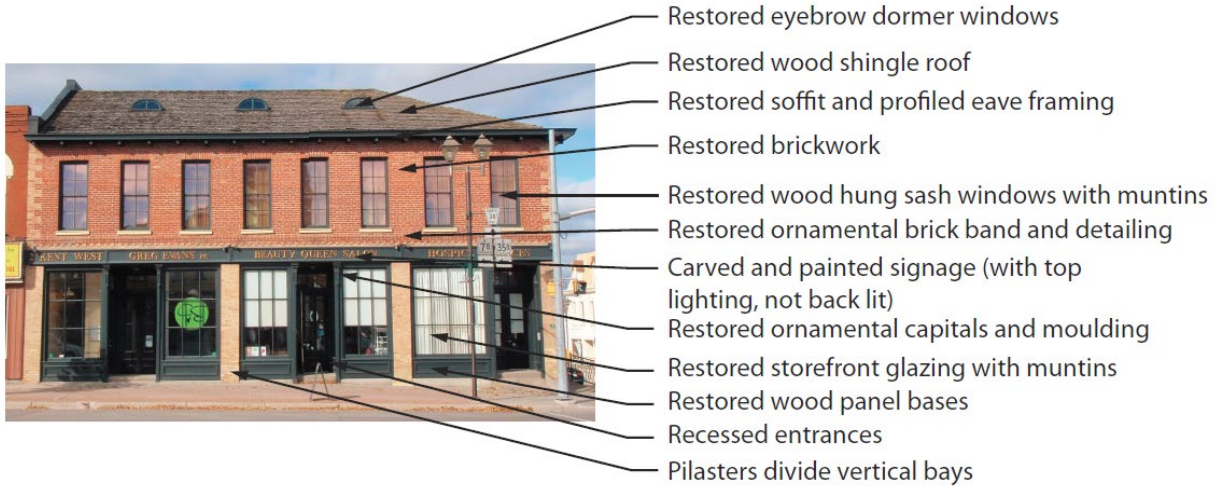


Figure 29. Typical Commercial Façade - Downtown Lindsay Heritage conservation District Plan (Image courtesy of Kawartha Lakes).



Figure 30. Guidance for properties built in the latter half of the 20th century (Image courtesy of the Town of Whitby).

3.1.4 Policy statements and guidelines

3.1.4.1 Statement of policies

The *Ontario Heritage Act* requires that a district plan include a statement of policies and guidelines. This is an expression of a municipality's commitment to consistent decision-making in the review of development proposals and heritage permit applications. They should also

reflect the municipality's proposed program of public works and other work to maintain or enhance the area character.

The policies and guidelines in the district plan should not just focus on individual heritage buildings or areas. Potential impact from new development, traffic access, parking, signage and outdoor advertisements, and required mitigation measures all need to be considered. The district plan may also need to deal with traffic management schemes or incentives for the use of upper floors in older commercial blocks.

3.1.4.2 District guidelines

The HCD plan must include a description of the alterations or classes of alterations that are minor in nature and that property owners within the district may be allowed to carry out on any part of the property, other than the interior of any structure or building on the property, without obtaining a permit under Section 42.

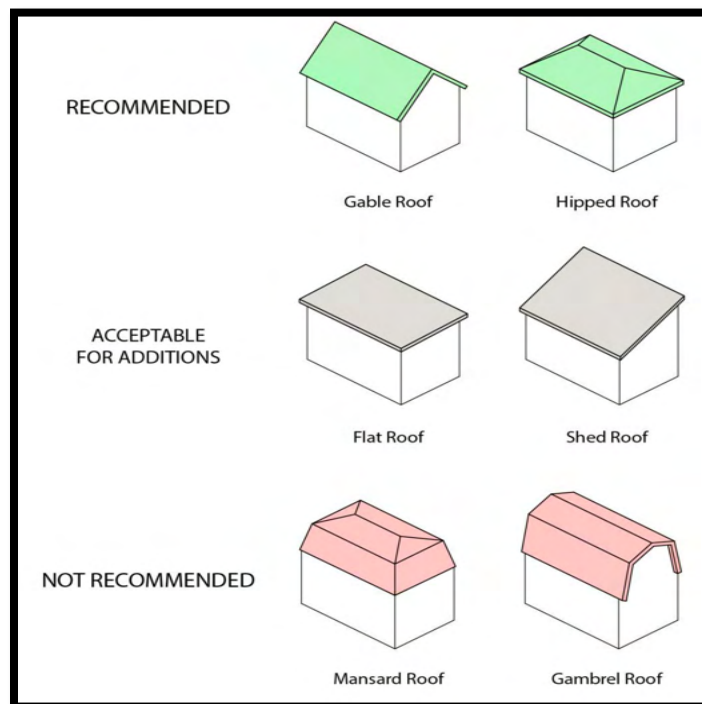


Figure 31. Guidelines for roof forms in the District (Image courtesy of the Town of Oakville, First and Second Street Heritage Conservation District)

Guidelines for conservation of heritage property and identified heritage resources should be compatible with advice and guidelines of the Ontario government (see Ministry of Heritage, Sport, Tourism and Culture Industries website at www.ontario.mhstci) and the Ontario Heritage Trust. The Standards and Guidelines for the Conservation of Historic Places in Canada,

developed by Parks Canada (see www.historicplaces.ca) may be a useful reference, but where conflicts exist, the policies and advice prepared and issued by the province prevail.

Since guidelines will be used by property owners, as well as municipal planners, councillors and municipal heritage committees, they should be written clearly and simply and should include graphics and visual material that will explain what changes or alterations are appropriate, satisfy policy objectives for enhancing the district, and likely to be approved by council or staff.

In some cases, (e.g., new infill development), there may be alternative ways to comply with the policy objective. The guidelines should indicate clearly what options are available and include recommended development standards, type of materials and quality of detailing required, for development of infill and vacant land.

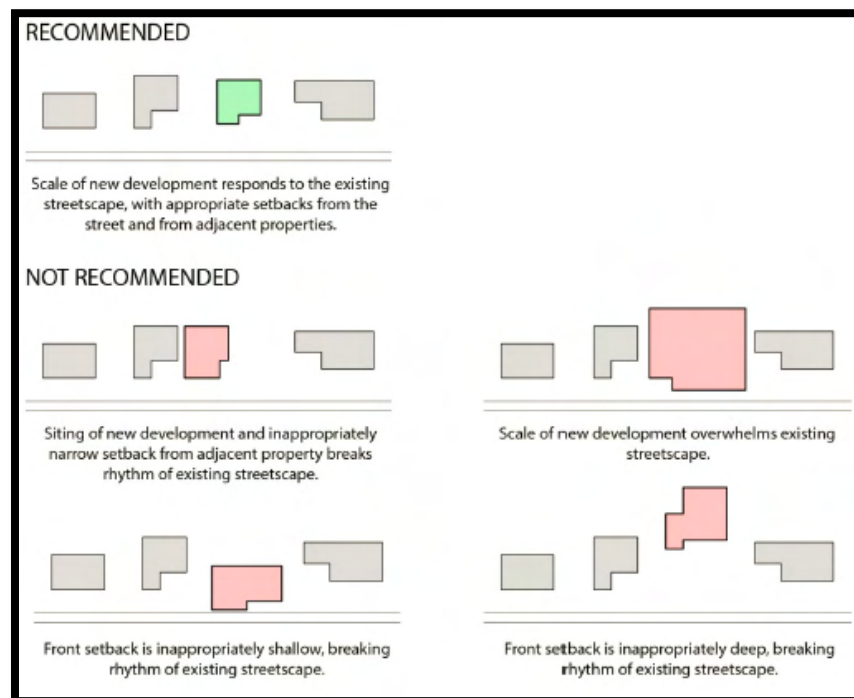


Figure 32. Guidelines for siting new development within the existing streetscape (Image courtesy of the City of Oakville First and Second Street Heritage Conservation District Plan)

For districts with a large number of properties a detailed approach to each property may be too cumbersome and impractical. It may be more practical to have more general guidelines that indicate the types of change that will be considered appropriate for existing groups of buildings as well as generic design types for new construction.

On vacant and other potential development sites, the preferred siting, scale, maximum allowable height, setback of new building or additions may need to be specified, as well as the

preferred colour, texture and type of materials to be used. Guidelines can also be a useful source of information for general advice on landscape conservation and restoration techniques, tree planting and garden design.

3.1.5 Description of minor alterations

The heritage conservation plan must include a description of external minor alterations or classes of minor alterations that an owner can carry out without obtaining a permit under s. 42 of the OHA. This will help to reduce delay in approval of heritage permit applications and allow property owners to carry out maintenance type work, (e.g., painting and repairs of windows, renewal of a roof, using exact material and colours).

There should be extensive community input before deciding on the type of “minor alterations” that can be carried out without permit approval under s. 42 of the OHA.

3.1.6 Government-owned property in an HCD

3.1.6.1 Property owned or controlled by Ontario government ministries or other prescribed public bodies

Part III.1 of the act authorizes the Minister of Heritage, Sport, Tourism and Culture Industries, in consultation with ministries and affected public bodies, to prepare standards and guidelines for conservation of provincial heritage properties. These standards and guidelines set out the criteria and process for identifying provincial heritage properties and set the standards for their protection, maintenance, use and disposal. They apply to property owned by a ministry, owned by a prescribed public body, or occupied by a ministry or prescribed public body if they are entitled to make alterations.

Further information on the Standards and Guidelines for Conservation of Provincial Heritage Properties can be found on the ministry’s website (www.mtc.gov.on.ca/en/heritage/heritage_s_g.shtml)

Part V does not apply to properties owned by the Crown or a prescribed public body. In the case of property described in clause 25.2 (2) (b) of the OHA (property occupied by a ministry or prescribed public body where it is entitled to make alterations under the occupancy agreement), where these properties are included in an HCD, and there is a conflict between a provision of the Standards and Guidelines and the provisions in Part V as they apply to that property, the provisions in Part V prevail.

3.1.6.2 Status of property owned by the federal government and its agencies

Where a municipality is considering inclusion of federal government facilities or federally regulated activities in an HCD, it would be best to discuss this first with the applicable federal department, agency or federally regulated undertaking.



Figure 34. Post office in the Sparks Street Heritage Conservation District (Image courtesy of the City of Ottawa)

3.1.7 Properties designated under Part IV of the Act

An HCD may include individual properties that are designated municipally or provincially under Part IV of the Act. The Act provides a clear process for administering HCDs when there are individual Part IV designated properties in the district.

Alterations, demolition or removal of buildings or structures, to properties designated by the Minister of Heritage, Sport, Tourism and Culture Industries under section 34.5 of the Act included in an HCD are subject to the provisions of section 34.5 in Part IV and not the provisions of Part V.

If there is an HCD plan in effect for the district, then all external work alteration, demolition or removal of buildings or structures, within the district will be governed by Part V and the approved HCD plan, including properties individually designated by the municipality, unless they are owned by the Crown or a prescribed public body. However, Part V does not apply to alterations to the interior of a building or structure – the provisions of Part IV respecting the alteration of properties designated under section 29 and the individual designation will govern interior alterations to individually designated properties.

Properties in an HCD that are also designated individually under section 29, will be governed by the Part IV provisions respecting alterations, demolition or removal of structures, or demolition or removal of heritage attributes, if the HCD was designated before HCDs 2005 and the municipality has not adopted an HCD plan in accordance with subsection 41.1(2) of the Act.



Figure 35. Blackfriars Bridge - 1875 wrought iron bowstring arch bridge underwent a major rehabilitation in 2017-2018 (Image courtesy of the City of London).

3.2 Step 2 – Passing the designation bylaw and adoption of the HCD Plan

Subsection 41.1(6) of the *Ontario Heritage Act* sets out the minimum requirements for public consultation before council passes the bylaw to designate the district and to adopt the district plan.

The Act does not require council to obtain the approval of a majority of property owners or residents or to demonstrate that there is support before proceeding to pass a bylaw to designate an area as an HCD.

Before passing the designation bylaw and adopting the HCD plan, council is required to notify the public about the proposed HCD plan and hold at least one public meeting to discuss the plan. Following passage of the bylaw, any person who objects to the bylaw can appeal the bylaw to the Ontario Land Tribunal (“the Tribunal”).

Comments and/or objections to the proposed district plan can be made through oral representations at the municipal public meeting or by written submissions to council. Persons who did not make representations at the meeting or written submissions on the plan may be later denied the opportunity to appeal the passing of the by-law to the Tribunal.

The Tribunal will usually hold a hearing to consider the objections and will decide whether the appeal should be dismissed or allowed in whole or part. Where the Tribunal allows an appeal, it may repeal the bylaw or amend the bylaw or direct council to do so. The Tribunal’s decision to allow the appeal may apply either to the whole or any part of the area proposed for designation as a district.

The Tribunal’s decision is final and, unless repealed, the bylaw comes into effect when all appeals have been withdrawn or dismissed or when the Tribunal or council amends the bylaw pursuant to the hearing.

3.3 Step 3 – Registration of bylaw on title

The designation bylaw must be registered on the title of all properties in the district when it comes into force. Registration provides notice so that current and future property owners within the HCD are aware that their property is within an HCD.

The area that has been designated should be clearly defined on a map, or through an up-to-date legal description. Individual properties also need to be clearly identified and legally described to allow a designation bylaw to be registered on title.

3.3.1 Including the HCD on the Ontario Heritage Trust register

Once the HCD comes into force, the municipality must send a copy of the registered bylaw to the Ontario Heritage Trust. The Trust then lists the properties on the *Ontario Heritage Act* Register. This register, which can be accessed at:

www.heritagetrust.on.ca/en/index.php/pages/tools/ontario-heritage-act-register

This is a valuable resource tool for learning about and promoting heritage properties across the province.

3.4 Step 4 – Proposed changes to bylaws and Official Plan provisions

A final requirement of the study process is a list of proposed changes to municipal bylaws and Official Plan provisions.

Most heritage conservation district designations require some adjustments to the existing planning framework in the municipality. There may be changes to provisions for building heights, setbacks, or uses under applicable zoning bylaws. There may be review and approval procedures that have an impact on other provisions such as environmental assessments. There may be changes to public works policies or tax policies or other municipal initiatives.

The proposed changes need not be exhaustive at the study phase. The study should highlight areas of immediate concern. If a district designation is approved, municipalities should proceed with any required amendments to zoning bylaws and Official Plan provisions to ensure consistency with the district plan.

3.5 Step 5 – Implementing the HCD plan

The permit application process is the principal mechanism for implementing a district plan. This allows a municipality to exert control over development and other applications to ensure that they will have a beneficial rather than detrimental effect on the character and heritage attributes of the district. The adoption of an HCD plan with clear policies and guidelines ensures that municipal decision making will be based on objective criteria.

3.6 Adoption of HCD plans for previously designated districts

The *Ontario Heritage Act* requires that municipalities prepare an HCD plan before designating a heritage conservation district. Prior to amendments to the Act in 2005 HCD plans were highly recommended, but not required.

The *Ontario Heritage Act* enables municipalities to adopt HCD plans for previously designated districts. The municipality must follow the procedures set out in section 41.1 of the Act for the adoption of an HCD plan.

The municipality must publish notice of the bylaw adopting the plan in a newspaper having general circulation in the municipality and give notice to every property owner in the district and to the Ontario Heritage Trust. The Act offers a right to appeal of the bylaw adopting the plan. If there is an appeal, the Tribunal will hold a hearing and make a decision. In this instance, only the adoption of the Heritage Conservation District plan can be appealed to the Tribunal. In issuing its decision, the Tribunal cannot repeal the Heritage Conservation District itself.



Figure 36. Initially adopted in 1982, a management plan for the Sweetland Avenue Heritage conservation district completed in 2015 (Image courtesy of the City of Ottawa).

4 Management of the District

The management of an HCD will depend, to a large extent, on the resources available to municipal council. Municipalities with heritage experts on staff will be likely to have general policies and procedures in place for managing heritage districts. In these municipalities, council may choose to delegate the approval of applications for alteration to property to staff, after consulting with its municipal heritage committee, in which case the committee will play a more advisory role.

In municipalities where there is no heritage planning staff, the municipal heritage committee will likely be more directly involved with the review of permit applications, though ultimately it will be council that makes the final decision.



Figure 37. Greenfield Mill – Greenfield Heritage Conservation District (Image courtesy of the Township of North Dumfries)

4.1 Review of alteration, new construction, demolition and removal

The *Ontario Heritage Act* gives municipalities the power to decide whether the erection of a new building or structure, or the demolition or removal of a building or structure, can take place within a designated HCD. In making its decisions, the municipality should be guided by the provisions of the HCD plan.

Property owners do not need a permit for carrying out “minor alterations” as described in the district plan or for interior alterations – except for property designated under Part IV of the act, where interior features are included in the bylaw.

Many activities proposed for a property in an HCD require property owners to apply to the municipality for a permit. This includes:

- Erection of any new building or structure;
- Any alterations that are not exempted in an HCD plan; and
- Demolition or removal of any building or structure in an HCD.

Alterations to the property that come under review include restoration, repair, replacement or modification of any heritage attributes identified in the plan.

Each municipality can determine what information will be required in a permit application. Once it receives the complete permit application, the municipality acknowledges receipt to the property owner. The municipality then has 90 days to grant or refuse the permit.

The municipality must consult with its municipal heritage committee, where one has been appointed, before making a decision on an application for the erection of new buildings or structures; demolition or removal of a building or structure; or, removal of attributes that affect a heritage attribute described in the HCD district plan. In making its decisions, the municipality should be guided by the provisions of the HCD plan.

A property owner can appeal municipal council’s decision to refuse a permit or to grant a permit subject to terms and conditions to the Ontario Land Tribunal.

The permit application process allows municipalities to review proposed physical or functional changes within an HCD to ensure that they are in keeping with the objectives for district designation and will respect the cultural heritage value or interest identified in the HCD plan.

The scope of review can be broadened or narrowed depending on the nature of the proposed intervention and the importance of the heritage resource affected.

Some communities develop a stewardship kit, which is given to all property owners in the district and to new owners when they move into the district. It outlines the key objectives of the designation and summarizes the design guidelines and the difference between major and minor alterations in that district. Such kits can be a useful tool for protecting cultural heritage value or interest by raising public awareness.



Figure 38. 1 Victoria Street, Dundas (Designated as part of the Cross-Melville Heritage Conservation District)
– Sympathetic rear addition to private residential home in the HCD (Image courtesy of the City of Hamilton).

4.2 Property maintenance standards

Where a municipality has passed a bylaw under Section 15.1 of the *Building Code Act* setting out the standards for maintenance and repair of property in the municipality, it can pass a bylaw that sets out additional minimum standards for the maintenance and repair of heritage property, including property within an HCD. The municipality can then require heritage property owners to comply with the heritage property standards. The OHA provides that sections [15.2](#), [15.3](#), [15.4](#), [15.5](#) and [15.8](#) of the *Building Code Act* apply with necessary modifications to the enforcement of a property standards bylaw.

Setting out maintenance and repair expectations for owners of designated property in a transparent way can help council encourage heritage conservation in the community. A heritage property standards bylaw should be based on established conservation principles to ensure that heritage property owners adhere to best practices.



Figure 39. The Simard House (1884) was restored using original materials to help maintain the properties integrity as a rare example of a Second Empire style. Five apartments were able to be added to the structure without compromising the properties integrity of the property's heritage attributes (Image courtesy of the city of Ottawa).

4.3 Easements and covenants

Municipalities may also enter into easements or covenants with property owners to protect the heritage attributes of properties, including properties located within an HCD. The Ontario Heritage Trust may enter into heritage conservation easement agreements with property owners as well, where properties are of provincial significance.

Easements or covenants are agreements, often referred to as heritage conservation agreements or conservation easements, that are registered against the title to the property, run in perpetuity, and bind current and subsequent owners of that property.

A heritage conservation agreement is a voluntary agreement between the municipality or the Ontario Heritage Trust and an owner to conserve the heritage attributes of the property, and to encourage good stewardship of the property.

Heritage conservation agreements allow for an extra level of protection of the heritage attributes of a property in a designated heritage conservation district than designation alone as they contractually commit current and future owners to protect the defined heritage attributes of the property in perpetuity.

A heritage conservation agreement also requires the owner to consult with and obtain the approval of the municipality or the Trust, about proposed work affecting the defined heritage attributes, before the work is carried out.

Heritage conservation agreements are often a required as a condition of a property owner receiving a grant (or tax relief) from the municipality to protect the public investment in the property.

In other cases, property owners may enter into easements in return for other forms of compensation or consideration, e.g., development approval, condition of sale; or, requested by a property owner in estate planning.

Heritage conservation agreements are an important tool for ensuring the long-term protection and conservation of significant heritage properties and cultural landscapes.



Figure 40. The London Normal School is designated as a part of the Wortley Village-Old South Heritage Conservation District. The property is also protected by a heritage easement agreement held by the Ontario Heritage Trust (Image courtesy of the City of London).

4.4 Acquisition and expropriation

A municipality may decide to purchase or expropriate any property within an HCD to ensure that the property is protected. The municipality can keep the property indefinitely or it can lease or sell it.

This is a rarely used provision of the *Ontario Heritage Act*.

Decisions about what to do with a purchased or expropriated property must be consistent with the heritage conservation goals set out in the Official Plan and in the HCD plan. The purchase or sale of any property must be approved by a bylaw passed by municipal council.

4.5 Incentives and other support for heritage conservation

Normal upkeep and maintenance are the responsibilities of every property owner. Through regular inspection and continuous care and maintenance, major restoration and repair costs to heritage properties and heritage attributes can often be avoided. Municipalities may consider giving financial assistance and/or tax incentives to encourage and support owners to be good stewards of their heritage properties in recognition of the community's interest in maintaining its heritage.

Municipalities are authorized by the Act to pass bylaws to provide grants or loans to owners of designated property, to assist with the cost of improvements on such terms and conditions as council may prescribe. Many municipalities have established financial incentive programs to assist property owners with the conservation of their designated heritage properties.

Municipalities can also establish Heritage Property Tax Relief programs to support ongoing maintenance and conservation of designated properties. The province shares in the cost of the program by funding the education portion of the property tax relief.

For more information, refer to the Ministry of Culture's publication Getting Started: Heritage Property Tax Relief – A Guide for Municipalities at:

www.mtc.gov.on.ca/en/publications/taxguide-e.pdf

4.5.1 Who to contact for information?

For latest information on incentives and other support for heritage conservation available in your area contact your local Municipal Clerk, Planning Department Staff, or Municipal Heritage Committee.

