

Ontario Heritage Act

R.S.O. 1990, CHAPTER O.18

PART IV CONSERVATION OF PROPERTY OF CULTURAL HERITAGE VALUE OR INTEREST

DEFINITIONS AND APPLICATION

Definition

26 (1) In this Part,

“property” means real property and includes all buildings and structures thereon. 2005, c. 6, s. 14.

Same

(2) In sections 27 to 34.4,

“designated property” means property designated by a municipality under section 29. 2005, c. 6, s. 14.

Publication of notice, City of Toronto

(3) Where the City of Toronto is required by this Part to publish a notice in a newspaper having general circulation in the municipality, notice given in accordance with a policy adopted by the City under section 212 of the *City of Toronto Act, 2006* is deemed to satisfy the requirement of this Part to publish notice in a newspaper. 2006, c. 11, Sched. B, s. 11 (1).

Publication of notice

(4) Where a municipality is required by this Part to publish a notice in a newspaper having general circulation in the municipality, notice given in accordance with a policy adopted by the municipality under section 270 of the *Municipal Act, 2001* is deemed to satisfy the requirement of this Part to publish notice in a newspaper. 2006, c. 32, Sched. D, s. 13 (1).

Section Amendments with date in force (d/m/y)

2002, c. 18, Sched. F, s. 2 (4) - 26/11/2002

2005, c. 6, s. 14 - 28/04/2005

2006, c. 11, Sched. B, s. 11 (1) - 01/01/2007; 2006, c. 32, Sched. D, s. 13 (1) - 01/01/2007

Application

26.1 (1) This Part does not apply to property described in clause 25.2 (2) (a). 2005, c. 6, s. 14.

Conflict

(2) If a property described in clause 25.2 (2) (b) is designated under section 29 or under section 34.5, and if there is a conflict between a provision of the heritage standards and guidelines prepared under Part III.1 and a provision in Part IV as they apply to that property, the provision in Part IV prevails. 2005, c. 6, s. 14.

Exception

(3) Nothing in subsection (1) shall prevent a municipality acting under subsection 27 (1.2) from including in the register referred to in that subsection a reference to property described in clause 25.2 (2) (a). 2005, c. 6, s. 14.

Section Amendments with date in force (d/m/y)

2005, c. 6, s. 14 - 28/04/2005

REGISTER AND MUNICIPAL HERITAGE COMMITTEE

Register

27 (1) The clerk of a municipality shall keep a register of property situated in the municipality that is of cultural heritage value or interest. 2005, c. 6, s. 15.

Contents of register

(1.1) The register kept by the clerk shall list all property situated in the municipality that has been designated by the municipality or by the Minister under this Part and shall contain, with respect to each property,

- (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. 2005, c. 6, s. 15.

Same

(1.2) In addition to the property listed in the register under subsection (1.1), the register may include property that has not been designated under this Part but that the council of the municipality believes to be of cultural heritage value or interest and shall contain, with respect to such property, a description of the property that is sufficient to readily ascertain the property. 2005, c. 6, s. 15.

Consultation

(1.3) Where the council of a municipality has appointed a municipal heritage committee, the council shall, before including a property that has not been designated under this Part in the register under subsection (1.2) or removing the reference to such a property from the register, consult with its municipal heritage committee. 2005, c. 6, s. 15.

Extracts

(2) The clerk of a municipality shall issue extracts from the Register referred to in subsection (1) to any person on payment of the fee set by the municipality by by-law. R.S.O. 1990, c. O.18, s. 27 (2); 2002, c. 18, Sched. F, s. 2 (6).

Restriction on demolition, etc.

(3) If property included in the register under subsection (1.2) has not been designated under section 29, the owner of the 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 the owner gives the council of the municipality at least 60 days notice in writing of the owner's intention to demolish or remove the building or structure or to permit the demolition or removal of the building or structure. 2006, c. 11, Sched. B, s. 11 (2).

Same

(4) Subsection (3) applies only if the property is included in the register under subsection (1.2) before any application is made for a permit under the *Building Code Act, 1992* to demolish or remove a building or structure located on the property. 2006, c. 11, Sched. B, s. 11 (2).

Same

(5) The notice required by subsection (3) shall be accompanied by such plans and shall set out such information as the council may require. 2006, c. 11, Sched. B, s. 11 (2).

Section Amendments with date in force (d/m/y)

2002, c. 18, Sched. F, s. 2 (5, 6) - 26/11/2002

2005, c. 6, s. 15 - 28/04/2005

2006, c. 11, Sched. B, s. 11 (2) - 12/06/2006

Municipal heritage committee

28 (1) The council of a municipality may by by-law establish a municipal heritage committee to advise and assist the council on matters relating to this Part, matters relating to Part V and such other heritage matters as the council may specify by by-law. 2002, c. 18, Sched. F, s. 2 (7).

Members

(2) The committee shall be composed of not fewer than five members appointed by the council. 2002, c. 18, Sched. F, s. 2 (7).

Continuation of old committees

(3) Every local architectural conservation advisory committee established by the council of a municipality before the day subsection 2 (7) of Schedule F to the *Government Efficiency Act, 2002* comes into force is continued as the municipal heritage committee of the municipality, and the persons who were the members of the local architectural conservation

advisory committee immediately before that day become the members of the municipal heritage committee. 2002, c. 18, Sched. F, s. 2 (7).

Section Amendments with date in force (d/m/y)

1993, c. 27, Sched. - 31/12/1991

2002, c. 18, Sched. F, s. 2 (7) - 26/11/2002

DESIGNATION OF PROPERTIES BY MUNICIPALITIES

Designation by municipal by-law

29 (1) The council of a municipality may, by by-law, designate a property within the municipality to be of cultural heritage value or interest if,

- (a) where criteria for determining whether property is of cultural heritage value or interest have been prescribed by regulation, the property meets the prescribed criteria; and
- (b) the designation is made in accordance with the process set out in this section. 2005, c. 6, s. 17 (1).

Notice required

(1.1) Subject to subsection (2), if the council of a municipality intends to designate a property within the municipality to be of cultural heritage value or interest, it shall cause notice of intention to designate the property to be given by the clerk of the municipality in accordance with subsection (3). 2005, c. 6, s. 17 (1).

Consultation

(2) Where the council of a municipality has appointed a municipal heritage committee, the council shall, before giving notice of its intention to designate a property under subsection (1), consult with its municipal heritage committee. R.S.O. 1990, c. O.18, s. 29 (2); 2002, c. 18, Sched. F, s. 2 (9).

Notice of intention

(3) Notice of intention to designate under subsection (1) 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. R.S.O. 1990, c. O.18, s. 29 (3); 2005, c. 6, s. 1.

Contents of notice

(4) Notice of intention to designate property 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) a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property; and
- (c) a statement that notice of objection to the designation may be served on the clerk within 30 days after the date of publication of the notice of intention in a newspaper of general circulation in the municipality under clause (3) (b). 2005, c. 6, s. 17 (2).

Same

(4.1) Notice of intention to designate property 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) a statement explaining the cultural heritage value or interest of the property;
- (c) a statement that further information respecting the proposed designation is available from the municipality; and
- (d) a statement that notice of objection to the designation may be served on the clerk within 30 days after the date of publication of the notice of intention in a newspaper of general circulation in the municipality under clause (3) (b). 2005, c. 6, s. 17 (2).

Objection

(5) A person who objects to a proposed designation shall, within thirty days after the date of publication of the notice of intention, serve on the clerk of the municipality a notice of objection setting out the reason for the objection and all relevant facts. R.S.O. 1990, c. O.18, s. 29 (5); 1996, c. 4, s. 55 (2); 2009, c. 33, Sched. 11, s. 6 (4).

If no notice of objection

(6) If no notice of objection is served within the 30-day period under subsection (5), the council,

(a) shall,

(i) pass a by-law designating the property,

(ii) cause a copy of the by-law, together with a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property,

(A) to be served on the owner of the property and on the Trust, and

(B) to be registered against the property affected in the proper land registry office, and

(iii) publish notice of the by-law in a newspaper having general circulation in the municipality; or

(b) shall withdraw the notice of intention to designate the property by causing a notice of withdrawal,

(i) to be served on the owner of the property and on the Trust, and

(ii) to be published in a newspaper having general circulation in the municipality. 2002, c. 18, Sched. F, s. 2 (11); 2005, c. 6, ss. 1, 17 (3).

Referral to Review Board

(7) Where a notice of objection has been served under subsection (5), the council shall, upon expiration of the thirty-day period under subsection (4), refer the matter to the Review Board for a hearing and report. R.S.O. 1990, c. O.18, s. 29 (7).

Hearing

(8) Pursuant to a reference by the council under subsection (7), the Review Board, as soon as is practicable, shall hold a hearing open to the public to determine whether the property in question should be designated, and the council, the owner, any person who has filed an objection under subsection (5) and such other persons as the Review Board may specify, are parties to the hearing. R.S.O. 1990, c. O.18, s. 29 (8).

Place of hearing

(9) A hearing under subsection (8) shall be held at such place in the municipality as the Review Board may determine, and notice of such hearing shall be published in a newspaper having general circulation in the municipality at least ten days prior to the date of such hearing. R.S.O. 1990, c. O.18, s. 29 (9).

Review Board may combine hearings

(10) The Review Board may combine two or more related hearings and conduct them in all respects and for all purposes as one hearing. R.S.O. 1990, c. O.18, s. 29 (10).

(11) REPEALED: 2005, c. 6, s. 17 (4).

Report

(12) Within thirty days after the conclusion of a hearing under subsection (8), the Review Board shall make a report to the council setting out its findings of fact, its recommendations as to whether or not the property should be designated under this Part and any information or knowledge used by it in reaching its recommendations, and the Review Board shall send a copy of its report to the other parties to the hearing. R.S.O. 1990, c. O.18, s. 29 (12).

Failure to report

(13) Where the Review Board fails to make a report within the time limited by subsection (12), such failure does not invalidate the procedure. R.S.O. 1990, c. O.18, s. 29 (13).

Decision of council

(14) After considering the report under subsection (12), the council, without a further hearing,

(a) shall,

(i) pass a by-law designating the property,

- (ii) cause a copy of the by-law, together with a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property,
 - (A) to be served on the owner of the property and on the Trust, and
 - (B) to be registered against the property affected in the proper land registry office, and
- (iii) publish notice of the by-law in a newspaper having general circulation in the municipality; or
- (b) shall withdraw the notice of intention to designate the property by causing a notice of withdrawal,
 - (i) to be served on the owner of the property and on the Trust, and
 - (ii) to be published in a newspaper having general circulation in the municipality. 2002, c. 18, Sched. F, s. 2 (12); 2005, c. 6, ss. 1, 17 (5).

Decision final

(14.1) The decision of the council under subsection (14) is final. 2002, c. 18, Sched. F, s. 2 (12).

Withdrawal of objection

(15) A person who has served a notice of objection under subsection (5) may withdraw the objection at any time before the conclusion of a hearing into the matter by serving a notice of withdrawal on the clerk of the municipality and on the Review Board. 2009, c. 33, Sched. 11, s. 6 (5).

