



Amendments to the Ontario Heritage Act

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Background



- The *Ontario Heritage Act* (the Act) first came into effect on March 5, 1975
- It was introduced in response to growing public outcry at the neglect and demolition of heritage buildings across the province in the 1960s
- The Act allows municipalities and the provincial government to designate individual properties and districts in the province as being of cultural heritage value or interest



Recent Amendments

- The Act has been amended numerous times since its introduction
- The most recent amendments were made through the *More Homes, More Choice Act, 2019*
- All proposed amendments, except for the definition of “alter” and amendments to Section 42, came into effect on July 1, 2021





New Requirements for Listing Non-Designated
Properties (Section 27)

Notification

- Council is now required to notify a property owner within 30 days of adding their non-designated property to the municipal register, previously, this had only been recommended
- The notice must include:
 - A statement explaining why council 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 informing the owner of their right to object to their property's inclusion
 - An explanation of the restriction concerning the demolition or removal of a building

Objection

- An owner has the right to object to their non-designated property being included on the municipal register
- Notice of objection must be served on the clerk
- Within 90 days of the objection, council must provide the owner with their decision as to whether the property should remain on the register or not
- An owner's opportunity to object is not limited to when the property was first included on the register, it can happen at any time, by any owner of the property.



New Requirements for Designation (Section 29)

Issuing Timeline

- Municipalities now have 90 days to issue a Notice of Intention to Designate (NOID) when a property is subject to a *Planning Act* application for an Official Plan or Zoning By-law Amendment or a Plan of Subdivision
- The timeline is triggered when all the required notices are issued by council or a planning board for a complete application related to an Official Plan or Zoning by-law Amendment or Plan of Subdivision
- Exceptions to the timeline:
 - Property owner and Council agree to an extension or that the timeline does not apply
 - A municipality declares an emergency under *Emergency Management and Civil Protection Act*

By-Law Timeline

- Municipalities are now required to pass a designation by-law within 120 days of the NOID's publication, otherwise the NOID will be considered withdrawn.
- Municipalities will have to issue a notice of withdrawal
- The 120-day timeline applies to the following designation related decisions:
 - All new designations
 - Amending by-laws for administrative reasons
 - Repealing by-laws
- Exceptions:
 - Property owner and council agree to an extension
 - A municipality declares an emergency under *Emergency Management and Civil Protection Act*
 - Council passes a resolution stating that they have received new and relevant information

Mandatory Standards for By-Laws

- A designation by-law must identify the property by municipal address, legal description and a general description of where the property is located within the municipality
- It must include:
 - A site plan, scale drawing or description in writing that identifies the areas of cultural heritage value or interest
 - A statement of cultural heritage value or interest that must identify which of the criteria set out in regulation 9/06 are met and how they are met
 - A description of heritage attributes must explain how each attribute contributes to the cultural heritage value or interest of the property
- The by-law may also list any physical features of the property that are not heritage attributes



Alteration and Demolition (Section 34)

Alteration and Demolition

- Changes made to Section 34 of the Act now prohibit the property owner from demolishing or removing, or permitting the demolition or removal, of heritage attributes that are not buildings or structures
- A property owner shall also not demolish or remove, or permit the demolition or removal, of a building or structure on the property, whether or not the demolition or removal would affect the property's heritage attributes, as set out in the description of the property's heritage attributes in the by-law
- Municipalities must confirm that a property owner's application for alteration or demolition/removal is deemed complete within 60 days of it being served on the municipality

Alteration and Demolition

- O. Reg. 385/21 sets out provincial minimum requirements for applications to alter or demolish/remove a building, structure or heritage attribute on a designated heritage property
- Requirements for a complete application:
 - Applicant contact information.
 - Description of the property (i.e., lot, concession, street name and number).
 - Photographs of the existing buildings, structures and heritage attributes that will be affected by the application.
 - Site plan or sketch illustrating the location of the proposed alteration, demolition or removal.
 - Drawings and written specifications of the proposed alteration, demolition or removal.
 - Reasons for the proposed activity and potential impacts.
 - Any cultural heritage studies that are relevant to the proposal.



Ontario Land Tribunal

Ontario Land Tribunal

- In the past, an appeal of a designation by-law triggered a public hearing by the Local Planning Appeal Tribunal, and prior to 2019, by the Ontario Conservation Review Board
- On June 1, 2021, the *Ontario Land Tribunal Act, 2021* amalgamated the Local Planning Appeal Tribunal, Environmental Review Tribunal, Board of Negotiation, Conservation Review Board and Mining and Lands Tribunal into the Ontario Land Tribunal
- The Tribunal will now hear appeals to designation by-laws on individual buildings and Heritage Conservation Districts

Ontario Land Tribunal

- The Act provides council with the option to place interim control measures to prohibit or set limitations with respect to alterations of property, new construction, demolition or removal of buildings or structures during the three-year study period. These controls, however, are subject to appeal, which is heard by the Tribunal
- The Tribunal will hold a hearing to hear the objections and will decide on the acceptability of the study area by-law or any interim controls adopted under the by-law
- The following final municipal decisions are all now subject to a binding decision from the Tribunal:
 - All designation decisions, including new designations, proposals to amend a designation by-law, and proposals or applications for repeal of a designation by-law
 - Decisions on an application to alter an individually designated property

Ontario Land Tribunal

- The municipality is required to provide the information and materials to the Tribunal within 15 days of the notice of appeal being served on the municipality
- Required information includes:
 - A copy of the notice of intention to designate, by-law and copy of the notice of its passing
 - A copy of any report considered by council
 - A copy of any objections received by the municipality
 - A copy of any written submissions and comments received
 - Any additional material or information council considered in making its decision or received in relation to the decision
- All notices of final municipal decisions, as well as orders from the Tribunal, must be served on the Ontario Heritage Trust



Ontario Heritage Toolkit

Ontario Heritage Toolkit

- The Ontario Heritage Toolkit documents have been updated to help users understand the recent amendments
- Updates to the five guidance documents of the Ontario Heritage Toolkit:
 - Designating Heritage Properties
 - Heritage Conservation Districts
 - Heritage Property Evaluation
 - Your Community, Your Heritage, Your Committee
 - Heritage Places of Worship
- The new toolkit also has flowcharts to navigate the amended processes

Further Reading

- Updates to the Heritage Toolkit:
<https://ero.ontario.ca/notice/019-2770>
- “Ontario Heritage Act Amendments Now In Force.”
Cassels:
<https://cassels.com/insights/ontario-heritage-act-amendments-now-in-force/>
- The Act in full:
<https://www.ontario.ca/laws/statute/90o18>

