



**City of Kingston  
Information Report to Council  
Report Number 21-046**

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**To:** Mayor and Members of Council  
**From:** Paige Agnew, Commissioner, Community Services  
**Resource Staff:** Andrea Gummo, Manager, Policy Planning  
**Date of Meeting:** January 19, 2021  
**Subject:** Changes to *Ontario Heritage Act* – Bill 108

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**Council Strategic Plan Alignment:**

Theme: Policies & by-laws

Goal: See above

**Executive Summary:**

The purpose of this report is to inform Council on the new timelines, procedures and requirements imposed through the recent changes to the *Ontario Heritage Act* through Bill 108, the *More Homes, More Choice Act*, 2019. A similar report, accompanied by a presentation by staff, will be provided to Heritage Kingston on January 20, 2021.

The most significant of the changes is the removal of the Conservation Review Board as the appeal body for notice of intent to designate and alterations applications to Part IV designated properties and replacing it with the Local Planning Appeal Tribunal, who will provide binding decisions. The province has also released principles that Council must consider when making decisions under Parts IV and V of the *Ontario Heritage Act*. New timelines, notice requirements and appeal processes have also been imposed for new designations, listings and heritage permit approvals. These changes were to have come into effect on January 1, 2021, however at the time of writing this report these amendments had not yet come into force.

**Recommendation:**

This report is for information only.

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**Authorizing Signatures:**

ORIGINAL SIGNED BY COMMISSIONER

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**Paige Agnew, Commissioner,  
Community Services**

ORIGINAL SIGNED BY CHIEF  
ADMINISTRATIVE OFFICER

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**Lanie Hurdle, Chief  
Administrative Officer**

**Consultation with the following Members of the Corporate Management Team:**

Peter Huigenbos, Commissioner, Business, Environment & Projects	Not required
Brad Joyce, Commissioner, Corporate Services	
Jim Keech, President & CEO, Utilities Kingston	Not required
Desirée Kennedy, Chief Financial Officer & City Treasurer	Not required
Sheila Kidd, Commissioner, Transportation & Public Works	Not required

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**Options/Discussion:****Background**

The purpose of this report is to inform Council of the recent changes to the *Ontario Heritage Act* through Bill 108, the *More Homes, More Choice Act*, 2019. It is intended that a similar report will accompany a presentation by staff to Heritage Kingston on the new timelines, procedures and requirements imposed through this Bill, at their meeting on January 20, 2021.

The *More Homes, More Choice Act*, 2019 received Royal Assent on June 6, 2019. The purpose, according to the province, is to address the shortage of affordable housing across Ontario by finding faster ways of getting a greater mix of housing supply on the ground. This 90-page bill, known as Bill 108, made changes to 13 separate acts, including the *Planning Act*, *Municipal Act*, *Conservation Authorities Act*, *Environmental Protection Act*, *Development Charges Act* and the *Ontario Heritage Act*. A broad overview of these changes was provided to Council on May 21, 2019 through [Report Number 19-156](#).

Many of the proposed changes have already come into effect, including those changes to the *Planning Act* (though many of the proposed changes to the *Planning Act* under Bill 108 were reversed by Bill 197, *COVID-19 Economic Recovery Act*, 2020). The changes proposed to the *Ontario Heritage Act* were delayed until the new General Regulations were prepared and circulated for comment (which occurred on September 21, 2020). The amendments to the *Ontario Heritage Act* were to have come into effect on January 1, 2021, however at the time of writing this report we understand that the province has not yet implemented these changes. We are unaware of the rationale for this delay and have not been provided with an adjusted timeline. We will continue to monitor and advise Council accordingly.

**Overview of Changes**

Schedule 11 of Bill 108 provides the changes proposed for the *Ontario Heritage Act*. This complex document outlines in detail the specific amendments to the *Ontario Heritage Act*. Staff have summarized and paraphrased the amendments that are most relevant to heritage conservation in Kingston and the work of staff, Heritage Kingston and Council, in the following paragraphs. For specifics on the changes, please refer to Schedule 11, which has been attached hereto as Exhibit A, or refer to the *Ontario Heritage Act* online at <https://www.ontario.ca/laws/statute/90o18>, which includes both the existing and proposed text.

Bill 108 also introduces a new General Regulation, which provides technical processing details related to the changes in the Act (Exhibit B – General Regulations – September 2020 draft).

It is staff's understanding that the province is currently working on an update to the Ontario Heritage Tool Kit in order to provide more clarity on the intent of these changes and how to administer them.

Staff have outlined the most significant changes below in the order that they appear in the Act/Bill.

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## Prescribed Principles

Similar to the Provincial Interests noted in the *Planning Act* and expanded on in the Provincial Policy Statement, Bill 108 has introduced three broad “principles” that municipalities must consider when exercising decision-making authority under specified provisions of the *Ontario Heritage Act*. They are as follows:

1. Property that is determined to be of cultural heritage value or interest should be protected and conserved for all generations;
2. Decisions affecting the cultural heritage value or interest of a property or heritage conservation district should:
  - i. minimize adverse impacts to the cultural heritage value or interest of the property or district;
  - ii. be based on research, appropriate studies and documentary evidence;
  - iii. demonstrate openness and transparency by considering the views of all interested persons and communities; and
3. Conservation of properties of cultural heritage value or interest should be achieved through identification, protection and wise management, including adaptive re-use where appropriate.

These new principles must be considered when reviewing and making recommendations with respect to new or amended designations and applications for alterations/demolitions under Part IV of the Act; as well as the designation of new heritage conservation districts (HCD), the formulation of HCD plans, and applications for alteration, erection and demolitions in HCDs.

At this time, it is unclear how these principles are to be considered and applied. It is further unclear how one demonstrates that they have considered the views of all interested parties. Staff have also noted that the use of the term “should” in the first principle appears to be inconsistent with the Provincial Policy Statement which states “Significant built heritage resources and significant cultural heritage landscapes shall be conserved.” It is hoped that the revised Ontario Heritage Tool Kit will assist in understanding the intent of these changes.

## Section 27 – Listing Notification

Under Section 27(1.2) (now 27(3)) Council can include properties that they believe have cultural heritage value or interest that are not formally designated, known as ‘listed’ properties. Through Bill 108, owners of properties that are added to the Register as listed properties are now required to be notified within 30 days after being added. Specifics regarding the content of this notice has also been added to the Act. This includes details on why Council believes the

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property to be of cultural heritage value and a note on the restrictions concerning demolition of the resource.

The owner(s), and presumably subsequent owners, then have the right to object to the listing at any time after the property is added to the Register. Council is then required to respond to any objection within 90 days of receipt of the notice of objection.

It is the current practice of staff to notify an owner of its intent to present their property to Committee and Council for inclusion on the Register and to include details on why the property is being considered. Staff also discuss concerns and often meet with property owners prior to bringing a new listing forward. The City Clerk's office also provides formal correspondence to the property owner following inclusion on the Register. This practice is not intended to change since it already satisfies the new requirements.

Through the changes proposed by Bill 108, it appears that a notice of objection can be filed on the City at any time in the future. This may result in the creation of a new application process to expedite these requests, and perhaps the introduction of a processing fee in order to cover the City's costs. Owners of property already included on the City's Heritage Register, as of January 1, 2021, are not entitled to the same objection rights.

### **Section 29 – New Time Limit for Notices of Intention to Designate**

Council continues to have the ability to serve a Notice of Intention to Designate on any property in the municipality that meets the prescribed criteria in Ontario Regulation 9/06 (which has not been changed). However, in some situations in Ontario the Notice of Intention has been seen as a form of impediment to new development, particularly housing. As a result, Bill 108 has included a new 90-day limitation on the timing of serving a Notice of Intention where an application for Official Plan or zoning by-law amendment or a draft plan of subdivision has been submitted and deemed complete under the *Planning Act*. The draft General Regulation (Exhibit B) sets out a number of exceptions to this time limit, however the intent is to require municipalities to serve a Notice of Intention prior to the development approval process in order to minimize delays.

Through the City's pre-application process and staff's practice of being open and available for early discussions with proponents, the need to and interest in conserving heritage resources on a particular property is relayed to a proponent at an early stage in their conceptual planning. It is staff's preference to work with proponents to conserve these resources and avoid having to impose *Ontario Heritage Act* restrictions through a Notice of Intention to Designate. The use of heritage conservation easements, through Section 37 of the *Ontario Heritage Act*, is an example of an approach to conservation that has recently been used successfully. No changes to Section 37 are proposed.

Ideally, heritage resources are identified and conserved, if warranted, well prior to any redevelopment plans that may involve *Planning Act* approvals. Staff are moving toward a more proactive approach to heritage conservation in the City.

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## Two-tier Appeal Process

Under the previous *Ontario Heritage Act* framework, when a Notice of Intention to Designate a property (Section 29) or Amend (Section 30.1) or Repeal (Sections 31 and 32) an existing by-law is served, a 30-day appeal period starts. Those objecting to the Notice could make their case to the Conservation Review Board (CRB) who would then provide a non-binding recommendation to City Council. Council would then have the final decision on the matter. Through Bill 108, this objection/appeal process has been changed to include a two-tier framework.

### Tier-one

The serving of the applicable Notice has not changed, nor has the 30-day objection period. However, if one objects, Council is now required to consider the objection within 90 days of the expiration of the 30-day appeal period, without the benefit of a CRB recommendation. Council can either withdraw the Notice or proceed to pass the (designation, amending or repealing) by-law and serve a Notice of Passing as directed by the Act.

Regardless of whether the Notice of Intention is objected to or not, Council is now required to pass the designation by-law within 120 days from the serving of the Notice of Intention. Prior to Bill 108, Council was not limited in when it chose to pass a by-law under the Act. Now, if Council does not pass the by-law within 120 days, the Notice is considered withdrawn. Council is not precluded, however, from starting the process over again if it chooses.