No hearing

(15.1) If the Review Board has received notices of withdrawal for all the notices of objection that were served under subsection (5), the Review Board shall not hold a hearing into the matter or, if a hearing into the matter is in progress, shall discontinue the hearing and the council shall act in accordance with subsection (6) as if no notice of objection had been served. 2009, c. 33, Sched. 11, s. 6 (5).

Transition

(16) If, on the day subsection 2 (8) of Schedule F to the *Government Efficiency Act, 2002* comes into force, the clerk of a municipality has given a notice of intention to designate a property as a property of historic or architectural value or interest but the council has not yet passed a by-law so designating the property and has not withdrawn its notice of intention,

- (a) this section does not apply to the notice of intention;
- (b) despite its amendment by section 2 of Schedule F to the *Government Efficiency Act, 2002*, this section, as it read immediately before its amendment, continues to apply to the notice of intention. 2002, c. 18, Sched. F, s. 2 (13).

Same

(17) If, on or before the day the *Ontario Heritage Amendment Act, 2005* received Royal Assent, the clerk of a municipality had given a notice of intention to designate a property that complied with subsection (4) as it read immediately before that day but, as of that day, the council had not yet passed a by-law designating the property under this section and had not withdrawn the notice,

- (a) the notice continues to have been validly given; and
- (b) the requirements of subsection (4) or (4.1), as enacted on that day by subsection 17 (2) of the *Ontario Heritage Amendment Act, 2005*, do not apply to the notice of intention. 2005, c. 6, s. 17 (6).

Section Amendments with date in force (d/m/y)

1996, c. 4, s. 55 (1-3) - 03/04/1996

2002, c. 18, Sched. F, s. 2 (8-13) - 26/11/2002

2005, c. 6, s. 1, 16, 17 (1-6) - 28/04/2005

2009, c. 33, Sched. 11, s. 6 (4, 5) - 15/12/2009

Effect of notice of designation

Permits void

30 (1) If a notice of intention to designate a property as property of cultural heritage value or interest is given under section 29, any permit that allowed for the alteration or demolition of the property and that was issued by the municipality under any Act, including a building permit, before the day the notice was served on the owner of the property and on the Trust and

published in a newspaper is void as of the day the notice of intention is given in accordance with subsection 29 (3). 2005, c. 6, s. 18.

Interim control of alteration, demolition or removal

(2) Sections 33 and 34 apply with necessary modifications to property as of the day notice of intention to designate the property is given under subsection 29 (3) as though the designation process were complete and the property had been designated under section 29. 2005, c. 6, s. 18.

Section Amendments with date in force (d/m/y)

2005, c. 6, s. 18 - 28/04/2005

Amendment of designating by-law

30.1 (1) The council of a municipality may, by by-law, amend a by-law designating property made under section 29 and section 29 applies with necessary modifications to an amending by-law as though it were a by-law to designate property under that section. 2005, c. 6, s. 19.

Exception

- (2) Despite subsection (1), subsections 29 (1) to (6) do not apply to an amending by-law if the purpose of the amendment is,
- (a) to clarify or correct the statement explaining the property's cultural heritage value or interest or the description of the property's heritage attributes;
 - (b) to correct the legal description of the property; or
 - (c) to otherwise revise the language of the by-law to make it consistent with the requirements of this Act or the regulations. 2005, c. 6, s. 19.

Same

(3) If the council of a municipality proposes to make an amendment described in subsection (2), the council shall give the owner of the designated property written notice of the proposed amendment in accordance with subsection (4). 2005, c. 6, s. 19.

Content of notice

- (4) A notice of a proposed amendment shall,
- (a) contain an explanation of the purpose and effect of the proposed amendment; and
 - (b) inform the owner of the right to object to the proposed amendment by filing a notice of objection with the clerk of the municipality within 30 days of receiving the notice. 2005, c. 6, s. 19.

Consultation with committee

(5) The council of a municipality shall consult with its municipal heritage committee, if one has been established, before giving notice of a proposed amendment to the owner of property under subsection (3). 2005, c. 6, s. 19.

Objection

(6) The owner of a property who receives notice of a proposed amendment from a municipality under subsection (3) may, within 30 days of receiving notice of the amendment, file a notice of objection to the amendment with the clerk of the municipality setting out the reasons for the objection and all relevant facts. 2005, c. 6, s. 19.

Where no objection

(7) If no notice of objection is filed within the 30-day period under subsection (6), the council of the municipality may pass the proposed amending by-law described in subsection (2). 2005, c. 6, s. 19.

Application of s. 29

(8) If the owner of the property files a notice of objection under subsection (6) in relation to a proposed amendment described in subsection (2), subsections 29 (7) to (15.1) apply with necessary modifications to the notice of objection. 2005, c. 6, s. 19; 2009, c. 33, Sched. 11, s. 6 (6).

Notice of amendment

(9) The clerk of a municipality shall provide a copy of the by-law, as amended under this section, to the owner of the property and to the Trust and shall register the by-law against the property in the proper land registry office. 2005, c. 6, s. 19.

Requirement to update old by-laws

(10) If the council of a municipality proposes to amend a by-law designating property made under section 29 before the day the *Ontario Heritage Amendment Act, 2005* received Royal Assent, the council shall include in the amendment such changes as are necessary to ensure that the by-law satisfies the requirements of section 29, as it read on the day the *Ontario Heritage Amendment Act, 2005* received Royal Assent. 2005, c. 6, s. 19.

Section Amendments with date in force (d/m/y)

2005, c. 6, s. 19 - 28/04/2005

2009, c. 33, Sched. 11, s. 6 (6) - 15/12/2009

Repeal of designating by-law, council's initiative

31 (1) Subject to subsection (2), where the council of a municipality intends to repeal a by-law or part thereof designating property, it shall cause notice of intention to repeal the by-law or part thereof to be given by the clerk of the municipality in accordance with subsection (3). R.S.O. 1990, c. O.18, s. 31 (1).

Consultation

(2) Where the council of a municipality has appointed a municipal heritage committee, the council shall, before repealing a by-law or part thereof designating property, consult with its municipal heritage committee. R.S.O. 1990, c. O.18, s. 31 (2); 2002, c. 18, Sched. F, s. 2 (14).

Notice of intention

(3) Notice of intention to repeal a by-law or part thereof under subsection (1) 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. R.S.O. 1990, c. O.18, s. 31 (3); 2005, c. 6, s. 1.

Contents of notice

(4) Notice of intention to repeal a by-law or part thereof under subsection (1) shall contain,

- (a) an adequate description of the property so that it may be readily ascertained;
- (b) a statement of the reason for the proposed repealing by-law; and
- (c) a statement that notice of objection to the repealing by-law may be served on the clerk within thirty days of the date of publication of the notice of intention in a newspaper having general circulation in the municipality. R.S.O. 1990, c. O.18, s. 31 (4); 1996, c. 4, s. 56 (1).

Objection

(5) A person who objects to a proposed repealing by-law shall object to the repealing by-law in the manner set out in subsection 29 (5). R.S.O. 1990, c. O.18, s. 31 (5).

Application

(6) Subsections 29 (6) to (15.1) as they apply to an intention to designate a property apply with necessary modifications to an intention to repeal a by-law or part thereof designating a property under this section. R.S.O. 1990, c. O.18, s. 31 (6); 1996, c. 4, s. 56 (2); 2009, c. 33, Sched. 11, s. 6 (7).

Deletion from Register

(7) Where the council of a municipality passes a by-law repealing the designation of a property under this section, it shall cause the clerk of the municipality to delete any reference to the property from the Register referred to in subsection 27 (1). R.S.O. 1990, c. O.18, s. 31 (7).

Section Amendments with date in force (d/m/y)

1996, c. 4, s. 56 (1, 2) - 03/04/1996

2002, c. 18, Sched. F, s. 2 (14) - 26/11/2002

2005, c. 6, s. 1 - 28/04/2005

2009, c. 33, Sched. 11, s. 6 (7) - 15/12/2009

Repeal of designating by-law, owner's initiative

32 (1) An owner of property designated under this Part may apply to the council of the municipality in which the property is situate to repeal the by-law or part thereof designating the property. R.S.O. 1990, c. O.18, s. 32 (1).

Decision of council

(2) After consultation with its municipal heritage committee, where one is established, the council shall consider an application under subsection (1) and within ninety days of receipt thereof shall,

- (a) refuse the application and cause notice of its decision to be given to the owner and to the Trust; or
- (b) consent to the application and,
 - (i) cause notice of the intention to repeal the by-law to be served on the owner and the Trust, and
 - (ii) publish notice of the intention to repeal the by-law in a newspaper of general circulation in the municipality. R.S.O. 1990, c. O.18, s. 32 (2); 2002, c. 18, Sched. F, s. 2 (15); 2005, c. 6, ss. 1, 20 (1).

Extension of time

(3) The applicant and the council may agree to extend the time under subsection (2) and, where the council fails to notify the applicant of its decision within such extended time as may be agreed upon, the council shall be deemed to have consented to the application. R.S.O. 1990, c. O.18, s. 32 (3).

Application for hearing

(4) Where the council refuses the application under subsection (2), the owner may within thirty days after receipt of the notice under subsection (2) apply to the council for a hearing before the Review Board. R.S.O. 1990, c. O.18, s. 32 (4).

Referral to Review Board

(5) The council shall, upon receipt of an application under subsection (4), refer the matter to the Review Board for a hearing and report, and shall publish a notice of the hearing in a newspaper having general circulation in the municipality at least ten days prior to the date of the hearing. R.S.O. 1990, c. O.18, s. 32 (5).

Hearing

(6) The Review Board shall as soon as is practicable hold a hearing open to the public to review the application, and the council and the owner and such other persons as the Review Board may specify are parties to the hearing. R.S.O. 1990, c. O.18, s. 32 (6).

Place of hearing

(7) A hearing under subsection (6) shall be held at such place in the municipality as the Review Board may determine. R.S.O. 1990, c. O.18, s. 32 (7).

(8) REPEALED: 2005, c. 6, s. 20 (2).

Report

(9) Within thirty days after the conclusion of a hearing under subsection (6), the Review Board shall make a report to the council setting out its findings of fact, its recommendations as to whether or not the application should be approved, and any information or knowledge used by it in reaching its recommendations, and shall send a copy of its report to the other parties to the hearing. R.S.O. 1990, c. O.18, s. 32 (9).

Failure to report

(10) Where the Review Board fails to make a report within the time limited by subsection (9), such failure does not invalidate the procedure. R.S.O. 1990, c. O.18, s. 32 (10).

Decision of council

(11) After considering a report under subsection (9), the council without further hearing shall,

- (a) refuse the application and cause notice of its decision to be given to the owner; or
- (b) consent to the application and,

- (i) cause notice of the intention to repeal the by-law to be served on the owner and the Trust, and
- (ii) publish notice of the intention to repeal the by-law in a newspaper of general circulation in the municipality. 2005, c. 6, s. 20 (3).

Decision final

- (11.1) A decision made under clause (11) (a) is final. 2005, c. 6, s. 20 (3).
- (12) REPEALED: 2005, c. 6, s. 20 (4).