5 Resources and further information [UNDER CONSTRUCTION]

For more information on the *Ontario Heritage Act* and conserving your community heritage, contact the Ministry of Heritage, Sport, Tourism and Culture Industries or the Ontario Heritage Trust at:

Ministry of Heritage, Sport, Tourism and Culture Industries

www.ontario.ca/page/ministry-heritage-sport-tourism-culture-industries

Ontario Heritage Trust

www.heritagetrust.on.ca

Heritage Places of Worship: A Guide to Conserving Heritage Places of Worship in Ontario Communities

Ontario's heritage places of worship are celebrated and respected as spiritual centres and enduring landmarks in our communities. Few places of worship are protected under the Ontario Heritage Act. Heritage places of worship are underrepresented in the record of Ontario's protected heritage properties.

Today, property owners of heritage places of worship face many challenges. These can include dwindling congregations, shrinking revenues and rising costs, aging building stock, public safety and accessibility, real estate pressures, adapting to new forms of worship and changing attitudes. At the same time, many heritage places of worship are important to the larger community as resources of cultural heritage value or interest, as well as centres of spirituality and community services. Property owners often have a difficult task of determining priorities regarding the ongoing care of heritage places of worship, accommodating the evolving practices and religious needs of faith groups, while considering and contributing towards the interests of the broader community.

In most cases, heritage places of worship must cover operating, maintenance and capital investments through a combination of donations, grants and incentives (for example, property owned by a church or religious organization or leased to another charitable organization as a place of worship is exempt from property tax under the Ontario Assessment Act).

Many heritage properties change or are adapted over time, but places of worship may be different in that they often have evolving spiritual value in addition to cultural heritage value. Heritage places of worship may be thought of as "living cultural heritage resources" due to the ongoing need to change or adapt them to new philosophies, doctrines or practices of worship. This should be considered when deciding the best approach to conserving a heritage place of worship.

This guide is meant to be an initial point of reference to assist in the conservation and protection of all types of heritage places of worship in Ontario. Each section provides links to relevant Ontario Heritage Tool Kit guides and other tools available on provincial ministry websites. Online sources of information specific to heritage places of worship are also provided.

The guide will help those involved in planning for and making decisions on the conservation, designation, alteration, disposal and demolition of heritage properties built or adapted as places of worship, recognizing their unique characteristics and circumstances.

What's in this guide?

1. Introduction

This section sets out the context for the conservation of heritage places of worship, including an overview of key provincial legislation guiding municipal and property owners' decision-making regarding heritage properties.

2. Identifying and Evaluating Heritage Places of Worship

This section describes considerations for identifying, researching and evaluating heritage places of worship, which may result in including the property on the municipal register.

- Case study 1 : St. Patrick's Roman Catholic Church, Brampton

3. Recognizing Heritage Places of Worship in Your Community

This section sets out the range of options for recognizing, commemorating and protecting heritage places of worship, from good stewardship and promotion, through to legal tools provided under the Ontario Heritage Act — designation and heritage conservation easements.

- Case study 2: Sandwich First Baptist Church, Windsor

4. Effectively Conserving and Managing Heritage Places of Worship

This section discusses considerations for keeping heritage places of worship viable in the community while conserving and protecting their cultural heritage value or interest. It discusses the effect of the Ontario Heritage Act on alterations, as well as tools available under the Planning Act to extend the useful life of the property.

- Case study 3: Beth Ezekiel Synagogue, Owen Sound

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This section sets out some of the considerations for property owners wishing to dispose of a heritage place of worship when it is no longer viable or needed.

- Case study 4: Rydal Bank United Church, Township of Plummer Additional

6. Resources and Further Information

7. Appendices

7.1 Appendix A: Surveying and Researching Heritage Places of Worship

7.2 Appendix B: Conserving the Landscape of Heritage Places of Worship

This guide is one of several published by the Ministry of Heritage, Sport, Tourism and Culture Industries as part of the Ontario Heritage Tool Kit. The Ministry has published these guidance materials as an aid to municipalities and others working with the Ontario Heritage Act. The information in this guidance is not intended to take the place of legal advice. In the event of any conflict between this guidance and any applicable legislation or regulations, including the Ontario Heritage Act and its regulations, the legislation or regulations prevails.



Figure 1. Stewart Memorial Church in Hamilton is home to Hamilton's longest surviving predominantly Black congregation (Image courtesy of the City of Hamilton).

1. Introduction

This guide provides information on the heritage conservation process in Ontario and the specific considerations that may arise when heritage places of worship are involved.

The Ontario Heritage Act is the legislative framework for Ontario's heritage conservation process. The process follows a standard series of steps and decisions, described in detail in the Ontario Heritage Tool Kit.

This guide discusses some of the unique aspects of places of worship that possess cultural heritage value or interest. It also highlights considerations that may be helpful to all parties involved in or affected by conservation, designation, alteration, disposal and demolition of heritage places of worship.

Communities find spiritual value in a wide range of places, and determining what makes a place a "place of worship" can be a community – or even a personal decision. This guide is intended to apply to any heritage place of worship that is currently owned or managed by a religious organization ("property owner").

This includes properties in active use as places of worship as well as those that have ceased to be used for this purpose and may be under consideration for other uses.

For the purposes of this guide, "places of worship" is an inclusive term that includes churches, mosques, synagogues, temples, chapels (e.g., within convents or seminaries), shrines, meeting houses or other built places of assembly for religious purposes.

SIDEBAR:

The Ontario Heritage Act and the Planning Act

This guide focuses on the Ontario Heritage Act but occasionally refers to provisions and tools provided for under the Planning Act such as the Provincial Policy Statement (PPS).

The Ministry of Heritage, Sport, Tourism and Culture Industries' Ontario Heritage Act provides a framework for the protection of heritage properties and archaeological resources.

It defines the municipal and provincial roles in heritage conservation, including the role of the province's heritage agency, the Ontario Heritage Trust.

The Act provides municipal councils with a number of tools to identify and protect properties with cultural heritage value or interest:

- *Power to establish a heritage committee*
- *Power to establish a register of heritage properties*
- *Powers to designate and manage changes to individual properties and heritage conservation districts*
- *Criteria to determine cultural heritage value or interest.*

The Ministry of Municipal Affairs and Housing's Planning Act sets out the ground rules for land use planning in Ontario.

The PPS is issued under the authority of the Planning Act and provides direction on matters of provincial interest related to land use planning and development to planning authorities such as municipalities.

The PPS deals specifically with cultural heritage and resources in Section 2.6. This section requires planning authorities to conserve significant built heritage resources and cultural heritage landscapes. The PPS also provides for the conservation of significant archaeological resources and consideration of protected heritage property when developing adjacent lands.

The Planning Act also provides the authority for the preparation of official plans and planning documents that guide development in Ontario communities.

More information on the Ontario Heritage Act can be found at

<https://www.ontario.ca/page/ministry-heritage-sport-tourism-culture-industries>.

More information on cultural heritage in the context of the Planning Act and the Provincial Policy Statement may be found in:

- Heritage Resources in the Land Use Planning Process: Cultural Heritage and Archaeology Policies of the Provincial Policy Statement, 2020
- Strengthening Ontario's Heritage.

All are available at <https://www.ontario.ca/page/ministry-heritage-sport-tourism-culture-industries>

In addition, more information on land use planning in Ontario is available on the Ministry of Municipal Affairs and Housing web page: <https://www.ontario.ca/page/ministry-municipal-affairs-housing>.

2. Identifying and Evaluating Heritage Places of Worship

SIDEBAR:

In the Ontario Heritage Tool Kit:

Details about the processes described in this section may be found in Heritage Property Evaluation: A Guide to Listing, Researching and Evaluating Cultural Heritage Property in Ontario Communities, available at <https://www.ontario.ca/page/ministry-heritage-sport-tourism-culture-industries>

It is common to find heritage places of worship at the centre of a village, town or urban community, identified as local landmarks. The place of worship, its associated open space, cemetery, landscaping and related structures are all part of the overall context or setting. The physical location of a heritage place of worship and how it relates to its immediate environment produces, over time, a sense of place, based on personal, social, cultural and ancestral relationships.

SIDEBAR:

Definition of “heritage attributes”

The Ontario Heritage Act defines “heritage attributes” as: “in relation to real property, and to the buildings and structures on the real property, the attributes of the property, buildings and structures that contribute to their cultural heritage value or interest.”

The conservation of a heritage place of worship begins with understanding the full range of a community’s cultural heritage resources. A heritage property evaluation generally involves these steps:

- Research to gather and record information about the property
- Determination of “cultural heritage value or interest” based on provincially-prescribed criteria (hyperlink to regulation), with input from heritage consultants and the community
- Documentation of the research and evaluation process
- Preparation of a “Statement of Cultural Heritage Value or Interest” and a description of “heritage attributes”.

2.1. Identifying heritage places of worship with cultural heritage value or interest

The process of identifying heritage properties in a community is essential for informed municipal decision-making. It creates community awareness, which may lead to formal recognition and protection.

Under Part IV of the Ontario Heritage Act, the municipal clerk is required to keep a current register of properties of cultural heritage value or interest situated in the municipality. The register must include all properties designated under Part IV of the Act. In addition, property that has not been designated, but that the municipal council believes to be of cultural heritage value or interest, may be placed on the register. This practice of including non-designated properties in the register is commonly referred to as “listing”.

Municipal councils and staff often work with a municipal heritage committee, where one exists, a local interest group (e.g., historical society, local chapter of the Architectural Conservancy of Ontario), or a *qualified person* ([link to glossary definition](#)) to identify and evaluate properties to include on the register. These groups normally conduct a survey of the community’s potential heritage properties and screen them against criteria for potential cultural heritage value or interest, before making their recommendations to council about properties to include on the municipal register of heritage properties. These properties can include heritage places of worship.

Since listing a heritage place of worship indicates that it could be considered for further municipal recognition and protection (e.g., designation), municipalities are required to notify property owners that their property has been added to the municipal register. Details about the notification process and requirements can be found in the *Heritage Property Evaluation Guide*.

Where the property owner’s administrative authority is centralized (e.g., a diocese), a coordinated strategic approach to research and evaluate multiple heritage places of worship may be the most efficient and effective manner in which to proceed. To do this, the property owner may need to engage with a number of municipalities in a region.

2.2. Research and analysis



Figure 2. 1842 sketch of old Christ's Church Cathedral in Hamilton (Image courtesy of the Archives of Ontario)

Historical research is necessary to document the history and development of a heritage property and to identify any association it has to the broader context of community heritage. This research involves the use of land records, maps, photographs, publications, archival materials and other documentation. In this regard, many faith groups maintain archives that can be useful sources of information about heritage places of worship.

Research should reveal dates of construction, original and later uses, significant people or events, technologies, philosophy, factors such as natural disasters or fires and other details about the heritage property. This information is useful in the evaluation of the cultural heritage value or interest of the property.

Site visits supplement the historical research. On-site examination of the property provides further opportunity to look for physical evidence of history and use.

Documentation and analysis of the heritage place of worship's landscape and context should be included to allow a full evaluation of its cultural heritage value or interest.

Associated cultural heritage landscape features of the property such as landscape design, cemeteries, fences, archaeological resources and trees may have cultural heritage value or interest.

The findings of the historical research and on-site analysis form the background information that will be used in determining the cultural heritage value and deciding the appropriate course of action for conserving a heritage place of worship.

See Appendix A for more information on surveying and researching heritage places of worship.



Figure 3. St. Nicholas Ukrainian Catholic Church in Kenora is listed on the municipal register of heritage properties (Image courtesy of the City of Kenora).

2.3.Evaluation

If a heritage place of worship is being considered for individual municipal property designation under Part IV of the Ontario Heritage Act, it will undergo a more rigorous evaluation against

criteria set out in *Ontario Regulation 9/06, Criteria for Determining Cultural Heritage Value or Interest*. The criteria are grouped into the categories of Design / Physical Value, Historical / Associative Value and Contextual Value. For more information on Regulation 9/06 see the *Heritage Property Evaluation guide* in the Ontario Heritage Tool Kit.

SIDEBAR:

Ontario's Places of Worship Inventory

The Ontario Heritage Trust maintains Ontario's Places of Worship Inventory, an online inventory of purpose-built places of worship across the province that are more than 25 years old. The inventory contains a wealth of information about Ontario's places of worship and is a helpful resource that can assist property owners and municipalities in planning for conservation and adaptive reuse. For more information go to: <https://www.heritagetrust.on.ca/en/places-of-worship/places-of-worship-database>

If the property is being considered for provincial designation, it will be evaluated for provincial significance against the criteria set out in *Ontario Regulation 10/06, Criteria for Determining Cultural Heritage Value or Interest of Provincial Significance*.



Figure 4. St. Anne's Anglican Church, Toronto (Image courtesy of the Ontario Heritage Trust)

2.4. Evaluating Interior Elements

One aspect of most heritage places of worship that makes them different from other heritage properties are their interior furnishings, fittings and decoration. These may have liturgical meaning, not just historic or artistic value. Liturgical elements are building elements, ornaments or decorations that are symbols or material things traditionally considered by a faith to be part of the rites of public worship.

Interiors contain items that may be classified as fixtures or chattels. Determining whether a liturgical element is a fixture or chattel can be complex and often must be determined on a case-by-case basis.

SIDEBAR

The Ontario Heritage Act defines property for the purposes of Part IV as “real property and includes all buildings and structures thereon”. This includes anything fixed to the property (“fixture”) but excludes anything portable (“chattel”).

Generally, a fixture is something affixed to the property by means other than its own weight, which cannot be removed without causing damage to the building fabric. A chattel is a moveable item of property not permanently attached to land or a building. Sometimes the liturgical element may seem to fall between the two categories. Wall paintings and leaded or stained glass windows would be considered fixtures but framed paintings and freestanding sculptures would not.

While both fixtures and chattels may have cultural heritage value or interest, only fixtures are part of property. Therefore, only fixtures may be protected under the Ontario Heritage Act.

Additional considerations in evaluating interior elements include:

- Their artistic, craftsmanship and design value (e.g., the element could be integral to the design or function and removal would affect the overall cultural heritage value or interest)
- Their historical value (e.g., the element could have a strong association with a religious or local community. It could document changes in building use for liturgical, social or community service purposes).

2.5. Result of Evaluations

The result of these evaluations is a recommended statement of cultural heritage value or interest and a description of the heritage attributes that support the property’s cultural heritage value or interest. These form the basis of the municipal council’s decision on a designation bylaw which sets out the features of the property that must be protected.

Municipalities should consult with the property owner on the evaluation and resulting statement of cultural heritage value or interest to determine the heritage attributes that require protection, as well as the most appropriate protective mechanism.



Figure 5. Christ Church, Chapel Royal of the Mohawk in Tyendinaga Mohawk Territory, Bay of Quinte (Image courtesy of the Ontario Heritage Trust).

Case study 1: St Patrick's Roman Catholic Church, Brampton - Evaluation of a Heritage Place of Worship



Figure 6. Image courtesy of the Ontario Heritage Trust

Designated in 2010 under the Ontario Heritage Act

St Patrick's Roman Catholic Church is a landmark connected to the historic Irish community of Wildfield. Although little remains of historic Wildfield, the church is still known as the Mother Church for all Catholic parishes in Peel Region. It was designed by Post and Holmes Architects and built in 1894. The popularity of Father McSpiritt, the parish priest from 1887 to 1895, inspired a successful fundraising campaign for its construction, resulting in a building with a high level of craftsmanship. Sadly, the first ringing of the church bell was on the occasion of his burial in the churchyard.

The municipal protection of this heritage place of worship was initiated by council's request that the municipal heritage staff and the municipal heritage committee survey the historic settlements and list properties with the potential to meet the designation criteria on the

municipal register. Under Brampton's municipal designation process, which groups properties in categories, the church was identified as a 'Category A' heritage resource. Brampton's policy is to proceed with the designation process for 'Category A' properties. Council therefore requested that staff prepare a designation report, which involved documenting the site, conducting further historical research, and engaging with residents of the Wildfield community.

Brampton council also notified the property owner, the Archdiocese of Toronto, of its intention to designate and shared a copy of the draft designation report. The Archdiocese consulted with its own heritage and architectural advisors. Communication between the municipality and the Archdiocese was facilitated through a single point of contact – the municipal heritage planner and the Archdiocese's heritage consultant – so that the drafting of the designation bylaw could proceed with a common understanding. The shared goal was to protect the place of worship's heritage value while respecting the religious needs and operations. Community engagement strengthened understanding of the property through historical and associative values that are not always physically evident.

While heritage attributes included in a designation bylaw are decided on a case-by-case basis, chattels cannot be designated as they are not part of real property. In this case, discussion between the municipality and the property owner (i.e., the Archdiocese) led to agreement that the designation bylaw would reference interior heritage attributes such as the stained glass windows while also excluding liturgical objects in order to facilitate the ongoing use of the building as a church.

As noted in the staff report to the municipal council on the designation, "Notwithstanding any other references to the contrary, the following are not reasons for the heritage designation nor are they elements of the property that will be designated pursuant to the Ontario Heritage Act: liturgical elements and liturgical furnishings, being symbols and material things that are part of the worship of God. The principal liturgical furnishings of the church include, but are not limited to, the altar, the chair, the ambo, the tabernacle, the pews, and images, including any windows with liturgical images."

While this approach met the needs of the parties involved in this case, it would be more appropriate to specifically list in the bylaw any liturgical objects or other physical features that are not considered heritage attributes for the purposes of designation to ensure there is a common understanding of the effect of the designation bylaw.

In addition, the municipality recognized that the church's contextual value as a landmark was one of the most important cultural heritage values to protect. The designation signals that any

future planning and development on adjacent lands will need to be respectful of this heritage place of worship.



Figure 7. Image courtesy of the Ontario Heritage Trust

Points to note:

- The municipality took a proactive and planned approach to listing and designation.
- The municipality engaged the property owner in dialogue and collaboration early in the designation process. The resulting bylaw reflected the property's value to the community while taking the ongoing religious use of the heritage place of worship into consideration.
- The community was involved in providing associative and contextual value.
- Both the municipality and the property owner retained heritage consultants at key points in the process.

3. Recognizing Heritage Places of Worship in your Community

SIDEBAR:

In the Ontario Heritage Tool Kit:

Details about the designation processes described in this section can be found in:

Designating Heritage Properties: A Guide to Municipal Designation of Individual Properties under the Ontario Heritage Act

Heritage Conservation Districts: A Guide to District Designation under the Ontario Heritage Act

Infosheet: Ontario Heritage Act, Part IV: Provincial Powers to Conserve Property of Cultural Heritage value or Interest of Provincial Significance

All are available at <https://www.ontario.ca/page/ministry-heritage-sport-tourism-culture-industries>.

The act of commemorating, recognizing and protecting heritage places of worship provides a public demonstration of what a community values. These activities promote awareness in the community and beyond and help ensure change is appropriate to the unique circumstances of the heritage place of worship.

Commemoration, recognition and protection can be initiated by the municipality or the property owner and can be achieved through a variety of tools. Municipalities should work in collaboration with owners of heritage places of worship to determine the most appropriate tools to use.

Many of the tools outlined in this section can be used in combination to tailor commemoration, recognition and protection to individual circumstances of a heritage place of worship.

3.1. Good stewardship and promotion

Good stewardship and promotion of a heritage place of worship is often informally fostered by religious organizations, members of a congregation or a Friends Group who voluntarily undertake to commemorate and conserve it without any legal protection mechanism. This may be as simple as developing a brochure or a website. More formally, the governing authority may develop manuals or guidelines for property care.

Capital improvements and restorations are often supported through fundraising campaigns. Donors of building features (e.g., stained glass window) may provide endowments with terms that stipulate how they are to be cared for.

Heritage places of worship across Ontario may also be promoted through publicity and interpretive events such as Doors Open Ontario, Ontario Heritage Week activities, local tourism initiatives, walking tours and similar events that build awareness of a community's cultural heritage resources.

3.2. Commemoration and recognition

Public recognition of a heritage place of worship acknowledges and builds awareness of its history and cultural heritage value or interest. Many organizations interested in local, provincial, or national history, including local historical societies and municipal heritage committees, recognize cultural heritage resources with formal plaques or markers. Forms of recognition such as plaques do not in themselves provide legal protection.

Most levels of government have programs to recognize important heritage sites through commemorative plaques.

The federal government commemorates National Historic Sites through plaques installed by the Historic Sites and Monuments Board of Canada.

The nominated subject must have historical significance from a national perspective, not only from a local or regional standpoint. Examples of heritage places of worship in Ontario commemorated as National Historic Sites include Notre Dame Roman Catholic Basilica National Historic Site in Ottawa, St. Paul's Presbyterian Church/Former St. Andrew's Church National Historic Site in Hamilton and Nazrey African Methodist Episcopal in Amherstburg.

The Ontario Heritage Trust operates the Ontario government's plaque program for properties of provincial significance. These familiar blue and gold plaques enliven Ontario's heritage by sharing stories of the people, places and events that have helped to shape the province. Applications for plaques come from communities. For more information visit the Trust's plaque website at: www.heritagetrust.on.ca/plaques.

Many municipalities have established their own plaque programs to identify and recognize designated properties or other properties of cultural heritage value or interest to the community.



Figure 9. The unveiling of the provincial plaque for the Kneseth Israel Synagogue in Toronto. (Image courtesy of the Ontario Heritage Trust)

SIDEBAR:

Doors Open Ontario

Doors Open Ontario is a free annual cultural heritage tourism program led by the Ontario Heritage Trust (the Trust). Since 2002, the program:

- *Encourages Ontarians to discover the stories inside the province's most unique and fascinating historic places, cultural, and natural sites – all free of charge.*
- *Celebrates community identity and drives tourism in communities of all sizes across Ontario.*
- *Builds networks and capacity to create partnerships among arts, culture, heritage and tourism organizations, community business associations, municipalities, and the Trust.*

Doors Open Ontario provides opportunities to showcase heritage places of worship, draw attention to conservation efforts and engage the community. For more information visit:

www.doorsopenontario.on.ca.

SIDEBAR:

The Ontario Building Code

Part 11 of the Code provides compliance alternatives where compliance with the standard requirements under the Code is not viable because “it is detrimental to the preservation of a heritage building”.