### Tier-two

The serving of the applicable Notice of Passing has not changed. However, through Bill 108, within 30 days of the serving of the Notice of Passing, one can now appeal Council's decision to the Local Planning Appeal Tribunal (LPAT).

In perhaps the most significant change to the *Ontario Heritage Act* through Bill 108, the CRB is replaced with the LPAT, whose decisions are binding on the municipality, and who will take all final decision-making authority on new designations, amending and repealing by-laws out of the hands of City Council. The implications of this change across the Province are still unknown but staff have heard concern from other municipalities and advocacy groups about this change.

## Prescribed information

The new General Regulation (Exhibit B) prescribes in detail the required minimum content for new designation by-laws and amending by-laws. For the most part this is a reaffirmation of the content that staff already includes in these by-laws. This change should have little impact on how by-laws are currently being prepared. However, there are three new requirements that are worth noting:

1. A site plan, scale drawing, aerial photograph or other image is required as part of the by-law to identify the areas of the property that have cultural heritage value or interest;

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2. The description of the heritage attributes “must be brief and must explain how each heritage attribute contributes to the cultural heritage value or interest of the property”; and
3. The by-law may include a list of attributes that are not considered to have cultural heritage value.

While staff have no objection to including plans and photos with the designation or amending by-laws, it has been our experience that the local Land Registry Office is not accepting of certain types of plans for registration purposes. This concern has been provided to the Province and we are awaiting clarification.

It is currently unclear what is meant by a brief explanation on how each heritage attribute contributes to the heritage value of the property. It is hoped that the new Ontario Heritage Tool Kit will provide further direction on this matter.

The ability to include attributes that are not considered to have cultural heritage value is a useful implementation tool that will give additional clarity when considering applications for alterations/erections. For example, a designation by-law could clarify that while alterations to the original/historic part of a building are subject to approvals, alterations to a modern/later addition are not, or are delegated to staff for approval.

### **Section 33 – Part IV alterations**

The process for accepting, reviewing, consulting and approving requests for alterations to Part IV designated properties remains unchanged. The new Regulation includes a list of required information for applications submitted under Sections 33 and 34 (demolition) of the Act. This list is very similar to the “Requirements for a Permit Application” noted on Schedules A and B of the City’s Procedural By-Law for Heritage, By-Law Number 2013-141.

Through Bill 108, the City is now required to serve a notice of complete or incomplete application within 60 days of application submission; currently there is no time constraint for serving a notice of receipt.

The 90-day time frame for Council to make a decision under this section remains unchanged and commences upon the serving of the notice of complete application. As before, the owner can appeal the decision of Council, but instead of an appeal to the CRB for a recommendation back to Council, the matter would be directed to the LPAT for a binding decision.

### **Section 34 – Part IV demolitions/removals**

Similar to applications made under Section 33 (above), a list of prescribed information, to be included with the application, is included in the new Regulation. A notice of complete application is required to be served within 60 days from submission and decisions of Council are required within 90 days. Appeals under this section will continue to go to the LPAT as before.

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The most significant change here relates to the expansion of those interventions that are considered “demolition” for the purpose of this section. This now includes the demolition/removal of all buildings and structures, regardless of whether their removal will affect a heritage attribute, and the demolition/removal of any heritage attribute noted in the designation by-law.

The only difference between processing an application through Section 34 versus 33 (not including those in Section 34.3, noted below) is that notices of decision under Section 34 are required to be published in the local newspaper. With the possible increase in the number of Section 34 approvals following this change, the introduction of a processing fee, to cover the City’s costs, may be necessary for applications under this section.

### **Section 34.3 – Review of Part IV by-laws following demolition/removal**

This section requires the municipality to examine the subject designation by-law, with consultation from its heritage committee, following an approval of a demolition under Section 34. The new Regulation is now more specific in its requirement of Council following an approval under Section 34. A formal determination by Council, with respect to whether the designation by-law needs to be amended or repealed, is now required. Section 9 of the General Regulation outlines the specific steps required, depending on the determination reached.

While this consideration by the City has only informally taken place in the past, under the new Regulation a formal determination under Section 34.3 is now required. It is unclear whether a separate process is necessary for this determination. An additional motion, added to the decision of Council under Section 34, may be sufficient to satisfy this new requirement. Staff will look to the revised Ontario Heritage Tool Kit, once available, for further direction on this matter.

### **Section 42 – Part V alterations, erections and demolitions**

There are very few changes to this section. The process for accepting, reviewing and approving requests for alterations, erections and demolition to properties located in a heritage conservation district, designated pursuant to Part V, remains unchanged.

Bill 108 has clarified, however, the types of changes needing prior approval to include not only alterations and new construction, but also the demolition of any heritage attribute and the demolition of any building or structure regardless of its heritage value.

Bill 108 has also further clarified and expanded the heritage committee consultation requirements (Section 42(4.1)), which now states that consultation with the municipal heritage committee is required for applications for not only demolition/removal of existing heritage attributes and any building or structure in the district, but also for the erection of new buildings. Previously only demolitions and removals required consultation with Heritage Kingston under the Act.

Appeals of decisions made under this section will continue to go to the LPAT as before.



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**Conclusion**

While the changes imposed through the *More Homes, More Choice Act 2019* are complex and wide sweeping, staff will continue to monitor and report back on any processing changes that impact the work of Heritage Kingston and Council with respect to conserving Kingston's treasured cultural heritage resources. When available, staff will be providing copies of the revised Ontario Heritage Tool Kit to Council members. Staff continue to be available should members have any questions on these amendments.

**Existing Policy/By-Law:**

*More Homes, More Choice Act, 2019* (Province of Ontario)

*Ontario Heritage Act, R.S.O. 1990, c. O. 18* (Province of Ontario)

*Planning Act, R.S.O. 1990, c. P.13* (Province of Ontario)

By-Law Number 2013-141 Procedural By-Law for Heritage

**Notice Provisions:**

None

**Accessibility Considerations:**

None

**Financial Considerations:**

None

**Contacts:**

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**Other City of Kingston Staff Consulted:**

Alan McLeod, Acting Director, Legal Services

Jenna Morley, Associate Legal Counsel, Legal Services

**Exhibits Attached:**

Exhibit A Bill 108, Schedule 11, *Ontario Heritage Act* amendments

Exhibit B General Regulation under the OHA, September 2020 Draft

**SCHEDULE 11  
ONTARIO HERITAGE ACT**

**1 (1) Section 1 of the *Ontario Heritage Act* is amended by adding the following definition:**

“prescribed” means prescribed by regulations made under this Act; (“prescrit”)

**(2) Section 1 of the Act is amended by adding the following subsection:**

**Definition of “alter” in certain provisions**

(2) Despite subsection (1), for the purposes of sections 33, 34.5, 42, 69 and such other provisions as may be prescribed, the definition of “alter” in subsection (1) does not include to demolish or to remove and “alteration” does not include demolition or removal.

**2 Section 6 of the Act, as re-enacted by subsection 112 (1) of Schedule 8 to the *Cutting Unnecessary Red Tape Act, 2017*, is amended by striking out “by regulation” at the end.**

**3 The Act is amended by adding the following section:**

**Principles**

**26.0.1** A council of a municipality shall consider the prescribed principles, if any, when the council exercises a decision-making authority under a prescribed provision of this Part.

**4 Subsection 26 (2) of the Act is repealed.**

**5 Subsection 26.1 (3) of the Act is amended by striking out “subsection 27 (1.2)” and substituting “subsection 27 (3)”.**

**6 Section 27 of the Act is repealed and the following substituted:**

**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.

**Contents of register**

(2) 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.

**Same**

(3) In addition to the property listed in the register under subsection (2), 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.

**Consultation**

(4) If 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 (3) or removing the reference to such a property from the register, consult with its municipal heritage committee.

**Notice to property owner**

(5) If a property that has not been designated under this Part has been included in the register under subsection (3), the council of the municipality shall, within 30 days after including the property in the register, provide the owner of the property with notice that the property has been included in the register.

**Same**

(6) The notice under subsection (5) shall include the following:

1. A statement explaining why the council of the municipality believes the property to be of cultural heritage value or interest.
2. A description of the property that is sufficient to readily ascertain the property.
3. A statement that if the owner of the property objects to the property being included in the register, the owner may object to the property’s inclusion by serving on the clerk of the municipality a notice of objection setting out the reasons for the objection and all the relevant facts.

4. An explanation of the restriction concerning the demolition or removal, or the permitting of the demolition or removal, of a building or structure on the property as set out in subsection (9).

#### **Objection**

(7) The owner of a property who objects to a property being included in the register under subsection (3) shall serve on the clerk of the municipality a notice of objection setting out the reasons for the objection and all relevant facts.

#### **Decision of council**

(8) If a notice of objection has been served under subsection (7), the council of the municipality shall,

- (a) consider the notice and make a decision as to whether the property should continue to be included in the register or whether it should be removed; and
- (b) provide notice of the council's decision to the owner of the property, in such form as the council considers proper, within 90 days after the decision.

#### **Restriction on demolition, etc.**

(9) If a property that has not been designated under this Part has been included in the register under subsection (3), 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.

#### **Same**

(10) Subsection (9) applies only if the property is included in the register under subsection (3) 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.

#### **Same**

(11) The notice required by subsection (9) shall be accompanied by such plans and shall set out such information as the council may require.

#### **Extracts**

(12) 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.

#### **Application of subs. (5) to (8)**

(13) Subsections (5) to (8) do not apply in respect of properties that were included in the register under subsection (3) before section 6 of the Schedule 11 to the *More Homes, More Choice Act, 2019* comes into force.