Withdrawal of application

(13) The owner may withdraw an application made under subsection (4) at any time before the conclusion of a hearing into the matter by serving a notice of withdrawal on the clerk of the municipality and on the Review Board and, upon receipt of the notice of withdrawal, the Review Board shall not hold a hearing into the matter or, if a hearing into the matter is in progress, shall discontinue the hearing and the council shall act in accordance with subsection (2) as if no application had been made under subsection (4). 1996, c. 4, s. 57.

Objection

(14) Any person may, within 30 days after the date of publication of the notice of intention under subclause (2) (b) (ii) or (11) (b) (ii), serve on the clerk of the municipality a notice of objection to the repeal of a by-law, or a part of a by-law, designating property as property of cultural heritage value or interest. 2005, c. 6, s. 20 (5).

Content of notice of objection

(15) A notice of objection shall set out the reason for the objection. 2005, c. 6, s. 20 (5).

If no objection made

(16) If no notice of objection is served within the 30-day period referred to in subsection (14), the council shall pass a by-law repealing the by-law, or the part of the by-law, that designated the property as property of cultural heritage value or interest and cause,

- (a) a copy of the repealing by-law to be served on the owner of the property and the Trust;
- (b) the reference to the property in the Register referred to in subsection 27 (1) to be deleted;
- (c) notice of the repealing by-law to be published in a newspaper of general circulation in the municipality; and
- (d) a copy of the repealing by-law to be registered against the property in the proper land registry office. 2005, c. 6, s. 20 (5).

Referral of objection to Review Board

(17) If a notice of objection is served on the municipality under subsection (14), the council shall, upon expiration of the 30-day period referred to in that subsection, refer the matter to the Review Board for a hearing and report. 2005, c. 6, s. 20 (5).

Application

(18) Subsections 29 (7) to (13) apply with necessary modifications to the hearing and report by the Review Board required under subsection (17). 2005, c. 6, s. 20 (5).

Decision of council

- (19) After considering the report of the Review Board, the council shall, without a further hearing,
- (a) refuse the application and cause notice of its decision to be given to the owner; or
 - (b) consent to the application, pass a by-law repealing the by-law, or the part of the by-law, that designated the property as property of cultural heritage value or interest and cause,
 - (i) a copy of the repealing by-law to be served on the owner of the property and the Trust,
 - (ii) the reference to the property in the Register referred to in subsection 27 (1) to be deleted,
 - (iii) notice of the repealing by-law to be published in a newspaper of general circulation in the municipality, and
 - (iv) a copy of the repealing by-law to be registered against the property in the proper land registry office. 2005, c. 6, s. 20 (5).

Decision final

(20) The decision of the council under subsection (19) is final. 2005, c. 6, s. 20 (5).

Withdrawal of objection

(21) A person who has served a notice of objection under subsection (14) may withdraw the objection at any time before the conclusion of a hearing into the matter by serving a notice of withdrawal on the clerk of the municipality and on the Review Board. 2005, c. 6, s. 20 (5).

No hearing

(22) If the Review Board has received notices of withdrawal for all the notices of objection that were served under subsection (14), the Review Board shall not hold a hearing into the matter or, if a hearing into the matter is in progress, shall discontinue the hearing and the council shall act in accordance with subsection (16) as if no notice of objection had been served. 2009, c. 33, Sched. 11, s. 6 (8).

Reapplication

(23) Where the council refuses an application under clause (11) (a) or (19) (a), the owner of the property may not reapply to have the by-law, or the part of the by-law, that designates the property as property of cultural heritage value or interest revoked for 12 months from the service of the notice under clause (19) (a), except with the consent of the council. 2005, c. 6, s. 20 (5).

Section Amendments with date in force (d/m/y)

1996, c. 4, s. 57 - 03/04/1996

2002, c. 18, Sched. F, s. 2 (15) - 26/11/2002

2005, c. 6, s. 1, 20 (1-5) - 28/04/2005

2009, c. 33, Sched. 11, s. 6 (8) - 15/12/2009

Alteration of property

33 (1) No owner of property designated under section 29 shall alter the property or permit the alteration of the property if the alteration is likely to affect the property's heritage attributes, as set out in the description of the property's heritage attributes that was required to be served and registered under subsection 29 (6) or (14), as the case may be, unless the owner applies to the council of the municipality in which the property is situate and receives consent in writing to the alteration. 2002, c. 18, Sched. F, s. 2 (16); 2005, c. 6, s. 21 (1).

Transition

(1.1) If property is designated under this Part as property of historic or architectural value or interest, either before the day section 29 of this Act is amended by section 2 of Schedule F to the *Government Efficiency Act, 2002* or under subsection 29 (16) of this Act after that day,

- (a) subsection (1) of this section does not apply to the property;
- (b) despite its amendment by subsection 2 (16) of Schedule F to the *Government Efficiency Act, 2002*, subsection (1) of this section, as it read immediately before the day subsection 2 (16) of Schedule F to the *Government Efficiency Act, 2002* came into force, continues to apply to the property. 2002, c. 18, Sched. F, s. 2 (16).

Application

(2) An application under subsection (1) shall be accompanied by a detailed plan and shall set out such information as the council may require. R.S.O. 1990, c. O.18, s. 33 (2).

Notice of receipt

(3) The council, upon receipt of an application under subsection (1) together with such information as it may require under subsection (2), shall cause a notice of receipt to be served on the applicant. R.S.O. 1990, c. O.18, s. 33 (3).

Decision of council

(4) Within 90 days after the notice of receipt is served on the applicant under subsection (3), the council, after consultation with its municipal heritage committee, if one is established,

- (a) shall,
 - (i) consent to the application,

- (ii) consent to the application on terms and conditions, or
 - (iii) refuse the application; and
- (b) shall give notice of its decision to the owner of the property and to the Trust. 2002, c. 18, Sched. F, s. 2 (17); 2005, c. 6, s. 1.

Extension of time

(5) The applicant and the council may agree to extend the time under subsection (4) and, where the council fails to notify the applicant of its decision within ninety days after the notice of receipt is served on the applicant or within such extended time as may be agreed upon, the council shall be deemed to have consented to the application. R.S.O. 1990, c. O.18, s. 33 (5).

Application for hearing

(6) Where the council consents to an application upon certain terms and conditions or refuses the application, the owner may, within thirty days after receipt of the notice under subsection (4), apply to the council for a hearing before the Review Board. R.S.O. 1990, c. O.18, s. 33 (6).

Referral to Review Board

(7) The council shall, upon receipt of a notice under subsection (6), refer the matter to the Review Board for a hearing and report, and shall publish a notice of the hearing in a newspaper having general circulation in the municipality, at least ten days prior to the date of such hearing. R.S.O. 1990, c. O.18, s. 33 (7).

Hearing

(8) The Review Board shall as soon as is practicable hold a hearing open to the public to review the application, and the council and the owner and such other persons as the Review Board may specify are parties to the hearing. R.S.O. 1990, c. O.18, s. 33 (8).

Place for hearing

(9) A hearing under subsection (8) shall be held at such place in the municipality as the Review Board may determine. R.S.O. 1990, c. O.18, s. 33 (9).

(10) REPEALED: 2005, c. 6, s. 21 (2).

Report

(11) Within thirty days after the conclusion of a hearing under subsection (8), the Review Board shall make a report to the council setting out its findings of fact, its recommendations as to whether or not the application should be approved, and any information or knowledge used by it in reaching its recommendations, and shall send a copy of its report to the other parties to the hearing. R.S.O. 1990, c. O.18, s. 33 (11).

Failure to report

(12) Where the Review Board fails to make a report within the time limited by subsection (11), the failure does not invalidate the procedure. R.S.O. 1990, c. O.18, s. 33 (12).

Decision of council

(13) After considering the report under subsection (11), the council without a further hearing shall confirm or revise its decision under subsection (4) with such modifications as the council considers proper and shall cause notice of its decision to be served on the owner and the Trust and to the other parties to the hearing, and its decision is final. R.S.O. 1990, c. O.18, s. 33 (13); 2005, c. 6, s. 1.

Withdrawal of application

(14) The owner may withdraw an application made under subsection (6) at any time before the conclusion of a hearing into the matter by serving a notice of withdrawal on the clerk of the municipality and on the Review Board and, upon receipt of the notice of withdrawal, the Review Board shall not hold a hearing into the matter or, if a hearing into the matter is in progress, shall discontinue the hearing and the council shall act in accordance with subsection (4) as if no application had been made under subsection (6). 1996, c. 4, s. 58.

Delegation of council's consent

(15) The power to consent to alterations to property under this section may be delegated by by-law by the council of a municipality to an employee or official of the municipality if the council has established a municipal heritage committee and has consulted with the committee prior to delegating the power. 2005, c. 6, s. 21 (3).

Scope of delegation

(16) A by-law that delegates the council's power to consent to alterations to a municipal employee or official may delegate the power with respect to all alterations or with respect to such classes of alterations as are described in the by-law. 2005, c. 6, s. 21 (3).

Section Amendments with date in force (d/m/y)

1996, c. 4, s. 58 - 03/04/1996

2002, c. 18, Sched. F, s. 2 (16, 17) - 26/11/2002

2005, c. 6, s. 1, 21 (1-3) - 28/04/2005

Demolition or removal of structure

34 (1) No owner of property designated under section 29 shall demolish or remove a building or structure on the property or permit the demolition or removal of a building or structure on the property unless the owner applies to the council of the municipality in which the property is situate and receives consent in writing to the demolition or removal. 2002, c. 18, Sched. F, s. 2 (18); 2005, c. 6, s. 22 (1).

Application

(1.1) An application made under subsection (1) shall be accompanied by any plans and set out any information the council may require. 2009, c. 33, Sched. 11, s. 6 (9).

Notice of receipt

(1.2) The council, on receipt of an application under subsection (1) together with any information it may require under subsection (1.1), shall serve a notice of receipt on the applicant. 2009, c. 33, Sched. 11, s. 6 (9).

Decision of council

(2) Within 90 days after the notice of receipt is served on the applicant under subsection (1.2) or within such longer period as is agreed upon by the owner and the council, the council, after consultation with its municipal heritage committee, if one is established,

(a) may,

(i) consent to the application,

(i.1) consent to the application, subject to such terms and conditions as may be specified by the council, or

(ii) refuse the application;

(b) shall give notice of its decision to the owner and to the Trust; and

(c) shall publish its decision in a newspaper having general circulation in the municipality. 2002, c. 18, Sched. F, s. 2 (18); 2005, c. 6, ss. 1, 22 (2); 2009, c. 33, Sched. 11, s. 6 (10).

(3) REPEALED: 2005, c. 6, s. 22 (3).

Deemed consent

(4) If the council fails to notify the owner under clause (2) (b) within the time period mentioned in subsection (2), the council shall be deemed to have consented to the application. 2002, c. 18, Sched. F, s. 2 (18).

Transition

(5) If, on or before the day the *Ontario Heritage Amendment Act, 2005* received Royal Assent, an owner of property designated under section 29 had applied to a municipality for consent to demolish or remove a building or structure on the property and no decision had been made by the council of the municipality as of that day,

(a) the council's decision shall be made in accordance with subsection (2), as amended by subsection 22 (2) of the *Ontario Heritage Amendment Act, 2005*; and

(b) subsections (5) and (7), as they read immediately before the day the *Ontario Heritage Amendment Act, 2005* received Royal Assent, do not apply if the council decides to refuse the application. 2005, c. 6, s. 22 (4).