Also, where an existing building is subject to alteration or repair, the Code will apply only to those parts of the building being altered or repaired. The entire building is not required to be brought into compliance with modern standards.



Figure 11. St. Mary Immaculate Church (Image courtesy of Richmond Hill)

3.3. Listing on a municipal register

Listing on a municipal register publicly recognizes a property’s cultural heritage value or interest and flags it for consideration in the municipal planning process. In addition, listing provides temporary protection for non-designated properties. The Ontario Heritage Act stipulates that owners of a listed property shall not demolish or remove a building or structure on the property or permit the demolition or removal of the building or structure unless they give the council of the municipality at least 60 days notice in writing of their intention to do so. Municipalities may

also have their own policies about information needed to support the notice to demolish or remove (e.g., heritage impact assessment).

3.4. Designation of individual properties

Part IV of the Ontario Heritage Act enables municipal councils to pass bylaws to formally designate individual properties of cultural heritage value or interest. For more detailed information on designating individual heritage properties see the *Designating Heritage Properties guide* in the Ontario Heritage Toll Kit.

Heritage designation:

- Recognizes the importance of a property to the local community
- Protects the property's cultural heritage value or interest
- Encourages good stewardship, conservation and wise management
- Provides clarity about the property's heritage attributes to be conserved
- Promotes knowledge and understanding about the property.

The advantage for the owner of a heritage place of worship is that designation recognizes the significance of the property and provides assurance that future owners will respect its cultural heritage value or interest. Designation may provide property owners with access to grants or loans to support the conservation of the property. It also allows flexibility and alternative approaches for compliance with Ontario Building Code requirements (e.g., retaining existing railing heights or door widths).

For the community, designation of heritage properties provides a process to ensure the heritage attributes of a property are conserved over time. Property owners, the municipal heritage committee, where one exists, and municipal staff should work together to ensure that changes to the property respect its cultural heritage value or interest.

SIDEBAR:

Definition of "Alter"

The Ontario Heritage Act defines "alter" as: "to change in any manner and includes to restore, renovate, repair or disturb".

As set out in Section 1, the statement of cultural heritage value or interest and a description of the heritage attributes form the basis of the designation bylaw, which sets out the physical features of the heritage property that must be protected. They help to guide future alterations

to the designated property by clearly identifying its heritage attributes that should be protected and conserved.

Municipal heritage committees and municipal staff can work with the owner of a heritage place of worship to draft a designation bylaw. Working together is the best way to make sure that the religious based purposes of the property are considered in the process of protecting its cultural heritage value or interest.

During this process it is important to keep in mind that liturgical elements that are chattels (i.e., not real property) or are not of cultural heritage value or interest are excluded from designation. For liturgical elements that form part of the real property and have cultural heritage value or interest, dialogue between decision makers and property owners (on a case-by-case basis) is recommended to determine whether or not they are included or excluded as heritage attributes in the bylaw. The minimum bylaw standards prescribed by regulation permit designation bylaws to include a list of physical features that are not heritage attributes.

Early and meaningful engagement during the designation process will help to address the unique circumstances of describing the heritage attributes of a place of worship, including consideration of ongoing religious use and potential changes to liturgical elements.



Figure 12. The Quaker Meeting House in Newmarket is set back from the road and located in a park-like setting that creates a unique spirit of place (Image courtesy of the City of Newmarket)

SIDEBAR:

Example of a municipal designation bylaw: Emmanuel Presbyterian Church, Toronto



Figure 13. Image courtesy of the Ontario Heritage Trust

Designated by the City of Toronto in 2007 under Part IV of the Ontario Heritage Act

Description of Property – Toronto, 21 Swanwick Avenue

The property at 21 Swanwick Avenue is worthy of designation under Part IV of the Ontario Heritage Act, and meets the criteria for municipal designation prescribed by the Province of Ontario under the categories of design, historical and contextual value.

Located on the south side of Swanwick Avenue, west of Main Street and opposite the entrance to Enderby Road, Emmanuel Presbyterian Church (1893) is documented in J. R. Robertson's Landmarks of Toronto (Vol. 4, 1904, pages 304-306). The property was listed on the City of Toronto Inventory of Heritage Properties in 1984.

Statement of Cultural Heritage Value

Physical or Design Value:

Emmanuel Presbyterian Church is a representative example of a religious building with Gothic Revival styling. Inspired by English medieval prototypes, Gothic Revival designs are recognized

by the application of pointed-arches, buttresses, and varied window types. Emmanuel Presbyterian Church is a modest rendition of the style, with attention focused on the treatment of the corner tower.

Historical or Associative Value:

Emmanuel Presbyterian Church is an institution that contributed to the historical evolution of the East Toronto community. The development of the site dates to 1888 when a small building was constructed following the merger of two Presbyterian congregations as Emmanuel Presbyterian Church.

The present church was completed in 1893 under the direction of contractors McMillan and Costain. Alterations in 1901 and 1914 included an entrance porch and a large wing (for a church hall and Sunday School). With changes in local demographics, in 1973 Emmanuel Presbyterian Church joined with St. James Presbyterian and St. Matthew's Presbyterian (both established in 1925) to create the Tri-Congregations, a three-point charge served by a team ministry. In 1988, the latter congregations amalgamated as Faith Presbyterian Community Church, now located in East York.

Contextual Value:

Emmanuel Presbyterian Church is a local landmark that is carefully positioned to terminate the view at the south end of Enderby Road. The church contributes to the character of East Toronto, which was incorporated as a Village in 1888 and a Town in 1903.

The residential community grew up around the intersection of Main Street and Gerrard Street East, providing housing for workers at the Grand Trunk Railway yards at the northeast end of the municipality. Among the institutional, religious and educational buildings that became important neighbourhood markers, Fire Hall No. 22 and Police Station No. 10 at 85 and 97 Main Street were completed after the City of Toronto annexed East Toronto in 1910. Located one block east of Emmanuel Presbyterian Church, the latter properties are recognized on the City's heritage inventory.

Heritage Attributes

The heritage attributes of Emmanuel Presbyterian Church related to its design value as a representative example of Gothic Revival styling are found on the exterior walls and roof, consisting of:

- The plan, with the main body of the church rising one extended storey under a steeply pitched gable roof with the gable end facing Swanwick Avenue.

- *The application of red brick cladding, with brick, stone, wood and metal trim.*
- *The square tower, anchoring the northeast corner, with an entrance and pointed-arched window opening at the base, pointed-arched openings with louvres and tracery, and a pyramidal roof with tourelles, and copper trim.*
- *The open porch, protecting the main entrance, with detailing reflecting the early 20th century Arts and Crafts movement.*
- *On the main body, the principal (north) façade with a trio of pointed-arch window openings and a narrow lancet window beneath the apex of the gable.*
- *On the side elevations of the main body (east and west), the battered buttresses, gabled wall dormers, segmental-arched window openings with brick flat arches and stone sills and, on the west wall, the enclosed entrance porch with pointed-arched window openings (one of the window openings on the east wall has been bricked in).*
- *The complementary addition at the southwest end of the church, with brick cladding, gable roof with a gabled dormer on the north slope, and flat-headed door and window openings with brick and stone trim.*

The rear (south) wall of the church has no distinguishing features and is not included in the cultural heritage value of the property.

3.5. Designation of heritage conservation districts



Figure 14. The Waverley Park Heritage Conservation District in Thunder Bay surrounds one of the oldest municipal parks in Ontario. The district has four churches located within its bounds: Trinity United Church, and St. Paul's United Church, as well as St. Andrew's Roman Catholic Church and First Baptist Church, pictured here. The relationship of these churches to the park creates an important sense of place in Thunder Bay (Image courtesy of the City of Thunder Bay).

Part V of the Ontario Heritage Act provides for the designation of heritage conservation districts – heritage that extends beyond the individual properties.

Properties protected within a heritage conservation district are noted for their contribution to the character of the area. Context is often important for places of worship, which tend to have large and prominent buildings and features that are familiar community landmarks. Heritage places of worship can be significant not only for their buildings, but also for cultural heritage landscape features such as landscaping, cemetery or burial ground, viewsheds and corridors, as well as archaeological resources and historical associations.

District designation enables the municipality to manage and guide future change in the district, through a district plan with policies and guidelines for conservation, protection and enhancement of the area's special character. Municipalities must consult with their municipal heritage committee, where established, and the public in the development of the plan.

The municipal clerk is required to keep a current register of all heritage conservation districts (as well as individual designated and listed properties) situated in the municipality.

Following approval of a local designation bylaw for a heritage conservation district, any exterior alterations, additions and demolition to property within a heritage conservation district requires a permit from the municipality. Decisions on whether to issue a permit generally depend on the approved guidelines and plan for the district. Interiors of buildings are not included in a district plan.

It is possible for a heritage place of worship to be designated under Part IV of the Act in addition to being included in a heritage conservation district. This provides for a higher level of protection of both exterior and interior heritage attributes that may otherwise not be covered in a heritage conservation district plan.

For more detailed information about heritage conservation districts, see the *Heritage Conservation Districts guide* in the Ontario Heritage Tool Kit.

3.6. Provincial designation and stop order

Part IV of the Ontario Heritage Act enables the Minister of Heritage, Sport, Tourism and Culture Industries to designate property of provincial significance and to prohibit the demolition or removal of buildings or structures designated as heritage properties of provincial significance.

Provincial designation is available only if the Minister, in consultation with the Ontario Heritage Trust, determines that the property is provincially significant and there is a provincial interest in designating the property. To be considered provincially significant, properties must meet the specific criteria of provincial significance as set out in Ontario Regulation 10/06.

The Act also enables the Minister to issue a stop order with respect to any property to prevent alteration, damage, or demolition or removal of any building or structure on the property, if the Minister is of the opinion that the property may be of provincial significance.

3.7. Heritage conservation easements

Heritage conservation easements are highly flexible conservation tools. An easement is a voluntary legal agreement entered into by a property owner to protect the heritage character of a property. The terms of the easement are registered on title with the land and apply to all subsequent owners of the property. Easements do not usually prohibit change or limit use. Instead, they ensure that change is managed in a manner consistent with sound conservation principles and that heritage character is preserved and maintained. The level of control is determined by the easement terms and conditions.

The Ontario Heritage Act empowers the Ontario Heritage Trust to enter into heritage conservation easement agreements with property owners. The Act also provides for municipal councils to pass bylaws allowing them to enter into easement agreements for the conservation of property of cultural heritage value or interest.

Easements may be used to protect exterior and interior features, as well as landscape features. Because each property has its own unique cultural heritage value and heritage attributes, an easement agreement may be tailored to the specific circumstances of a place of worship. The Trust or the municipality works in partnership with the property owner to develop the terms and content of each agreement.

Details about the Ontario Heritage Trust's Conservation Easement Program can be found at <https://www.heritagetrust.on.ca/en/pages/tools/conservation-easements>.



Figure 15. The Sharon Temple, East Gwillimbury, is protected by an Ontario Heritage Trust easement (Image courtesy of the Ontario Heritage Trust).

Case study 2: Sandwich First Baptist Church, Windsor



Figure 16. MHSTCI

Community Recognition of a Heritage Place of Worship

Designated in 1995 under the Ontario Heritage Act

Located in the historic Town of Sandwich, the Sandwich First Baptist Church is one of the oldest active Black churches in Canada. The church was designated under the Ontario Heritage Act for its important historic connections to the anti-slavery movement and the Underground Railroad. It was also recognized with a provincial plaque in 1997 and was designated a National Historic Site in 2000.

As a border town near a river crossing, Sandwich was a popular destination for slaves seeking freedom in Canada. The Sandwich First Baptist congregation was established in 1840 in a log church located on or near the current site. The congregation played a key role in the Underground Railroad by sheltering and assisting many of the new arrivals. The church was a founding partner of the Amherstburg Regular Missionary Baptist Association, an organization formed in 1841 to assist in the formation of Black Baptist congregations in Canada. The organization consists of nine cross-border partner churches, and remains active today.

In 1847, Queen Victoria granted the congregation land for construction of a church and cemetery. The modest church seen today was constructed from handmade bricks fashioned from clay found on the banks of the Detroit River by members of the congregation. As completed in 1851, the church's original design was plain and simple, with a wooden gabled entrance porch. Gothic windows were added in the 1880s and a two-storey tower replaced the wooden porch in 1920.

Sandwich First Baptist Church is part of Parks Canada's system of National Historic Sites commemorating the Underground Railroad. Through interpretive and educational events such as concerts, plays, tours and Doors Open activities the small congregation promotes awareness of the history of the Black community in Windsor. The tours are very popular, drawing visitors from Canada, the United States and Europe. The congregation also provides educational programs for local school groups, has partnered on provincial and federal government initiatives to promote Black History and is actively building an artifact collection documenting the history of the community.

As a designated property in Windsor, the church is eligible for funding from Windsor's Community Heritage Fund. In 2010, it received a grant of \$47,000 to restore the roof and front door. The congregation worked with the municipal heritage committee and the municipal heritage planner, as well as a local engineer, to ensure that restoration work was sympathetic to the cultural heritage value of the historic church. With limited resources, the congregation

has been able to successfully commemorate and conserve this important symbol of Black History in Canada.

Points to note:

A history of multiple partnerships builds strong community roots and broad recognition.

Recognition by multiple levels of government, builds community pride and awareness.

Community support and recognition is demonstrated by municipal designation and grants to help keep the heritage place of worship viable.

4. Effectively Conserving and Managing Heritage Places of Worship

SIDEBAR:

In the Ontario Heritage Tool Kit:

Details about the municipal process for alteration of designated properties can be found in [Designating Heritage Properties: A Guide to Municipal Designation of Individual Properties under the Ontario Heritage Act](https://www.ontario.ca/page/ministry-heritage-sport-tourism-culture-industries), available at <https://www.ontario.ca/page/ministry-heritage-sport-tourism-culture-industries>.

The statement of cultural heritage value or interest and accompanying description of heritage attributes is a guide for decisions on conservation, and management of the heritage place of worship. At the same time, those decisions will need to take into account the evolving religious needs of the faith group and other users if it is to remain viable.

Some key factors that help property owners successfully conserve heritage places of worship include:

- Understanding the property's cultural heritage value
- Responsiveness to ongoing change
- Sound conservation principles, using the advice of a multi-disciplinary team of specialists
- A core group of dedicated volunteers
- Taking a proactive approach
- A broad base of community and public-sector support and participation
- Identification of the heritage property as a community asset.

The goal should be to conserve cultural heritage value while keeping heritage places of worship viable as active, evolving functional spaces. This section sets out some key considerations for managing heritage places of worship.

4.1. Preventive conservation and maintenance

The conservation of a heritage place of worship covers a range of activities, from ongoing maintenance to large-scale capital restoration projects. Preventive conservation involves developing and implementing a good maintenance routine to reduce deterioration and extend the heritage place of worship's working life. In the long term, it is also cost effective. Many larger municipalities have property standards for the maintenance of heritage structures with which owners and occupants must comply. For example, heritage property standards bylaws have been adopted by the cities of Burlington, Hamilton, Kingston, Kitchener, Mississauga, Toronto and Waterloo and the Town of Oakville.

A good first step is to develop a conservation plan – a practical guide for carrying out ongoing maintenance routines and repairs, as well as planning for future alterations, development or possible disposal. The Ontario environment, with its extremes of temperature, is hard on heritage buildings. A well-thought out conservation plan looks beyond cosmetic work on the appearance of the building to ensuring the short-and long-term stability of the structure. Its purpose is to help manage change in a way that minimizes impact on the heritage place of worship's cultural heritage value or interest without stopping change altogether.

The Ministry of Heritage, Sport, Tourism and Culture Industries has produced eight guiding principles for the conservation of cultural heritage properties and their surroundings. These guiding principles set out commonly accepted best practices for decisions concerning heritage conservation. Property owners should use them as a guide when planning for preventive conservation, alterations such as restoration or expansion, and disposal of heritage places of worship. You can find the eight guiding principles at:

http://www.mtc.gov.on.ca/en/publications/InfoSheet_8%20Guiding_Principles.pdf

Periodically conducting a full assessment of the property's condition is important to both understand its physical condition and manage changes and alterations. Such an assessment typically includes a review of the following elements of the heritage place of worship:

- Structural materials and integrity (e.g., foundation, masonry and wood deterioration, interior finishes, hardware and roofing)
- Mechanical systems operation and potential issues (e.g., lighting, mechanical, plumbing and electrical systems, energy conservation)

- Accessibility, safety and security systems
- Exterior property issues (e.g., landscape, drainage, signage, parking)
- History of past repairs.

Decisions about the preventive maintenance of a heritage place of worship should address both the need to conserve its heritage attributes with the requirements of ongoing use. In keeping with the guiding principles, some conservation best practices include:

- Maintaining heritage attributes on an ongoing basis, with the least intervention necessary
- Repairing heritage attributes using recognized conservation methods
- Replacing missing or extensively deteriorated parts with original materials, based on surviving prototypes
- Conducting ongoing routine condition monitoring.

Many faith groups are striving to be more environmentally conscious about their property decisions by implementing “greening” programs. Often property owners assume that a building feature, such as a window, must be replaced when it merely needs to be repaired. Repairs are not only cost-effective, they also maintain original building materials, fulfilling significant heritage conservation and environmental sustainability principles. Programs such as [Greening Sacred Spaces](#) assist faith groups in taking action to create a more sustainable and energy efficient place of worship.

See *Appendix B* for considerations regarding the conservation of the landscape and context.

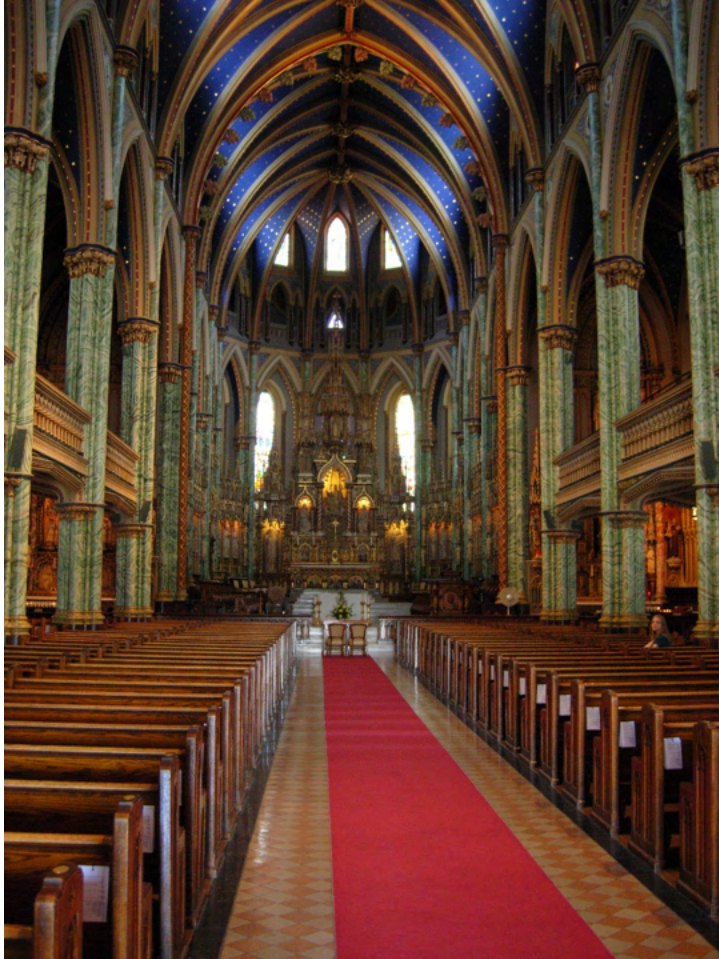


Figure 17. The interior of Notre Dame Roman Catholic Basilica in Ottawa (Image courtesy of the Ontario Heritage Trust).

4.2.Alterations

Over time, a heritage place of worship may require alterations, either to accommodate changes in religious use or community programs, or to comply with legislated requirements in such areas as public health, safety and accessibility. Before deciding to make changes to a heritage place of worship, it is recommended that the property owner engage a qualified person to conduct an assessment of the building condition and its needs (“needs assessment”), to help determine the appropriate course of action over time. This assessment should outline:



Figure 18. St. Paul's Anglican Church in Toronto (Image courtesy of the Ontario Heritage Trust)

Whether current conditions, unchanged or with minor modifications, would conserve the cultural heritage value while meeting the religious needs and/ or legislated requirements

- The impact, both physical and visual, of the proposed change on the heritage attributes.
- Whether the proposed change will improve the heritage place of worship's long-term viability
- The resources required for the proposed change and its long-term maintenance.

If the change will affect the heritage attributes of the heritage place of worship or its appearance in its context (e.g., construction of an addition), a heritage impact assessment by a qualified person is also recommended.

A heritage impact assessment is a study to determine if a heritage property will be impacted by a specific proposed development or site alteration. This type of study can also show how the

heritage place of worship could be conserved in the context of a site redevelopment or alteration (e.g., subdivision of the property).

If the property is designated or protected by an easement, sharing this documentation, together with a description of the religious needs and mission of the place of worship, with the municipality or easement holder before making an application for alteration will allow for early dialogue in the decision-making process.

Recognizing that heritage properties may require alteration as needs and uses shift over time, the Ontario Heritage Act provides a statutory and procedural framework to help manage and guide change in a way that also sustains the cultural heritage value of the property.

The alteration processes set out in Parts IV and V of the Ontario Heritage Act help to ensure that the heritage attributes of a designated property or a property in a heritage conservation district are conserved. If the property owner wishes to make alterations to the property that affect the property's heritage attributes, the owner must obtain written consent (for an individual designation) or a permit (for a property in a heritage conservation district) from municipal council. The demolition or permanent removal of a heritage attribute on a designated property is considered a 'demolition' under the Ontario Heritage Act and would require the approval of council. Under the Ontario Heritage Act, the property owner may appeal municipal decisions on alteration and demolition applications to the Ontario Land Tribunal (OLT), which has the power to render a decision that is binding. If a place of worship has been listed but not designated, the Ontario Heritage Act does not require municipal consent for alterations. It is recommended, however, that owners of non-designated heritage places of worship included on a register engage with the municipality when considering an alteration.

Properties protected by heritage conservation easements have their own specific review and approval processes for alterations.

Early contact and communication between the property owner, the municipality or easement holder and the municipal heritage committee, where one exists, is important. Having discussions and identifying any issues at the beginning of the process will save time and money and help build community understanding and relationships.