#### **7 (1) Clause 29 (1) (a) of the Act is repealed and the following substituted:**

- (a) where criteria for determining whether property is of cultural heritage value or interest have been prescribed, the property meets the prescribed criteria; and

**(2) Subsection 29 (1.1) of the Act is amended striking out "Subject to subsection (2)" at the beginning and substituting "Subject to subsections (1.2) and (2)".**

**(3) Section 29 of the Act is amended by adding the following subsection:**

#### **Limitation**

(1.2) If a prescribed event has occurred in respect of a property in a municipality, the council of the municipality may not give a notice of intention to designate the property under subsection (1) after 90 days have elapsed from the event, subject to such exceptions as may be prescribed.

**(4) Clause 29 (4) (c) of the Act is amended by striking out "to the designation" and substituting "to the notice of intention to designate the property".**

**(5) Subsection 29 (4.1) of the Act is amended by,**

- (a) striking out "the proposed designation" in clause (c) and substituting "the notice of intention to designate the property"; and
- (b) striking out "to the designation" in clause (d) and substituting "to the notice of intention to designate the property".

**(6) Subsections 29 (6) to (17) of the Act are repealed and the following substituted:**

### **Consideration of objection by council**

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

### **Notice of withdrawal**

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

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

### **If no notice of objection or no withdrawal**

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

1. The by-law must be passed within 120 days after the date of publication of the notice of intention under clause (3) (b) or, if a prescribed circumstance exists, within such other period of time as may be prescribed for the circumstance.
2. The by-law must include a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property and must comply with such requirements in relation to the statement and the description as may be prescribed and with such other requirements as may be prescribed.
3. The council must cause the following to be served on the owner of the property, on any person who objected under subsection (5) and on the Trust:
  - i. A copy of the by-law.
  - ii. A notice that any person who objects to the by-law may appeal to the Tribunal by giving the Tribunal and the clerk of the municipality, within 30 days after the date of publication under paragraph 4, a notice of appeal setting out the objection to the by-law and the reasons in support of the objection, accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.
4. The council must publish notice of the by-law in a newspaper having general circulation in the municipality, which must provide that any person who objects to the by-law may appeal to the Tribunal by giving the Tribunal and the clerk of the municipality, within 30 days after the date of publication under this paragraph, a notice of appeal setting out the objection to the by-law and the reasons in support of the objection, accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.

### **Deemed withdrawal**

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

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

### **Same**

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

### **Appeal to Tribunal**

(11) Any person who objects to the by-law may appeal to the Tribunal by giving the Tribunal and the clerk of the municipality, within 30 days after the date of publication under paragraph 4 of subsection (8), a notice of appeal setting out the objection to the by-law and the reasons in support of the objection, accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.

### **If no notice of appeal**

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

- (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.

### **If notice of appeal**

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

### **Forwarding of record of decision**

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

### **Powers of Tribunal**

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

- (a) dismiss the appeal; or
- (b) allow the appeal in whole or in part and,
  - (i) repeal the 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.

### **Dismissal without hearing of appeal**

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

- (a) the Tribunal is of the opinion that,
  - (i) the reasons set out in the notice of appeal do not disclose any apparent ground upon which the Tribunal could allow all or part of the appeal, or
  - (ii) the appeal is not made in good faith, is frivolous or vexatious, or is made only for the purpose of delay;
- (b) the appellant has not provided written reasons in support of the objection to the by-law;
- (c) the appellant has not paid the fee charged under the *Local Planning Appeal Tribunal Act, 2017*; or
- (d) the appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal.

### **Representations**

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

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

### **Coming into force**

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

- (a) the 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 (15) (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 (15) (b) (iv), the by-law, as amended by the council, comes into force on the day it is so amended.

### **Registration of by-law**

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

### **Transition**

(20) 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; and

- (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.

**Same**

(21) 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.

**8 (1) Subsections 30.1 (1) and (2) of the Act are repealed and the following substituted:**

**Amendment of designating by-law**

(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 prescribed modifications, to an amending by-law.

**Exception**

(2) Despite subsection (1), subsections 29 (1) to (14) do not apply to an amending by-law if the only purpose or purposes of the amendments contained in the by-law are to do one or more of the following:

- 1. Clarify or correct the statement explaining the property's cultural heritage value or interest or the description of the property's heritage attributes.
- 2. Correct the legal description of the property.
- 3. Otherwise revise the by-law to make it consistent with the requirements of this Act or the regulations, including revisions that would make a by-law passed before subsection 7 (6) of Schedule 11 to the *More Homes, More Choice Act, 2019* comes into force satisfy the requirements prescribed for the purposes of paragraph 2 of subsection 29 (8), if any.

**(2) Subsections 30.1 (7) to (10) of the Act are repealed and the following substituted:**

**Consideration of objection by council**

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

**Notice of withdrawal**

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

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

**If no notice of objection or no withdrawal**

(9) If no notice of objection is filed within the 30-day period under subsection (6) or a notice of objection is served within that period but the council decides not to withdraw the notice of the proposed amendment, the council may pass an amending by-law and if it does so, the council shall do the following:

- 1. Cause the following to be served on the owner of the property and on the Trust:
  - i. A copy of the amending by-law.
  - ii. A notice that if the owner of the property objects to the amending by-law, the owner may appeal to the Tribunal by giving the Tribunal and the clerk of the municipality, within 30 days after the date of the notice under this subparagraph, a notice of appeal setting out the objection to the amending by-law and the reasons in support of the objection, accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.
- 2. Publish notice of the amending by-law in a newspaper having general circulation in the municipality.

**Appeal to Tribunal**

(10) If the owner of the property objects to the amending by-law, the owner may appeal to the Tribunal by giving the Tribunal and the clerk of the municipality, within 30 days after the date of the notice under subparagraph 1 ii of subsection



(9), 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*.

**If no notice of appeal**

(11) If no notice of appeal is given within the time period specified in subsection (10),

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

**If notice of appeal**

(12) If a notice of appeal is given within the time period specified in subsection (10), the Tribunal shall hold a hearing and, before holding the hearing, shall give notice of the hearing to such persons or bodies and in such manner as the Tribunal may determine.

**Same**

(13) If a notice of appeal is given within the time period specified in subsection (10), subsections 29 (15) to (19) apply with necessary modifications.

**Forwarding of record of decision**

(14) If the council made a decision on the proposed amending by-law under subsection (7) and if a notice of appeal is given within the time period specified in subsection (10), the clerk of the municipality shall ensure that the record of the decision under subsection (7) is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.

**Requirement to update old by-laws**

(15) If the council of a municipality proposes to amend a by-law designating property made under section 29 that does not comply with requirements that are prescribed for the purposes of paragraph 2 of subsection 29 (8), if any, the council shall include in the amendment such changes as are necessary to ensure that the by-law satisfies those requirements.

**Same, 2005 amendments**

(16) 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.

**9 Subsections 31 (5) to (7) of the Act are repealed and the following substituted:**

**Objection**

(5) A person who objects to a proposed repealing by-law shall, within 30 days after the date of publication of the notice of intention to repeal the by-law or part thereof, serve on the clerk of the municipality a notice of objection setting out the reasons for the objection and all relevant facts.

**Consideration of objection by council**

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

**Notice of withdrawal**

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

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

**If no notice of objection or no withdrawal**

(8) If no notice of objection is filed within the 30-day period under subsection (5) or a notice of objection is served within that period but the council decides not to withdraw the notice of intention, the council may pass a by-law repealing the by-law or part thereof designating the property and if it does so, it shall do the following:

1. Cause the following to be served on the owner of the property, on any person who objected under subsection (5) and on the Trust:
  - i. A copy of the repealing by-law.

- ii. A notice that any person who objects to the repealing by-law may appeal to the Tribunal by giving the Tribunal and the clerk of the municipality, within 30 days after the date of publication under paragraph 2, a notice of appeal setting out the objection to the repealing by-law and the reasons in support of the objection, accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.
2. Publish notice of the repealing by-law in a newspaper having general circulation in the municipality, which must provide that any person who objects to the repealing by-law may appeal to the Tribunal by giving the Tribunal and the clerk of the municipality, within 30 days after the date of publication under this paragraph, a notice of appeal setting out the objection to the repealing by-law and the reasons in support of the objection, accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.

#### **Appeal to Tribunal**

(9) Any person who objects to the repealing by-law may appeal to the Tribunal by giving the Tribunal and the clerk of the municipality, within 30 days after the date of publication under paragraph 2 of subsection (8), a notice of appeal setting out the objection to the repealing by-law and the reasons in support of the objection, accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.

#### **If no notice of appeal**

- (10) If no notice of appeal is given within the time period specified in subsection (9),
- (a) the repealing by-law comes into force on the day following the last day of the period;
  - (b) the clerk shall ensure that a copy of the repealing by-law is registered against the properties affected by the repealing by-law in the appropriate land registry office; and
  - (c) the clerk shall delete any reference to the property from the register referred to in subsection 27 (1).

#### **If notice of appeal**

(11) If a notice of appeal is given within the time period specified in subsection (9), the Tribunal shall hold a hearing and, before holding the hearing, shall give notice of the hearing to such persons or bodies and in such manner as the Tribunal may determine.

#### **Same**

(12) If a notice of appeal is given within the time period specified in subsection (9), subsections 29 (15) to (19) apply with necessary modifications.

#### **Forwarding of record of decision**

(13) If the council made a decision on the proposed repealing by-law under subsection (6) and if a notice of appeal is given to the clerk within the time period specified in subsection (9), the clerk of the municipality shall ensure that the record of the decision under subsection (6) is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.

