



Proposed changes to the Ontario Heritage Act and O.Reg. 385/21 General with respect to certain alteration requests

ERO.(Environmental Registry.of.Ontario) number	019-7684
Notice type	Regulation
Act	Ontario Heritage Act, R.S.O. 1990
Posted by	Ministry of Citizenship and Multiculturalism
Notice stage	Decision Updated
Decision posted	May 17, 2024
Comment period	October 19, 2023 - December 3, 2023 (45 days) Closed
Last updated	May 17, 2024

On November 21, 2023 the Less Red Tape, More Common Sense Act, 2023 (Bill 139) passed Third Reading and now awaits Royal Assent. Schedule 14 of Bill 139 contains the statutory amendments to the Ontario Heritage Act outlined in this proposal posting. Note, these changes would not come into force until they are proclaimed by the Lieutenant Governor. This posting will remain open to obtain public comment on the proposed regulatory amendments associated with the changes made through Bill 139.

This consultation was open from:

**October 19, 2023
to December 3, 2023**

Decision summary

Bill 139 received Royal Assent on December 4, 2023. Schedule 14 amends the Ontario Heritage Act (OHA) to change application requirements, timing and approvals for

alteration requests to minimize interruption of religious practice at buildings used primarily for religious practices where all applicable conditions are met.

Decision details

Regulatory amendments were required to implement changes made to the OHA through the Less Red Tape, More Common Sense Act 2023 (Bill 139). The statutory amendments come into force on proclamation. All changes will come into effect on July 1, 2024. The amendments are as follows:

Alteration Requests

- Section 33 of the OHA, which addresses applications to alter designated properties, was amended to enable streamlining of approvals where proposed alterations to a building used primarily for religious practices involves heritage attributes connected to religious practices, where the alterations of the heritage attributes are required for religious practices and all other conditions of the provision are met
- Changes to O. Reg. 385/21 (General) were made to require specified information and material as part of a complete application, outline additional conditions that must be met to qualify for the provision, establish timelines for determining if an application is complete and issue a notice of consent or determine that an application is incomplete and issue a notice of incomplete application, and to define terms as they relate to this streamlined process.

Comments received

Through the registry
20

By email
3

By mail
0

[View comments submitted through the registry \(/notice/019-7684/comments\)](/notice/019-7684/comments)

Effects of consultation

Comments received through the Environmental Registry and by email during the comment period were considered by the government in making the decision to amend the Ontario Heritage Act and its regulations.

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

Timelines

- **Comments:** Submissions raised concerns that the proposed 30 days is not sufficient to determine if an application is complete and to issue a notice of consent or to determine that an application is incomplete and issue a notice of incomplete application, particularly where decision making authority had not been delegated to staff. Concerns were also raised that 30 days would be inconsistent with the existing 60-day standard time for these processes, introducing administrative burden and potential confusion.
- **Ministry Response:** The ministry has extended the proposed time for these processes from 30 to 60 days.

Conditions

- **Comments:** Concerns were raised in responses to the ERO over responsibilities for applications and affidavits, and how to ensure that organizational delegates were authentic representatives of property owners and congregants.
- **Ministry Response:** The ministry included an additional condition that applies to the provision beyond what was originally proposed. The affidavit or sworn declaration must be sworn or affirmed by someone with the authority to represent the entity. The condition also clarifies that the entity represented by the affidavit or sworn declaration must always be the religious organization or Indigenous community or organization, regardless if they are the owner or the tenant.

Application Requirements

- **Comments:** Submissions noted that with mandatory consent required where all conditions of the provision are met, further documentation

was necessary to understand the existing conditions of the building and what specific changes were being proposed.

- Ministry Response: The ministry has included additional information and material than what was initially proposed that must accompany a complete application which responds to these concerns.

Definitions

- Comments: Submissions noted the lack of proposed definitions of terms used beyond “building”, including “religious practices” and “primarily”, arguing that not being defined opens the provision to misuse.
- Ministry Response: The ministry made further refinements to the definition of “building” as it applies to a religious organization that is not an Indigenous organization for purposes of this provision in the OHA. Excluded from the definition are buildings where the primary function is something else non-religious, for example to provide education or healthcare, even where a space within the building is dedicated to religious practices.