The designation bylaw is a guiding document for a municipality considering alteration or demolition applications to a designated heritage place of worship. Municipalities should also consider any other relevant requirements that might apply to the particular situation (e.g., Provincial Policy Statement, Ontario Building Code) when making their decision.

In addition, key considerations include:

- Reason for the alteration or demolition (e.g., liturgical purposes, public safety, accessibility)
- The appropriateness of the proposed design, character and materials proposed
- Other options considered and rationale for the preferred option
- Whether the alteration or demolition improves the property's continued use
- Alignment of the proposed alteration or demolition with the guiding principles for conservation of cultural heritage properties (e.g., reversibility)
- History of alterations or demolitions to the property
- Visual impact of the alteration or demolition on the heritage attributes and appearance
- Visual and physical impact of the alteration or demolition on surrounding properties
- Impact of the alteration or demolition on other features of the place of worship (e.g., an alteration that allows more natural light into the interior may negatively affect light-sensitive objects such as works of art)



Figure 19. The Precious Blood Cathedral in Sault Ste. Marie (Image courtesy of the Ontario Heritage Trust).

4.3. Additional consideration for exterior alterations or demolitions

Concerns for exterior alterations (restoration, additions, partial demolitions or expansions) generally focus on sensitivity to the historic appearance of the buildings, property and the context.

If the alteration is an addition, a range of design options is possible, from historic reproduction to contemporary. Key considerations include:

- Impact of the addition's form, scale, massing, and positioning on the design and context of the heritage property
- Impact on the historic appearance and functionality of the building
- How the materials and finishing fit with the heritage building.
- Additional considerations for interior alterations

Interior features of a heritage place of worship can be included as heritage attributes in the designation bylaw. Examples of interior features that could be identified as heritage attributes include, but are not limited to, columns, screens, pulpits, memorials, light fixtures and decorative woodwork. Alterations to the interior may be necessary for liturgical reasons, to further the faith group's community mission, to address requirements of public safety, access or security or to restore the original appearance. In addition to the general considerations, other issues that may arise when considering alterations to the interior of a heritage place of worship include:

- Impact of the proposed alteration on the original design, appearance and functionality of the building's interior
- How any new elements, materials and finishes fit with the interior heritage attributes and affect how people use or experience the building (e.g., covering or removal of floor finishes can have an impact on acoustics as well as a visual impact)
- How elements that might be removed (e.g., seating that is being updated) will be maintained or reused.

As with exterior alterations, the approach to interior alterations should be sensitive to the heritage attributes of the heritage place of worship. If a heritage attribute is permanently removed, it is considered a demolition under the Ontario Heritage Act and would require the approval of council.

4.4.Subdivision of Property

Property owners of heritage places of worship on large properties may wish to divide this large piece of land into two or more parcels and offer one or more for sale, providing funding for

conservation or community programming. This is subdividing property and the provisions of the Planning Act come into play. Property owners should consult with the municipal planning department to determine whether subdivision is permitted and about any planning related considerations (e.g., requirement for a heritage impact assessment).

If the property owner proposes to subdivide the property for development purposes, key considerations include:

- The statement of cultural heritage value or interest may include the landscape or context of the property
- Visual impact of the proposed subdivision and development on the heritage place of worship (e.g., setbacks, size, height)
- Impact on views and sightlines to the heritage place of worship from the street and neighbouring properties
- An archaeological assessment may be required if the property has archaeological potential (e.g., cemeteries, which may also have burials outside the boundary of the property).

4.5. Rezoning to adjust density

Some municipalities grant planning and development concessions as an incentive to retain heritage places of worship with cultural heritage value or interest in a new development. One example of this is rezoning to adjust density.

Essentially, this involves protecting a heritage property (e.g., through designation or heritage easement) to ensure that it is conserved, in exchange for allowing the developer to increase the amount of floor space or number of residential units they are allowed to create on a subdivided or neighbouring property through a rezoning process.

As this is a Planning Act process, property owners should consult with the municipal planning department for information on their land use policies regarding this process.



Figure 20. The City of Guelph protects views of the Roman Catholic Church of Our Lady Immaculate through its Zoning Bylaw and the tools available under the Planning Act, in addition to listing it on the municipal heritage register (Image courtesy of City of Guelph).

4.6. Adjacent development

The Provincial Policy Statement enables municipalities to develop policies and processes to consider mitigative measures and/or alternative development approaches, with the goal of conserving the heritage attributes of a protected heritage property potentially affected by adjacent development or site alteration.

4.7. Community partnerships



Figure 21. Poster of annual church picnic (Image courtesy of the Archives of Ontario).

Due to their public community-based mission, heritage places of worship are often thought of as semi-public spaces. The value of the heritage place of worship's history of community service is often considered when evaluating its cultural heritage value or interest. Property owners may seek assistance and support from a wider community beyond their faith group. Partners or friends' groups can assist with their care, maintenance and sustainability.

For the local neighbourhood or community, many heritage places of worship provide large exhibition, performance or gathering spaces, making them ideal partners for local groups or community meetings. These partnerships are mutually beneficial and help to maintain the viability of a heritage place of worship that otherwise might struggle to survive.

For the property owner, involving the wider community in the use of the heritage place of worship builds a broader base of supporters for its conservation and confirms the fact that it is a shared landmark that others value.



Figure 22. St. George's Greek Orthodox Church, Toronto. (Image courtesy of the Ontario Heritage Trust).

Case study 3: Beth Ezekiel Synagogue, Owen Sound - Managing Heritage Values of a Heritage Place of Worship

Designated in 1990 under the Ontario Heritage Act

Community members of Beth Ezekiel Synagogue refer to it as a 'Shul', a Yiddish term meaning "school" or "community". The former Methodist church (constructed in 1903) is the centre of the Jewish community in Owen Sound.

Jewish families in Owen Sound began meeting in various temporary locations in about 1904. When the former Calvary Church was put up for sale in 1946, community members pooled their resources to purchase it. Because of the Eastern orientation, simple design, and plain windows, few changes were needed to make it into a synagogue. The Ark (an ornamental cabinet where the sacred Torah scrolls are kept) was also reclaimed from a Toronto synagogue demolished in the 1940s.

In 1989 the synagogue contacted the City of Owen Sound to inquire about a heritage designation. Municipal staff met with the members to explain what heritage designation would mean, and the following year Beth Ezekiel was designated under the Ontario Heritage Act.

Rather than focus on the architectural elements, the designation reflects the heritage place of worship's meaning to the Jewish community and its connection to pioneering Jewish families in rural communities.

Designation gave the synagogue access to grants. As well as addressing immediate repairs, the synagogue used some of the funds to hire a heritage consultant. The consultant assessed the building's condition, recommended alterations for its long-term viability while maintaining heritage attributes, and prepared a conservation plan.

By the 1990s, only 15 families remained in the congregation. Members began to discuss what to do with the building as membership declined. They decided to undertake a commemorative window project: each family worked with a local artist to design a window that told their unique story. Refurbishing the windows renewed members' sense of pride and spiritual connection to the building.

In 2002, major structural problems were discovered. After much deliberation and with some concern, the congregation decided to open the doors to the wider community to raise the necessary repair funds. "Rhythm & Jews", a fundraising event highlighting the music, stories and food of the Jewish community, quickly sold out and donations began pouring in. \$30,000 was raised for the restoration work. More importantly, the event reconnected the Shul with the broader Jewish community, more than doubling the congregation.

Since then, the community has continued to raise funds and work on the conservation of the building, in order to meet its evolving community and religious needs. The municipality has contributed to the cost of exterior improvements, including painting, banners and custom-made shutters. In 2007, a major renovation of the courtyard was completed, extending the use of the building without affecting the historic design.

Points to note:

- Designation allows the heritage place of worship to access funding for restoration work.
- The development of a conservation plan helps manage change in a way that minimizes impacts on the cultural heritage value without stopping change altogether.
- Fundraising and capital projects provide social and spiritual connection in the community.

5. Managing Disposal of Heritage Places of Worship

It is always a difficult decision, but not unusual in a rapidly changing and evolving society, to declare a heritage place of worship redundant. Changes in demographic forces and the religious

needs of faith groups may require consolidation of multiple places of worship or moving to a new expanded facility in order to allow the faith to continue to serve its members.

Few congregations are structured to, or capable of, financing the long-term conservation of a property that they no longer use. Some owners of multiple heritage places of worship are faced with making difficult decisions about disposing of properties no longer in active use. Disposal of a property can be a means of funding the conservation of other heritage places of worship.

When the heritage property is no longer viable as an active place of worship, the method of its disposal must be carefully considered to protect its cultural heritage value or interest. Having a conservation plan helps determine the most strategic approach to disposal. It is important to engage with the community when developing a policy or strategy for disposal, as the heritage place of worship remains a part of the community's heritage.

Many former heritage places of worship have been adapted successfully to new uses, giving them a continuing role in the life in the community. It is important that the new use is compatible with the heritage place of worship's cultural heritage value, to ensure its ongoing conservation.

5.1. Deconsecration and removal of liturgical elements

When a congregation or faith group relocates from a designated heritage place of worship to another building there is often a wish to relocate liturgical elements of the building that are intrinsic to worship. If the elements are included as heritage attributes in the designation bylaw, their removal would require municipal approval. In this circumstance, the objectives of heritage conservation and protection should be considered along with the religious needs of the faith group on a case-by-case basis.

5.2. Sale for adaptive reuse

A common option for disposal of an unused heritage place of worship is to sell it. Redundant heritage places of worship are often attractive properties for reuse, either continuing as a place of worship or adapted to a new use. From a heritage conservation point of view, the sale of a property in "as is" condition is preferred to mothballing, relocation or demolition.

Reusing heritage buildings instead of demolishing them is also considered to be better for the environment as it reduces waste of energy and materials.

Ideally, a potential purchaser's proposed new use will suit the existing building and avoid alterations that could impact its heritage attributes.

There are many examples in Ontario of successful adaptive reuse of a heritage place of worship in its original location, undertaken with sensitivity to its heritage attributes. In addition to the examples in this guide, the Ontario Heritage Trust's Places of Worship Inventory contains detailed case studies showcasing a wide range of adaptive reuses.



Figure 25. The former Queen Street United Church in Kingston is a successful example of the adaptive reuse of a heritage place of worship (Image courtesy of the City of Kingston).

5.3. Mothballing

Where a heritage place of worship is unoccupied but no alternative use has been found, and options for disposal are being considered, there is still a responsibility to maintain the heritage place of worship at a minimal level to avoid loss of its cultural heritage value or interest. This is often called “mothballing”. In this case, the property is stabilized to prevent deterioration and secured against damage from weather, pests, animals or vandals, and regularly monitored and repaired as necessary. This helps protect its heritage attributes and economic value for future use.

The municipality may enforce building standards to ensure the property is not subject to “demolition by neglect”, potentially posing a public health and safety hazard.

5.4. Relocation

Relocation may be considered when a heritage place of worship's heritage attributes would be threatened in its original location. An example would be a proposed road widening or similar public municipal infrastructure project extending into the area of the building itself. If the goal of relocation is to upgrade or provide new facilities, other design options that leave the building in its original position should be considered.

Where it has been determined that a heritage place of worship cannot be retained in place, the first option should be relocation or reorientation on its original site. Relocation off site should be considered only after all options have been fully explored.

If the heritage place of worship is designated under the Ontario Heritage Act, relocation is considered "removal". The property owner must follow the same approval process as a request for demolition when seeking approval to relocate a designated heritage place of worship. If relocation is approved, council must repeal the designation bylaw on the original property and may consider passing a new bylaw designating the property to which the building has been relocated. Regulation XX under the Ontario Heritage Act provides municipalities with the option of following a modified and expedited designation process as part of a demolition / removal application process where a building or structure from a previously designated property is relocated to a new property and it is determined that the new property has cultural heritage value or interest. Further details on steps a municipality can and must take following consent to removal of a building or structure on a designated property can be found in the *Designating Heritage Properties* guide.

If relocation from the original site is determined to be the only option, the new location should be chosen with the heritage attributes of the building in mind.



Figure 26. Victoria Square Wesleyan Methodist Church in Markham is a modest 165-year-old wooden frame building which served as a place of worship until 1880, when it was replaced by a larger brick Gothic Revival Church. The building was moved off site and converted to a blacksmith's shop. In 2003, the Victoria Square United Church rallied to purchase the vacant and badly damaged structure. The original wooden chapel was moved back to the church property and lovingly restored (Image courtesy of the Town of Markham).

5.5. Demolition of a Heritage Place of Worship

SIDEBAR:

In the Ontario Heritage Tool Kit:

Details about the municipal process for demolition of designated properties can be found in [Designating Heritage Properties: A Guide to Municipal Designation of Individual Properties under the Ontario Heritage Act](https://www.ontario.ca/page/ministry-heritage-sport-tourism-culture-industries), available at <https://www.ontario.ca/page/ministry-heritage-sport-tourism-culture-industries>

As a community heritage asset, the demolition of a heritage place of worship should be considered only as a last resort after options that do not involve demolition have been fully explored (e.g., mothballing, sale for adaptive reuse, relocation, retention or partial retention in a new building).

Property owners may need to consider full or partial demolition when the structure of a heritage place of worship is determined to be unstable or unsafe and beyond repair (e.g., as a result of a fire). In these cases, before making the decision to demolish, the property owner should have an analysis of the structure done by a qualified structural engineer with experience in conservation of historic structures to determine whether the damage can be repaired.

Heritage places of worship protected under the Ontario Heritage Act (e.g., listed on the municipal register, designated or with a heritage conservation easement) must follow the demolition permitting process as set out in the Act, as well as any processes specific to the municipality. Proposed demolitions or removal of structures on designated properties require written consent from the municipal council. The property owner may appeal council decisions about demolition to the Ontario Land Tribunal.

If demolition goes ahead, it is important to complete a full record of the existing building. Measured drawings and photographs are the best means to capture the overall structure and property, along with expert recording of as much information as possible on the history, manufacture, placement and detailed description of the heritage attributes. When the property is protected under the Ontario Heritage Act, a best practice is to file this report with the municipality as a record of the property.

The property owner may wish to erect a commemorative plaque, monument, or didactic panel to acknowledge the former historic structure and the site's heritage.



Figure 27. The former St. Francis Roman Catholic Church in Ajax has been converted into the St. Francis Centre, a multicultural space and theatre. This is an example of how a heritage place of worship can be adapted to new use to meet the needs of the community (Image courtesy of the City of Ajax).

Case study 4: Rydal Bank United Church, Township of Plummer Additional - Adaptive Reuse of a Heritage Place of Worship



Figure 28. MHSTCI

Designated in 2006 under the Ontario Heritage Act

Rydal Bank United Church is a heritage place of worship that has been successfully adapted for reuse in its original location. The Carpenter's Gothic style church was constructed in 1907-08 to service the bustling northern farming and mining community. Built on a stone foundation containing "puddingstone" (a local conglomerate rock), the simple wooden church features a steeple, decorative wood shingles, and pierced board gable trim. The church is an important symbol of the town's rich history – at one time Rydal Bank boasted two hotels, a general store, a sawmill, and three churches. When the church was closed in 1978 community members feared that the local landmark would be torn down or allowed to decay; they had already seen other community churches dismantled and moved.

Over the next 10 years, community members worked to ensure that the building did not deteriorate. They carefully preserved the wooden exterior, stained glass windows, and the natural wood paneling of the interior. The Rydal Bank Historical Society was formed in 1987 in an effort to find a new use for the church. The historical society purchased the church in 1989. Its dedicated volunteers now maintain it as a 'living museum' and promote the history of the church and Rydal Bank through open houses, museum displays, and educational tours.

In 2006, the historical society initiated designation of the property under the Ontario Heritage Act in order to ensure the church's continued protection. This was the first heritage designation in Plummer Additional. Using the Ontario Heritage Tool Kit for reference, the historical society walked municipal staff and council through the designation process and requirements. With the support of the municipality and the assistance of an architect based in Sault Ste. Marie, the historical society carefully drafted a bylaw that would protect the stained glass windows and interior heritage attributes – the white globe lamps, wooden pews, communion table, pump organ and pulpit – as well as the wooden exterior. By doing much of the legwork for the small municipal staff, the historical society made the designation process easy and appealing.

Rydal Bank is a small community of only 23 families, yet the historical society has managed to raise significant funding to restore and maintain the building. To mark the 100th anniversary of the church in 2008, the group raised over \$30,000 (including a grant from the Ontario Trillium Foundation) to restore the stained glass windows. The historical society continues to fundraise through special events and an annual community Thanksgiving dinner. The successful adaptive reuse and conservation of this local landmark by a small, rural community is due to the hard work of the historical society, continued community support, and the cooperation of the various parties during disposal.



Figure 29. MHSTCI

Points to note:

- Creative adaptive reuse was the result of grassroots volunteer activity in a small rural community.
- The heritage place of worship was mothballed and carefully maintained for an extended period until a new use was found.
- There was successful long-term cooperation and collaboration between the property owner and municipality before and after the adaptive reuse.

6. Resources and Further Information

For more information on the Ontario Heritage Act and conserving your community heritage, contact the Ministry of Heritage, Sport, Tourism and Culture Industries or the Ontario Heritage Trust at:

Ministry of Heritage, Sport, Tourism and Culture Industries

www.ontario.ca/page/ministry-heritage-sport-tourism-culture-industries

Ontario Heritage Trust

www.heritagetrust.on.ca

7. Appendices

7.1 Appendix A: Surveying and Researching Heritage Places of Worship

Surveying and research are important first steps toward determining a heritage place of worship's cultural heritage value or interest. Surveying identifies potential heritage places of worship. Research provides design, historical and contextual information and analysis. This information is used to evaluate the heritage place of worship against the criteria for determining cultural heritage value or interest set out in O. Reg. 9/06 of the Ontario Heritage Act. See also the *Heritage Property Evaluation* guide.

Surveying

A survey provides a broad understanding of the range of heritage places of worship within a defined geographic area. It may be done by:

- A faith group surveying all of its affiliated heritage places of worship within its jurisdiction (e.g., diocese, synod, presbytery)

- A community (e.g., municipality and municipal heritage committee) surveying all heritage places of worship within its boundaries
- A collaborative partnership of faith group and community.

An existing community survey of heritage properties may already include heritage places of worship. If not, a good starting point is the Ontario Heritage Trust's Ontario's Places of Worship website. This web-based tool can provide a list of purpose-built places of worship over 25 years old within any given area in Ontario. It also provides a template for a basic survey record, including:

- Heritage place of worship name
- Architectural description
- Municipal street address
- Designer and builder
- Municipality
- Type of protection (e.g., listed, designated)
- Legal description of the property
- Type of commemoration (e.g.,
- Associated faith group's plaque)
- Year constructed
- Photographs
- History of the property
- Research and analysis
- Sources of information

Many communities have municipal heritage committees or municipal staff with expertise in heritage conservation.

Community-based resources include local libraries, archives, municipal records, historical and heritage organizations and local branches of the Architectural Conservancy of Ontario.

Many faith groups have their own archives (e.g., Ontario Jewish Archives in Toronto, Baptist Church Archives in Hamilton).

Individual places of worship may hold records.

A title search at the local land registry office may reveal development approvals and other historic rights and interests affecting the property over time.

Hiring a qualified person to undertake this work can be a cost-effective option when resources permit. Qualified persons means individuals – professional engineers, architects, archaeologists, etc. – having relevant, recent experience in the conservation of cultural heritage resources. They are familiar with the research and analysis process.

Design value or physical value

Apart from providing a physical description and history, architectural analysis often tells much about the goals and aspirations of the faith community as shown through the stylistic qualities of the building. Architectural records (e.g., sets of plans) are especially useful sources of information, if they are available. Key information to consider includes:

- Original layout, style and appearance, reflecting the designer’s intent and vision
- Overall shape, form, architectural style, external composition and internal plan
- Materials used for construction and finishing and the relationship between components (e.g., changes in brick size, appearance of mortar joints)
- Interior spatial arrangement, layout, furnishings, decoration and liturgical objects that reflect the historic use of the building
- Comparison with other heritage places of worship of similar design or period to determine whether it exhibits unique features
- Alterations that contribute to the story of the heritage place of worship’s development, including changes in taste or use. Some of these changes may possess their own heritage value. For example, St. Anne’s Anglican Church in Toronto was built in 1907 but is best known for the Group of Seven paintings added in the 1920s. Alterations may also reflect the change in demographics, economics, expected comfort levels such as upgrades in heating/cooling, lighting and washrooms.

Historical value or associative value

A heritage place of worship’s physical value may be limited or expressed in a simple building, but its history in a community may be significant. Key information to consider includes:

- The role the heritage place of worship has played in the history of the community (spiritual and geographic communities) and the contribution it has made to the development of a community and individuals within the community
- Alterations that reflect liturgical or religious changes in use, such as:

- Philosophical changes within a religious group (e.g., Roman Catholic Vatican II changes, Anglican evangelical movement)
- Change of an Orthodox synagogue to a Conservative synagogue, which alters the seating structure and use by the congregation.
- Alterations that reflect changing community or societal demographics or attitudes, such as:
 - Expansion due to congregation growth
 - Increased awareness of special needs (e.g., accessibility) or changing attitudes (e.g., greening).

Contextual value

In both small rural communities and urban centres, heritage places of worship are often landmarks and noted for their physical presence within a broader context. Key information to consider includes:

- Historic and current landscaping and elements such as significant trees, garden walls, decorative fencing
- Siting, setting and context, including the relationship to neighbouring properties, the streetscape and broader community or jurisdiction (e.g., parish). This may include:
 - consideration of context within a broad scope such as a terminus to a view corridor,
 - framing a public square or park, or
 - its contribution to other places of worship on neighbouring properties (e.g., two to three places of worship at an urban intersection).

7.2 Appendix B: Conserving the Landscape of Heritage Places of Worship

The landscape surrounding a heritage place of worship can contribute to its “sense of place”. Often, a heritage place of worship may have an associated cemetery, buildings, monuments or landscaping. It may be part of a heritage conservation district or a cultural heritage landscape, or elements or features of the landscape may be listed as heritage attributes within the designation bylaw.

Maintaining the context can contribute to a deeper understanding of the heritage place of worship as both a spiritual and community centre. This is even more important if the landscape or elements of it have cultural heritage value or interest and are identified as heritage attributes in the designation bylaw. This section contains some considerations for conserving the landscape.