#### **Deletion from register**

(14) If a repealing by-law comes into effect under subsection 29 (18), as made applicable by subsection (12) of this section, the municipality shall cause the clerk to delete any reference to the property from the register referred to in subsection 27 (1).

#### **10 Subsections 32 (2) to (23) of the Act are repealed and the following substituted:**

##### **Notice required**

(2) Upon receiving an application under subsection (1), the council of the municipality shall cause notice of the application to be given by the clerk of the municipality in accordance with subsection (3).

##### **Notice of application**

- (3) Notice of an application shall be published in a newspaper having general circulation in the municipality and 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, as set out in the by-law that is the subject of the application;
  - (c) a statement that further information respecting the application is available from the municipality; and
  - (d) a statement that notice of objection to the application may be served on the clerk within 30 days after the date of publication of the notice of the application under this subsection.



### **Objection**

(4) A person who objects to an application shall, within 30 days after the date of the publication of the notice of application under subsection (3), serve on the clerk of the municipality a notice of objection setting out the reasons for the objection and all relevant facts.

### **Decision of council**

(5) After consultation with its municipal heritage committee, if one is established, the council shall consider an application under subsection (1) and any objections served under subsection (4) and within 90 days after the end of the 30-day period under subsection (4) shall do either of the following:

1. Refuse the application and cause the following to be served on the owner of the property, on any person who objected under subsection (4) and on the Trust:
  - i. A notice of the council's decision.
  - ii. A notice that if the owner of the property objects to the council's decision, the owner may appeal to the Tribunal by giving the Tribunal and the clerk of the municipality, within 30 days after receipt of the notice under this subparagraph, a notice of appeal setting out the objection to the decision and the reasons in support of the objection, accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.
2. Consent to the application, pass a by-law repealing the by-law or part thereof designating the property and shall do the following:
  - i. Cause the following to be served on the owner of the property, on any person who objected under subsection (4) and on the Trust:
    - A. A copy of the repealing by-law.
    - B. A notice that any person who objects to the decision may appeal to the Tribunal by giving the Tribunal and the clerk of the municipality, within 30 days after the date of publication under subparagraph ii, a notice of appeal setting out the objection to the decision and the reasons in support of the objection, accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.
  - ii. Publish notice of the council's decision in a newspaper having general circulation in the municipality, which must provide that any person who objects to the decision may appeal to the Tribunal by giving the Tribunal and the clerk of the municipality, within 30 days after the date of publication under this subparagraph, a notice of appeal setting out the objection to the decision and the reasons in support of the objection, accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.

### **Extension of time**

(6) The owner of the property and the council may agree to extend the time under subsection (5) and, if the council fails to notify the owner of the property of the council's decision within such extended time as may be agreed upon, the council is deemed to have consented to the application.

### **Appeal to Tribunal, refusal of application**

(7) If the owner of the property objects to the council's decision to refuse the application, the owner may appeal to the Tribunal by giving the Tribunal and the clerk of the municipality, within 30 days after the receipt of the notice under subparagraph 1 ii of subsection (5), a notice of appeal setting out the objection to the decision and the reasons in support of the objection, accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.

### **Same, consent of application**

(8) Any person who objects to the council's decision to consent to the application and to pass a repealing by-law may appeal to the Tribunal by giving the Tribunal and the clerk of the municipality, within 30 days after the date of publication under subparagraph 2 ii of subsection (5), a notice of appeal setting out the objection to the decision and the reasons in support of the objection, accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.

### **If no notice of appeal**

(9) If no notice of appeal is given within the time period specified in subsection (7) or (8), as the case may be, the decision of the council under subsection (5) is final and, if the council consented to the application and passed a repealing by-law,

- (a) the repealing by-law comes into force on the day following the last day of the period;
- (b) the clerk shall ensure that a copy of the repealing by-law is registered against the property affected by the by-law in the appropriate land registry office; and
- (c) the clerk shall delete any reference to the property from the register referred to in subsection 27 (1).

### **If notice of appeal**

(10) If a notice of appeal is given within the time period specified in subsection (7) or (8), as the case may be, the Tribunal shall hold a hearing and, before holding the hearing, shall give notice of the hearing to such persons or bodies and in such manner as the Tribunal may determine.

### **Forwarding of record of decision**

(11) If a notice of appeal is given within the time period specified in subsection (7) or (8), as the case may be, the clerk of the municipality shall ensure that the record of the decision under subsection (5) is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.

### **Powers of Tribunal**

(12) After holding the hearing, the Tribunal shall do the following:

1. If the appeal relates to a decision of council to refuse the application,
  - i. dismiss the appeal, or
  - ii. allow the appeal in whole or in part and,
    - A. repeal the by-law or part thereof designating the property, or
    - B. direct the council of the municipality to repeal the by-law or part thereof designating the property in accordance with the Tribunal's order.
2. If the appeal relates to a decision of council to consent to the application and to pass a repealing by-law,
  - i. dismiss the appeal, or
  - ii. allow the appeal in whole or in part and,
    - A. repeal the repealing by-law,
    - B. amend the repealing by-law in such manner as the Tribunal may determine,
    - C. direct the council of the municipality to repeal the repealing by-law, or
    - D. direct the council of the municipality to amend the repealing by-law in accordance with the Tribunal's order.

### **Dismissal without hearing of appeal**

(13) Despite the *Statutory Powers Procedure Act* and subsections (10) and (12) of this section, 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 referred to in subsection (7) or (8), as the case may be;
- (c) the appellant has not paid the fee charged under the *Local Planning Appeal Tribunal Act, 2017*; or
- (d) the appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal.

### **Representations**

(14) Before dismissing all or part of an appeal on any of the grounds mentioned in subsection (13), the Tribunal shall,

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

### **Coming into force**

(15) If one or more notices of appeal are given to the clerk within the time period specified in subsection (7), the following rules apply:

1. A repealing by-law passed by the municipality under paragraph 2 of subsection (5) comes into force when all of such appeals have been withdrawn or dismissed.
2. The repeal of a by-law or a part of a by-law under sub-subparagraph 1 ii A of subsection (12) comes into force on the day it is so ordered by the Tribunal.

3. A by-law repealing a by-law or part thereof under sub-subparagraph 1 ii B of subsection (12) comes into force on the day the by-law is passed by the municipality.
4. The repeal of a repealing by-law under sub-subparagraph 2 ii A of subsection (12) comes into force on the day it is so ordered by the Tribunal.
5. If a repealing by-law is amended by the Tribunal under sub-subparagraph 2 ii B of subsection (12), the repealing by-law, as amended by the Tribunal, comes into force on the day it is so amended.
6. If a repealing by-law is repealed by a council under sub-subparagraph 2 ii C of subsection (12), the by-law that repeals the repealing by-law comes into force on the day it is passed.
7. If a repealing by-law is amended by a council under sub-subparagraph 2 ii D of subsection (12), the repealing by-law, as amended by council, comes into force on the day it is so amended.

**Registration of by-law**

(16) The clerk of a municipality shall ensure that a copy of the repealing by-law is registered against the properties affected by the by-law in the appropriate land registry office.

**Deletion from register**

(17) If a repealing by-law comes into effect under subsection (15), the municipality shall cause the clerk to delete any reference to the property from the register referred to in subsection 27 (1).

**Reapplication**

(18) If a prescribed circumstance applies, the owner of the property may not reapply to have the by-law or part thereof designating the property repealed within the time period determined in accordance with the regulations, except with the consent of the council.

**11 Section 33 of the Act is repealed and the following substituted:**

**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 in the by-law that was required to be registered under clause 29 (12) (b) or subsection 29 (19), 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.

**Application**

(2) An application under subsection (1) shall be accompanied by the prescribed information and material.

**Other information**

(3) A council may require that an applicant provide any other information or material that the council considers it may need.

**Notice of complete application**

(4) The council shall, upon receiving all information and material required under subsections (2) and (3), if any, serve a notice on the applicant informing the applicant that the application is complete.

**Notification re completeness of application**

(5) The council may, at any time, notify the applicant of the information and material required under subsection (2) or (3) that has been provided, if any, and any information and material under those subsections that has not been provided.

**Decision of council**

(6) The council, after consultation with its municipal heritage committee, if one is established, and within the time period determined under subsection (7),

- (a) shall,
  - (i) consent to the application,
  - (ii) consent to the application on terms and conditions, or
  - (iii) refuse the application; and
- (b) shall serve notice of its decision on the owner of the property and on the Trust.

**Same**

(7) For the purposes of subsection (6), the time period is determined as follows:

1. Unless paragraph 2 applies, the period is 90 days after a notice under subsection (4) is served on the applicant or such longer period after the notice is served as is agreed upon by the owner and the council.
2. If a notice under subsection (4) or (5) is not served on the applicant within 60 days after the day the application commenced, as determined in accordance with the regulations, the period is 90 days after the end of that 60-day period or such longer period after the end of the 60-day period as is agreed upon by the owner and the council.

#### **Deemed consent**

(8) If the council fails to notify the owner under clause (6) (b) within the time period determined under subsection (7), the council shall be deemed to have consented to the application.

#### **Appeal to Tribunal**

(9) If the council of a municipality consents to an application upon certain terms and conditions or refuses an application, the owner may, within 30 days after receipt of the notice under clause (6) (b), appeal the council's decision to the Tribunal by giving a notice of appeal to the Tribunal and to the clerk of the municipality setting out the objection to the decision and the reasons in support of the objection, accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.

#### **If notice of appeal**

(10) If a notice of appeal is given within the time period specified in subsection (9), the Tribunal shall hold a hearing and, before holding the hearing, shall give notice of the hearing to the owner of the property and to such other persons or bodies as the Tribunal may determine.

