

# *Ontario Heritage Act-* Overview of Amendments

Heritage Burlington | July 2021

# Summary of Changes to the OHA

- New requirements for listing non-designated properties on the municipal register
- Changes to the designation process:
  - 90-day timeline to issue NOID
  - New process for objection to council
  - 120-day timeline to pass designation by-law
  - Mandatory standards for designation by-laws
  - Process for amending a designation by-law
  - Limitation on reapplication for repeal of a by-law

# Summary of Changes to the OHA

- Changes to the alteration and demolition process:
  - Demolition/removal of heritage attributes
  - Minimum requirements for complete applications
  - 60 days to confirm completeness
  - Revised steps following consent to a demolition or removal of a building, structure or heritage attribute
- Changes to appeals processes
- Records required for Tribunal
- Digital submissions
- Electronic service delivery
- Transition provisions

# New Requirement for Listing Non-Designated Properties on the Register

## **Notification**

- Council is now required to notify a property owner within 30 days of adding their non-designated property to the municipal register
- The notice must include:
  - A statement explaining why the council of the municipality believes the property to be of cultural heritage value or interest
  - A description of the property that is sufficient to readily ascertain the property
  - A statement informing the owner of their right to object to their property's inclusion
  - An explanation of the restriction concerning the demolition or removal of a building
- The requirement for notification of inclusion on the register only applies to properties that are included on the register beginning July 1, 2021

# New Requirement for Listing Non-Designated Properties on the Register

## **Objection**

- An owner has the right to object to their non-designated property being included on the municipal register
- Notice of their objection must be served on the clerk & within 90 days of the objection, council must provide the owner with their decision as to whether or not the property should remain on the register
- An owner's opportunity to object is not limited to when the property was first included on the register i.e., the objection process can happen at any time by any owner of any non-designated property listed on the register on or after July 1, 2021

# Designation: New 90-day Timeline to Issue Notice of Intention to Designate

- Municipalities now have 90 days to issue a NOID when a property is subject to a *Planning Act* application for an Official Plan Amendment, Zoning By-law Amendment or a Plan of Subdivision
- The restriction on issuing a NOID is removed once the application that triggered the 90 days has been disposed of under the *Planning Act*

# Designation: New 90-day Timeline to Issue Notice of Intention to Designate

## Trigger

- When all the required notices are issued by council or a planning board for a complete application related to an Official Plan Amendment, Zoning By-law Amendment or Plan of Subdivision under the *Planning Act*

## Exceptions to Timeline

- Property owner and Council agree to an extension, the timeline does not apply
- A municipality declares an emergency under *Emergency Management and Civil Protection Act*

# Designation: New Process for Objection to Council

- New process that allows for objections to be heard by council following issuance of a NOID
- Objection must be made to the clerk within 30 days of the date the NOID was published in a newspaper
- Council must consider any objections it receives in making its final decision to either withdraw the NOID or pass the designation by-law
- This opportunity to object to council applies to new designations, proposals to amend a designation by-law, and proposals to repeal a designation by-law both where it is initiated by council or where the owner applies for repeal



# Designation: New 120-day Timeline to Pass Designation By-law After NOID

- Municipalities are now required to pass a designation by-law within 120 days of the NOID's publication, otherwise the NOID will be considered withdrawn (issuing a notice of withdrawal is required)
- The 120-day timeline applies to the following designation related decisions:
  - All new designations
  - Amending by-laws for administrative reasons
  - Repealing by-laws (both council and owner initiated)
- If the 120-day timeline lapses and the NOID is withdrawn, there is no time limit on when the municipality may issue another NOID

# Designation: New 120-day Timeline to Pass Designation By-law After NOID

## Exceptions

- Property owner and Council agree to an extension
- A municipality declares an emergency under *Emergency Management and Civil Protection Act*
- Council passes a resolution stating that they have received **new and relevant information** (the municipality would then have 180 days from the date of resolution to pass the by-law)

## New and relevant information

- After the NOID has been issued, information or materials are received by the municipality that may affect the potential cultural heritage value or interest or heritage attributes of the property