Conservation of landscape design

- Original trees, plants and landscape design that contribute to the cultural heritage value or interest of the property should be maintained as much as possible.
- New trees, plants and landscape design should be sympathetic to historic planting schemes and design, and the heritage place of worship.
- Existing or new trees, plants and landscape design should not obscure views of the heritage place of worship that are identified as heritage attributes.
- The design and materials of footpaths and parking areas should be sympathetic to the landscape and the heritage place of worship. Footpaths and parking areas must also comply with municipal zoning or bylaws and accessibility requirements.
- The periodic condition assessment of the property should include looking at the exterior for potential damage to the building.
- Ensure trees and shrubs are not planted or growing too close to foundations, walls and roofs
- Grading around buildings and on parking lots continues to drain water away from building foundations.
- During building maintenance or construction, trees should be protected by hoarding around the drip line to reduce damage to the roots.

Conservation of built landscape elements (e.g., boundary walls and fences, signage)

Original built landscape elements should be conserved and repaired as necessary.

If this is not feasible, replacement elements in similar style and material are preferred. The original elements should be conserved and stored as artifacts.

The design and location of new built landscape elements (where none existed before) should be sympathetic to the landscape and heritage place of worship.

The design of replacement or new built landscape elements may be based on appropriate examples from other heritage properties, historical documents and photographs.

Built landscape elements must comply with municipal zoning or bylaws (e.g., signage bylaws).

Cemeteries

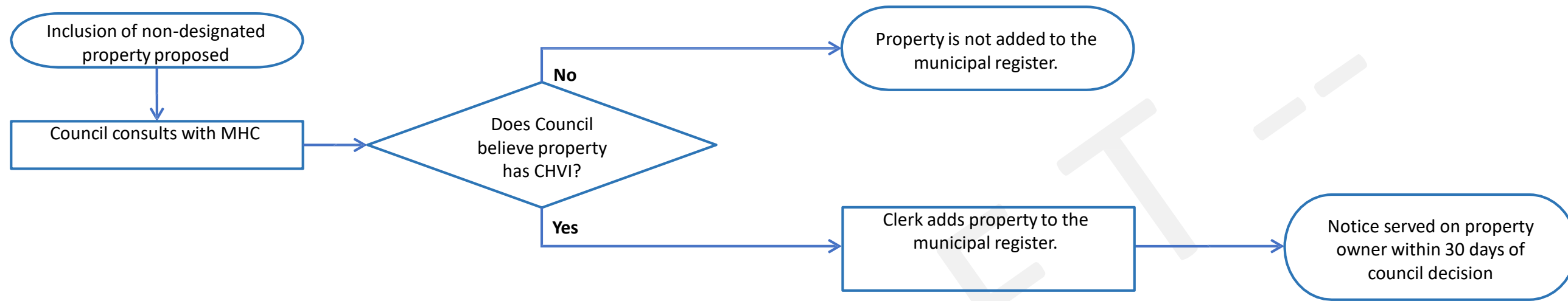
The care, maintenance, alteration and planning for registered cemeteries is regulated by the Funeral, Burial and Cremation Services Act by the Ministry of Government and Consumer Services ([link](#)).

Many existing cemeteries are not registered. Older cemeteries may have inaccurate burial records. Some burial sites may be unrecorded or may be outside the cemetery boundary. An archaeological assessment must be conducted by a licensed archaeologist before any construction or alterations (e.g., new boundary walls or fences) that will have below ground impacts.

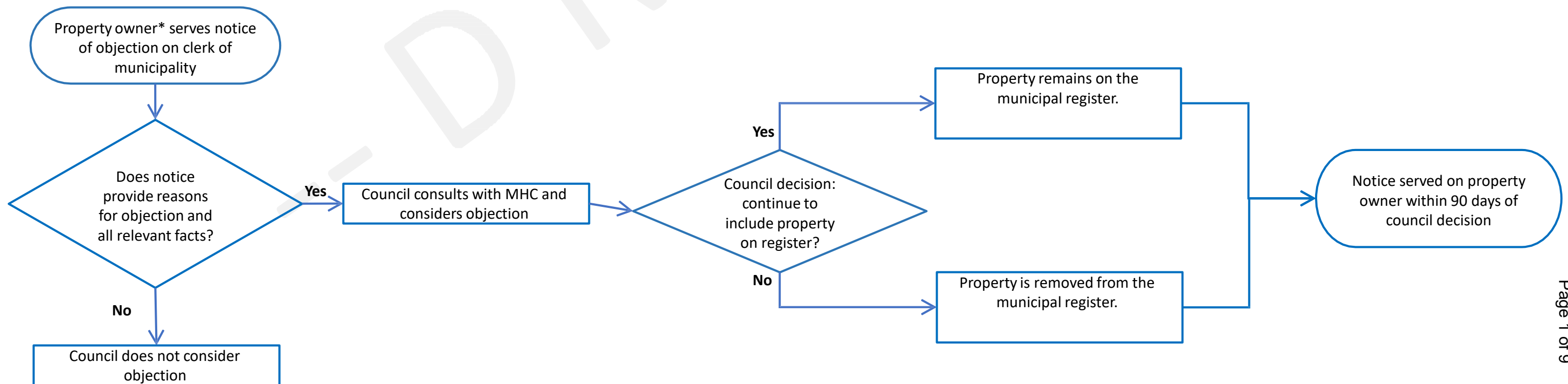


Figure 30. The Auld Kirk in Mississippi Mills (Photo courtesy of the Ontario Heritage Trust)

Adding a non-designated property to the Municipal Register of Heritage Properties
(Section 27 (3)-(6) of the Ontario Heritage Act)

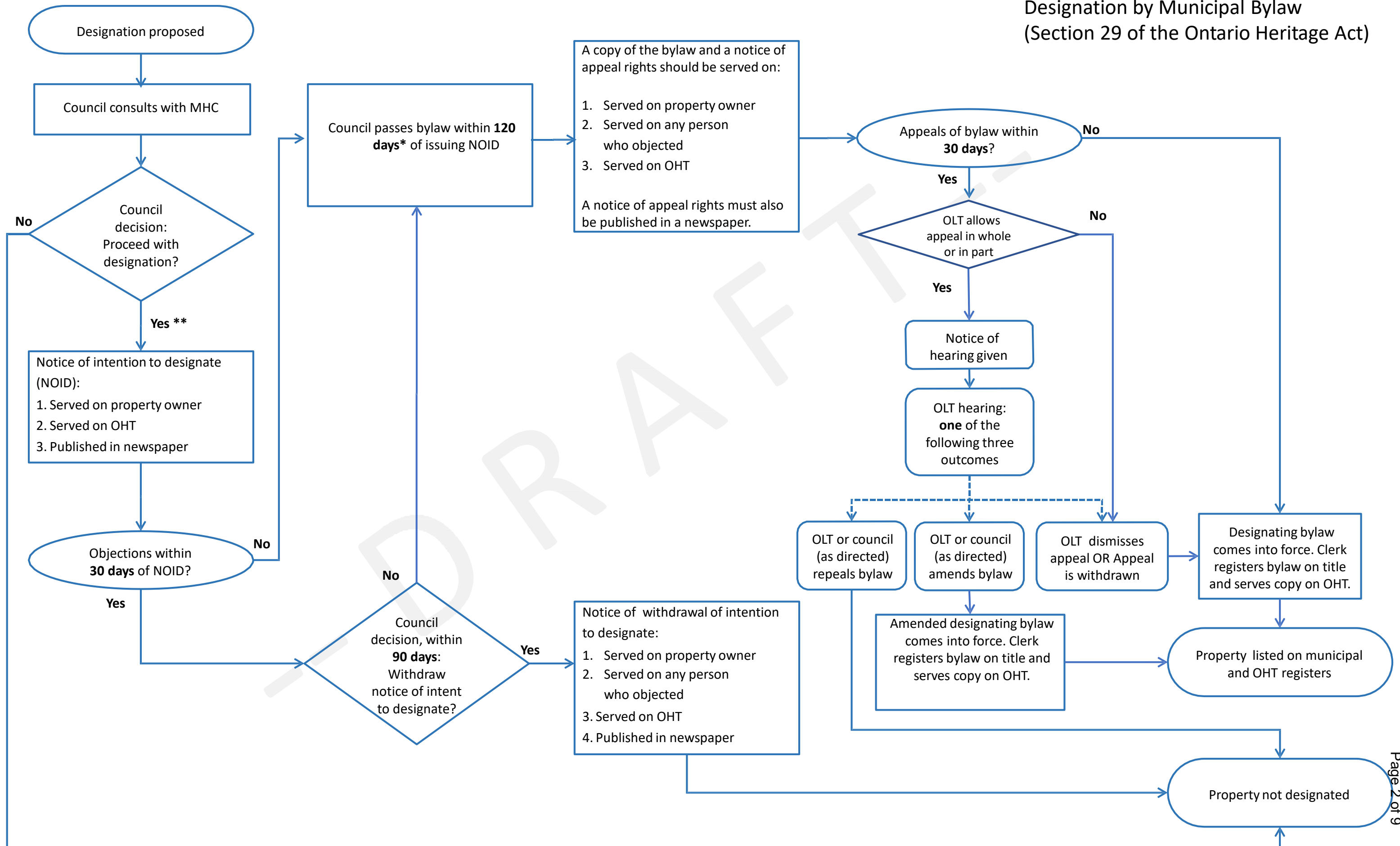


Considering an objection to a property being included on the Municipal Register under Subsection 27 (3)
(Section 27 (7)-(8) of the Ontario Heritage Act)



*The property owner may object at any time

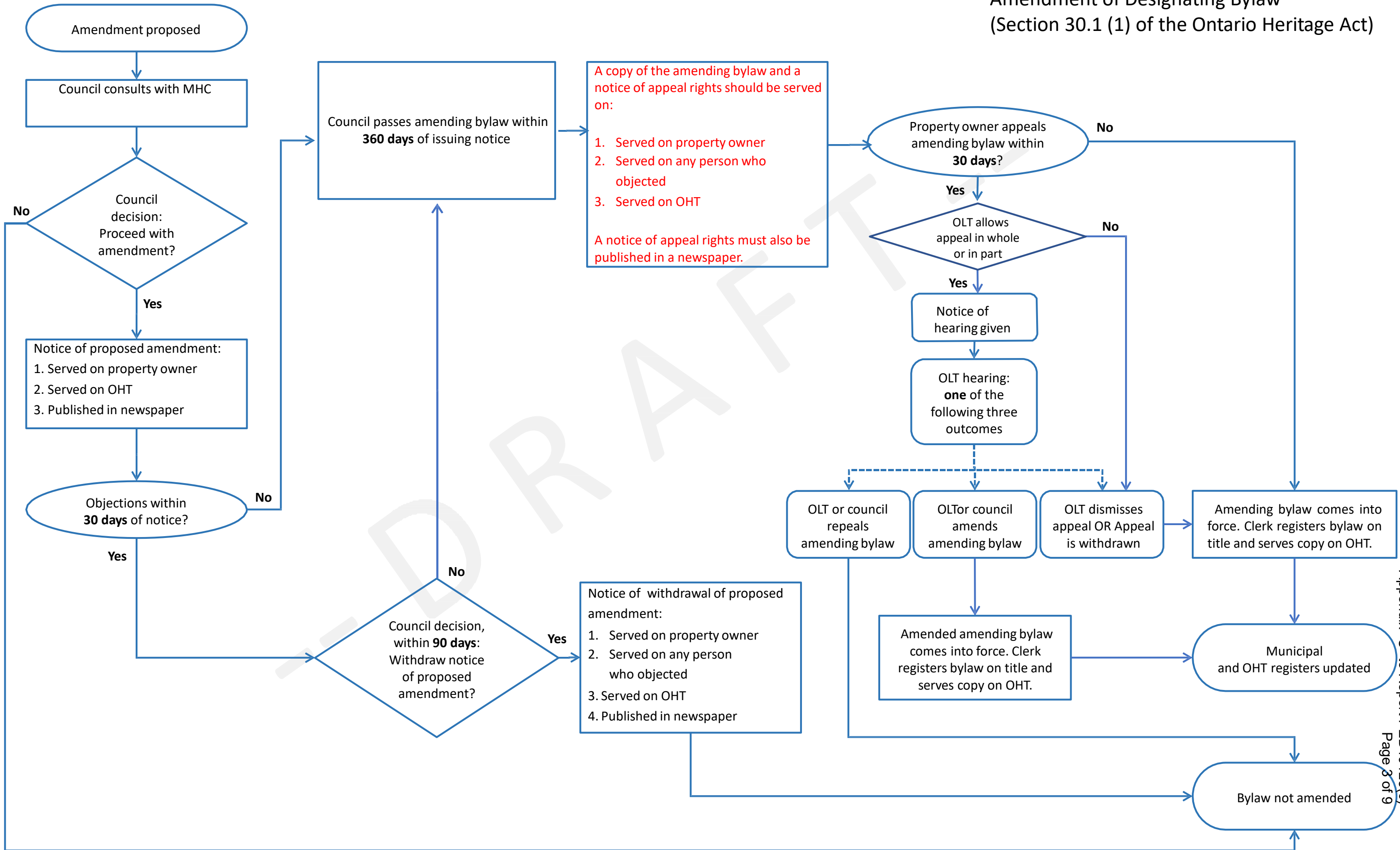
Designation by Municipal Bylaw
(Section 29 of the Ontario Heritage Act)



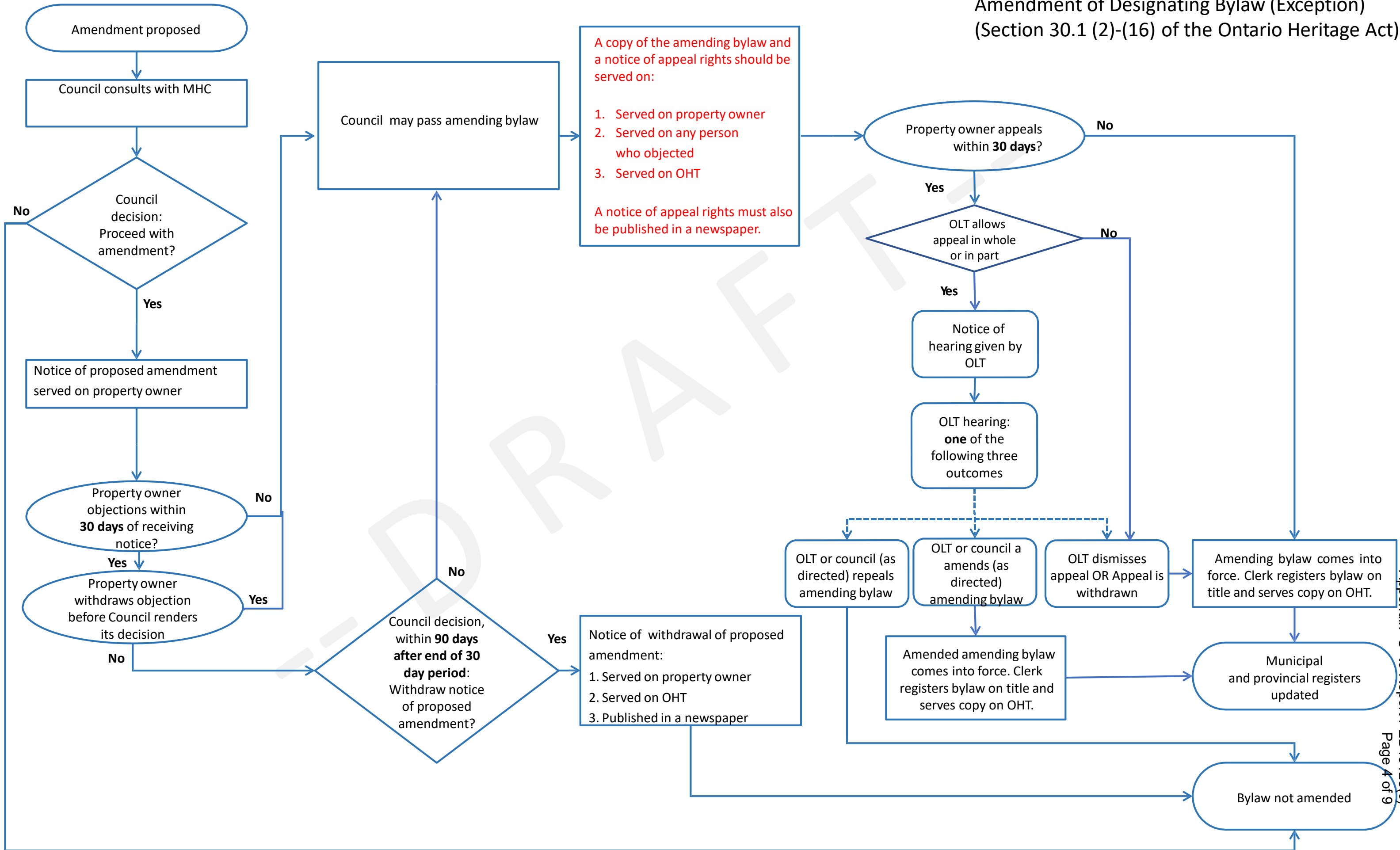
*If council fails to meet these timelines, the NOID will be deemed withdrawn, and council must issue a notice of withdrawal. For exceptions to the 120-day timelines, please consult the guidance text.

** Council has a limited 90 day period to give its notice of intention to designate a property when the property is subject to an official plan amendment, a zoning bylaw amendment, or plan of subdivision.

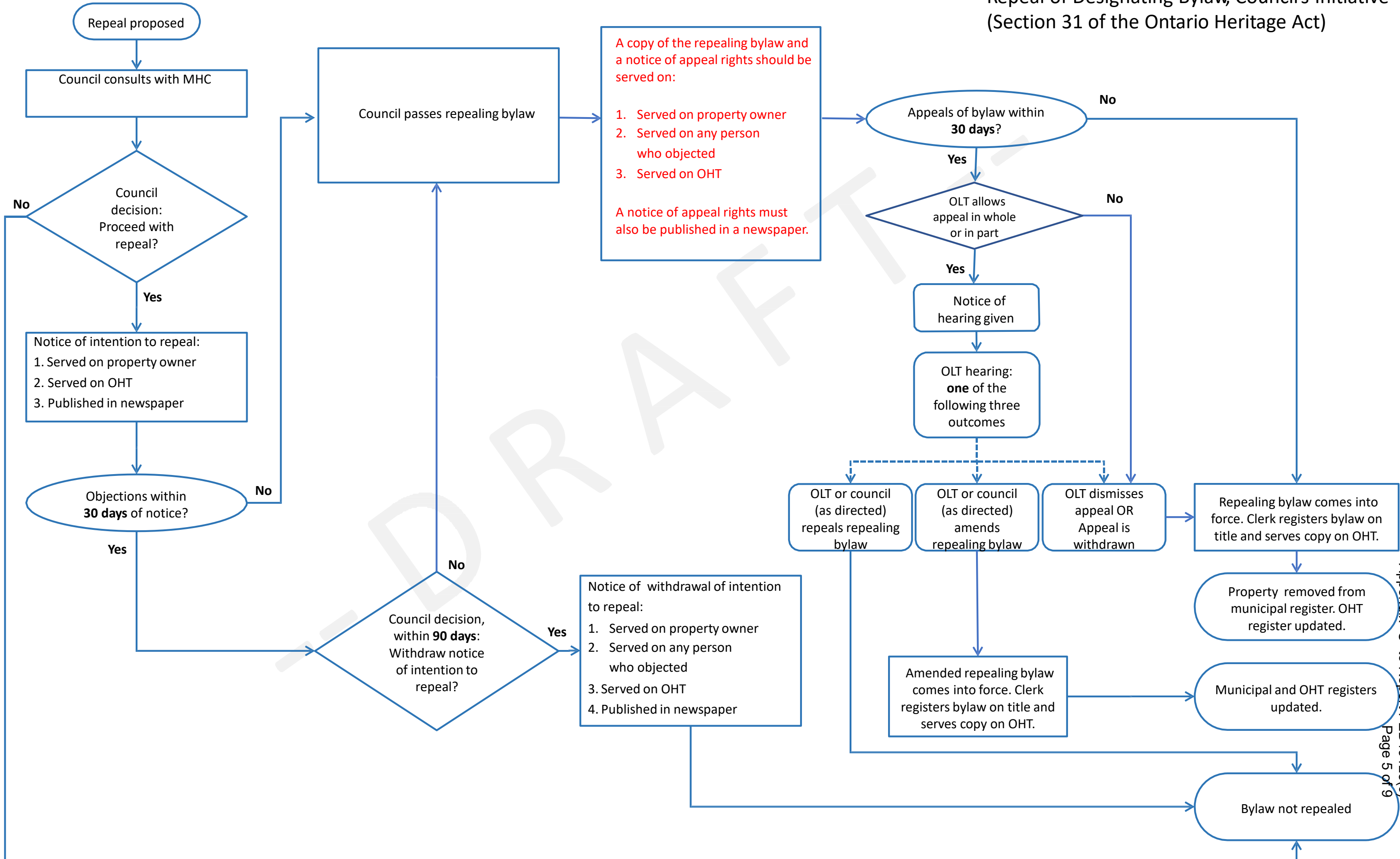
Amendment of Designating Bylaw (Section 30.1 (1) of the Ontario Heritage Act)