#### **Powers of Tribunal**

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

- (a) that the appeal be dismissed; or
- (b) that the municipality consent to the application without terms and conditions or with such terms and conditions as the Tribunal may specify in the order.

#### **Dismissal without hearing of appeal**

(12) Despite the *Statutory Powers Procedure Act* and subsections (10) and (11), 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 decision of the council of the municipality;
- (c) the appellant has not paid the fee charged under the *Local Planning Appeal Tribunal Act, 2017*; or
- (d) the appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal.

#### **Representations**

(13) Before dismissing all or part of an appeal on any of the grounds mentioned in subsection (12), the Tribunal shall,

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

#### **Delegation of council's consent**

(14) 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.

#### **Scope of delegation**

(15) 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.

#### **Transition**

(16) 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.

**12 Subsection 34 (1) to (4) of the Act are repealed and the following substituted:**

**Demolition or removal**

(1) No owner of property designated under section 29 shall do either of the following, 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:

- 1. Demolish or remove, or permit the demolition or removal of, any of the property's heritage attributes, as set out in the description of the property's heritage attributes in the by-law that was required to be registered under clause 29 (12) (b) or subsection 29 (19), as the case may be.
- 2. Demolish or remove a building or structure on the property or permit the demolition or removal of a building or structure on the property, whether or not the demolition or removal would affect the property's heritage attributes, as set out in the description of the property's heritage attributes in the by-law that was required to be registered under clause 29 (12) (b) or subsection 29 (19), as the case may be.

**Application**

(2) An application under subsection (1) shall be accompanied by the prescribed information and material.

**Other information**

(3) A council may require that an applicant provide any other information or material that the council considers it may need.

**Notice confirming complete application**

(4) The council shall, upon receiving all information and material required under subsections (2) and (3), if any, serve a notice on the applicant informing the applicant that the application is complete.

**Notification re completeness of application**

(4.1) The council may, at any time, notify the applicant of the information and material required under subsection (2) or (3) that has been provided, if any, and any information and material under those subsections that has not been provided.

**Decision of council**

(4.2) The council, after consultation with its municipal heritage committee, if one is established, and within the time period determined under subsection (4.3),

- (a) shall,
  - (i) consent to the application,
  - (ii) consent to the application, subject to such terms and conditions as may be specified by the council, or
  - (iii) refuse the application;
- (b) shall serve notice of its decision on the owner of the property and on the Trust; and
- (c) shall publish its decision in a newspaper having general circulation in the municipality.

**Same**

(4.3) For the purposes of subsection (4.2), the time period is determined as follows:

- 1. Unless paragraph 2 applies, the period is 90 days after a notice under subsection (4) is served on the applicant or such longer period after the notice is served as is agreed upon by the owner and the council.
- 2. If a notice under subsection (4) or (4.1) is not served on the applicant within 60 days after the day the application commenced, as determined in accordance with the regulations, the period is 90 days after the end of that 60-day period or such longer period after the end of the 60-day period as is agreed upon by the owner and the council.

**Deemed consent**

(4.4) If the council fails to notify the owner under clause (4.2) (b) within the time period determined under subsection (4.3), the council shall be deemed to have consented to the application.

**13 (1) Subsection 34.1 (1) of the Act is amended by striking out “subclause 34 (2) (a) (i.1) or refuses an application under subclause 34 (2) (a) (ii)” and substituting “subclause 34 (4.2) (a) (ii) or refuses an application under subclause 34 (4.2) (a) (iii)”.**

**(2) Subsections 34.1 (3) to (7) of the Act are repealed and the following substituted:**

### **Content of notice**

(3) A notice of appeal shall set out the objection to the council's decision and the reasons in support of the objection and be accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.

### **If notice of appeal**

(4) If a notice of appeal is given within the time period specified in subsection (2), the Tribunal shall hold a hearing and, before holding the hearing, shall give notice of the hearing to such persons or bodies and in such manner as the Tribunal may determine.

### **Powers of Tribunal**

(5) 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 referred to in paragraph 1 or 2 of subsection 34 (1), as the case may be, without terms and conditions or with such terms and conditions as the Tribunal may specify in the order.

### **Dismissal without hearing of appeal**

(6) Despite the *Statutory Powers Procedure Act* and subsections (4) and (5), 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 decision of the council of the municipality;
- (c) the appellant has not paid the fee charged under the *Local Planning Appeal Tribunal Act, 2017*; or
- (d) the appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal.

### **Representations**

(7) Before dismissing all or part of an appeal on any of the grounds mentioned in subsection (6), the Tribunal shall,

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

### **14 Section 34.3 of the Act is repealed and the following substituted:**

#### **Council consents to application under s. 34 — required steps or actions**

**34.3** (1) The council of a municipality shall take such steps or actions as may be prescribed if the owner of a property designated under section 29 has applied in writing to the council for consent to a demolition or removal referred to in paragraph 1 or 2 of subsection 34 (1) in respect of the property and,

- (a) the council consents to the application under subclause 34 (4.2) (a) (i) or (ii) or is deemed to have consented to the application under subsection 34 (4.4); or
- (b) the Tribunal has ordered that the municipality give its consent under clause 34.1 (5) (b).

### **Same**

(2) A regulation made for the purposes of subsection (1) may prescribe different steps or actions that must be taken by a council in different circumstances or that no steps or actions need to be taken by a council in certain circumstances.

**15 (1) Clause 34.5 (1) (a) of the Act is amended by striking out “the criteria prescribed by regulation” and substituting “the prescribed criteria”.**

**(2) Subsection 34.5 (2) of the Act is amended by striking out “or” at the end of clause (a) and by repealing clause (b) and substituting the following:**

- (b) carry out or permit the demolition or removal of 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 clause 34.6 (5) (a); or
- (c) carry out or permit the demolition or removal of a building or structure on the property, whether or not the demolition or removal would affect the property's heritage attributes, as set out in the description of the property's heritage attributes that was required to be served and registered under clause 34.6 (5) (a).



**(3) Subsections 34.5 (4) and (5) of the Act are repealed and the following substituted:**

**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), as they read immediately before the day section 11 of Schedule 11 to the *More Homes, More Choice Act, 2019* came into force, apply with necessary modifications to such an application.

**Same**

(5) For the purposes of the application of subsection 33 (4), as it read immediately before the day section 11 of Schedule 11 to the *More Homes, More Choice Act, 2019* came into force, to an application for the Minister's consent made under subsection (4) of this section, 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.

**(4) Subsection 34.5 (6) of the Act is amended by striking out "consent to the demolition or removal of a building or structure on the property" at the end and substituting "consent to a demolition or removal referred to in clause (2) (b) or (c)."**

**(5) Subsection 34.5 (11) of the Act is amended by striking out "consent to the demolition or removal of a building or structure on property" in the portion before clause (a) and substituting "consent to a demolition or removal referred to in clause (2) (b) or (c) in respect of a property".**

**16 Subsection 34.9 (6) of the Act is amended by striking out "Subsections 32 (5) to (10) and (13) apply" at the beginning and substituting "Subsections 32 (5) to (10) and (13), as they read immediately before the day section 10 of Schedule 11 to the *More Homes, More Choice Act, 2019* came into force, apply".**

**17 The Act is amended by adding the following section:**

**Principles**

**39.1.2** A council of a municipality shall consider the prescribed principles, if any, when the council exercises a decision-making authority under a prescribed provision of this Part.

**18 (1) Subsection 41 (2.1) of the Act is amended by striking out "any demolition or removal of buildings or structures on the property" at the end and substituting "any demolition or removal referred to in clause 34.5 (2) (b) or (c) in respect of the property".**

**(2) Subsection 41 (2.2) of the Act is amended by striking out "any demolition or removal of buildings or structures on the property" in the portion before clause (a) and substituting "any demolition or removal referred to in subsection 34 (1) in respect of the property".**

**(3) Subsection 41 (2.3) of the Act is amended by striking out "or demolition or removal of buildings or structures on the property" and substituting "or demolition or removal referred to in subsection 42 (1) in respect of the property".**

**(4) Subsection 41 (4) of the Act is amended by striking out "by giving the clerk of the municipality" and substituting "by giving the Tribunal and the clerk of the municipality".**

**(5) Subsection 41 (5) of the Act is amended by striking out "to the clerk" in the portion before clause (a).**

**(6) Subsection 41 (6) of the Act is amended by,**

- (a) striking out "to the clerk"; and**
- (b) striking out "open to the public".**

**(7) Clause 41 (9) (b) of the Act is amended by striking out "hold a hearing with respect to the proposed dismissal or".**

**19 (1) Paragraph 2 of subsection 42 (1) of the Act is repealed and the following substituted:**

- 2. Erect any building or structure on the property or permit the erection of such a building or structure.
- 3. Demolish or remove, or permit the demolition or removal of, any of the property's heritage attributes, as set out in the description of the property's heritage attributes that was required to be included in the heritage conservation district plan that was adopted for the property's heritage conservation district in a by-law registered under subsection 41 (10.1).
- 4. Demolish or remove a building or structure on the property or permit the demolition or removal of a building or structure on the property, whether or not the demolition or removal would affect the property's heritage attributes, as set out in the description of the property's heritage attributes that was required to be included in the heritage conservation district plan that was adopted for the property's heritage conservation district in a by-law registered under subsection 41 (10.1).

**(2) Subsection 42 (2.1) of the Act is amended by striking out "or to erect, demolish or remove a building or structure on the property" at the end and substituting "or to do anything referred to in paragraph 2, 3 or 4 of subsection (1) in respect of the property".**

(3) Subsection 42 (4.1) of the Act is amended by striking out “to demolish or remove any building or structure on property” and substituting “to do anything referred to in paragraph 2, 3 or 4 of subsection (1) in respect of the property”.