Same

(6) If, on or before the day the *Ontario Heritage Amendment Act, 2005* received Royal Assent, an owner of property designated under section 29 had applied to a municipality for consent to demolish or remove a building or structure on the property and the council of the municipality had refused the application under subsection (2), then, even though 180 days had

elapsed since the date of the council's decision and the owner had complied with the requirements of clause (5) (b) or (7) (b), as they read immediately before that day,

- (a) subsections (5) and (7), as they read immediately before the day the *Ontario Heritage Amendment Act, 2005* received Royal Assent, do not apply with respect to the refusal of the application; and
- (b) the owner shall not demolish or remove the building or structure on the property. 2005, c. 6, s. 22 (4).

Same, exception

(7) Despite subsections (5) and (6), if, on the day the *Ontario Heritage Amendment Act, 2005* received Royal Assent, a situation described in subsection (6) existed and the owner of the property had not only prepared the property for the demolition or removal of a building or structure but was in the course of demolishing or removing the building or structure, then,

- (a) subsections (5) and (7), as they read immediately before the day the *Ontario Heritage Amendment Act, 2005* received Royal Assent, continue to apply to the refusal of the application;
- (b) the owner may continue the demolition or removal of the building or structure; and
- (c) sections 34.1, 34.2 and 34.3, as they read immediately before the day the *Ontario Heritage Amendment Act, 2005* received Royal Assent, continue to apply to the application. 2005, c. 6, s. 22 (4).

(8) REPEALED: 2005, c. 6, s. 22 (4).

Section Amendments with date in force (d/m/y)

2002, c. 18, Sched. F, s. 2 (18) - 26/11/2002

2005, c. 6, s. 1, 22 (1-4) - 28/04/2005

2009, c. 33, Sched. 11, s. 6 (9, 10) - 15/12/2009

Appeal to Tribunal

34.1 (1) If the council of a municipality consents to an application subject to terms and conditions under subclause 34 (2) (a) (i.1) or refuses an application under subclause 34 (2) (a) (ii), the owner of the property that was the subject of the application may appeal the council's decision to the Tribunal within 30 days of the day the owner received notice of the council's decision. 2017, c. 23, Sched. 5, s. 64.

Notice of appeal

(2) An owner of property who wishes to appeal the decision of the council of a municipality shall, within 30 days of the day the owner received notice of the council's decision, give notice of appeal to the Tribunal and to the clerk of the municipality. 2017, c. 23, Sched. 5, s. 64.

Content of notice

(3) A notice of appeal shall set out the reasons for the objection to the decision of the council of the municipality and be accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*. 2017, c. 23, Sched. 5, s. 64.

Hearing

(4) Upon receiving notice of an appeal, the Tribunal shall set a time and place for hearing the appeal and give notice of the hearing to the owner of the property and to such other persons or bodies as the Tribunal may determine. 2017, c. 23, Sched. 5, s. 64.

Notice of hearing

(5) The Tribunal shall give notice of a hearing in such manner as the Tribunal determines necessary. 2017, c. 23, Sched. 5, s. 64.

Powers of Tribunal

(6) After holding a hearing, the Tribunal may order,

- (a) that the appeal be dismissed; or
- (b) that the municipality consent to the demolition or removal of a building or structure without terms and conditions or with such terms and conditions as the Tribunal may specify in the order. 2017, c. 23, Sched. 5, s. 64.

Decision final

(7) The decision of the Tribunal is final. 2017, c. 23, Sched. 5, s. 64.

Section Amendments with date in force (d/m/y)

2002, c. 18, Sched. F, s. 2 (18) - 26/11/2002

2005, c. 6, s. 23 - 28/04/2005

2017, c. 23, Sched. 5, s. 64 - 03/04/2018

Transition, appeal to Tribunal

34.2 (1) Within 90 days of the day the *Ontario Heritage Amendment Act, 2005* received Royal Assent, the owner of property designated under section 29 who, before that day, had been refused an application to demolish or remove a building or structure from the property under subsection 34 (2) by the council of a municipality, may appeal the decision to the Tribunal if,

- (a) the owner has lost his right to demolish or remove the building or structure 180 days after the day the council of the municipality refused the application under subsection 34 (2) by virtue of subsection 34 (6); and
- (b) subsection 34 (7) does not apply to the application. 2005, c. 6, s. 23; 2017, c. 23, Sched. 5, s. 62.

Notice of appeal

(2) An owner of property who wishes to appeal the decision of the council of a municipality under subsection (1) shall, within 90 days of the day the *Ontario Heritage Amendment Act, 2005* received Royal Assent, give notice of appeal to the Tribunal and to the clerk of the municipality. 2005, c. 6, s. 23; 2017, c. 23, Sched. 5, s. 62.

Application

(3) Subsections 34.1 (3) to (7) apply with necessary modifications to an appeal under this section. 2005, c. 6, s. 23.

Section Amendments with date in force (d/m/y)

2002, c. 18, Sched. F, s. 2 (18) - 26/11/2002

2005, c. 6, s. 23 - 28/04/2005

2017, c. 23, Sched. 5, s. 62 - 03/04/2018

Repeal of by-law designating property

34.3 (1) The council of a municipality shall pass a by-law to repeal a by-law or the part thereof designating a property under section 29 if the owner of the property has applied in writing to the council for consent to the demolition or removal of a building or structure on the property and,

- (a) the council consents to the application under subclause 34 (2) (a) (i) or (i.1) or is deemed to have consented to the application under subsection 34 (4); or
- (b) the Tribunal has ordered that the municipality give its consent under clause 34.1 (6) (b). 2005, c. 6, s. 24; 2017, c. 23, Sched. 5, s. 62.

Duties upon passing a repealing by-law

- (2) When the council passes a repealing by-law under this section, the council shall cause,
- (a) a copy of the repealing by-law to be served on the owner of the property and on the Trust;
 - (b) notice of the repealing by-law to be published in a newspaper having general circulation in the municipality;
 - (c) reference to the property to be deleted from the Register referred to in subsection 27 (1); and
 - (d) a copy of the repealing by-law to be registered against the property affected in the proper land registry office. 2002, c. 18, Sched. F, s. 2 (18); 2005, c. 6, s. 1.

Section Amendments with date in force (d/m/y)

2002, c. 18, Sched. F, s. 2 (18) - 26/11/2002

2005, c. 6, s. 1, 24 - 28/04/2005

2017, c. 23, Sched. 5, s. 62 - 03/04/2018

Transition

34.4 A process relating to a matter dealt with in any of sections 34 to 34.3 that was commenced but not completed under an Act or a part of an Act repealed by section 4 of Schedule F to the *Government Efficiency Act, 2002*, that was continued under

sections 34 to 34.3 of this Act by this section on the day subsection 2 (18) of Schedule F to the *Government Efficiency Act, 2002* came into force, and that was not complete on the day the *Ontario Heritage Amendment Act, 2005* received Royal Assent, shall be continued under sections 34 to 34.3 as they read on and after the day the *Ontario Heritage Amendment Act, 2005* received Royal Assent. 2005, c. 6, s. 25.

Section Amendments with date in force (d/m/y)

2002, c. 18, Sched. F, s. 2 (18) - 26/11/2002

2005, c. 6, s. 25 - 28/04/2005

DESIGNATION OF PROPERTIES BY MINISTER

Designation by Minister

34.5 (1) After consultation with the Trust, the Minister may, by order, designate any property within a municipality or in unorganized territory as property of cultural heritage value or interest of provincial significance if,

- (a) the property meets the criteria prescribed by regulation; and
- (b) the designation is made in accordance with the process set out in section 34.6. 2005, c. 6, s. 26.

Effect of designation

- (2) If property is designated by the Minister under subsection (1), the owner of the property shall not,
- (a) carry out or permit an alteration of the property of a kind described in subsection (3) unless the Minister consents to the alteration; or
 - (b) carry out or permit the demolition or removal of a building or structure on the property unless the Minister consents to the demolition or removal or the Tribunal orders the demolition or removal under subsection (6). 2005, c. 6, s. 26; 2017, c. 23, Sched. 5, s. 62.

Alterations to property

(3) Clause (2) (a) applies in respect of alterations that are likely to affect the property's heritage attributes as described in the notice of intention to designate the property given under section 34.6. 2005, c. 6, s. 26.

Application for consent, alteration

(4) The owner of a property designated under subsection (1) may apply to the Minister for the Minister's consent to an alteration of the property and subsections 33 (2) to (14) apply with necessary modifications to such an application. 2005, c. 6, s. 26.

Same

(5) For the purposes of the application of subsection 33 (4) to an application for the Minister's consent made under subsection (4), subsection 33 (4) shall be deemed to require the Minister to consult with the Trust, and not with a municipal heritage committee, before rendering a decision under that subsection. 2005, c. 6, s. 26.

Same, demolition or removal

(6) The owner of a property designated under subsection (1) may apply to the Minister for the Minister's consent to the demolition or removal of a building or structure on the property. 2005, c. 6, s. 26.

Decision of Minister

(7) Within 90 days after receipt of an application under subsection (6), or within such longer period as is agreed upon by the owner and the Minister, the Minister, having consulted with the Trust, may,

- (a) consent to the application;
- (b) consent to the application, subject to such terms and conditions as may be specified by the Minister; or
- (c) refuse the application. 2005, c. 6, s. 26.

Notice of decision

(8) The Minister shall, within the time period specified in subsection (7), give notice of its decision under subsection (7) to the owner of the property and to the Trust and,

- (a) in the case of property situated in a municipality, shall publish the decision in a newspaper having general circulation in the municipality; and

- (b) in the case of property situated in unorganized territory, shall publish its decision or otherwise make its decision known in a manner and at such times as the Minister considers adequate to give the public in the territory reasonable notice. 2005, c. 6, s. 26.

Deemed consent

(9) If the Minister fails to give notice of its decision to the owner within the time period specified in subsection (7), the Minister shall be deemed to have consented to the application. 2005, c. 6, s. 26.

Application, appeal to Tribunal

(10) Section 34.1 applies with necessary modifications where the Minister refuses an application for consent under clause (7) (c) or consents to the application, subject to terms and conditions specified by the Minister under clause (7) (b). 2005, c. 6, s. 26.

Delegation

(11) The Minister may delegate in writing his or her power to consent to the alteration of a property designated under subsection (1) and to consent to the demolition or removal of a building or structure on property designated under subsection (1),

- (a) to the Trust, or to an official of the Trust designated by the Trust for the purposes of such a delegation; or
- (b) in the case of property situated in a municipality, to the council of the municipality or to an official of the municipality designated by the council of the municipality for the purposes of such a delegation. 2005, c. 6, s. 26.

Scope of delegation

(12) The Minister may limit a delegation under subsection (11) so as to delegate the power to consent to only one of the types of changes to property described in subsection (11), or to such combination thereof as may be specified in the delegation, or to consent to such classes of alterations as are set out in the delegation. 2005, c. 6, s. 26.