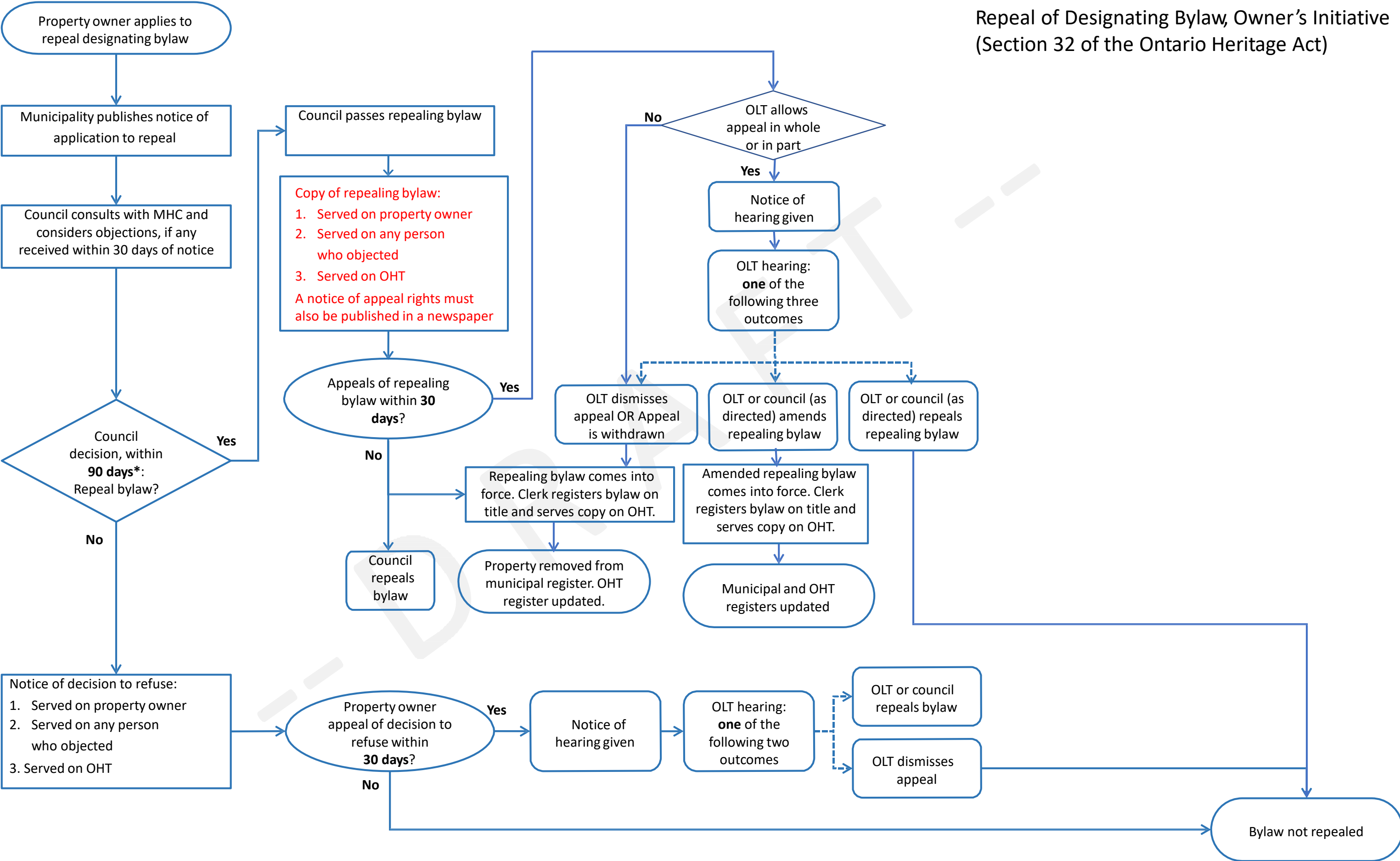
Amendment of Designating Bylaw (Exception)
(Section 30.1 (2)-(16) of the Ontario Heritage Act)



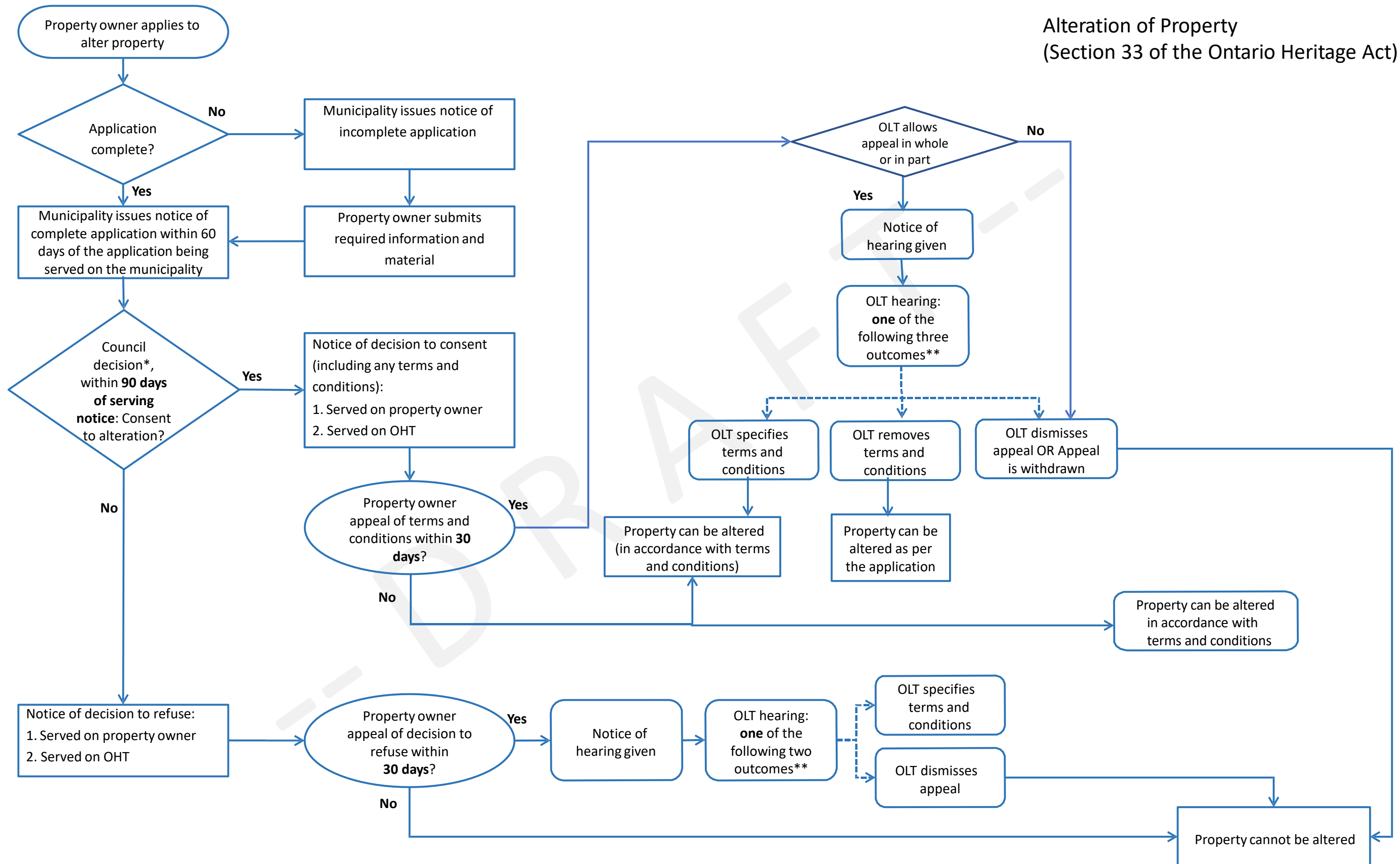
Repeal of Designating Bylaw, Council's Initiative (Section 31 of the Ontario Heritage Act)



Repeal of Designating Bylaw, Owner's Initiative
(Section 32 of the Ontario Heritage Act)



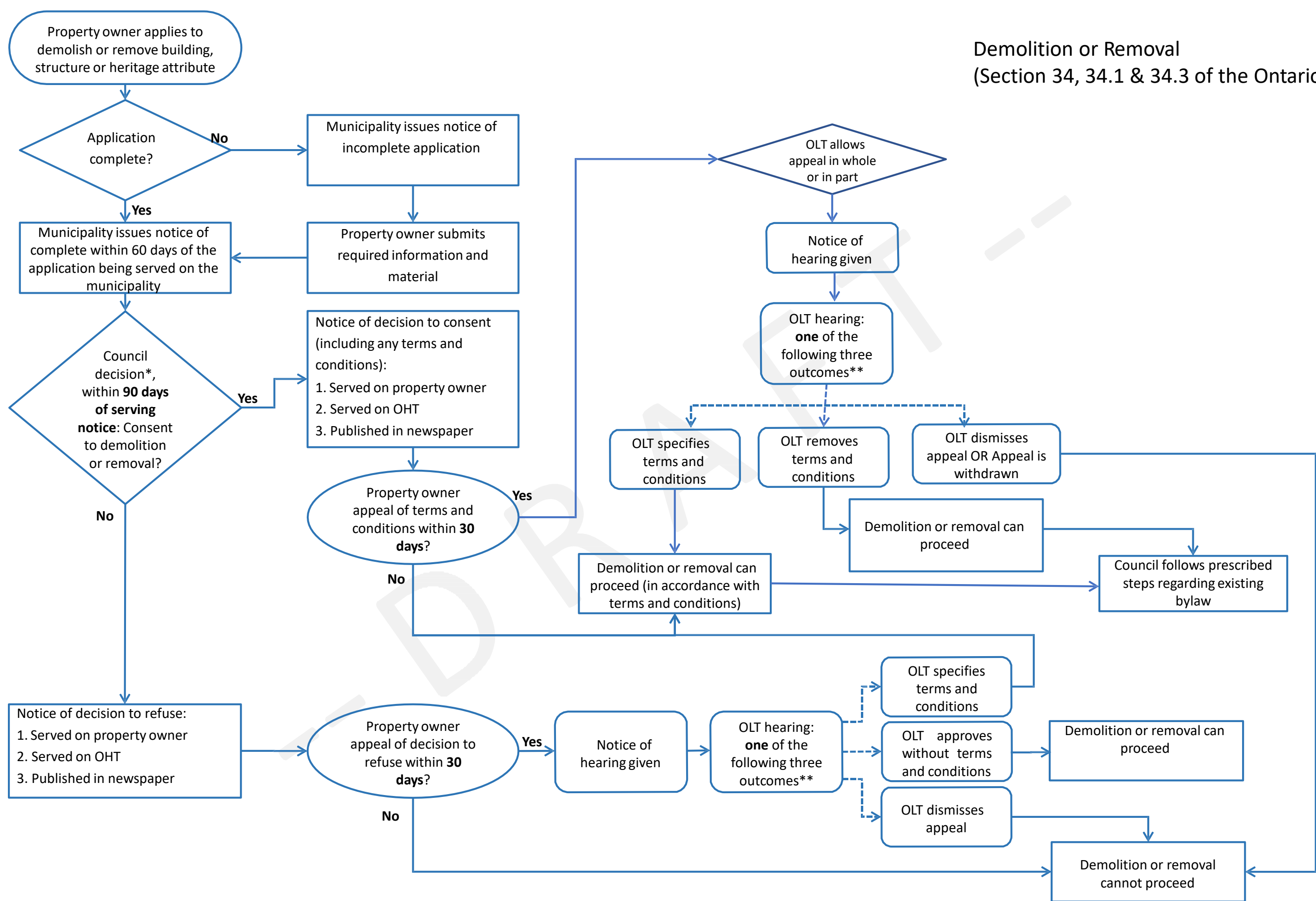
Alteration of Property
(Section 33 of the Ontario Heritage Act)



*If council failed to issue either a notice of complete application or a notice of incomplete application within 60 days after the day the application was served on the municipality, consent will be deemed to have been given 90 days after the end of the 60-day period. In this case, the demolition or removal can proceed, and council must follow the prescribed steps.

**The municipality must notify the OHT of the OLT decision.

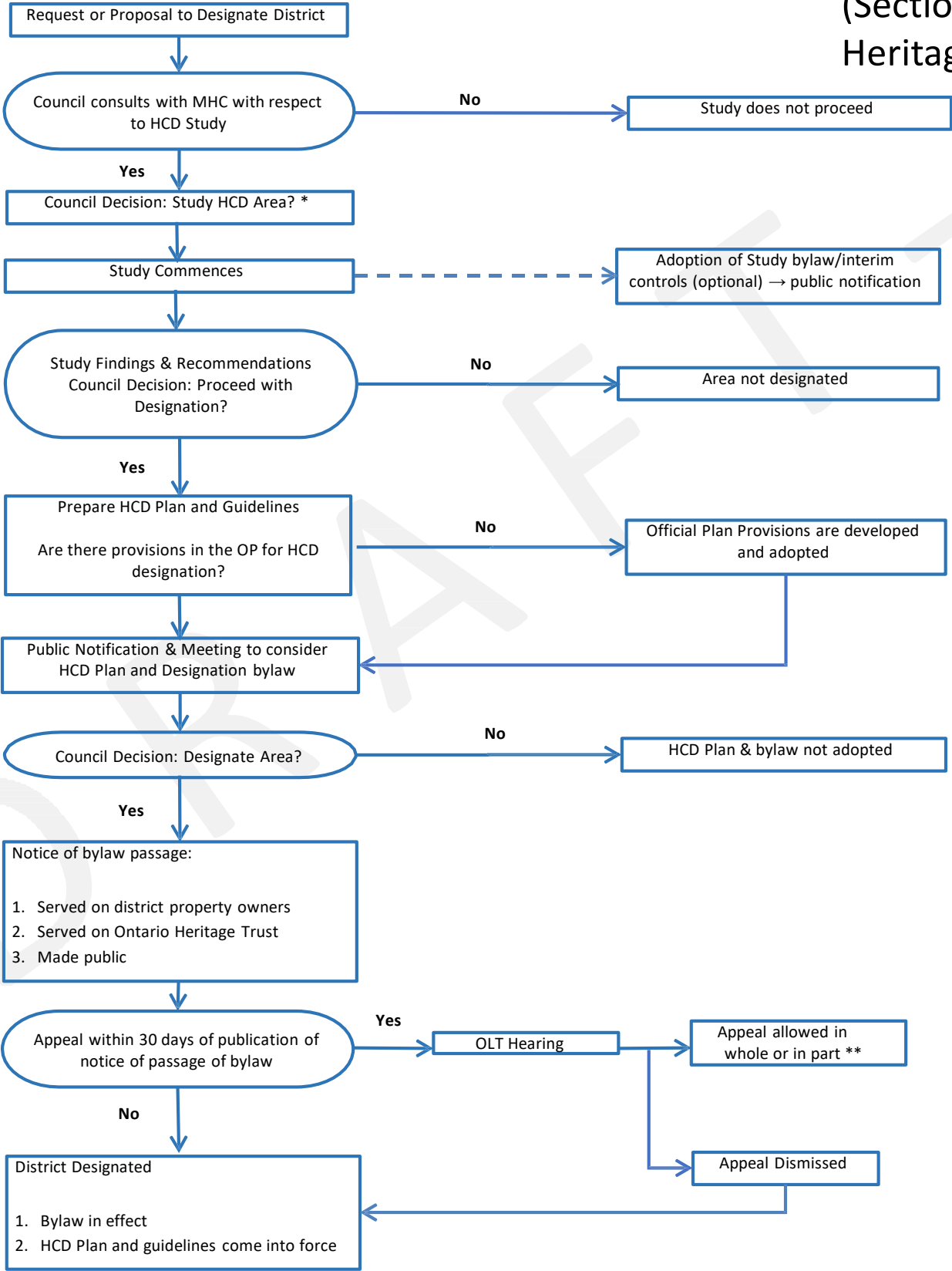
Demolition or Removal
(Section 34, 34.1 & 34.3 of the Ontario Heritage Act)



*If council failed to issue either a notice of complete application or a notice of incomplete application within 60 days after the day the application was served on the municipalities, consent will be deemed to have been given 90 days after the end of the 60-day period. In this case, the demolition or removal can proceed, and council must follow the prescribed steps.

**The municipality must notify the OHT of the OLT decision.

Heritage Conservation District Designation Process (Sections 40, 40.1, 41, 41.1 of the Ontario Heritage Act)



* The Ontario Heritage Act does not require a study in order to designate a heritage conservation district

** The HCD bylaw may need to be amended for an appeal allowed "in part"



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June 25, 2021

Lorraine Dooley

Ministry of Heritage, Sport, Tourism and Culture Industries - Culture Policy Unit
401 Bay Street
Suite 1800
Toronto, ON
M7A 0A7

RE: *Ontario Regulation 385/21 to the Ontario Heritage Act and Draft Ontario Heritage Tool Kit*

Dear Madam:

On behalf of the City of Hamilton, I am pleased to provide this letter as City of Hamilton's submission on the *Ontario Regulation 385/21 to the Ontario Heritage Act* and the Draft Ontario Heritage Tool Kit. Please find attached to this letter an outline of the key submissions the City wishes to make on the Regulation and the Draft Ontario Heritage Tool Kit. City staff will be taking a report to Planning Committee on July 6, 2021 and to Council on July 9, 2021 outlining our submission. Council's position will be forwarded to the Province once it has been ratified.

We look forward to seeing the results of the consultation on the Draft Ontario Heritage Tool Kit. City of Hamilton staff would be pleased to meet with you to discuss these comments in greater detail.

Regards,

Steve Robichaud, *MCIP, RPP*
Director of Planning and Chief Planner, Planning Division
Planning and Economic Development Department
City of Hamilton

SR:jr
Attachment

cc: Anita Fabac, Manager of Development Planning, Heritage and Design

City of Hamilton Submissions on *Ontario Regulation 385/21* to the *Ontario Heritage Act* and Draft Ontario Heritage Tool Kit

Staff remain challenged by the administrative burden that the changes to the *Ontario Heritage Act* and implementing Regulation have placed on municipalities. The additional complexity to processes and shortened timeframes remain a concern and have not been addressed through *Ontario Regulation 385/21*.

The following are the City's comments on *Ontario Regulation 385/21* to the *Ontario Heritage Act*:

- Staff would like further clarification on the changes to the *Ontario Heritage Act* that are not being Proclaimed on July 1, 2021. Is there a future Proclamation date that will be scheduled? These Sections in the *Ontario Heritage Act* will have an impact on staff's ability to process heritage permits through delegated authority and may require updates to all the heritage conservation district plans. Staff request that further communication from the Ministry be provided well in advance of those sections being Proclaimed.
- Staff would like confirmation that any future drafts of "Prescribed Principles" be posted on the Environmental Registry of Ontario for comment prior to being proclaimed.
- Staff would like clarification as to why the Exception of the submission of 'new and relevant information' to the 90 Days to issue a notice of intention to designate was removed from the Regulation.
- Staff continue to advise the Province that the 90 day timeline to issue a NOID after a prescribed event aligns with the timeframe to review Zoning By-law Amendments but does not meet the statutory timeframes for review of Official Plan Amendments and Plans of Subdivision, which is 120 days.
- Staff continue to advise the Province that the *Planning Act* Regulations for Official Plan Amendments (O. Reg 543/06), Plans of Subdivision (O. Reg 544/06) and Zoning By-law Amendments (O. Reg 545/06) should be amended to have heritage resource information included on the required information and material to review.
- Staff continue to note that the requirements for a complete application only apply to subsections 33 (2) and 34 (2) of the *Ontario Heritage Act*, meaning that there are no requirements for a complete application for properties designated under Part V (heritage conservation districts). Staff advise the Province that the requirements for complete application should also apply to district properties to ensure comprehensive submissions for those applications and consistent treatment of all designations.

The following are the City's comments on the Draft Ontario Heritage Tool Kit:

- Staff note that a 30 day period to provide a fulsome review is not sufficient. Staff request an extension to the ERO Posting closure of June 30, 2021 to ensure more fulsome consultation with municipalities occurs.
- Staff note it may be helpful to distinguish between new legislated requirements so that the changes to municipal processes can be easily identified and implemented by staff. The inclusion of the legislated references to the *Ontario Heritage Act* and the Regulation in the Final Guides would be beneficial.
- Clarification on whether a newspaper having general circulation must be print or can be in digital format should be included in the Final Guides.
- Inclusion of examples and case studies throughout all the Guides are useful to municipal staff as well as the public's understanding of requirements and practices. Staff recommend additional examples and case studies be included in all the Guides.

The following are the City's comments on *Ontario Regulation 385/21* to the Your Community, Your Heritage, Your Committee Guide

- Staff note that there have not been legislative changes to the structure and procedures of a Municipal Heritage Committee. Staff would appreciate further understanding of the changes that have been proposed between the current guide and draft guide.
- The draft Guide states that Municipal Heritage Committee member terms typically are for a 3 year period on page 12. Consideration should be given to updating this reference to 4 year terms to generally align with Council terms.
- The Final Guide should continue to include the preferred reporting structure in Section 3.2 on page 18 which states that Municipal Heritage Committees are more effective when they report directly to Council instead of through standing committees. The reporting structure may help ease the length of time it takes to issue a notice of intention to designate associated with a prescribed event or process a complex heritage permit.
- The Final Guide should continue to include the functional relationship of advisory committees to Municipal Heritage Committees in Section 3.2.1 on page 18. The Final Guide would benefit from additional information on the preferred reporting structure of advisory committees.
- Section 4.2.1 – Checklist for Evaluating your Committee's Mission and Vision could be enhanced with a proposed frequency for self-evaluation by Municipal Heritage Committees. A report could be associated with the checklist to

demonstrate examples of how the Municipal Heritage Committee was achieving each criteria.

The following are the City's comments the Heritage Property Evaluation: A Guide to Identifying, Research and Evaluating Heritage Properties in Ontario Communities

- Staff note that on the bottom of page 6 there is reference to screening properties with "preliminary criteria." Staff would appreciate further explanation of where this "preliminary criteria" is established in the legislation or if this is a reference to a streamlined version of the *Ontario Regulation 9/06 - Ontario Criteria for Determining Cultural Heritage Value or Interest*. The Final Guide could benefit in explaining with examples what a preliminary criteria would be.
- At the bottom of the red text box on page 10, the draft Guide states that an initial recommendation for listing a property should make specific reference to the criteria in *Ontario Regulation 9/06*. The guide could benefit from a clear distinction between the level of detail required for a register listing for a property that is not designated and a register listing for a designated property.
- Staff recommend the inclusion of the merits of completing heritage survey work at the same time as Secondary Plan work in Section 2.1 - Making a Comparison.
- Staff note that on page 18 where it discusses the Basics of a Municipal Register of Heritage Properties that there is a difference between what is recommended to be included on register for non-designated properties being placed on the register and what is required by legislation. Clarification in the guide on the distinction between legislated requirements and best practice should be provided. Specifically, the level of detail between the listing of a non-designated and a designated property is not clear. The draft Guide currently states that listings must include a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property, which is the same requirement for a designation.
- Page 18 identifies that some recent structures hold cultural heritage value or interest. The draft Guide could benefit from an example of a recent structure that has been listed on a heritage register.
- Page 21 identifies the *Ontario Building Code Act* timeframes for the review of building permits and staff recommend that this reference be updated to clearly distinguish between types of uses, ie. residential, commercial, industrial and institutional.
- Page 23 refers to 'new and relevant' information being received by Council when a notice of objection is served regarding the addition of a property to the register. A definition of what constitutes 'new and relevant' would be beneficial in the Final Guide. Further, the Final Guide could benefit from an explanation that there

should be no impact on insurance rates and home value should a register listing occur, or a reference to this type of resource.