20 (1) Paragraph 3 of subsection 48 (1) of the Act is amended by striking out “by regulation” wherever it appears.

(2) Subsection 48 (2) of the Act is amended by,

- (a) striking out “or belongs to a class of sites prescribed, by the regulations” at the end of clause (a) and substituting “or belongs to a prescribed class of sites”; and
- (b) striking out “or belongs to a class of activities prescribed, by the regulations” at the end of clause (c) and substituting “or belongs to a prescribed class of activities”.

(3) Clause 48 (8) (d) of the Act is amended by striking out “by the regulations” at the end.

(4) Clause 48 (8.2) (e) of the Act is amended by striking out “by the regulations”.

21 Subsection 56 (3) of the Act is amended by striking out “or prescribed by the regulations” at the end and substituting “or as may be prescribed”.

22 Clause 67 (1) (d) of the Act is repealed and the following substituted:

- (d) by a prescribed method.

23 Subsection 69 (3) of the Act is amended by striking out “demolishing or removing a building or structure in contravention of section 42” and substituting “demolishing or removing a building, structure or heritage attribute in contravention of section 42”.

24 (1) Subsection 70 (1) of the Act is amended by adding the following clause:

- (o) prescribing or otherwise providing for anything that is required or permitted under this Act to be prescribed or otherwise provided for in the regulations, including governing anything required or permitted to be done in accordance with the regulations.

(2) Section 70 of the Act is amended by adding the following subsection:

**Regulations re ss. 33 (2) and 34 (2)**

(3) A regulation that prescribes information and material for the purposes of subsection 33 (2) or 34 (2) may provide that the information or material is such information or material as may be required by a municipal by-law or other prescribed instrument, or may provide that the information or material includes any information or material as may be required by a municipal by-law or other prescribed instrument.

25 The Act is amended by adding the following section:

**Regulations re transitional matters**

71 The Lieutenant Governor in Council may make regulations providing for transitional matters as the Lieutenant Governor in Council considers necessary or advisable to,

- (a) facilitate the implementation of amendments to this Act made by Schedule 11 to the *More Homes, More Choice Act, 2019*; and
- (b) deal with any problems or issues arising as a result of the repeal, amendment, enactment or re-enactment of a provision of this Act by Schedule 11 to the *More Homes, More Choice Act, 2019*.

**Commencement**

26 This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.



**Caution:**

*This consultation draft is intended to facilitate dialogue concerning its contents. Should the decision be made to proceed with the proposal, the comments received during consultation will be considered during the final preparation of the regulation. The content, structure, form and wording of the consultation draft are subject to change as a result of the consultation process and as a result of review, editing and correction by the Office of Legislative Counsel.*

**CONSULTATION DRAFT**

**ONTARIO REGULATION**

to be made under the

**ONTARIO HERITAGE ACT**

**GENERAL**

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## PRINCIPLES

### **Principles**

1. (1) The following provisions are prescribed for the purpose of section 26.0.1 of the Act:

1. Section 29 of the Act.
2. Section 30.1 of the Act.
3. Section 31 of the Act.
4. Section 32 of the Act.
5. Section 33 of the Act.
6. Section 34 of the Act.

(2) The following provisions are prescribed for the purpose of section 39.1.2 of the Act:

1. Section 41 of the Act.
2. Section 41.1 of the Act.
3. Section 42 of the Act.

(3) For the purpose of sections 26.0.1 and 39.1.2 of the Act, the following are the principles that a council of a municipality shall consider when the council exercises a decision-making authority under a provision set out in subsection (1) or (2):

1. Property that is determined to be of cultural heritage value or interest should be protected and conserved for all generations.

2. Decisions affecting the cultural heritage value or interest of a property or heritage conservation district should,
  - i. minimize adverse impacts to the cultural heritage value or interest of the property or district,
  - ii. be based on research, appropriate studies and documentary evidence, and
  - iii. demonstrate openness and transparency by considering the views of all interested persons and communities.
3. Conservation of properties of cultural heritage value or interest should be achieved through identification, protection and wise management, including adaptive reuse where appropriate.

(4) For the purpose of this section,

“adaptive reuse” means the alteration of a property of cultural heritage value or interest to fit new uses or circumstances while retaining the heritage attributes of the property.

#### RULES RE SECTION 29 OF THE ACT

##### **Prescribed events, s. 29 (1.2) of the Act**

2. (1) For the purposes of subsection 29 (1.2) of the Act, the following events are prescribed in respect of a property in a municipality:

1. A council or planning board, as applicable, has completed giving notice in accordance with clause 22 (6.4) (a) of the *Planning Act* of a request for amendment referred to in that clause, if the subject land to which the amendment applies includes the property.
2. A council has completed giving notice in accordance with clause 34 (10.7) (a) of the *Planning Act* of an application for an amendment to a by-law referred to in that clause, if the subject land to which the amendment applies includes the property.
3. A council or planning board, as the approval authority, has completed giving notice in accordance with subsection 51 (19.4) of the *Planning Act* of an application referred to

in that clause, if the subject land to which the application applies includes the property.

**Prescribed exceptions, s. 29 (1.2) of the Act**

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

1. If an event described in section 2 has occurred in respect of a property, the owner of the property and the council of the municipality may,
  - i. at any time after the event, agree that the period of time under subsection 29 (1.2) of the Act does not apply to the property, or
  - ii. within 90 days after the event, agree to extend the applicable period of time under subsection 29 (1.2) of the Act after which the council may not give a notice of intention to designate the property.
2. If an event described in section 2 has occurred in respect of a property and the day on which the event occurred falls within a period when an emergency has been declared to exist in the municipality in which the property is situate, or in any part thereof, under the *Emergency Management and Civil Protection Act* by the head of the council of the municipality, the 90-day period set out in subsection 29 (1.2) of the Act does not begin until the day immediately after the day on which the emergency has terminated.
3. If an event described in section 2 has occurred in respect of a property and during the 90-day period set out in subsection 29 (1.2) of the Act an emergency is declared to exist in the municipality in which the property is situate, or in any part thereof, under the *Emergency Management and Civil Protection Act* by the head of the council of the municipality, the following rules apply:
  - i. The 90-day period is terminated on the day the emergency is declared.
  - ii. A new 90-day period commences on the day immediately after the day on which the emergency is terminated.

4. If the following criteria are satisfied, the municipality may, within 15 days after the end of 90-day period set out in subsection 29 (1.2) of the Act, pass a resolution stating that the municipality has not consulted with its municipal heritage committee regarding the designation of the property and may elect, by the same resolution, that the period of time for the purposes of subsection 29 (1.2) is 180 days, and if the council passes such a resolution, the period of time for the purposes of subsection 29 (1.2) is the period set out in the resolution:
  - i. An event described in section 2 has occurred in respect of the property.
  - ii. The municipality has established a municipal heritage committee.
  - iii. The municipality has not consulted with its municipal heritage committee regarding designation of the property in accordance with subsection 29 (2) of the Act by the end of the 90-day period set out in subsection 29 (1.2) of the Act.
5. If an event described in section 2 has occurred in respect of a property and after the occurrence of the event the council of the municipality in which the property is situated passes a resolution stating that the municipality has received new and relevant information relating to the property or the event, the following rules apply:
  - i. If the resolution is passed within the 90-day period set out in subsection 29 (1.2), the council may elect, by the same resolution, that the period of time for the purposes of that subsection is 180 days after the resolution is passed and if the council so elects, the period of time for the purposes of that subsection is the period set out in the resolution.
  - ii. If the resolution is passed at any time after the 90-day period set out in subsection 29 (1.2), the council may elect, by the same resolution, that the restriction imposed by subsection 29 (1.2) of the Act does not apply for a period of 180 days commencing on the day the resolution is passed and, if the council so elects, the restriction under subsection 29 (1.2) of the Act does not apply for the period set out in the resolution.
6. If an event described in section 2 has occurred in respect of a property, subsection 29 (1.2) of the Act no longer applies to restrict the council of the municipality in which

the property is situate from giving a notice of intention to designate the property as of the day on which the event is finally disposed of under the *Planning Act*.

(2) If the council passes a resolution referred to in paragraph 4 of subsection (1), the council of the municipality shall, within 15 days after the day on which the resolution was passed, ensure that notice of the new period of time set out in the resolution is served on the owner of the property, and the notice shall include the reasons for the new period of time.

(3) If the council passes a resolution under subparagraph 5 i of subsection (1), the council shall, within 15 days after the day on which the resolution was passed, ensure that notice of the new period of time set out in the resolution is served on the owner of the property, and the notice shall include the reasons for the new period of time.

(4) If the council passes a resolution under subparagraph 5 ii of subsection (1), the council shall, within 15 days after the day on which the resolution was passed, ensure that notice is served on the owner of the property and the notice shall contain,

- (a) a statement explaining that the restriction imposed by subsection 29 (1.2) of the Act does not apply for a period of 180 days commencing on the day the resolution was passed; and
- (b) the reasons why the restriction does not apply for that period of time.

(5) For the purposes of paragraph 5 of subsection (1), “new and relevant information” means information or materials that satisfy all of the following:

1. The information or materials affect or may affect,
  - i. the determination of the cultural heritage value or interest of the property, or
  - ii. an evaluation of the potential effect of the *Planning Act* application giving rise to the event on any cultural heritage value or interest of the property.
2. The information or materials are received by council after the relevant event occurred.

3. The information or materials do not form part of the information and materials that were provided to the municipality under the *Planning Act* for the purposes of the relevant event described in section 2.