Supporting materials

Related links

[Ontario Heritage Act](https://www.ontario.ca/laws/statute/90o18#BK45)

[\(https://www.ontario.ca/laws/statute/90o18#BK45\)](https://www.ontario.ca/laws/statute/90o18#BK45)

[O.Reg. 385/21 "General"](https://www.ontario.ca/laws/regulation/210385#BK10)

[\(https://www.ontario.ca/laws/regulation/210385#BK10\)](https://www.ontario.ca/laws/regulation/210385#BK10)

View materials in person

Some supporting materials may not be available online. If this is the case, you can request to view the materials in person.

Get in touch with the office listed below to find out if materials are available.

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Original proposal

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Act	Ontario Heritage Act, R.S.O. 1990
Posted by	Ministry of Citizenship and Multiculturalism
Proposal posted	October 19, 2023
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Proposal details

As part of the Province's Fall Red Tape Reduction package, the Ministry of Citizenship and Multiculturalism (MCM) is proposing changes to the Ontario Heritage Act (OHA) and O.Reg. 385/21 (General) which would require that municipalities consent, without terms and conditions, to proposed alterations to buildings on designated properties, where the building is primarily used for religious practices, the heritage attributes to be altered are connected to religious practices, the alterations are required for religious practices and all other conditions of the proposed legislative and regulatory amendments are met. The proposal would also reduce application requirements and shorten decision making timelines.

Section 33 of the OHA requires property owners to seek municipal consent when making alterations to designated heritage properties if the alteration is likely to affect the property's heritage attributes. Municipal council can then consent, consent with terms or conditions or refuse the application. To provide more certainty to religious organizations and Indigenous communities and Indigenous organizations who need to make modifications to buildings for purposes of their religious practices, MCM is proposing amending section 33 to ensure alterations to a property designated under Part IV of the OHA are consented to without terms and conditions when the following requirements are met:

- The building, or part thereof, to be altered is primarily used for religious practices;
- The heritage attributes to be altered are connected to religious practices;
- The alteration of the heritage attributes is required for religious practices;
- Any additional conditions prescribed by regulation (this would be a new regulation making authority); and,
- The applicant provides council with an affidavit or sworn declaration that the application meets the conditions in the Act or prescribed in regulation.

Municipalities would be required to rely on the affidavit or sworn declaration to demonstrate that the conditions of the application listed above are met. Religious practices would include the religious or spiritual practices of Indigenous communities or organizations for the purposes of the provision. The applicant would also have to provide council with any additional information and materials prescribed by regulation.

Municipalities would be required to provide notice of consent within a prescribed timeline once an application is complete, and consent would be deemed to be provided if the timeline is not met. Municipalities would also be required to provide notice of an incomplete application within a prescribed timeline if the application is incomplete, and consent would also be deemed to be provided if the timeline is not met. The proposed amendments would address the situation where a resubmission continues to be incomplete.

In addition to the above-mentioned proposed statutory amendments, the proposed statutory amendment would also include a new regulation making authority that would allow for the definition of certain terms.

The objective of the proposed changes is to provide certainty and shorter timelines for religious organizations, Indigenous communities and Indigenous organizations to move forward with proposed alterations required for religious practices, in situations where the requirements of the provision are met. The changes would ensure that they can continue their religious practices or Indigenous religious or spiritual practices with limited interruptions or complications should they need to alter a property designated under the OHA.

Proposed Regulatory Amendments

A number of regulatory amendments would be required to implement the proposed statutory amendments. These are outlined below.

Timelines

MCM is proposing that upon receiving a complete application for alteration requests that meet the proposed conditions of this new provision, municipalities have 30 days to issue a notice of consent. Consent would be deemed to be provided where the timeline is not met by the municipality. Where the application is incomplete, municipalities would have 30 days to issue a notice of incomplete application. Consent would also be deemed to be provided where the timeline is not met by the municipality.

Question: Is 30 days a sufficient time for municipalities to process applications and determine if they are complete?

Conditions

MCM is proposing that the following additional conditions be prescribed by regulation:

- The alteration is not permitted to be an addition to the building.
- The alteration must be for the benefit of an Indigenous community, an Indigenous organization or a religious organization that is not an Indigenous organization where the religious organization is a registered charity under the laws of Ontario or Canada (applies to owners or tenants)

These additional conditions are being proposed to help reasonably scope the provision while allowing religious organizations and Indigenous communities or Indigenous organizations to continue their religious practices or Indigenous religious or spiritual practices without interruption. By requiring that a religious organization is a registered charity, additional supporting information can be required to be provided beyond the completion of an affidavit or sworn declaration. Prohibiting alterations that are an addition to a building would help to limit the potential to impact heritage attributes beyond those related to religious practices.

