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Appendix "A" to Report 20-006  
Hamilton Municipal Heritage Committee  
PED19125(b)  
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October 30, 2020

**Lorraine Dooley**

Ministry of Heritage, Sport, Tourism and Culture Industries - Culture Policy Unit  
401 Bay Street  
Suite 1800  
Toronto, ON  
M7A 0A7  
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**RE: Bill 108 Draft Regulations to the *Ontario Heritage Act***

Dear Madam:

On behalf of the City of Hamilton, I am pleased to provide this letter as City of Hamilton's submission on the draft Regulations regarding Schedule 11 of Bill 108. Please find attached to this letter an outline of the key submissions the City wishes to make on the proposed changes to the *Ontario Heritage Act*. City staff will be taking a report to Planning Committee on November 3, 2020 and to Council on November 11, 2020 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 Regulations. City 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 Bill 108 - Changes to the Ontario Heritage Act**

Staff were not supportive of the proposed Bill 108 changes to the *Ontario Heritage Act* as they will have an impact on how the City administers the *Act* and its current processes. Staff are generally supportive of the Proposed Regulations, however remain concerned with some changes to the new Ontario Heritage Act despite the prescribed information providing clarity. Some of the items in the proposed Regulations do provide additional clarity that staff are satisfied with, however staff have additional questions and points of clarification.

The following are the City's comments and recommendations:

- Staff are supportive of the prescribed principle. Staff advise the Province that many of the prescribed principles use 'should' rather than 'shall' and that the use of 'should' instead of 'shall' contradicts the Provincial Policy Statement 2020, which states "Significant built heritage resources and significant cultural heritage landscapes shall be conserved". Staff advise that the language between the prescribed principles and the Provincial Policy Statement be aligned.
- Staff are seeking clarification from the Province on how to balance the minimum requirements for designation by-laws that requires that the list of heritage attributes be concise, but also requires that each attribute be adequately linked to the cultural heritage value of the cultural heritage resource.
- Staff are seeking clarification that plans, drawings, photos and other images that are required to be part of a designation by-law are to be provided by the applicant who triggered a prescribed event or if in fact they should be supplied by the municipality.
- Staff 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 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 are supportive of ensuring development applications and heritage designations are reviewed comprehensively but seek clarification from the Province on what designation process other Planning Act applications with properties that have cultural heritage value or interest would go through.

- Staff are seeking clarity on the length of time that can be entered into through mutual agreement and if mutual agreements can be delegated to staff from Council for both the 90 day timeline to issue a NOID and the 120 day timeline to pass a designation by-law. Further clarification is requested on the formality of the agreement.
- Staff are seeking clarification on the number of times that the 90 day timeline to issue a NOID can be extended as new and relevant information is submitted.
- Further clarification from the Ministry is sought to confirm if new and relevant information can be submitted from any source. Additional clarification is requested on what is considered new and relevant information.
- Staff would like to confirm if only one extension can occur or if multiple extensions can be applied when seeking an extension to the 90 day timeline to issue a NOID.
- Clarification from the Ministry is sought to confirm if Council must pass a resolution after each time a 90 day timeframe to issue a NOID expires or if Council can pass a blanket resolution to extend all 90 day periods. Staff would like to emphasize the increased administrative burden to have resolutions by Council for extended timeframes passed.
- Clarification from the Province is sought to define further what is mean by when Planning Act applications are disposed of. Specifically, staff are seeking clarification on whether after an application has been approved or a decision from the Local Planning Appeal Tribunal has been provided and there is still cultural heritage value on the property, that staff can then proceed with designation should they not have issued a NOID within the 90 day timeframe.
- Staff are seeking clarification as to what happens in situations where there are appeals to NOIDs. Staff would like confirmation of whether the 120 day timeframe to pass a designation by-law is paused for the duration of an appeal.
- Staff 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 also be applied to district properties to ensure comprehensive submissions for those applications and consistent treatment of all designations.
- Staff require clarification on the ability for Council to delegate their approval authority to staff for demolition applications of designated properties as a result of the definition of demolition being the "removal of any heritage attribute".

- Staff are seeking clarification on the timeframe that amended or repealed by-laws resulting from a demolition or alteration, be processed.
- Staff advise the Province that the timeframe for an owner to reapply for repeal of a designation by-law should be longer than 12 months so that staff do not have to deal with the same issue at the LPAT every 12 months.
- Staff request from the Province additional clarity on the content and structure of the employee statement as part of a LPAT appeal submission.
- Staff are seeking clarification on whether a newspaper having general circulation must be print or can be in digital format.
- Staff are concerned with the short timeframe to prepare for the implementation of the changes to the OHA and request that proclamation be extended from January 1, 2021 to July 1, 2021 to give staff appropriate time to review internal processes.

Staff advise that these comments and points of clarification received endorsement by the Hamilton Municipal Heritage Committee on October 30, 2020.