**Prescribed circumstances, s. 29 (8) para. 1**

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

1. If, before the end of the 120-day period referred to in paragraph 1 of subsection 29 (8) of the Act, the council and the owner of the property agree to a period of time other than the period set out in that paragraph, the period of time for the purposes of that paragraph is the period that the council and the owner have agreed upon.
2. If any part of the 120-day period referred to in paragraph 1 of subsection 29 (8) of the Act falls within a period when an emergency has been declared to exist in the municipality in which the property is situate, or in any part thereof, under the *Emergency Management and Civil Protection Act* by the head of the council of the municipality, the period of time for the purposes of paragraph 1 of subsection 29 (8) of the Act is 120 days after the day on which the emergency has terminated.
3. If, during the 120-day period referred to in paragraph 1 of subsection 29 (8) of the Act, the council passes a resolution stating that the municipality has received new and relevant information relating to the property and elects, by the same resolution, that the period of time for the purposes of that paragraph is 180 days after the resolution is passed, the period of time for the purposes of that paragraph is the period set out in the resolution.

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

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

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

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

### **Designation by municipal by-law, requirements**

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

1. The by-law must identify the property by,
  - i. the municipal address of the property, if it exists,
  - ii. the legal description of the property, including the property identifier number that relates to the property, and
  - iii. a general description of where the property is located within the municipality, for example, the name of the neighbourhood in which the property is located and the nearest major intersection to the property.
2. The by-law must contain a site plan, scale drawing, aerial photograph or other image that identifies each area of the property that has cultural heritage value or interest.
3. The statement explaining the cultural heritage value or interest of the property must identify which of the criteria set out in subsection 1 (2) of Ontario Regulation 9/06 (Criteria for Determining Cultural Heritage Value or Interest) made under the Act are met and must explain how each criterion is met.
4. The description of the heritage attributes of the property must be brief and must explain how each heritage attribute contributes to the cultural heritage value or interest of the property.
5. The by-law may list any physical features of the property that are not heritage attributes.

(2) For clarity, the requirements set out in subsection (1) apply for the purposes of subsection 29 (8) of the Act, as set out in the Schedule.



AMENDMENT OF DESIGNATING BY-LAW

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

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

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

**Prescribed circumstances and time periods**

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

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

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

**Prescribed information and material**

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

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

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

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

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

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

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

#### REQUIRED STEPS – SECTION 34.3 OF THE ACT

##### **Council consents to application under s. 34 of the Act**

**9.** (1) The following steps are prescribed for the purposes of subsection 34.3 (1) of the Act:

1. After the demolition or removal of a building, structure or heritage attribute on the property is complete, the council of the municipality shall, in consultation with the municipal heritage committee established under section 28 of the Act, if one has been established, make one of the following determinations:
  - i. The property continues to have cultural heritage value or interest and, despite the demolition or removal, the statement explaining the cultural heritage value or interest of the property and the description of the heritage attributes of the property are accurate and do not need to be amended.
  - ii. The property continues to have cultural heritage value or interest but, as a result of the demolition or removal, the statement explaining the cultural heritage value or interest of the property or the description of the heritage attributes of the property is no longer accurate and needs to be amended.
  - iii. The property no longer has cultural heritage value or interest as a result of the demolition or removal.

2. If the council makes the determination described in subparagraph 1 i, the clerk of the municipality shall ensure that notice of the determination is served on the Trust.
  
3. If the council makes the determination described in subparagraph 1 ii,
  - i. the council shall,
    - A. pass a by-law that amends the by-law made under section 29 of the Act designating the property to update the statement of cultural heritage value or interest and the description of the property's heritage attributes to reflect the changes resulting from the demolition or removal, and
  
    - B. ensure that the amending by-law complies with the requirements set out in section 5 and includes a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property, and
  
  - ii. the clerk of the municipality shall,
    - A. ensure that a copy of the amending by-law is served on the owner of the property,
  
    - B. publish notice of the amending by-law in a newspaper having general circulation in the municipality, and
  
    - C. ensure that a copy of the amending by-law is registered against the property affected by the amending by-law in the appropriate land registry office and that a copy of the registered amending by-law is served on the Trust.
  
4. If the council makes the determination described in subparagraph 1 iii,
  - i. the council shall pass a by-law to repeal the by-law or the part thereof designating the property under section 29 of the Act, and

- ii. the clerk of the municipality shall,
  - A. ensure that a copy of the repealing by-law is served on the owner of the property,
  - B. publish notice of the repealing by-law in a newspaper having general circulation in the municipality,
  - C. ensure that a copy of the repealing by-law is registered against the property affected by the repealing by-law in the appropriate land registry office and that a copy of the registered repealing by-law is served on the Trust, and
  - D. ensure that any reference to the property is deleted from the register referred to in subsection 27 (1) of the Act.
5. If, as part of the removal mentioned in paragraph 1, a building or structure is moved to another property,
  - i. the council of a municipality shall, in consultation with the municipal heritage committee established under section 28 of the Act, determine if the other property meets the criteria referred to in clause 29 (1) (a) of the Act,
  - ii. if it is determined under subparagraph i that the other property meets the criteria, the council of a municipality may pass a by-law designating the other property to be of cultural heritage value or interest, and
  - iii. if a designating by-law is passed under subparagraph ii, the council of a municipality shall ensure that the by-law complies with the requirements set out in section 5 and includes a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property.
6. If a designating by-law is passed under subparagraph 5 ii, the clerk of the municipality shall,

- i. ensure that a copy of the designating by-law is served on the owner of the property affected by the designating by-law,
- ii. publish notice of the designating by-law in a newspaper having general circulation in the municipality, and
- iii. ensure that a copy of the designating by-law is registered against the property affected by the designating by-law in the appropriate land registry office and that a copy of the registered designating by-law is served on the Trust.

(2) A by-law passed under this section comes into force on the day the by-law is passed.

(3) A designating by-law passed under subparagraph 5 ii of subsection (1) is deemed to be a by-law passed under subsection 29 (1) of the Act.

(4) For greater certainty, sections 29, 30.1 and 31 of the Act do not apply in respect of passing a by-law under this section, but sections 30.1 and 31 of the Act apply in respect of an amendment or repeal of a by-law or part thereof passed under this section.

#### RECORD OF DECISION

##### **Record of decision under s. 29 of the Act**

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

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

1. A certified copy of the notice of intention to designate the property.
2. A certified copy of the by-law.

3. A certified copy of the notice referred to in paragraph 4 of subsection 29 (8) of the Act.
4. A copy of any report considered by council.
5. A statement by an employee of the municipality as to how the decision of council considered the principles set out in subsection 1 (3) when the council exercised its decision-making authority.
6. The original or a certified copy of all written submissions and comments related to the decision and the dates they were received.
7. If a public meeting was held that related to the decision,
  - i. a copy of the minutes; and
  - ii. a list of all persons and public bodies that made oral submissions that related to the decision and, if available, the record of those submissions.
8. Any additional material or information that the council considered in making its decision.
9. An affidavit or sworn declaration by an employee of the municipality that contains a certificate that all the material and information required under this section is accurate.

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

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

**Record of decision under s. 30.1 of the Act**

**11.** (1) References in this section to section 29 of the Act are references to that section as it applies to an amending by-law mentioned in subsection 30.1 (1) of the Act, as modified in the Schedule.

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

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

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

1. A certified copy of the notice of proposed amendment to the by-law designating the property.
2. A certified copy of the by-law that is the subject to the proposed amendment.
3. A certified copy of the amending by-law.
4. A certified copy of the notice referred to in paragraph 4 of subsection 29 (8) of the Act.
5. The material and information described in paragraphs 4 to 9 of subsection 10 (2).

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

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



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

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

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

1. A certified copy of the notice referred to in subparagraph 1 ii of subsection 30.1 (9) of the Act.
2. The material and information described in paragraphs 1, 3, 4 and 5 of subsection (3).

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

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

#### **Record of decision under s. 31 of the Act**

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

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

1. A certified copy of the notice of intention to repeal the by-law or part thereof designating property.
2. A certified copy of the repealing by-law.
3. A certified copy of the by-law that is subject to the repealing by-law.
4. A certified copy of the notice referred to in paragraph 2 of subsection 31 (8) of the Act.
5. The material and information described in paragraphs 4 to 9 of subsection 10 (2).

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

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

**Record of decision under s. 32 of the Act**

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

1. A certified copy of the application to repeal a by-law or part thereof designating the property.
2. A certified copy of the notice of application referred to in subsection 32 (3) of the Act.
3. A certified copy of the by-law designating the property.
4. The original or a certified copy of every notice of objection served on the clerk of the municipality under subsection 32 (4) of the Act and the date it was served.

5. If the appeal relates to a decision to refuse the application, a certified copy of the notice referred to in subparagraph 1 ii of subsection 32 (5) of the Act.
6. If the appeal relates to a decision to consent to the application,
  - i. a certified copy of the by-law repealing the by-law or part thereof, and
  - ii. a certified copy of the notice referred to in subparagraph 2 ii of subsection 32 (5) of the Act.
7. The material and information described in paragraphs 4 to 9 of subsection 10 (2).

**Record of decision under s. 33 of the Act**

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

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

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

5. A certified copy of the notice of the council's decision referred to in clause 33 (6) (b) of the Act.
6. The material and information described in paragraphs 4 to 9 of subsection 10 (2).

**Record of decision under s. 34.1 of the Act**

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

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

1. A certified copy of the by-law designating the property.
2. The original or a certified copy of the material and information described in section 8 received by the council, and any material or information that the council required under subsection 34 (3) of the Act.
3. A certified copy of the notice informing the applicant that the application is complete that was served on the applicant under subsection 34 (4) of the Act and the date it was served.
4. A certified copy of any records relating to a notification referred to in subsection 34 (4.1) of the Act.
5. The original or a certified copy of the notice of the council's decision referred to in clause 34 (4.2) (b) of the Act.
6. The material and information described in paragraphs 4 to 9 of subsection 10 (2).