Question: Are there any further conditions that should be applied to these types of applications?

Application Requirements

In addition to the affidavit or sworn declaration, which the applicant would already be required to provide with the application by way of the proposed legislative amendment, MCM is proposing that the following information and materials would also be required as part of a complete application:

- The name, address, telephone number and, if applicable, the email address of the applicant.
- The name of the municipality from which consent is being requested;
- 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;
- A description of the proposed alteration, that includes identifying which heritage attributes would be impacted by the alteration;
- An explanation as to whether the proposal is for the benefit of the owner or a tenant; and
- Where the proposal would benefit an owner or tenant that is a religious organization that is not an Indigenous organization, the registered charity number of the religious organization.

The proposed application requirements balance a reasonable level of supporting information and materials with an effort to limit burdens on applicants and the municipality.

Questions: Is the list of information and materials required as part of complete application sufficient? Are there any materials or information that is missing or should be removed?

Proposed Definition

MCM is proposing to include a definition of the word “building” as it would be used in the provision to provide further scope and clarity. What follows is the proposed substance of the definition:

For purposes of the provision it is proposed that “building” would be defined to mean one of the following:

- (i) With respect to an application for the benefit of an Indigenous community or organization, a building that the Indigenous community or organization has identified as a place used for Indigenous religious or spiritual practices; or
- (ii) With respect to an application for the benefit of a religious organization that is not an Indigenous organization, a building that the religious organization has identified as a church, mosque, synagogue, temple, chapel, or other place of worship.

Questions: Are the types of buildings listed considered by religious organizations to be reflective of what are commonly thought of, or referred to as a place of worship? Do Indigenous communities and organizations consider the definition as reflective of buildings where their religious and spiritual Indigenous practices might take place? Are there modifications or additions to the definition that religious organizations, Indigenous communities or Indigenous organizations would suggest?

Implementation

If the statutory amendments are passed and the regulatory amendments are made, MCM intends on bringing the amendments into force on January 1, 2024. The proposed provision would be available for applications submitted as of the in-force date. Existing alteration applications that might have been eligible for this new mandatory consent would continue to follow the existing section 33 process under which they were originally initiated.

Regulatory Impact Assessment:

The proposed statutory and regulatory amendments would impact municipalities as well as the religious organizations and Indigenous communities and organizations that would submit applications under the

proposed provision.

Work is underway to analyze possible administrative and other compliance costs that may result from this proposal. To inform this analysis, MCM is seeking responses to the following questions.

Questions: For owners of municipally designated heritage properties that are primarily used for religious practices:

1. Historically, how often (i.e., times per year) have you submitted requests to your municipality to make alterations to identified heritage attributes connected to religious practices or Indigenous religious or spiritual practices that are required for these practices?
2. How long does it take you to complete and submit the request (in hours)? How long do you believe it would take under the revised process and requirements?
3. Who typically completes this work (e.g., administrative staff, senior leadership)?
4. Are there other costs associated with preparing an alteration request? If yes, what are they and how do you foresee them being impacted by this proposal?

Questions: For municipalities:

1. How many applications do you receive each year from municipally designated heritage properties that are primarily used for religious practices or Indigenous spiritual or religious practices requesting an alteration to identified heritage attributes connected to those practices?
2. How long does it typically take to review such an application (in hours)? How long do you believe it would take under the revised process and requirements?
3. What level of employee in your organization typically undertakes this work (e.g., administrative staff, management)?

[Related ERO \(Environmental Registry of Ontario\) notices](#)

[Bill 139 Less Red Tape, More Common Sense Act \(/notice/019-7660\)](#)

**Supporting
materials**

Related links

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

[Bill 139, Less Red Tape, More Common Sense Act, 2023 \(https://www.ola.org/en/legislative-business/bills/parliament-43/session-1/bill-139\)](https://www.ola.org/en/legislative-business/bills/parliament-43/session-1/bill-139)

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Comment

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