# Designation: New Mandatory Standards for By-laws

- O. Reg. 385/21 sets out the information required in a designation by-law, such as the property location and layout, requirements for the statement of cultural heritage value or interest and the description of the property's heritage attributes
- While there is no requirement to update existing by-laws, where a municipality proposes to amend an existing by-law after July 1, the amending by-law must meet the new mandatory standards

# Designation: New Mandatory Standards for By-laws

## **Designation By-law Requirements:**

- Identify the property by municipal address, legal description and a general description of where the property is located within the municipality (e.g., neighbourhood, nearest intersection)
- Include a site plan, scale drawing, or description in writing that identifies the areas of cultural heritage value or interest
- The statement of CHVI must identify which of the criteria set out in O. Reg. 9/06 are met and how they are met
- Description of heritage attributes must explain how each attribute contributes to the cultural heritage value or interest of the property
- The by-law may also list any physical features of the property that are not heritage attributes (and therefore would not require council approval when an alteration is proposed)

# Designation: Minor Changes to Amending and Repeal Processes

## **Proposal to amend a designation by-law**

- In the case of a proposed substantive amendment to a designation by-law, the process remains much the same as the process where council proposes a new designation, with some exceptions:
  - No limitation on when a municipality can propose an amendment to a designation by-law
  - Unlike all other designation decisions, council has 365 days from the date the notice of proposed amendment is published to pass the amending by-law, otherwise the notice is considered withdrawn (this timeline can be extended by mutual agreement)

# Designation: Minor Changes to Amending and Repeal Processes

## **Reapplication for repeal of designation by-laws**

- O. Reg. 385/21 retains a one year limitation on a property owner's ability to reapply for repeal of a designation by-law following an unsuccessful application, including where the Tribunal denied the repeal

# Changes to Alteration and Demolition Applications

## **Demolition of heritage attributes**

- Changes were made to s.34 of the OHA to recognize the demolition or removal of heritage attributes that are not buildings or structures
- Changes to the definition or alter and references to demolition of heritage attributes in heritage conservation districts **are not being proclaimed at this time**

# Changes to Alteration and Demolition Applications

## **Complete applications**

- New requirement for municipalities to confirm that a property owner's application for alteration or demolition/removal is deemed complete within 60 days of it being served on the municipality
- Minimum requirements for applications to alter or demolish/remove a building, structure or heritage attribute on a designated heritage property – municipalities can build on these by outlining those requirements through a municipal by-law, council resolution or OP policy



# Revised Steps Following Consent to a Demolition or Removal of a Building, Structure, or Heritage Attribute

- In cases where council determines that the by-law should be amended or repealed, O. Reg. 385/21 sets out an abbreviated process that requires fewer notifications and no opportunity for objections or appeals

# Changes in Appeals Process and Tribunals

- Bill 108 transferred all appeals of municipal heritage decision previously heard by the Conservation Review Board (CRB) to the Local Planning Appeal Tribunal (LPAT) and made LPAT's decisions on those appeals binding
- The following final municipal decisions are now subject to a binding decision from the Tribunal:
  - All designation decisions, including new designations, proposals to amend a designation by-law, and proposals or applications for repeal of a designation by-law
  - Decisions on an application to alter an individually designated property
- The *Accelerating Access to Justice Act, 2021* (Bill 245) consolidates Ontario's five land tribunals, including the CRB and LPAT into a single tribunal, the Ontario Land Tribunal (OLT)
- New formal requirements regarding required records for the Tribunal

# Transition

## **General Rule:**

- As a general rule, processes initiated on or after proclamation will be subject to the new legislative and regulatory regime, while those initiated prior to proclamation would be subject to processes under the OHA as it was prior to amendments and regulation being proclaimed

# Sources

Ministry of Heritage, Sport, Tourism and Culture Industries (June 2021).  
*Ontario Heritage Act* - Recent Amendments deck. Training workshop.

Ontario Heritage Act, R.S.O., 1990, c. O. 18.  
<https://www.ontario.ca/laws/statute/90o18>