**Record of decision under s. 40.1 of the Act**

**16.** (1) If a notice of appeal under section 40.1 of the Act is given within the time period specified in subsection 40.1 (4) of the Act, the clerk of the municipality shall ensure that the

record of the decision under subsection 40.1 (1) of the Act is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.

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

1. A certified copy of the by-law made under subsection 40.1 (1) of the Act.
2. A certified copy of the notice referred to in subsection 40.1 (3) of the Act.
3. The material and information described in paragraphs 4, 6, 7, 8 and 9 of subsection 10 (2).

**Record of decision under s. 41 of the Act**

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

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

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

6. For every public meeting referred to in clause 41.1 (6) (b) of the Act that is held,
  - i. a copy of the notice of the public meeting referred to in subsection 41.1 (7) of the Act,
  - ii. a copy of the minutes, and
  - iii. a list of all persons that made oral representations referred to in subsection 41.1 (9) of the Act and, if available, the record of those representations.
7. For every public meeting that is held that related to the decision but was not a meeting referred to in clause 41.1 (6) (b) of the Act,
  - i. a copy of the minutes,
  - ii. a list of all persons and public bodies that made oral submissions that related to the decision and, if available, the record of those submissions.
8. The material and information described in paragraphs 4, 5, 8 and 9 of subsection 10 (2).

**Record of decision under s. 41.1 of the Act**

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

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

1. A certified copy of the by-law under subsection 41 (1) of the Act.
2. A certified copy of the by-law under subsection 41.1 (2) of the Act.

3. A certified copy of the heritage conservation district plan adopted under subsection 41.1 (2) of the Act.
4. A certified copy of the notice referred to in subsection 41.1 (3) of the Act.
5. A certified copy of the information referred to in clause 41.1 (6) (a) of the Act.
6. The original or a certified copy of all written submissions and comments related to the decision, including the written submissions referred to in subsection 41.1 (11) of the Act, and the dates they were received.
7. For every public meeting referred to in clause 41.1 (6) (b) of the Act that is held,
  - i. a copy of the notice of the public meeting referred to in subsection 41.1 (7) of the Act,
  - ii. a copy of the minutes, and
  - iii. a list of all persons that made oral representations referred to in subsection 41.1 (9) of the Act and, if available, the record of those representations.
8. The material and information described in paragraphs 4, 5, 8 and 9 of subsection 10 (2).

**Record of decision under s. 42 of the Act**

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

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

1. If a heritage conservation district plan was adopted by a by-law under subsection 41.1 (1) or (2) of the Act, a certified copy of the plan.

2. The original or a certified copy of the information required under subsection 42 (2.2) of the Act.
3. A certified copy of the notice of receipt referred to in subsection 42 (3) of the Act.
4. If the council refused the application for a permit under section 42 of the Act, a copy of the notice referred to in clause 42 (4) (b) of the Act.
5. If the council approved the application for a permit under section 42 of the Act with terms or conditions attached, a copy of the permit.
6. The material and information described in paragraphs 4, 5, 6, 7, 8 and 9 of subsection 10 (2).

#### TRANSITION

##### **Transitional rules**

**20.** (1) Except as provided otherwise, references in this section to a provision of the Act are references to the provision as it read immediately before the day this section comes into force.

(2) A matter or proceeding that is mentioned in subsection (3) and commenced before the day this section comes into force shall be continued and disposed of under the Act as it read before that date.

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

- (a) in the case of the designation of property by by-law under section 29 of the Act, on the date of the publication of a notice of intention to designate under clause 29 (3) (b) of the Act;
- (b) in the case of the amendment of a by-law designating property under section 30.1 of the Act,



- (i) if subsection 30.1 (2) of the Act does not apply to the notice, on the date of the publication of the notice of proposed amendment under clause 29 (3) (b) of the Act, as made applicable by subsection 30.1 (1) of the Act, or
  - (ii) if subsection 30.1 (2) of the Act applies to the notice, on the day the notice of proposed amendment is received by the owner of the property;
- (c) in the case of the repeal of a by-law or part thereof designating property under section 31 of the Act, on the date of the publication of a notice of intention to repeal a by-law or part thereof under clause 31 (3) (b) of the Act;
- (d) in the case of an application to repeal a by-law or part thereof designating a property under section 32 of the Act, on the day the application is received by the council of the municipality;
- (e) in the case of an application for consent to alter or permit the alteration under section 33 of the Act, on the day the application is received by the council of the municipality;
- (f) in the case of an application for consent to demolish or remove or permit demolition or removal under section 34 of the Act, on the day the application is received by the council of the municipality;
- (g) in the case of an application for consent to alter, demolish or remove or permit the alteration, demolition or removal under section 34.5 of the Act, on the day the application is received by the Minister;
- (h) in the case of the designation of a study area under section 40.1 of the Act, the day on which the by-law is passed under that section;
- (i) in the case of the designation of a heritage conservation district under section 41 of the Act, the day on which the by-law is passed under that section;
- (j) in the case of the adoption of a heritage conservation district plan under subsection 41.1 (2) of the Act, the day on which the by-law is passed under that section;

- (k) in the case of an application described in subsection 42 (2.1) of the Act, the day on which the application is received by the council of the municipality.

(4) Despite subsection (2), if a notice of intention to designate a property under subsection 29 (1) of the Act was published in accordance with clause 29 (3) (b) of the Act before the day this section comes into force and the council of the municipality has not passed a by-law designating the property and has not withdrawn the notice of intention to designate before that day, the notice of intention to designate the property is deemed to be withdrawn unless the council of the municipality passes a by-law designating the property within 365 days after the day this section comes in force in accordance with section 29 of the Act.

(5) For the purposes of subsection (4), if a person objects to a proposed designation under subsection 29 (5) of the Act, the 365-day period referred to in that subsection shall be counted by excluding every day that is after the day the person serves the notice of objection under subsection 29 (5) of the Act and that is before the earliest of the following:

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

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

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

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

1. If the council has not passed a repealing by-law under section 34.3 of the Act, the application shall be continued and disposed of in accordance with section 34.3 of the Act as it reads on and after the day this section comes into force.
2. If the council has passed a repealing by-law under section 34.3 of the Act, the application shall be continued and disposed of in accordance with section 34.3 of the Act as it read immediately before the day this section comes into force.

(8) Subsection 29 (1.2) of the Act, as it reads on and after the day this section comes into force, does not apply with respect to a property in a municipality if the event prescribed by section 2 of this Regulation occurred before the day this section comes into force.

## **Commencement**

### **21. [Commencement]**

#### SCHEDULE

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

### **Amendment of designating by-law**

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

### **Notice required**

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

### **Consultation**

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

### **Notice of proposed amendment**

(3) A notice of proposed amendment shall be,

- (a) served on the owner of the property and on the Trust; and

- (b) published in a newspaper having general circulation in the municipality.

**Contents of notice**

(4) A notice of proposed amendment that is served on the owner of property and on the Trust under clause (3) (a) shall contain,

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

**Same**

(4.1) A notice of proposed amendment that is published in a newspaper of general circulation in a municipality under clause (3) (b) shall contain,

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

### **Objection**

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

### **Consideration of objection by council**

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

### **Notice of withdrawal**

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

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

### **If no notice of objection or no withdrawal**

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

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

3. The council must cause the following to be served on the owner of the property, on any person who objected under subsection (5) and on the Trust:
  - i. A copy of the amending by-law.
  - ii. A notice that any person who objects to the amending by-law may appeal to the Tribunal by giving the Tribunal and the clerk of the municipality, within 30 days after the date of publication under paragraph 4, a notice of appeal setting out the objection to the by-law and the reasons in support of the objection, accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.
4. The council must publish notice of the amending by-law in a newspaper having general circulation in the municipality, which must provide that any person who objects to the by-law may appeal to the Tribunal by giving the Tribunal and the clerk of the municipality, within 30 days after the date of publication under this paragraph, a notice of appeal setting out the objection to the by-law and the reasons in support of the objection, accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.

### **Deemed withdrawal**

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

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

### **Same**

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

### **Appeal to Tribunal**

(11) Any person who objects to the amending by-law may appeal to the Tribunal by giving the Tribunal and the clerk of the municipality, within 30 days after the date of publication under

paragraph 4 of subsection (8), a notice of appeal setting out the objection to the by-law and the reasons in support of the objection, accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*.

**If no notice of appeal**

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

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

**If notice of appeal**

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

**Forwarding of record of decision**

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

**Powers of Tribunal**

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

- (a) dismiss the appeal; or
- (b) allow the appeal in whole or in part and,
  - (i) repeal the amending by-law,
  - (ii) amend the amending by-law in such manner as the Tribunal may determine,

- (iii) direct the council of the municipality to repeal the amending by-law, or
- (iv) direct the council of the municipality to amend the amending by-law in accordance with the Tribunal's order.

### **Dismissal without hearing of appeal**

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

- (a) the Tribunal is of the opinion that,
  - (i) the reasons set out in the notice of appeal do not disclose any apparent ground upon which the Tribunal could allow all or part of the appeal, or
  - (ii) the appeal is not made in good faith, is frivolous or vexatious, or is made only for the purpose of delay;
- (b) the appellant has not provided written reasons in support of the objection to the amending by-law;
- (c) the appellant has not paid the fee charged under the *Local Planning Appeal Tribunal Act, 2017*; or
- (d) the appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal.

### **Representations**

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

- (a) notify the appellant of the proposed dismissal; and



- (b) give the appellant an opportunity to make representations with respect to the proposed dismissal.

### **Coming into force**

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

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

### **Registration of by-law**

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