

## Ontario Heritage Act

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

**Consolidation Period:** From April 3, 2018 to the [e-Laws currency date](#).

Last amendment: 2017, c. 34, Sched. 46, s. 37.

Legislative History: 1993, c. 27, Sched.; 1996, c. 4, s. 55-65; 1997, c. 34, s. 2, 3; 1998, c. 18, Sched. B, s. 10; 2002, c. 17, Sched. F, Table; 2002, c. 18, Sched. A, s. 14; 2002, c. 18, Sched. F, s. 2; 2004, c. 16, Sched. D, Table; 2004, c. 17, s. 32; 2005, c. 6; 2006, c. 11, Sched. B, s. 11; 2006, c. 21, Sched. F, s. 136 (1); 2006, c. 32, Sched. D, s. 13; 2006, c. 34, s. 37; 2006, c. 35, Sched. C, s. 99; 2009, c. 24, s. 29; 2009, c. 33, Sched. 2, s. 52; 2009, c. 33, Sched. 11, s. 6; 2017, c. 20, Sched. 8, s. 112; 2017, c. 23, Sched. 5, s. 61-68; 2017, c. 34, Sched. 46, s. 37.

### Definitions

**1** In this Act,

“alter” means to change in any manner and includes to restore, renovate, repair or disturb and “alteration” has a corresponding meaning; (“transformer”, “transformation”)

“building permit” means a building permit issued under section 8 of the *Building Code Act, 1992*; (“permis de construire”)

“donation” includes any gift, testamentary disposition, deed or trust or other form of contribution; (“don”)

“heritage attributes” means, in relation to real property, and to the buildings and structures on the real property, the attributes of the property, buildings and structures that contribute to their cultural heritage value or interest; (“attributs patrimoniaux”)

“inspect” includes to survey, photograph, measure and record; (“inspector”)

“licence” means a licence issued under this Act; (“licence”)

“Minister” means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council; (“ministre”)

“municipality” means a local municipality and includes a band under the *Indian Act* (Canada) that is permitted to control, manage and expend its revenue money under section 69 of that Act; (“municipalité”)

“owner” means the person registered on title in the proper land registry office as owner; (“propriétaire”)

“permit” means a permit issued under this Act; (“permis”)

“person” includes a municipality; (“personne”)

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

“regulations” means the regulations made under this Act; (“règlements”)

“Review Board” means the Conservation Review Board; (“Commission de révision”)

“Tribunal” means the Local Planning Appeal Tribunal; (“Tribunal”)

“Trust” means the Ontario Heritage Trust continued under section 5. (“Fiducie”) R.S.O. 1990, c. O.18, s. 1; 1993, c. 27, Sched.; 2002, c. 17, Sched. F, Table; 2002, c. 18, Sched. F, s. 2 (1, 2); 2005, c. 6, s. 2; 2017, c. 23, Sched. 5, s. 61.

### **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 (a) does not include to demolish or to remove and “alteration” does not include demolition or removal.**

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

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

2002, c. 17, Sched. F, Table - 01/01/2003; 2002, c. 18, Sched. F, s. 2 (1, 2) - 26/11/2002

2005, c. 6, s. 2 (1-3) - 28/04/2005

2017, c. 23, Sched. 5, s. 61 (1, 2) - 03/04/2018

## **PART I HERITAGE CONSERVATION, PROTECTION AND PRESERVATION**

### **Administration of Act**

**2** The Minister is responsible for the administration of this Act and may determine policies, priorities and programs for the conservation, protection and preservation of the heritage of Ontario. R.S.O. 1990, c. O.18, s. 2.

### **Employees**

**3** Such employees as are considered necessary for the administration of this Act may be appointed under Part III of the *Public Service of Ontario Act, 2006*. 2006, c. 35, Sched. C, s. 99.