Section Amendments with date in force (d/m/y)

2005, c. 6, s. 26 - 28/04/2005

2017, c. 23, Sched. 5, s. 62 - 03/04/2018

Designation process

34.6 (1) If the Minister intends to designate property as property of cultural heritage value or interest of provincial significance, the Minister shall ensure that a notice of intention to designate the property is,

- (a) served on the owner of the property and, if the property is situated in a municipality, on the clerk of the municipality;
- (b) in the case of property situated in a municipality, published in a newspaper of general circulation in the municipality; and
- (c) in the case of property situated in unorganized territory, published or otherwise made known in the territory in a manner and at such times as the Minister considers adequate to give the public in the territory reasonable notice. 2005, c. 6, s. 26.

Content of notice

(2) A notice of intention to designate property served on an owner of property and on the clerk of a municipality under clause (1) (a) shall contain,

- (a) an adequate description of the property so that it may be readily ascertained;
- (b) a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property; and
- (c) a statement that notice of objection to the designation may be served on the Minister, within 30 days after the day the notice of intention was first published or made known to the public under clause (1) (b) or (c). 2005, c. 6, s. 26.

Same

(3) A notice of intention to designate property published under clause (1) (b) or (c) shall contain,

- (a) an adequate description of the property so that it may be readily ascertained;
- (b) a statement explaining the cultural heritage value or interest of the property;
- (c) a statement that further information respecting the proposed designation is available from the Minister; and

- (d) a statement that notice of objection to the designation may be served on the Minister, within 30 days after the day the notice of intention was first published or made known to the public under clause (1) (b) or (c). 2005, c. 6, s. 26.

Objection

(4) Within 30 days after the day the notice of intention was first published or made known to the public under clause (1) (b) or (c), a person may serve on the Minister a notice of objection setting out the reason for the objection and all relevant facts. 2005, c. 6, s. 26.

If no notice of objection

- (5) If no notice of objection is served within the 30-day period referred to in subsection (4), the Minister,
- (a) shall make an order designating the property as property of cultural heritage value or interest of provincial significance and shall,
 - (i) cause a copy of the order together with a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property,
 - (A) to be served on the owner of the property, on the Trust and, if the property is situated in a municipality, on the clerk of the municipality, and
 - (B) to be registered against the property affected in the proper land registry office,
 - (ii) in the case of property situated in a municipality, publish notice of the order in a newspaper of general circulation in the municipality, and
 - (iii) in the case of property situated in unorganized territory, publish notice of the order or otherwise make it known in the territory in a manner and at such times as the Minister considers adequate to give the public in the territory reasonable notice; or
 - (b) shall withdraw the notice of intention to designate the property by causing a notice of withdrawal,
 - (i) to be served on the owner of the property, on the Trust and, if the property is situated in a municipality, on the clerk of the municipality,
 - (ii) in the case of property situated in a municipality, to be published in a newspaper of general circulation in the municipality, and
 - (iii) in the case of property situated in unorganized territory, to be published or otherwise made known in the territory in a manner and at such times as the Minister considers adequate to give the public in the territory reasonable notice. 2005, c. 6, s. 26.

Referral of objection to Review Board

(6) If a notice of objection is served on the Minister under subsection (4), the Minister shall, upon expiration of the 30-day period referred to in that subsection, refer the matter to the Review Board for a hearing and report. 2005, c. 6, s. 26.

Hearing

(7) If a matter is referred to the Review Board under subsection (6), the Review Board shall hold a hearing as soon as practicable to determine whether the property in question should be designated as property of cultural heritage value or interest of provincial significance. 2005, c. 6, s. 26.

Parties

(8) The Minister, the owner of the property in question, any person who has served a notice of objection under subsection (4) and such other persons as the Review Board may specify are parties to the hearing. 2005, c. 6, s. 26.

Open hearing

(9) A hearing under subsection (7) is open to the public. 2005, c. 6, s. 26.

Place of hearing

(10) A hearing under subsection (7) shall be held at such place in the municipality or in the unorganized territory, as the case may be, as the Review Board may determine. 2005, c. 6, s. 26.

Notice of hearing

- (11) Notice of a hearing under subsection (7) shall be,
- (a) if the hearing is with respect to property situated in a municipality, published in a newspaper of general circulation in the municipality at least 10 days before the day of the hearing; and

- (b) if the hearing is with respect to property situated in unorganized territory, published or otherwise made known in the territory in a manner and at such times as the Review Board considers adequate to give the public in the territory reasonable notice of the hearing. 2005, c. 6, s. 26.

Combining hearings

(12) The Review Board may combine two or more related hearings and conduct them in all respects and for all purposes as one hearing. 2005, c. 6, s. 26.

Reports

(13) Within 30 days after the conclusion of a hearing under subsection (7) or as soon thereafter as is practicable, the Review Board shall make a report to the Minister setting out its findings of fact, its recommendations as to whether or not the property in question should be designated under section 34.5 and any information or knowledge used by it in reaching its recommendations. 2005, c. 6, s. 26.

Copies

(14) The Review Board shall send a copy of its report to the other parties to the hearing. 2005, c. 6, s. 26.

Decision of Minister

(15) After considering the report of the Review Board, the Minister, without further hearing, shall make any order or take any action set out in subsection (5) and follow the requirements of that subsection. 2005, c. 6, s. 26.

Decision final

(16) The decision of the Minister under subsection (15) is final. 2005, c. 6, s. 26.

Withdrawal of objection

(17) A person who has served a notice of objection under subsection (4) may withdraw the objection at any time before the conclusion of a hearing into the matter by serving notice of withdrawal on the Minister and on the Review Board. 2005, c. 6, s. 26.

No hearing

(18) If the Review Board has received notices of withdrawal for all the notices of objection that were served under subsection (4), the Review Board shall not hold a hearing into the matter or, if a hearing into the matter is in progress, shall discontinue the hearing and the council shall act in accordance with subsection (5) as if no notice of objection had been served. 2009, c. 33, Sched. 11, s. 6 (11).

Section Amendments with date in force (d/m/y)

2005, c. 6, s. 26 - 28/04/2005

2009, c. 33, Sched. 11, s. 6 (11) - 15/12/2009

Effect of notice of designation

Permits void

34.7 (1) If a notice of intention to designate a property as property of cultural heritage value or interest of provincial significance is given under section 34.6, any permit that allowed for the alteration or demolition of the property and that was issued under any Act, including a building permit, before the day the notice was served on the owner of the property and on the Trust and published or made known under subsection 34.6 (1) is void as of that day. 2005, c. 6, s. 26.

Interim control of alteration, demolition or removal

(2) Subsections 34.5 (2) to (10) apply with necessary modifications to property as of the day a notice of intention to designate the property is given under section 34.6 as though the designation process were complete and the property had been designated under subsection 34.5 (1). 2005, c. 6, s. 26.

Section Amendments with date in force (d/m/y)

2005, c. 6, s. 26 - 28/04/2005

Repeal of order, Minister's initiative

34.8 (1) If, after consultation with the Trust, the Minister decides to repeal an order designating property as property of cultural heritage value or interest of provincial significance, the Minister shall give notice of intention to repeal the order in accordance with subsection (2). 2005, c. 6, s. 26.

Notice of intention

(2) A notice of intention to repeal an order designating property shall be served on the owner of the property and on the Trust and,

- (a) in the case of property situated in a municipality, shall be published in a newspaper of general circulation in the municipality; or
- (b) in the case of property situated in unorganized territory, shall be published or otherwise made known in the territory in a manner and at such times as the Minister considers adequate to give the public in the territory reasonable notice. 2005, c. 6, s. 26.

Content of notice

(3) A notice of intention to repeal an order designating property shall contain,

- (a) an adequate description of the property so that it may be readily ascertained;
- (b) a short statement of the reason for repealing the order; and
- (c) a statement that notice of objection to the repeal of the order may be served on the Minister, within 30 days after the day the notice of intention was first published or made known to the public under clause (2) (a) or (b). 2005, c. 6, s. 26.

Objection

(4) Within 30 days after the day the notice of intention was first published or made known to the public under clause (2) (a) or (b), a person may serve on the Minister a notice of objection to the repeal of an order designating property setting out the reason for the objection and all relevant facts. 2005, c. 6, s. 26.

Application

(5) Subsections 34.6 (5) to (18), as they apply to an intention to make an order to designate property, apply with necessary modifications to an intention to make an order repealing the designation of the property. 2005, c. 6, s. 26.

Section Amendments with date in force (d/m/y)

2005, c. 6, s. 26 - 28/04/2005

Repeal of order, owner's initiative

34.9 (1) An owner of a property designated under subsection 34.5 (1) may apply to the Minister for a repeal of the order designating the property. 2005, c. 6, s. 26.

Decision of Minister

(2) Within 90 days of receipt of an application under subsection (1), the Minister, having consulted with the Trust, shall,

- (a) refuse the application and cause notice of its decision to be given to the owner and to the Trust; or
- (b) consent to the application and,
 - (i) cause notice of the intention to repeal the order to be served on the owner and the Trust,
 - (ii) if the property is situated in a municipality, publish notice of the intention to repeal the order in a newspaper of general circulation in the municipality, and
 - (iii) if the property is situated in unorganized territory, publish or otherwise make known the notice of intention to repeal the order in a manner and at such times as the Minister considers adequate to give the public in the territory reasonable notice. 2005, c. 6, s. 26.

Extension of time

(3) The applicant and the Minister may agree to extend the time under subsection (2) within which the Minister is to make a decision. 2005, c. 6, s. 26.

Deemed decision

(4) If the Minister fails to notify the applicant of his or her decision within the 90-day period referred to in subsection (2) or within such further time as may have been agreed to under subsection (3), the Minister shall be deemed to have consented to the application. 2005, c. 6, s. 26.

Application for hearing

(5) Within 30 days of receipt of a notice of a refusal of an application under clause (2) (a), the owner of the property in question may apply to the Minister for a hearing before the Review Board. 2005, c. 6, s. 26.

Application

(6) Subsections 32 (5) to (10) and (13) apply with necessary modifications to a hearing by the Review Board under this section. 2005, c. 6, s. 26; 2009, c. 33, Sched. 11, s. 6 (12).

Decision of Minister

(7) After considering the report of the Review Board, the Minister, without further hearing, shall,

- (a) refuse the application and cause notice of its decision to be given to the owner and to the Trust; or
- (b) consent to the application and,
 - (i) cause notice of the intention to repeal the order to be served on the owner and the Trust,
 - (ii) if the property is situated in a municipality, publish notice of the intention to repeal the order in a newspaper of general circulation in the municipality, and
 - (iii) if the property is situated in unorganized territory, publish or otherwise make known the notice of intention to repeal the order in a manner and at such times as the Minister considers adequate to give the public in the territory reasonable notice. 2005, c. 6, s. 26.

Objection

(8) Within 30 days after the day the notice of intention was first published or made known to the public under clause (2) (b) or (7) (b), a person may serve on the Minister a notice of objection to the repeal of an order designating property setting out the reason for the objection and all relevant facts. 2005, c. 6, s. 26.

Application

(9) Subsections 34.6 (5) to (18), as they apply to an intention to make an order to designate property, apply with necessary modifications to an intention to make an order repealing the designation of the property. 2005, c. 6, s. 26.