- Page 28 recognizes the importance of oral evidence in support of register listings for both designated and non-designated properties. The Final Guide could benefit from appropriate methods for documenting these oral histories as evidence so that designations that are appealed to the Ontario Land Tribunal (OLT) will remain defensible. While Section 6.1 – Oral Evidence provides the merits of oral histories, it does not provide the detail needed to ensure these histories can be used as evidence at OLT and be considered defensible evidence.
- Section 5.1 – Conducting the Evaluation and Determination of Cultural Heritage Value or Interest on pages 29 and 30 of the draft Guide would benefit from a clear threshold between the amount of detail needed for a register listing for a non-designated property and when a property meets the threshold for designation.
- Section 5.3 – Assessing Integrity, on pages 30 and 31 is a useful section. In particular, the examples within this section contribute to municipal staff and the public's understanding of the integrity of cultural heritage resources.
- Section 5.5 – Who does the Evaluation, on pages 34 and 35 could benefit from a statement that municipal heritage committees and heritage staff can both complete evaluations, and that it does not have to be one or the other. A number of municipalities have nomination forms where general members of the public nominate properties for consideration on the register. This section of the draft Guide could benefit from further clarification on the role of nomination forms and evaluation of heritage properties.
- Staff have identified a process error on page 35, the last sentence of section 5.5, the Guide states that Council has retained final decision-making authority on whether to proceed with protection. The legislation has been changed to give the Ontario Land Tribunal the final decision-making authority and as a result, this statement of Council still retaining final decision-making authority should be removed.
- Page 38 states that Criterion 2.i of O. Reg 9/06 may not be met if the criterion cannot be substantiated. As previously stated in these comments, further explanation of how oral histories can be considered substantive evidence would be valuable to municipalities in completing assessments. While Section 6.1 – Oral Evidence provides the merits of oral histories, it does not provide the detail needed to ensure these histories can be used as evidence at OLT and be considered defensible evidence.

- Section 5.8 – Written Account of the Research Evaluation on pages 40 and 41 would benefit from distinguishing between the level of detail needed to add a non-designated property to the register compared to a designated property. While staff have made this comment above, it is noted that the draft Guide states that a non-designated register listing needs to provide a statement of cultural heritage value and significance and a list of heritage attributes which generally appears to be the same as a designation. Staff would appreciate further clarification in the Final Guide.
- Page 47 has a reference to an extract the Ontario Archives Land Record index that has not been included. Staff would request the Final Guide include the referenced extract.
- Staff note that Section 6.3.1 – Site Visit on pages 52 and 53 outlines the benefits of site visits. Staff note that consent from a property owner is required for site visits and should be clearly outlined in the Final Guide.
- Page 57 appears to be the start of an example or case study. An introduction in this section would be beneficial to understand how to best apply the information presented in this section.

The following are the City's comments the Designating Heritage Properties Guide:

- Staff note that page 5 lists seven key steps of a designation process. Staff note that it may be helpful to include a step outlining the requirement to register the by-law on title.
- Staff note that there is some duplication between the Guides as it relates to the identification of properties with cultural heritage value or interest. Consideration can be given to reducing the duplication between the Guides. For example, sections 3.1 and 3.2 repeat the information found in the Heritage Property Evaluation Guide.
- Page 8 identifies that there are "many myths and misconceptions about designation that may need to be clarified." Guidance material that is from the Ministry on how to clarify and educate property owners would be of great assistance.
- Page 9 references a "newspaper having general circulation in the municipality." Staff would appreciate clarification if this can be a digital format or if the intent is a print newspaper.
- Staff note that on page 10 the Ministry encourages that a heritage impact assessment or equivalent study be required to evaluate the proposed development and that will demonstrate that significant cultural heritage resources will be conserved. Staff note that to secure any studies as part of a complete

application for an official plan amendment application, zoning by-law amendment application or plan of subdivision application, a formal consultation or pre-consultation should occur which identifies all required studies for an application to be deemed complete. Staff believe the Ministry should identify this step to assist municipalities in ensuring they have all the required materials to assist in the review of cultural heritage resources that are subject to a 'prescribed event.'

- Page 11 explains in detail the impacts of multiple applications on the 90-day timeframe. Specifically, reference to abandoned applications is provided. Clarification from the Ministry should be provided on what constitutes an abandoned application and provide guidance on when a municipality can move to issue a NOID should an application be abandoned. Does an abandoned application constitute as being 'disposed of' under the *Planning Act*?
- Staff recommend additional clarification be given that there is no timeframe associated with other *Planning Act* applications and designations not associated with *Planning Act* applications and the issuance of a NOID within Section 3.3.
- Section 3.3 could benefit from additional numbering to ease navigation of the Final Guide for readers.
- Further clarification should be provided on page 12 where the contents of NOIDs is provided on whether additional detail can be provided in the designation by-law or if the NOID's statement of cultural heritage value or interest and description of heritage attributes must be the exact statement and list in the designation by-law.
- Staff note that the bottom of page 12 provides an overview for municipalities considering objections. Staff note that a Council must consider an objection within 90 days of the end of the 30 day appeal notice period, being the 120 day period to pass a designating by-law. Clarification of this timeline and its legislated basis should be provided in the Final Guide in this section.
- Staff note that the top of page 13 outlines how municipalities can consider objections. The draft Guide states municipalities should establish a public facing procedure for how Councils will consider objections, how to provide suitable notice of objections, and factors Council takes into account when deciding whether to withdraw a notice of intention to designate. Staff note that this requirement does not appear to be based in the legislation and would like clarification as to its basis and if it is a legislated requirement.
- Staff note that clarification or examples of how the Ministry expects municipal Council's to consider objections should be provided (ie. Resolution, full staff report with recommendations, etc.).
- Page 13 provides questions for how a Council should decide whether to withdraw a NOID, including the submission of new and relevant information. The Guide

should identify the legislated exception within this text to extend the 120 day timeline and provide an example for how the Ministry expects Council to extend the 120 day timeline (ie. Resolution).

- Page 13 identifies that issuing a NOID protects a property from demolition or alteration. Since a timeline is not provided in the legislation for the processing of NOIDs that are not associated with *Planning Act* applications and the Guide could benefit from clear communication of this distinction.
- Staff note that the top of page 15 explains situations where new and relevant information can impact the 120 day timeline to pass a designating by-law. Staff would like the Final Guide to include clarification on who can provide new and relevant information.
- Staff suggest that the Final Guide could benefit from additional examples of what constitutes new and relevant information which is found on page 15 of the draft Guide.
- Section 3.6 – Appeals and Coming into Force on page 16 states that the Tribunal can direct a municipality to amend a designation by-law. Clarification should be provided to confirm if the amended by-law can be appealed.
- Staff would like clarification in Section 4 – Preparing the Designation By-law and Related Material on how much additional research and detail can be added to a designation by-law between the issuance of a NOID and the passing of a by-law. Does the NOID's statement of cultural heritage value or interest and description of heritage attributes have to be the exact same statement and list as in the designation by-law?
- Section 4 – Preparing the Designation By-law and Related Material could benefit from a case study or example of excellent and defensible designation by-laws.
- On page 21 where the explanation of how to use a reference to illustrate the land excluded from the designation is provided, the Final Guide could benefit from additional information on how to list specific elements of a property that are not considered heritage attributes. For example, a modern addition to a building with cultural heritage interest could be identified in a list of exclusions that do not constitute part of the designation by-law.
- Staff reiterate the duplication between the Designation Guide and the Heritage Property Evaluation Guide as it relates to the explanation of *Ontario Regulation 9/06*. Consideration can be given to streamlining the Designation Guide, and providing a reference to the Heritage Property Evaluation Guide which provides additional information and is useful to individuals preparing designation by-laws, instead of providing a shorter summary in the Designation Guide.

- Staff note that the examples of designation by-laws provided do not have brief 2 - 3 sentence statements of cultural heritage value or interest as recommended by the draft Guide. Staff suggest different examples be provided or consideration be given to increasing the recommended length of the statements of cultural heritage value or interest.
- Staff note that the Alton Mills example on page 34 outlines key attributes that represent the value of the mill complex as it has evolved and as a landmark. Staff would appreciate understanding the value of distinguishing key attributes this way.
- Staff would appreciate clarification that a new Guide would be developed should the definition of 'alter' be scheduled to be proclaimed in the future, due to the impact this change will have on municipalities (ie. What can be delegated to staff and what requires Council approval). Staff note that the proclamation of the definition of 'alter' would significantly change Section 5.1 of this Guide.
- The sidebar text in the red text box should include a link to the location of the Ministry's advice on Insurance and Heritage Properties on page 37.
- Staff recommend the Ministry provide a separate bullet between 1. Application to Council and 2. Review of Application, on page 39, to emphasize the importance of deeming an application complete or incomplete and the associated timelines as established in *Ontario Regulation 345/21*.
- Staff recommend that on page 40, the information that is required to be forward to the Tribunal be listed out for convenience to the reader.
- Staff have identified that the second paragraph in section 5.2 - Maintenance on page 41 discusses notices of complete application which appears to be located in the incorrect location in the draft Guide.
- The Final Guide could benefit from examples or case studies where a heritage permit is not required and a waiver can be issued instead.
- Throughout Section 6 – Demolition Control, starting on page 44, the Final Guide could benefit from referencing the *Ontario Heritage Act* legislated requirements and implementing regulations in *Ontario Regulation 345/21*.
- On page 46 where the process for demolition or removal of a building, structure or heritage attribute is explained, consideration should be given to adding a step to emphasize the importance of deeming an application complete or incomplete and the associated timelines.
- On page 47, there is reference to the 'aid of concerned citizens' and how they can assist a property owner towards a means to conserving a threatened

property. Staff would appreciate understanding the Ministry's vision for how citizens can participate in the process.

- Staff appreciate the inclusion of the 'Alterations to Cemeteries' information on pages 42 and 43. Staff would also appreciate additional information on Indigenous burial grounds.
- On page 49, an example where the consent to demolition would not impact the property's cultural heritage value or interest or heritage attributes would be useful to include.
- Staff request additional clarification on which regulation is referenced in situations where a demolition leads to an amending by-law. The third sentence in the fourth paragraph simply refers to the 'requirements set out in the regulation'. Does this mean *Ontario Regulation 9/06*? Staff note that this may not be administrative in nature given the age and lack of detail of some designation by-laws that pre-date 2005.
- Staff seek clarification on the process to move a building or structure to a new property. If the structure was designated on its original property and is moved to a new property, how does the land registry office know that there is no longer anything to be registered on title against the original property when the by-law goes through the abbreviated process explained on pages 50 and 51? Does the designation by-law being registered automatically repeal any registration on the original property?
- Clarification should be provided in Section 7.2 – Substantial Amendments to confirm that any by-laws that pre-date *Ontario Regulation 9/06* that are being amended to meet that standard that have not been subject to a heritage permit, would follow the process outlined in this section.
- Staff suggest greater emphasis be placed on the fact that if an amending by-law is appealed to OLT and the Tribunal allows the appeal in full, the amending by-law is repealed and does not come into force, but the original designation by-laws stays as it was before the amendment process. This information is valuable to municipalities which may seek to update designation by-laws that pre-date *Ontario Regulation 9/06* but are concerned that protection of a cultural heritage resource would be lost.
- Staff request that an example with a condominium be included in the Guide that would provide information about notice of intention to designate and by-law registration in the case of large multi-unit condominiums.
- Staff would like detail in the Final Guide explaining whose responsibility it is to provide the requirements for a designation by-law (ie. plans, drawings, photos,

etc.) in situations where a 'Prescribed Event' occurs and a municipality would like to issue a notice of intention to designate.

The following are the City's comments the Heritage Conservation Districts Guide:

- Staff would appreciate understanding how this Guide may change should Sections 41(2.3) and 42(1) of the *Ontario Heritage Act* be proclaimed in the future. Alternatively, staff request that the Ministry provide a revised Guide for comment should Sections 41(2.3) and 42(1) of the *Ontario Heritage Act* be proclaimed in the future.
- Staff recommend that a new section be added discussing the method to amend Heritage Conservation District Plans. Pertinent information should be included such as: does the original by-law become appealable if a new study by-law is passed? How to update old plans?

The following are the City's comments the Places of Worship Guide:

- There are several references to the removal of a heritage attributes being considered a demolition and needing Council approval on pages 34 and 35, which may no longer apply given that the definition of 'alter' is not being proclaimed.
- There is a statement in Section 2.3 that states that Places of Worship will undergo a more rigorous evaluation against the criteria set out in *Ontario Regulation 9/06*. Staff would like to understand if this more rigorous evaluation is established in the legislation or other regulation?
- Section 5 – Managing Disposal of heritage places of worship starting on page 41 could benefit from examples from locations outside of Ontario where feasible financial models have been used.
- Section 5.1 – Deconsecration and Removal of Liturgical Items should note that there may be conflicts with designation by-laws if there are interior attributes that may be removed during this stage.
- Section 5.2 – Sale for Adaptive Reuse should recognize that there are a growing number of churches within urban centres that are being sold as development sites for residential intensification. The Final Guide could benefit from examples where residential intensification and conservation have occurred simultaneously and reference to financial models that support adaptive re-use.
- Staff recommend an additional subsection within Section 5 that outlines good examples of partial retention of places of worship.

- Staff recommend that information regarding salvage efforts of heritage attributes prior to demolition occurring be included in Section 5.5 – Demolition of Heritage Place of Worship.

The following are the City’s comments the draft Flow Charts:

- Staff note that the flow charts do not acknowledge the right of a person, other than the property owner to object to notices associated with register listings and notices of intention to designate.
- Amendment of Designating By-law, Exception Flow Chart
 - Staff note the flow chart should be updated to state that amended by-laws should meet current standards established by *Ontario Regulation 9/06 – Criteria for Determining Cultural Heritage Value*.
- Repeal of Designating By-law Flow Chart
 - Staff note that there can be a partial repeal but this is not identified in the flow chart.
- Repeal of Designating By-law, Owner’s Initiative Flow Chart
 - First box that states that the property owner applies to repeal a designating by-law. The chart should also indicate how the workflow will change if they appeal for a partial repeal. For example, the flowchart would be changed if it is a partial repeal, because the by-law would not be removed from the register.
- Demolition or Removal Flow Chart
 - Bubble that states “municipality issues notice of complete” should state “municipality issues notice of complete application.”
 - Bubble that states that “OLT specifies terms and conditions” should be connected to the bubble that states that “demolition or removal can proceed.”
 - Bubble that states “property owner appeal of terms and conditions within 30 days” does not have a leader/workflow path. It should be connected to the bubble that states “demolition or removal can proceed.”
 - Staff note that the bubble that states “demolition or removal can proceed” should also include reference to the associated terms and conditions for those permits that do not go on to the OLT.
 - Staff note that appeals are not limited to just the property owner which is not identified in the flowchart.



Proposed Regulation under the Ontario Heritage Act (Bill 108)

ERO (Environmental Registry of Ontario) number	019-1348
Notice type	Regulation
Act	Ontario Heritage Act, R.S.O. 1990
Posted by	Ministry of Heritage, Sport, Tourism and Culture Industries
Notice stage	Decision
Decision posted	June 9, 2021
Comment period	September 21, 2020 - November 5, 2020 (45 days) Closed
Last updated	June 9, 2021

This consultation was open from:

**September 21, 2020
to November 5, 2020**

Decision summary

Ontario Regulation 385/21 (General) implements amendments that were made to the Ontario Heritage Act through the More Homes, More Choice Act, 2019. The amendments and regulation come into force on July 1, 2021.

Decision details

In June 2019, the More Homes, More Choice Act, 2019 (Bill 108) received Royal Assent. Schedule 11 of this Act included amendments to the Ontario Heritage Act (OHA) that were intended to support the Housing Supply Action Plan. The Bill 108 Amendments to the OHA, which come into force on July 1, 2021, provides improved provincial direction on how to use the Act, clearer rules for decision making, and supports consistency in appeals processes.

O. Reg. 385/21 was filed on May 31, 2021, and comes into force on July 1, 2021. The regulation sets out new rules to implement the changes made to the OHA through Bill 108, including:

- Mandatory standards for designation by-laws;
- Events that trigger the new 90-day timeline for issuing a notice of intention to designate, with limited exceptions;
- Exceptions to the new 120-day timeline for passing a designation bylaw;
- Minimum requirements for complete applications for demolition or alteration of a protected property;
- Steps for amending or repealing a designation bylaw following consent for demolition or removal;
- Information and materials to be provided to the Tribunal;
- A modified process for amending bylaws, and restrictions for repeal requests;
- Transition rules to provide clarity on matters that are in progress at the time the amendments come into force;

The government recognizes that every municipality is unique in terms of its capacity and approach to heritage conservation. For that reason, the OHA continues to enable communities to apply a range of tools to conserve heritage properties, while allowing for compatible development.

Comments received	Through the registry	By email	By mail
	27	6	1

[View comments submitted through the registry \(/notice/019-1348/comments\)](/notice/019-1348/comments)

Effects of consultation

Comments received through the Environmental Registry, by email, and in person during the comment period were considered by the government in making the decision to approve the regulation and proclaim the OHA amendments. Several of the comments resulted in changes to the regulation as outlined below.

Commonly expressed themes and the Ministry's responses are as follows:

Mandatory standards for designation bylaws:

- There was general support for the mandatory standards for designation bylaws. Submissions provided specific suggestions to improve clarity and ensure bylaws are compatible with the land registry office system.
- **Ministry response:** Changes have been made to the final regulation to remove the requirement to provide aerial photographs or other images, as the land registry office system does not support images. Municipalities have instead been given the option to provide either a scale drawing or written description of the property's layout. Additionally, the requirement to make descriptions of heritage attributes brief was removed, and instead further guidance will be provided in the Ontario Heritage Tool Kit.

90-day timeline:

- Some submissions commented that the 90-day timeline is too short and noted that there may be resourcing and staffing changes required to respond to designation requests within the new timeline. There were also requests for the ministry to clarify when the restriction on designation would end, and how the restriction works when there are multiple applications submitted for a property.
- **Ministry response:** The timeline itself cannot change because it is established in the legislation. The regulation was amended to clarify that the restriction is limited to the duration of the application and is lifted once the application is disposed of under the Planning Act. The regulation also provides clarity on what happens when there are multiple applications or when a subsequent application triggers the 90-day restriction on designation. In the case of multiple applications that trigger the event at the same time, the restriction ends once all applications are disposed of under the Planning Act. When a subsequent application is received, the new application would trigger a new 90-day timeline for issuing a notice of intention to designate, and the restriction would end once the subsequent application was disposed of under the Planning Act.
- Submissions requested additional triggers be added in addition to Official Plan Amendment, Zoning Bylaw Amendment and Plan of Subdivision applications. Some submissions expressed concerns that exceptions were too flexible and allow municipalities too much latitude.
- **Ministry response:** The ministry explored the option of adding additional triggers for the 90-day timeline, however, the original three

triggers were maintained because they come early in the planning process and have clearly set out timelines within the Planning Act. The regulation was amended to limit exceptions to the 90-day timeline to cases of a declared emergency or when there is mutual agreement between the property owner and the municipality.

120-day timeframe:

- Submissions were generally supportive of the 120-timeline and limited exceptions that have been prescribed. Some submissions expressed concerns that exceptions were too flexible and also requested that municipalities should not be able to issue another notice of intention to designate if the 120 days lapses.
- **Ministry response:** The ministry has not suggested changes to the 120-day timeline exceptions, as the goal of the exceptions was to provide municipalities with flexibility and not to restrict them from moving forward with designation. The regulation making authority could not be used to restrict municipalities from issuing another notice of intention to designate if the 120 days lapses, as this the ability to immediately issue a new notice is set out in the legislation.

Complete applications:

- The complete applications requirements were positively received. Some concerns were raised that additional complete application requirements should only be outlined through official plans and that municipalities should not have the ability to request additional information and materials beyond this.
- **Ministry response:** The ministry has not recommended changes to the regulation. The regulatory authority enabling municipalities to set out complete application requirements states that these requirements can be established through municipal bylaw or another prescribed instrument. Furthermore, the legislation also provides that municipalities can require an applicant to provide any other information that council considers it may need in order to make a decision on an alteration or demolition application.

Information and Materials to be forwarded to the Tribunal:

- Submissions raised concerns about the shifting of designation and alteration appeals to a binding tribunal and called for the Conservation

Review Board to continue to hear matters related to designation and alteration because of their heritage expertise.

- **Ministry response:** The shift in designation and alteration appeals to a binding tribunal was a legislative amendment made through Bill 108. Under the Accelerating Access to Justice Act, 2021 (Bill 245) the Conservation Review Board was consolidated with the Local Planning Appeal Tribunal and other land tribunals into a new tribunal, the Ontario Land Tribunal. To ensure that the expertise of the Conservation Review Board was maintained, its members were continued as members of the Ontario Land Tribunal. Also, the Ontario Land Tribunal is subject to the Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009, including the provisions regarding the appointment of members based on minimum selection criteria, including experience, knowledge or training in the subject matter and legal issues dealt with by the tribunal.

Consent for demolition:

- There was general support for streamlining the process of amending or repealing the designation bylaw following a consent for demolition. Submissions requested that certain decisions be delegated to staff, and that property owners be notified when no changes are made to the designation bylaw.
- **Ministry response:** While the ministry was able to include the request related to notification of property owners, providing for delegation to staff about decisions related to amending or repealing the bylaw was beyond the scope of the regulation.

Transition:

- Many submissions requested that proclamation of the amendments and regulations be delayed to July 2021 in order to allow municipalities to prepare for implementation of the new requirements.
- **Ministry response:** The ministry delayed proclamation of the amendments for six months, to allow municipalities and heritage stakeholders time to prepare for the new requirements.
- Submissions made suggestions on what processes should proceed under the old regime versus moving into the new regime. For example, having the 90-day restriction on designation only apply to applications received by a municipality on or after proclamation of the amendments

and allowing for an extension of the 365 days to address any outstanding notices of intention to designate through mutual agreement.

- **Ministry response:** The ministry did not make changes to the transition rules for the 90-day timeline. For the purposes of consistency and accuracy, the rule was drafted to align with the event that triggers the start of the 90-day timeline, which is not the submission of the application itself, but the date the notices of complete application have all been given. The ministry has included the allowance for an extension of the 365 days through mutual agreement in the regulation.

Principles:

- Many submissions suggested changes to the principles, including changes to the definition of adaptive reuse. Some submissions raised concerns that the principles do not go far enough to align with the Housing Supply Action Plan and the broader planning priorities of the Provincial Policy Statement.
- **Ministry response:** Principles have not been prescribed in the final regulation. The ministry will be monitoring implementation of the amendments and the regulation to determine if principles should be prescribed at a later time.

Alteration and Demolition:

- Submissions raised concerns about the new definition of “alter” which would result in the loss of flexibility in decision-making and increased burdens, as consent to demolition and removal requests cannot be delegated to municipal staff. Additionally, concerns were raised about amendments made to subsection 42(1) to refer to demolition of a heritage attribute identified in a heritage conservation district plan.
- **Ministry response:** The modified definition of “alter” in the new subsection 1(2) and the changes to subsection 42(1) will not be proclaimed at this time.

Application of the OHA:

- Submissions requested that certain types of properties be excluded from the OHA.
- **Ministry response:** These types of exclusions would be beyond the scope of the regulatory authority and would require a new legislative amendment.

Ontario Heritage Tool Kit:

- Many submissions requested that the Ontario Heritage Tool Kit be updated to facilitate implementation of the regulation and amendments.
- **Ministry response:** The updated draft Tool Kit was posted to the Environmental Registry for a 30 day consultation before the on June 1, 2021.

Related links

[Ontario Heritage Act Regulation 385/21](https://www.ontario.ca/laws/regulation/r21385)

(<https://www.ontario.ca/laws/regulation/r21385>)

[Ontario Heritage Act \(<https://www.ontario.ca/laws/statute/90o18>\)](https://www.ontario.ca/laws/statute/90o18)

[More Homes, More Choice Act, 2019](https://www.ontario.ca/laws/statute/s19009)

(<https://www.ontario.ca/laws/statute/s19009>)

Related ERO (Environmental Registry of Ontario) notices

[Updates to the Ontario Heritage Toolkit \(/notice/019-2770\)](/notice/019-2770)

[Bill 108 - \(Schedule 11\) – the proposed More Homes, More Choice Act: Amendments to the Ontario Heritage Act \(/notice/019-0021\)](/notice/019-0021)

View materials in person

Important notice: Due to the ongoing COVID-19 pandemic, viewing supporting materials in person is not available at this time.

Please reach out to the Contact listed in this notice to see if alternate arrangements can be made.

Ministry of Tourism, Culture and Sport


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Original proposal

ERO.(Environmental Registry.of.Ontario) number	019-1348
Notice type	Regulation
Act	Ontario Heritage Act, R.S.O. 1990
Posted by	Ministry of Heritage, Sport, Tourism and Culture Industries
Proposal posted	September 21, 2020
Comment period	September 21, 2020 - November 5, 2020 (45 days)

Proposal details

As part of Ontario's Housing Supply Action Plan, the *More Homes, More Choice Act, 2019* made amendments to several pieces of legislation, including the *Ontario Heritage Act* (OHA). The OHA (Ontario Heritage Act) amendments provide clearer direction and timelines for local decision-makers, heritage professionals and development proponents about protecting heritage properties, and create a consistent appeals process, while maintaining local

control over heritage decisions. Some of the amendments require additional details to be prescribed by the Lieutenant Governor in Council through regulation.

The OHA (Ontario Heritage Act) amendments and the associated regulation will help to align municipal decisions in the heritage conservation process with Planning Act processes, improve municipal processes for identifying, designating and managing proposed changes to heritage properties, and improve clarity for property owners and development proponents.

To fulfill the intent of the Housing Supply Action Plan and bring the OHA (Ontario Heritage Act) amendments into force, the following matters are proposed to be prescribed in regulation:

1. Principles that a municipal council shall consider when making decisions under specific parts of the OHA (Ontario Heritage Act).
2. Mandatory content for designation by-laws.
3. Events which would trigger the new 90-day timeline for issuing a notice of intention to designate and exceptions to when the timeline would apply.
4. Exceptions to the new 120-day timeline to pass a designation by-law after a notice of intention to designate has been issued.
5. Minimum requirements for complete applications for alteration or demolition of heritage properties.
6. Steps that must be taken when council has consented to the demolition or removal of a building or structure, or a heritage attribute.
7. Information and material to be provided to Local Planning Appeal Tribunal (LPAT) when there is an appeal of a municipal decision to help ensure that it has all relevant information necessary to make an appropriate decision.
8. Housekeeping amendments related to amending a designation by-law and an owner's reapplication for the repeal of a designation by-law.
9. Transition provisions.

The proposed date for all amendments to the *Ontario Heritage Act* and the proposed regulations to come into force is January 1, 2021.

The ministry will also be updating the Ontario Heritage Tool Kit to reflect the changes to the OHA (Ontario Heritage Act). The Ministry will post drafts of the updated guidance documents for public review and comment later in 2020.

A link to the draft of the proposed regulation prepared for consultation purposes is included in this posting. A summary of the regulatory proposal is set out below.

Regulatory Proposals

1. Principles to guide municipal decision making

The amendments to the *Ontario Heritage Act* give authority to prescribe principles that a municipal council shall consider when making decisions under prescribed provisions of Parts IV and V of the Act. The proposed principles relate to the purpose of the *Ontario Heritage Act* and are intended to help decision-makers better understand what to focus on when making decisions under the Act. The proposed principles are consistent with Ontario's policy framework for cultural heritage conservation.

2. Mandatory content for designation by-laws

The *Ontario Heritage Act* amendments provide a regulatory authority to prescribe mandatory content for designation by-laws. The goal is to achieve greater consistency across municipalities and to provide improved clarity for property owners through designation by-laws including:

- Identifying the property for the purposes of locating it and providing an understanding of its layout and components;
- Establishing minimum requirements for the statement of cultural heritage value or interest; and
- Setting standards for describing heritage attributes.

3. 90-day timeline to issue a Notice of Intention to Designate

Amendments to the *Ontario Heritage Act* establish a new 90-day timeline for issuing a notice of intention to designate (NOID) when the property is subject to prescribed events. It also allows for exceptions to this restriction to be prescribed.

The new timeline is intended to encourage discussions about potential designations with development proponents at an early stage to avoid designation decisions being made late in the land use planning process. The ministry has proposed three triggers which would place this restriction on council's ability to issue a NOID (notice of intention to designate). These are applications submitted to the municipality for either an official plan amendment, a zoning by-law amendment or a plan of subdivision.

The proposed regulation also provides exceptions to when the 90-day timeline applies. The ministry is proposing the following categories of exceptions.

Mutual agreement – Where an extension of, or exemption from, the 90-day restriction on issuing a ~~NOID (notice of intention to designate)~~ is mutually agreed to by the municipality and the property owner who made the application under the *Planning Act*.

Administrative restrictions – Where municipal council or heritage committee are limited in their ability to reasonably fulfill the statutory requirements for issuing a ~~NOID (notice of intention to designate)~~ within the original 90-day timeframe. This would apply in cases of a declared emergency or where a municipal heritage committee would be unable to provide its recommendations to council. The timeframe would be extended by 90 days.

New and relevant information – Where new and relevant information could have an impact on the potential cultural heritage value or interest of the property is revealed and needs further investigation. Council would be able to extend the timeframe through a council resolution. In the case of new and relevant information council would have 180 days from the date of the council resolution to ensure there is sufficient time for further information gathering and analysis to inform council's decision.

Expiration of restriction – The 90-day restriction on council's ability to issue a ~~NOID (notice of intention to designate)~~ would not remain on the property indefinitely and would no longer apply when the application that originally triggered the 90-day timeframe is finally disposed of under the *Planning Act*.

The proposed regulation also provides notification requirements related to the exceptions to the 90-day timeframe restriction.

4. 120-day timeline to pass a designation by-law

Amendments to the *Ontario Heritage Act* establish a new requirement for designation by-laws to be passed within 120 days of issuing a Notice of Intention to Designate (NOID). It also allows for exceptions to be prescribed. The ministry is proposing the following categories for exceptions.

Mutual agreement - Where an extension of, or exemption from, the requirement to pass a by-law within 120 days of issuing a ~~NOID (notice of intention to designate)~~ is mutually agreed to by the municipality and the property owner.

Administrative restrictions – Where municipal council is restricted in its ability to reasonably fulfill the statutory requirements for passing a designation bylaw within the original 120-day timeframe. This would apply in cases of a declared emergency.

New and relevant information – Where new and relevant information that could have an impact on the potential cultural heritage value or interest of the property is revealed and needs further investigation. Council would be able to extend the timeframe through a council resolution to ensure there is enough time for further information gathering and analysis to inform its decision.

Council would have an additional 180 days from the date of the council resolution to pass the bylaw.

Exceptions allowing for the extension of the 120-day timeframe for passing a by-law must occur prior to the expiry of the initial 120 days. The proposed regulation includes notification requirements related to the exceptions to the 120-day timeframe.

5. 60-day timeline to confirm complete applications, alteration or demolition and contents of complete applications

Amendments to the *Ontario Heritage Act* establish a new timeline of 60 days for the municipality to respond to a property owner about the completeness of their application for alteration of, or demolition or removal affecting, a designated heritage property. It also provides a regulatory authority for the Province to set out minimum requirements for complete applications.

The purpose of these provincial minimum standards is to ensure transparency so that property owners are aware of what information is required when making an application. The details of what is proposed in regulation reflect current municipal best practices. The proposed regulation also enables municipalities to build on the provincial minimum requirements for complete applications as a way of providing additional flexibility to address specific municipal contexts and practices. Where municipalities choose to add additional requirements, the proposed regulation requires them to use one of the following official instruments: municipal by-law, council resolution or official plan policy.

The proposed regulation establishes that the 60-day timeline for determining if the application is complete and has commenced starts when an application is served on the municipality. It further proposes that applications may now be

served through a municipality's electronic system, in addition to email, mail or in person.

6. Prescribed steps following council's consent to a demolition or removal under s. (section) 34.3

Amendments to the *Ontario Heritage Act* provide that municipal council consent is required for the demolition or removal of any heritage attributes, in addition to the demolition or removal of a building or structure. This is because removal or demolition of a heritage attribute that is not a building or structure, such as a landscape element that has cultural heritage value, could also impact the cultural heritage value or interest of a property.

Prior to the amendments, where council approved a demolition or removal under s. (section) 34, the Act required council to repeal the designation by-law. However, in cases where only certain heritage attributes have been removed or demolished, or where the demolition or removal was of a structure or building that did not have cultural heritage value or interest, the property might still retain cultural heritage value or interest. In these cases, repeal of the by-law would not be appropriate.

The proposed regulation provides municipalities with improved flexibility by requiring council to first determine the impact, if any, of the demolition or removal on the cultural heritage value or interest of the property and the corresponding description of heritage attributes. Based on the determination council makes, it is required to take the appropriate administrative action, which ranges from issuing a notice that no changes to the by-law are required, to amending the by-law as appropriate, to repealing the by-law. Council's determination and the required administrative actions that follow are not appealable to LPAT. (Local Planning Appeal Tribunal).

The proposed regulation provides that, where council has agreed to the removal of a building or structure from a designated property to be relocated to a new property, council may follow an abbreviated process for designating the receiving property. The proposed regulation provides a series of administrative steps to support the designation by-law. Council's determination that the new property has cultural heritage value or interest and the subsequent designation by-law made under this proposed regulation would not be appealable to LPAT. (Local Planning Appeal Tribunal).

7. Information to be provided to LPAT. (Local Planning Appeal Tribunal) upon an appeal

With the exception of decisions made under section 34.3 as described above, all final municipal decisions related to designation, amendment and repeal, as well as alteration of a heritage property under the Act will now be appealable to LPAT (Local Planning Appeal Tribunal), in addition to decisions related to demolition and Heritage Conservation Districts, which were already appealable to LPAT (Local Planning Appeal Tribunal). The decisions of LPAT (Local Planning Appeal Tribunal) are binding. Preliminary objections to designation matters will now be made to the municipality, before the final decision is made. Prior to the amendments, appeals of designation-related notices or appeals of alteration decisions were made to the Conservation Review Board, whose decisions were not binding.

A regulatory authority was added to ensure that appropriate information and materials related to designations, alteration and demolition decisions are forwarded to the LPAT (Local Planning Appeal Tribunal) to inform appeals. The proposed regulation outlines which materials and information must be forwarded for every LPAT (Local Planning Appeal Tribunal) appeal process in the Act by the clerk within 15 calendar days of the municipality's decision.

8. Housekeeping amendments

Amendments to the Act included regulatory authority to address a few housekeeping matters through regulation. Previously, where a municipality proposed to make substantial amendments to an existing designation by-law it stated that the designation process in section 29 applied with necessary modifications. The proposed regulation clearly sets out the modified process, including revised language that is more appropriate for an amending by-law.

The proposed regulation also makes it clear that there is no 90-day restriction on issuing a notice of proposed amendment to a by-law and provides that council has 365 days from issuing the notice of proposed amendment to pass the final amending by-law and that this timeframe can only be extended through mutual agreement.

The proposed regulation also outlines restrictions on a property owner's ability to reapply for repeal of a designation by-law where the application was unsuccessful, unless council consents otherwise. The one-year restriction on an owner's reapplication maintains what had been included in the Act prior to the amendments.

9. Transition

Section 71 of the *Ontario Heritage Act* establishes a regulation-making authority for transitional matters to facilitate the implementation of the amendments, including to deal with any problems or issues arising as a result of amendments. The proposed transition rules provide clarity on matters that are already in progress at the time the amendments come into force.

General Transition Rule

All processes that commenced on a date prior to proclamation would follow the process and requirements set out in the Act as it read the day before proclamation. The proposed regulation sets out the specific triggers for determining if a process had commenced.

Exceptions

Outstanding notices of intention to designate

Where council has published a notice of intention to designate but has not yet withdrawn the notice or passed the by-law at the time of proclamation, the municipality will have 365 days from proclamation to pass the by-law, otherwise the notice will be deemed withdrawn. Where a notice of intention to designate has been referred to the Conservation Review Board, the 365 days would be paused until the Board either issues its report or until the objection has been withdrawn, whichever occurs earlier.

90-Day restriction on issuing a NOID (notice of intention to designate)

The 90-day restriction on council's ability to issue a NOID would only apply where all notices of complete application have been issued by the municipality in relation to a prescribed Planning Act application, on or after proclamation.

Prescribed steps following council's consent to demolition or removal (s. (section) 34.3)

The ministry is proposing that the prescribed steps would apply following consent to an application by the municipality or by order of the Tribunal, where at the time of proclamation council had not already repealed the by-law under s. (section) 34.3.

Regulatory Impact Assessment

The objective of the proposed regulation is to improve provincial direction on how to use the Ontario Heritage Act, provide clearer rules and tools for decision making, and support consistency in the appeals process. Direct compliance costs and administrative burdens associated with the proposed regulations are unknown at this time. New rules and tools set out in the proposed regulations are expected to result in faster development approvals.

There are anticipated social and environmental benefits as the proposed regulation seeks to achieve greater consistency to protecting and managing heritage property across the province.

Supporting materials

Related files

[General Regulation under the Ontario Heritage Act \(English only draft for consultation\)](https://prod-environmental-registry.s3.amazonaws.com/2020-09/General%20Regulation%20under%20the%20OntarioHeritage%20Act_Consultation.pdf) (https://prod-environmental-registry.s3.amazonaws.com/2020-09/General%20Regulation%20under%20the%20OntarioHeritage%20Act_Consultation.pdf)
pdf.(Portable.Document.Format.file) 297.34 KB

Related links

[Ontario Heritage Act](https://www.ontario.ca/laws/statute/90o18#BK82)
(<https://www.ontario.ca/laws/statute/90o18#BK82>)

[Bill 108, More Homes, More Choice Act, 2019](https://www.ola.org/en/legislative-business/bills/parliament-42/session-1/bill-108)
(<https://www.ola.org/en/legislative-business/bills/parliament-42/session-1/bill-108>)

View materials in person

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Ministry of Heritage, Sport, Tourism and Culture Industries - Culture Policy Unit

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Comment


Commenting is now closed.

This consultation was open from September 21, 2020
to November 5, 2020

Connect with US

Contact

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WELCOME TO THE CITY OF HAMILTON

HAMILTON MUNICIPAL HERITAGE COMMITTEE

June 25, 2021

PED19152(c)

Bill 108, More Homes, More Choice Act, 2019, Ontario Regulation 385/21 made under the Ontario Heritage Act and the Draft Ontario Heritage Tool Kit

Presented by: Jennifer Roth

BILL 108 BACKGROUND

May 2, 2019: Bill 108, *More Homes, More Choice Act, 2019*, was introduced at the Ontario Legislature.

June 4, 2019: Report LS19020/PED19125 introduced the legislative changes contained in Bill 108.

June 6, 2019: Royal Assent given to Bill 108.

September 21, 2020: ERO Posting 019-1348 Proposed Regulations under the *Ontario Heritage Act* (Bill 108) released for public comment.

BILL 108 BACKGROUND

October 30 2020: PED19125b presentation to HMHC

January 1, 2021: Expected Proclamation Date, but it did not occur and no communication received.

June 1, 2021: Ministry of Heritage, Sport, Tourism and Culture Industries issued *Ontario Regulation 385/21* and released ERO Posting 019-2770 – Updates to the Ontario Heritage Tool Kit for public comment.

June 9, 2021: ERO Posting 019-1348 Decision posted explaining the changes between the Draft Regulation and *Ontario Regulation 385/21* and how the comments submitted impacted the changes. The decision is attached as Appendix “E” to Report PED19125(c).

Key Upcoming Dates

June 30, 2021: Commenting deadline for ERO Posting 019-2770 – Updates to the Ontario Heritage Tool Kit.

July 1, 2021: *Ontario Heritage Act* and *Ontario Regulation 385/21* will be Proclaimed.

OHA Sections not Proclaimed

Section 1(2) - definition of 'alter' as it relates to Sections 33 , 34.5 and 69;

Subsection 41(2.3) – Change to language related to demolition and removal as it relates to properties that are designated under both Section 29 (Individual designation) and Section 41 (Heritage Conservation District);

Section 42(1) 2. – 4., Section 42(2.1) and Section 42(4.1) – Change to language related to demolition and removal of heritage attributes for properties located within a Heritage Conservation District (HCD) which would require all attributes to be described in the HCD Plan and associated impacts on heritage permits; and,

Section 69(3) – Change to the offences and restoration costs as it relates to demolition within an HCD (not Proclaimed because changes to Section 42 are not being proclaimed).

Draft Regulation vs. *O. Reg 385/21*

- Removal of the Prescribed Principles;
- Removal of the requirement for an employee to describe how Council considered the Prescribed Principles in making its decision to designate;
- Designation By-laws will now only require the inclusion of one of the following: written description, scale drawing or site plan, instead of all three; and,
- Changes in the prescribed exceptions to the 90 day timeline established in Section 29 (1.2) of the *Ontario Heritage Act*, being:
 - the removal of the exception for new and relevant information restarting the 90 day timeline;
 - the addition of a provision that states when two or more prescribed events occur, only one 90 day timeline applies; and,
 - the addition of a provision that states that once the prescribed event is disposed of.

Amending Designation By-laws

- *O. Reg 385/21* establishes a requirement that in situations where Council agrees or is deemed to have agreed to a heritage permit for a demolition or removal of a heritage attribute, the associated designation By-law needs to be amended.
- By-laws should be amended to meet the current standards established in *Ontario Regulation 9/06 – Criteria for Determining Cultural Heritage Value*.
- Staff note that there are 238 properties with Part IV designation By-laws in the City of Hamilton that came into effect prior to when *Ontario Regulation 9/06 06 – Criteria for Determining Cultural Heritage Value* came into effect in 2006.

Transitional Provisions

- The Transitional Provision states that any notices of intention to designate and applications for demolition or alteration submitted before July 1, 2021 will continue under the old *Act*.
- Any outstanding NOIDS on July 1, 2021 must be passed within 1 year, July 1, 2022, or the notice will be deemed to be withdrawn unless an extension is agreed to with the property owner.
 - Note: The NOIDs will continue under the old *OHA* and do not need to meet the new designation requirements.

Draft Ontario Heritage Tool Kit

1. **Designating Heritage Properties:** a guide for municipal designation of individual properties under the *Ontario Heritage Act*. The Guide includes flow charts that outline processes step-by-step.
2. **Heritage Property Evaluation:** a guide for listing, researching and evaluating cultural heritage property in Ontario communities.
3. **Heritage Conservation Districts:** a guide for designating districts, containing multiple properties, under the *Ontario Heritage Act* to conserve local character and heritage interest.
4. **Your Community, Your Heritage, Your Committee:** a guide for establishing and sustaining an effective Municipal Heritage Committee that provides advice to Council.
5. **Heritage Places of Worship:** a guide for keeping heritage places of worship viable in the community while conserving their cultural heritage value or interest.

Mutual Agreements

Formal Consultation

- Potential Resource for designation identified; and,
- Staff provide letter requesting that the applicant enter into a mutual agreement to remove the timeline.

OPA/ZBA/SUB

- Staff receive application and deem complete within 30 days; and,
- Notice of complete application triggers 90 days to issue a NOID. Note: Must enter into mutual agreement within 90 days or issue NOID, or have to wait until after the application is 'disposed of'.

Mutual Agreement

- Staff review with the application if the applicant has submitted a mutual agreement; and,
- Director of Planning and Chief Planner has authority to sign mutual agreement.

NEXT STEPS

- Submit Comments to ERO Posting before June 30, 2021 deadline;
- Planning Committee and Council endorsement of comments and approval of recommendations;
- Implementation of new processes:
 - Notice of (In)complete application for demolition and alteration;
 - Mutual Agreements to eliminate or extend 90 day timeline to issue a NOID after a Prescribed Event (OPA/ZBA/Subdivision); and,
 - Revised OPA/ZBA/SUB application forms.
- Final Recommendations of Process Review.
 - May include a review of resources

Questions?



Hamilton

THANK YOU FOR ATTENDING

THE CITY OF HAMILTON MUNICIPAL HERITAGE COMMITTEE