Reapplication

(10) Where the Minister refuses an application under this section, the owner of the property may not reapply to have the order that designates the property as property of cultural heritage value or interest of provincial significance revoked for 12 months from day the owner receives notice of the Minister's decision, except with the consent of the Minister. 2005, c. 6, s. 26.

Section Amendments with date in force (d/m/y)

2005, c. 6, s. 26 - 28/04/2005

2009, c. 33, Sched. 11, s. 6 (12) - 15/12/2009

GENERAL

Notice of change of ownership

35 (1) Where there is a change in the ownership of property designated under section 29 by a municipality, the new owner of the property shall give notice of the change to the clerk of the municipality within 30 days of becoming the owner of the property. 2005, c. 6, s. 27.

Same, Minister

(2) Where there is a change in the ownership of property designated under section 34.5 by the Minister, the new owner of the property shall give notice of the change to the Minister within 30 days of becoming the owner of the property. 2005, c. 6, s. 27.

Section Amendments with date in force (d/m/y)

2005, c. 6, s. 27 - 28/04/2005

Conflict

35.1 In the event of a conflict between an order by the Minister designating property under section 34.5 and a municipal by-law that affects the same property, the order prevails to the extent of the conflict, but in all other respects the by-law remains in full force and effect. 2005, c. 6, s. 27.

Section Amendments with date in force (d/m/y)

2005, c. 6, s. 27 - 28/04/2005

Stop order

35.2 (1) The Minister may issue a stop order with respect to any property in the Province to prevent the alteration of the property, any damage to the property or the demolition or removal of any building or structure on the property if the Minister is of the opinion that,

- (a) the property may be property of cultural heritage value or interest of provincial significance; and
- (b) the property is likely to be altered or damaged or a building or structure located on the property is likely to be removed or demolished. 2005, c. 6, s. 27.

Same

(2) The Minister may make an order under this section with respect to property designated under section 29 even if the municipality has consented to the alteration, demolition or removal in question. 2005, c. 6, s. 27.

Order

(3) A stop order issued under this section shall direct the owner of the property in question or any person in apparent possession of the property to ensure that any activity that is likely to result in the alteration of or damage to the property or the demolition or removal of any building or structure on the property not be commenced or be discontinued for a period of up to 60 days. 2005, c. 6, s. 27.

Assessment

(4) During the time that a stop order is in effect, the Minister, or any person authorized by the Minister in writing, may prepare a study to assist in determining whether the property is property of cultural heritage value or interest of provincial significance and which procedures, if any, should be commenced under this Act or otherwise, in order to protect and conserve the property. 2005, c. 6, s. 27.

Service of order

(5) The Minister may serve a stop order issued under this section on the owner of the property in question or any person in apparent possession of the property by any method of service described in subsection 67 (1) and by posting the order in a conspicuous place on the property to which it applies. 2009, c. 33, Sched. 11, s. 6 (13).

Service deemed effective

(6) Service under subsection (5) is effective from the earlier of the date of posting or the effective date of service described in subsections 67 (2) to (4). 2009, c. 33, Sched. 11, s. 6 (13).

Section Amendments with date in force (d/m/y)

2005, c. 6, s. 27 - 28/04/2005

2009, c. 33, Sched. 11, s. 6 (13) - 15/12/2009

Building standards by-law

35.3 (1) If a by-law passed under section 15.1 of the *Building Code Act, 1992* setting out standards for the maintenance of property in the municipality is in effect in a municipality, the council of the municipality may, by by-law,

- (a) prescribe minimum standards for the maintenance of the heritage attributes of property in the municipality that has been designated by the municipality under section 29 or by the Minister under section 34.5; and
- (b) require property that has been designated under section 29 or 34.5 and that does not comply with the standards to be repaired and maintained to conform with the standards. 2005, c. 6, s. 27.

Application

(2) Sections 15.2, 15.3, 15.4, 15.5 and 15.8 of the *Building Code Act, 1992* apply with necessary modifications to the enforcement of a by-law made under subsection (1). 2005, c. 6, s. 27.

Section Amendments with date in force (d/m/y)

2005, c. 6, s. 27 - 28/04/2005

Purchase or lease by-laws

36 (1) The council of a municipality may pass by-laws providing for acquiring, by purchase, lease or otherwise, any property or part thereof designated under this Part, including any interest therein, for the use or purposes of this Part and for disposing of such property, or any interest therein, by sale, lease or otherwise, when no longer so required, upon such terms and conditions as the council considers necessary for the purposes of this Part. R.S.O. 1990, c. O.18, s. 36 (1).

Expropriating by-law

(2) Subject to the *Expropriations Act*, the council of every municipality may pass by-laws providing for the expropriation of any property designated under this Part and required for the purposes of this Part and may sell, lease or otherwise dispose of the property, when no longer so required, upon such terms and conditions as the council considers necessary for the purposes of this Part. R.S.O. 1990, c. O.18, s. 36 (2).

Delegation

(3) The council of a municipality that forms part of an upper-tier municipality may delegate its power under this Part to the council of the upper-tier municipality. 2002, c. 17, Sched. F, Table.

Section Amendments with date in force (d/m/y)

2002, c. 17, Sched. F, Table - 01/01/2003

Easements

37 (1) Despite subsection 36 (1), after consultation with its municipal heritage committee, if one is established, the council of a municipality may pass by-laws providing for the entering into of easements or covenants with owners of real property or interests in real property, for the conservation of property of cultural heritage value or interest. 2002, c. 18, Sched. F, s. 2 (19).

Idem

(2) Any easement or covenant entered into by a council of a municipality may be registered, against the real property affected, in the proper land registry office. R.S.O. 1990, c. O.18, s. 37 (2).

Idem

(3) Where an easement or covenant is registered against real property under subsection (2), such easement or covenant shall run with the real property and the council of the municipality may enforce such easement or covenant, whether positive or negative in nature, against the owner or any subsequent owners of the real property, and the council of the municipality may enforce such easement or covenant even where it owns no other land which would be accommodated or benefited by such easement or covenant. R.S.O. 1990, c. O.18, s. 37 (3).

Assignment

(4) Any easement or covenant entered into by the council of a municipality under subsection (2) may be assigned to any person and such easement or covenant shall continue to run with the real property and the assignee may enforce the easement or covenant as if it were the council of the municipality and it owned no other land which would be accommodated or benefited by such easement or covenant. R.S.O. 1990, c. O.18, s. 37 (4).

Conflict

(5) Where there is a conflict between an easement or covenant entered into by a council of a municipality under subsection (1) and section 33 or 34, the easement or covenant shall prevail. R.S.O. 1990, c. O.18, s. 37 (5).

Section Amendments with date in force (d/m/y)

2002, c. 18, Sched. F, s. 2 (19) - 26/11/2002

Inspection

38 (1) For the purpose of carrying out this Part, any person authorized by the council of a municipality in writing may, upon producing proper identification, inspect at any reasonable time property designated or property proposed to be designated under this Part where a notice of intention to designate has been served and published under subsection 29 (3).

Obstruction of investigator

(2) No person shall obstruct a person authorized to make an investigation under this section or conceal or destroy anything relevant to the subject-matter of the investigation. R.S.O. 1990, c. O.18, s. 38.

Grants and loans

39 (1) The council of a municipality may pass by-laws providing for the making of a grant or loan to the owner of a property designated under this Part for the purpose of paying for the whole or any part of the cost of alteration of such designated property on such terms and conditions as the council may prescribe. R.S.O. 1990, c. O.18, s. 39 (1).

Loan is lien or charge on land

(2) The amount of any loan made under a by-law passed under subsection (1), together with interest at a rate to be determined by the council, may be added by the clerk of the municipality to the collector's roll and collected in like manner as municipal taxes over a period fixed by the council, not exceeding five years, and such amount and interest shall, until payment thereof, be a lien or charge upon the land in respect of which the loan was made. R.S.O. 1990, c. O.18, s. 39 (2).

Non-application of s. 106 of *Municipal Act, 2001*

(3) Section 106 of the *Municipal Act, 2001* does not apply to a grant or loan made under subsection (1). 2009, c. 33, Sched. 11, s. 6 (14).

Section Amendments with date in force (d/m/y)

2009, c. 33, Sched. 11, s. 6 (14) - 15/12/2009

PART V HERITAGE CONSERVATION DISTRICTS

Definition

39.1 (1) In this Part,

“property” means real property and includes all buildings and structures thereon. 2002, c. 18, Sched. F, s. 2 (20).

Publication of notice, City of Toronto

(2) Where the City of Toronto is required by this Part to publish a notice in a newspaper having general circulation in the municipality, notice given in accordance with a policy adopted by the City under section 212 of the *City of Toronto Act, 2006* is deemed to satisfy the requirement of this Part to publish notice in a newspaper. 2006, c. 11, Sched. B, s. 11 (3).

Publication of notice

(3) Where a municipality is required by this Part to publish a notice in a newspaper having general circulation in the municipality, notice given in accordance with a policy adopted by the municipality under section 270 of the *Municipal Act, 2001* is deemed to satisfy the requirement of this Part to publish notice in a newspaper. 2006, c. 32, Sched. D, s. 13 (2).

Section Amendments with date in force (d/m/y)

2002, c. 18, Sched. F, s. 2 (20) - 26/11/2002

2006, c. 11, Sched. B, s. 11 (3) - 01/01/2007; 2006, c. 32, Sched. D, s. 13 (2) - 01/01/2007

Application

39.1.1 (1) This Part does not apply to property described in clause 25.2 (2) (a). 2005, c. 6, s. 28.

Conflict

(2) If a property described in clause 25.2 (2) (b) is included in a heritage conservation study area designated under section 40.1 or in a heritage conservation district designated under section 41, and if there is a conflict between a provision of the heritage standards and guidelines prepared under Part III.1 and a provision in Part V as they apply to that property, the provision in Part V prevails. 2005, c. 6, s. 28.

Section Amendments with date in force (d/m/y)

2005, c. 6, s. 28 - 28/04/2005

Register

39.2 (1) The clerk of a municipality shall keep a register of all heritage conservation districts designated under this Part that are situate in the municipality and shall ensure that the register contains a map or description of the area of each such heritage conservation district. 2002, c. 18, Sched. F, s. 2 (21).

Extracts

(2) The clerk of a municipality shall issue extracts from the register referred to in subsection (1) to any person on payment of the fee set by the municipality by by-law. 2002, c. 18, Sched. F, s. 2 (21).

Section Amendments with date in force (d/m/y)

2002, c. 18, Sched. F, s. 2 (21) - 26/11/2002

Area study

40 (1) The council of a municipality may undertake a study of any area of the municipality for the purpose of designating one or more heritage conservation districts. 2005, c. 6. s. 29.

Scope of study

- (2) A study under subsection (1) shall,
- (a) examine the character and appearance of the area that is the subject of the study, including buildings, structures and other property features of the area, to determine if the area should be preserved as a heritage conservation district;
 - (b) examine and make recommendations as to the geographic boundaries of the area to be designated;
 - (c) consider and make recommendations as to the objectives of the designation and the content of the heritage conservation district plan required under section 41.1;
 - (d) make recommendations as to any changes that will be required to the municipality's official plan and to any municipal by-laws, including any zoning by-laws. 2005, c. 6. s. 29.

Consultation

(3) If the council of a municipality has established a municipal heritage committee under section 28, the council shall consult with the committee with respect to the study. 2005, c. 6. s. 29.

Section Amendments with date in force (d/m/y)

2002, c. 18, Sched. F, s. 2 (22) - 26/11/2002

2005, c. 6, s. 29 - 28/04/2005

Designation of study area

40.1 (1) If the council of a municipality undertakes a study under section 40, the council may by by-law designate the area specified in the by-law as a heritage conservation study area for a period of up to one year. 2005, c. 6. s. 29.

Same

- (2) A by-law made under subsection (1) may prohibit or set limitations with respect to,
- (a) the alteration of property situated in the heritage conservation study area; and
 - (b) the erection, demolition or removal of buildings or structures, or classes of buildings or structures, in the heritage conservation study area. 2005, c. 6. s. 29.

Notice of by-law

(3) If the council of a municipality passes a by-law under subsection (1), the council shall, within 30 days after the by-law is passed, cause notice of the by-law,

- (a) to be served on each owner of property located in the heritage conservation study area and on the Trust; and
- (b) to be published in a newspaper of general circulation in the municipality. 2005, c. 6. s. 29.

Appeal to Tribunal

(4) Any person who objects to a by-law passed under subsection (1) may appeal to the Tribunal by giving the clerk of the municipality, within 30 days after the date of publication under clause (3) (b), 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 under the *Local Planning Appeal Tribunal Act, 2017*. 2017, c. 23, Sched. 5, s. 65.

Application

(5) Subsections 41 (6) to (9) apply with necessary modifications to an appeal under subsection (4). 2005, c. 6. s. 29; 2006, c. 11, Sched. B, s. 11 (4).

Limitation

(6) Where the designation of a study area in a municipality ceases to be in effect, the council of the municipality shall not, during the following three years, pass a by-law designating another study area that includes an area that was part of the previously designated study area. 2005, c. 6. s. 29.

Section Amendments with date in force (d/m/y)

2005, c. 6, s. 29 - 28/04/2005

2006, c. 11, Sched. B, s. 11 (4) - 12/06/2006

2017, c. 23, Sched. 5, s. 65 - 03/04/2018

Designation of heritage conservation district

41 (1) Where there is in effect in a municipality an official plan that contains provisions relating to the establishment of heritage conservation districts, the council of the municipality may by by-law designate the municipality or any defined area or areas thereof as a heritage conservation district. R.S.O. 1990, c. O.18, s. 41 (1); 2002, c. 18, Sched. F, s. 2 (23).

Property designated under Part IV

(2) A property that is designated under Part IV may subsequently be included in an area designated as a heritage conservation district under this Part, and a property that is included in an area designated as a heritage conservation district under this Part may subsequently be designated under Part IV. 2002, c. 18, Sched. F, s. 2 (24).

Which Part applies

(2.1) A property that is designated by the Minister under subsection 34.5 (1) and is included in an area designated as a heritage conservation district under this Part is subject to subsections 34.5 (2) to (12), and not to this Part, with respect to any alterations of the property or any demolition or removal of buildings or structures on the property. 2005, c. 6, s. 30 (1).

Same

(2.2) A property that is designated by a municipality under section 29 and is included in an area designated as a heritage conservation district under this Part is subject to section 30 and sections 33 to 34.4, and not to this Part, with respect to any alterations of the property or any demolition or removal of buildings or structures on the property if,

- (a) the designation of the heritage conservation district was made before the day section 41.1 came into force; and
- (b) no heritage conservation district plan has been adopted by the council of the municipality under section 41.1 with respect to the heritage conservation district. 2005, c. 6, s. 30 (1).

Same

(2.3) Subject to subsection (2.4), a property that is designated by a municipality under section 29 and is included in an area designated as a heritage conservation district under this Part for which a heritage conservation district plan has been adopted under section 41.1 is subject to this Part and to the plan with respect to any alterations of the property or demolition or removal of buildings or structures on the property, and is not subject to section 30 or to sections 33 to 34.4. 2005, c. 6, s. 30 (1).

Same

(2.4) If the owner of a property referred to in subsection (2.3) intends to alter or permit alterations to the interior of a building or structure on the property, the owner shall comply with the requirements of section 33. 2005, c. 6, s. 30 (1).

Notice of by-law

(3) If the council of a municipality passes a by-law under this section designating the municipality or any defined area or areas of the municipality as a heritage conservation district, the council shall cause notice of the passage of the by-law,

- (a) to be served on each owner of property located in the heritage conservation district and on the Trust; and
- (b) to be published in a newspaper having general circulation in the municipality. 2002, c. 18, Sched. F, s. 2 (25); 2005, c. 6, s. 1.

Appeal to Tribunal

(4) Any person who objects to the by-law may appeal to the Tribunal by giving the clerk of the municipality, within 30 days after the date of publication under clause (3) (b), 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 under the *Local Planning Appeal Tribunal Act, 2017*. 2017, c. 23, Sched. 5, s. 66 (1).

If no notice of appeal

(5) If no notice of appeal is given to the clerk within the time period specified in subsection (4),

- (a) the 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 by-law is registered against the properties affected by the by-law in the appropriate land registry office. 2005, c. 6, s. 30 (2).

If notice of appeal

- (6) If a notice of appeal is given to the clerk within the time period specified in subsection (4), the Tribunal shall hold a hearing open to the public 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. 2017, c. 23, Sched. 5, s. 66 (2).

Powers of Tribunal

- (7) 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 by-law,
 - (ii) amend the by-law in such manner as the Tribunal may determine,
 - (iii) direct the council of the municipality to repeal the by-law, or
 - (iv) direct the council of the municipality to amend the by-law in accordance with the Tribunal's order. 2017, c. 23, Sched. 5, s. 66 (2).

Dismissal without hearing of appeal

- (8) Despite the *Statutory Powers Procedure Act* and subsections (6) and (7), 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 by-law;
 - (c) the appellant has not paid the fee charged under the *Local Planning Appeal Tribunal Act, 2017*;
 - (d) the appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal; or
 - (e) the appellant has not participated in the public process for the adoption of the relevant heritage conservation district plan under section 41.1 by either making an oral submission at a public meeting or by submitting written submissions to the council of the municipality and the Tribunal believes there is no reasonable explanation for failing to do so. 2017, c. 23, Sched. 5, s. 66 (2).

Representations

- (9) Before dismissing all or part of an appeal on any of the grounds mentioned in subsection (8), the Tribunal shall,
- (a) notify the appellant of the proposed dismissal; and
 - (b) hold a hearing with respect to the proposed dismissal or give the appellant an opportunity to make representations with respect to the proposed dismissal. 2002, c. 18, Sched. F, s. 2 (25); 2017, c. 23, Sched. 5, s. 62.

Coming into force

- (10) If one or more notices of appeal are given to the clerk within the time period specified in subsection (4),
- (a) the by-law comes into force when all of such appeals have been withdrawn or dismissed;
 - (b) if the by-law is amended by the Tribunal under subclause (7) (b) (ii), the by-law, as amended by the Tribunal, comes into force on the day it is so amended; or
 - (c) if the by-law is amended by the council pursuant to subclause (7) (b) (iv), the by-law, as amended by the council, comes into force on the day it is so amended. 2002, c. 18, Sched. F, s. 2 (25); 2017, c. 23, Sched. 5, s. 66 (3).

Registration of by-law

(10.1) The clerk of a municipality shall ensure that a copy of the by-law made under this section is registered in the appropriate land registry office promptly after it comes into force. 2005, c. 6, s. 30 (4).

Transition

(11) If, on the day subsection 2 (25) of Schedule F to the *Government Efficiency Act, 2002* comes into force, a by-law designating a heritage conservation district has been passed by a municipality and the Tribunal has not begun to hold a hearing under subsection (6) of this section, as it read immediately before that day, subsections (3) to (10) of this section apply to the by-law. 2002, c. 18, Sched. F, s. 2 (25); 2017, c. 23, Sched. 5, s. 62.

Same

(12) If, on the day subsection 2 (25) of Schedule F to the *Government Efficiency Act, 2002* comes into force, a by-law designating a heritage conservation district has been passed by a municipality and the Tribunal has completed or has begun to hold a hearing under subsection (6) of this section, as it read before that day, but has not yet issued its formal order,

- (a) subsections (3) to (10) of this section do not apply to the by-law;
- (b) despite their repeal by subsection 2 (25) of Schedule F to the *Government Efficiency Act, 2002*, subsections (3) to (8) of this section, as they read immediately before the day subsection 2 (25) of Schedule F to the *Government Efficiency Act, 2002* came into force, continue to apply to the by-law. 2002, c. 18, Sched. F, s. 2 (25) ; 2017, c. 23, Sched. 5, s. 66 (4).

Section Amendments with date in force (d/m/y)

2002, c. 18, Sched. F, s. 2 (23-25) - 26/11/2002

2005, c. 6, s. 1, 30 (1-4) - 28/04/2005

2017, c. 23, Sched. 5, s. 62, 66 (1-4) - 03/04/2018

Heritage conservation district plans

41.1 (1) A by-law under section 41 designating one or more heritage conservation districts in a municipality shall adopt a heritage conservation district plan for each district that is designated in the by-law. 2005, c. 6, s. 31.

Same, where district already designated

(2) If, on or before the day the *Ontario Heritage Amendment Act, 2005* received Royal Assent, the council of a municipality had passed a by-law designating one or more heritage conservation districts, it may pass a by-law adopting a heritage conservation district plan for any one of the designated districts. 2005, c. 6, s. 31.

Notice

(3) If the council of a municipality passes a by-law adopting a heritage conservation district plan under subsection (2), the council shall cause notice of the by-law,

- (a) to be served on each owner of property located in the heritage conservation district and on the Trust; and
- (b) to be published in a newspaper having general circulation in the municipality. 2005, c. 6, s. 31.

Application

(4) Subsections 41 (4) to (10) apply with necessary modifications to a by-law passed under subsection (2). 2005, c. 6, s. 31.

Content of plan

(5) A heritage conservation district plan shall include,

- (a) a statement of the objectives to be achieved in designating the area as a heritage conservation district;
- (b) a statement explaining the cultural heritage value or interest of the heritage conservation district;
- (c) a description of the heritage attributes of the heritage conservation district and of properties in the district;
- (d) policy statements, guidelines and procedures for achieving the stated objectives and managing change in the heritage conservation district; and
- (e) a description of the alterations or classes of alterations that are minor in nature and that the owner of property in the heritage conservation district may carry out or permit to be carried 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. 2005, c. 6, s. 31.

Consultation

(6) Before a by-law adopting a heritage conservation district plan is made by the council of a municipality under subsection 41 (1) or under subsection (2), the council shall ensure that,

- (a) information relating to the proposed heritage conservation district plan, including a copy of the plan, is made available to the public;
- (b) at least one public meeting is held with respect to the proposed heritage conservation district plan; and
- (c) if the council of the municipality has established a municipal heritage committee under section 28, the committee is consulted with respect to the proposed heritage conservation district plan. 2005, c. 6, s. 31.

Notice of public meeting

(7) The clerk of a municipality shall give notice of a public meeting to discuss a proposed heritage conservation district plan in such manner as the council of the municipality determines is appropriate and to such persons and bodies the council believes may have an interest in the plan. 2005, c. 6, s. 31.

Time of public meeting

(8) The public meeting shall take place 20 days after notice is given under subsection (7) or at such later time as may be specified in the notice. 2005, c. 6, s. 31.

Oral representations

(9) Any person attending the public meeting shall be given an opportunity to make oral representations with respect to the plan. 2005, c. 6, s. 31.

Information provided at meeting

(10) The council of a municipality shall ensure that information is provided to persons attending a public meeting explaining that, in accordance with subsection 41 (8), a person who does not raise objections to the adoption of a proposed heritage conservation district plan by making oral representations under subsection (9) or written submissions under subsection (11) may be later denied an opportunity to appeal the passing of a by-law adopting the plan under subsection 41 (1) or under subsection (2). 2005, c. 6, s. 31.

Written submissions

(11) Any person or body may make written submissions with respect to a proposed heritage conservation district plan to the council of a municipality at any time before the by-law adopting the plan is made. 2005, c. 6, s. 31.

Copies of proposed plan available

(12) The council shall provide copies of a proposed heritage conservation district plan to any person upon request. 2005, c. 6, s. 31.

Section Amendments with date in force (d/m/y)

2005, c. 6, s. 31 - 28/04/2005

Consistency with heritage conservation district plan

41.2 (1) Despite any other general or special Act, if a heritage conservation district plan is in effect in a municipality, the council of the municipality shall not,

- (a) carry out any public work in the district that is contrary to the objectives set out in the plan; or
- (b) pass a by-law for any purpose that is contrary to the objectives set out in the plan. 2005, c. 6, s. 31.

Conflict

(2) In the event of a conflict between a heritage conservation district plan and a municipal by-law that affects the designated district, the plan prevails to the extent of the conflict, but in all other respects the by-law remains in full force. 2005, c. 6, s. 31.

Section Amendments with date in force (d/m/y)

2005, c. 6, s. 31 - 28/04/2005

Erection, demolition, etc.

42 (1) No owner of property situated in a heritage conservation district that has been designated by a municipality under this Part shall do any of the following, unless the owner obtains a permit from the municipality to do so:

1. Alter, or permit the alteration of, any part of the property, other than the interior of any structure or building on the property.
2. Erect, demolish or remove any building or structure on the property or permit the erection, demolition or removal of such a building or structure. 2005, c. 6, s. 32 (1).

Exception

(2) Despite subsection (1), the owner of a property situated in a designated heritage conservation district may, without obtaining a permit from the municipality, carry out such minor alterations or classes of alterations as are described in the heritage conservation district plan in accordance with clause 41.1 (5) (e) to any part of the property in respect of which a permit would otherwise be required under subsection (1). 2005, c. 6, s. 32 (1).

Application for permit

(2.1) The owner of property situated in a designated heritage conservation district may apply to the municipality for a permit to alter any part of the property other than the interior of a building or structure on the property or to erect, demolish or remove a building or structure on the property. 2005, c. 6, s. 32 (1).

Content of application

(2.2) An application under this section shall include such information as the council of the municipality may require. 2005, c. 6, s. 32 (1).

Notice of receipt

(3) The council, upon receipt of an application under this section together with such information as it may require under subsection (2), shall cause a notice of receipt to be served on the applicant. 2002, c. 18, Sched. F, s. 2 (26); 2005, c. 6, s. 32 (2).

Decision of council

(4) Within 90 days after the notice of receipt is served on the applicant under subsection (3) or within such longer period as is agreed upon by the applicant and the council, the council may give the applicant,

- (a) the permit applied for;
- (b) notice that the council is refusing the application for the permit; or
- (c) the permit applied for, with terms and conditions attached. 2005, c. 6, s. 32 (3).

Consultation

(4.1) If the council of a municipality has established a municipal heritage committee under section 28, the council shall, before taking any action under subsection (4) with respect to an application to demolish or remove any building or structure on property in a heritage conservation district, consult with its municipal heritage committee. 2005, c. 6, s. 32 (3).

Deemed permit

(5) If the council fails to do any of the things mentioned in subsection (4) within the time period mentioned in subsection (4), the council shall be deemed to have given the applicant the permit applied for. 2002, c. 18, Sched. F, s. 2 (26).

Appeal to Tribunal

(6) If the council refuses the permit applied for or gives the permit with terms and conditions attached, the owner of the property may appeal to the Tribunal. 2005, c. 6, s. 32 (4); 2017, c. 23, Sched. 5, s. 62.

Notice of appeal

(7) To appeal to the Tribunal, the owner must give a notice of appeal to the Tribunal within 30 days after the owner receives notice that the council is refusing the application, or receives the permit with the terms and conditions attached, as the case may be. 2017, c. 23, Sched. 5, s. 67.

Tribunal's powers

(8) The Tribunal shall hear the appeal and shall,

- (a) dismiss the appeal; or
- (b) direct that the permit be issued without terms and conditions or with such terms and conditions as the Tribunal by its order may direct. 2017, c. 23, Sched. 5, s. 67.

Transition, prior failure to give permit or notice

(9) If, on the day subsection 2 (26) of Schedule F to the *Government Efficiency Act, 2002* comes into force, an appeal to the Tribunal, that was commenced under subsection 44 (1) of this Act as a result of the council's failure to make a decision within the period provided for in section 43 of this Act, has not been finally disposed of,

- (a) subsection (5) of this section does not apply;
- (b) despite its repeal by subsection 2 (26) of Schedule F to the *Government Efficiency Act, 2002*, subsection 44 (1) of this Act, as it read immediately before the day subsection 2 (26) of Schedule F to the *Government Efficiency Act, 2002* came into force, continues to apply to the appeal. 2002, c. 18, Sched. F, s. 2 (26); 2017, c. 23, Sched. 5, s. 62.

Transition

(10) If, on or before the day the *Ontario Heritage Amendment Act, 2005* received Royal Assent, an owner of property situated in a designated heritage conservation district had applied to a municipality for a permit to demolish or remove a building or structure on the property and no decision had been made by the council of the municipality as of that day,

- (a) the council's decision shall be made in accordance with subsection (4), as amended by subsection 32 (3) of the *Ontario Heritage Amendment Act, 2005*; and
- (b) subsections (10) and (12), as they read immediately before the day *Ontario Heritage Amendment Act, 2005* received Royal Assent, do not apply if the council decides to refuse the application. 2005, c. 6, s. 32 (5).

Same

(11) If, on or before the day the *Ontario Heritage Amendment Act, 2005* received Royal Assent, an owner of property situated in a designated heritage conservation district had applied to a municipality for a permit to demolish or remove a building or structure on the property and the council of the municipality had refused the application under subsection (4), then, even though 180 days had elapsed since the date of the council's decision and the owner had complied with the requirements of clause (10) (b) or (12) (b), as they read immediately before that day,

- (a) subsections (10) and (12), as they read immediately before the day the *Ontario Heritage Amendment Act, 2005* received Royal Assent, do not apply with respect to the refusal of the application; and
- (b) the owner shall not demolish or remove the building or structure on the property. 2005, c. 6, s. 32 (5).

Same, exception

(12) Despite subsections (10) and (11), if, on the day the *Ontario Heritage Amendment Act, 2005* received Royal Assent, a situation described in subsection (11) existed and the owner of the property had not only prepared the property for the demolition or removal of a building or structure but was in the course of demolishing or removing the building or structure, then,

- (a) subsections (10) and (12), as they read immediately before the day the *Ontario Heritage Amendment Act, 2005* received Royal Assent, continue to apply to the refusal of the application;
- (b) the owner may continue the demolition or removal of the property; and
- (c) section 43, as it read immediately before the day the *Ontario Heritage Amendment Act, 2005* received Royal Assent, continues to apply to the application. 2005, c. 6, s. 32 (5).

Transition, appeal to Tribunal

(13) Within 90 days of the day the *Ontario Heritage Amendment Act, 2005* received Royal Assent, the owner of property situated in a heritage conservation district designated under section 41 who, before that day, had been refused an application to demolish or remove a building or structure from the property under subsection (4) by the council of a municipality, may appeal the decision to the Tribunal if,

- (a) the owner has lost his right to demolish or remove the building or structure 180 days after the day the council of the municipality refused the application under subsection (4) by virtue of subsection (11); and
- (b) subsection (12) does not apply to the application. 2005, c. 6, s. 32 (5); 2017, c. 23, Sched. 5, s. 62.

Notice of appeal

(14) An owner of property who wishes to appeal the decision of the council of a municipality under subsection (13) shall, within 90 days of the day the *Ontario Heritage Amendment Act, 2005* received Royal Assent, give notice of appeal to the Tribunal and to the clerk of the municipality. 2005, c. 6, s. 32 (5); 2017, c. 23, Sched. 5, s. 62.

Application

(15) Subsections (7) and (8) apply with necessary modification to an appeal under this section. 2005, c. 6, s. 32 (5).

Delegation

(16) The council of a municipality may delegate by by-law its power to grant permits for the alteration of property situated in a heritage conservation district designated under this Part to an employee or official of the municipality if the council has established a municipal heritage committee and consulted with it before the delegation. 2005, c. 6, s. 32 (6).

Same

(17) A by-law under subsection (16) may specify the alterations or classes of alterations in respect of which power to grant permits is delegated to the employee or official of the municipality. 2005, c. 6, s. 32 (6).

Section Amendments with date in force (d/m/y)

2002, c. 18, Sched. F, s. 2 (26) - 26/11/2002

2005, c. 6, s. 32 (1-6) - 28/04/2005

2017, c. 23, Sched. 5, s. 62, 67 - 03/04/2018

43, 44 REPEALED: 2005, c. 6, s. 33.

Section Amendments with date in force (d/m/y)

2002, c. 18, Sched. F, s. 2 (26) - 26/11/2002

2005, c. 6, s. 33 - 28/04/2005

Application, ss. 36 to 39

45 Sections 36, 37, 38 and 39 apply in respect of any building or structure and the land appurtenant thereto that is situated within the area that has been designated by by-law under this Part as a heritage conservation district. R.S.O. 1990, c. O.18, s. 45.

Building standards by-law

45.1 (1) If a by-law passed under section 15.1 of the *Building Code Act, 1992* setting out standards for the maintenance of property in the municipality is in effect in a municipality, the council of the municipality may, by by-law,

- (a) prescribe minimum standards for the maintenance of the heritage attributes of property situated in a heritage conservation district designated under this Part; and
- (b) require property that is situated in a heritage conservation district designated under this Part and that does not comply with the standards to be repaired and maintained to conform with the standards. 2005, c. 6, s. 34.

Application

(2) Sections 15.2, 15.3, 15.4, 15.5 and 15.8 of the *Building Code Act, 1992* apply with necessary modifications to the enforcement of a by-law made under subsection (1). 2005, c. 6, s. 34.

Section Amendments with date in force (d/m/y)

2005, c. 6, s. 34 - 28/04/2005

Delegation

46 The council of a municipality that forms part of an upper-tier municipality may delegate its power under this Part to the council of the upper-tier municipality. 2002, c. 17, Sched. F, Table.

Section Amendments with date in force (d/m/y)

2002, c. 17, Sched. F, Table - 01/01/2003