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

2006, c. 35, Sched. C, s. 99 - 20/08/2007

## **PART II ONTARIO HERITAGE TRUST**

### **Definition, Part II**

**4** In this Part,

“property” means real and personal property. R.S.O. 1990, c. O.18, s. 4.

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

2005, c. 6, s. 3 - 28/04/2005

### **Ontario Heritage Trust**

**5** (1) The Ontario Heritage Foundation is continued as a corporation without share capital under the name Ontario Heritage Trust in English and Fiducie du patrimoine ontarien in French. 2005, c. 6, s. 4 (1).

### **Composition of Trust**

(2) The Trust shall consist of a board of directors of not fewer than 12 persons who shall be appointed by the Lieutenant Governor in Council. R.S.O. 1990, c. O.18, s. 5 (2); 1997, c. 34, s. 2; 2005, c. 6, s. 1.

### **Board to manage affairs of Trust**

(3) The board of directors shall manage and conduct the affairs of the Trust. R.S.O. 1990, c. O.18, s. 5 (3); 2005, c. 6, s. 1.

### **Chair**

(4) The Lieutenant Governor in Council shall designate one of the directors to be the chair and one or more of them to be vice-chair or vice-chairs of the board of directors. R.S.O. 1990, c. O.18, s. 5 (4).

### **Term of office**

(5) A director may be appointed for a term not exceeding three years and may be reappointed for successive terms not exceeding three years each. 2005, c. 6, s. 4 (2).

### **Quorum**

(6) A majority of the directors constitutes a quorum. R.S.O. 1990, c. O.18, s. 5 (6).

### **Vacancy**

(7) Where a vacancy occurs for any reason in the office of director, the vacancy may be filled by appointment by the Lieutenant Governor in Council and a person so appointed shall hold office for the remainder of the term of his or her predecessor. R.S.O. 1990, c. O.18, s. 5 (7); 1993, c. 27, Sched.

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

1993, c. 27, Sched. - 31/12/1991; 1997, c. 34, s. 2 - 18/12/1997

2005, c. 6, s. 1, 4 (1, 2) - 28/04/2005

### **Non-application of *Corporations Act***

**6** The *Corporations Act* does not apply to the Trust. R.S.O. 1990, c. O.18, s. 6; 2005, c. 6, s. 1.

**Note:** On the day subsection 4 (1) of the *Not-for-Profit Corporations Act, 2010* comes into force, section 6 of the Act is repealed and the following substituted: (See: 2017, c. 20, Sched. 8, s. 112 (1))

### ***Not-for-Profit Corporations Act, 2010***

**6** The *Not-for-Profit Corporations Act, 2010* does not apply to the Trust, except as prescribed ~~by regulation~~. 2017, c. 20, Sched. 8, s. 112 (1).

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

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

2017, c. 20, Sched. 8, s. 112 (1) - not in force

### **Objects of Trust**

**7** The objects of the Trust are,

- (a) to advise and make recommendations to the Minister on any matter relating to the conservation, protection and preservation of the heritage of Ontario;
- (b) to receive, acquire and hold property in trust for the people of Ontario;
- (c) to support, encourage and facilitate the conservation, protection and preservation of the heritage of Ontario;
- (d) to preserve, maintain, reconstruct, restore and manage property of historical, architectural, archaeological, recreational, aesthetic, natural and scenic interest;
- (e) to conduct research, educational and communications programs necessary for heritage conservation, protection and preservation. R.S.O. 1990, c. O.18, s. 7; 2005, c. 6, ss. 1, 5.

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

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

### **By-laws**

**8** (1) The directors of the Trust may make such by-laws as are necessary for,

- (a) the administration of the Trust;
- (b) the establishment, appointment and condition of membership therein; and
- (c) any other matter necessary for carrying out the objects of the Trust. 2005, c. 6, s. 6.

### **Same**

(2) With the approval of the Minister, the directors of the Trust may make by-laws establishing such honorary offices as they consider desirable and appointing persons to the offices. 2005, c. 6, s. 6.

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

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

### **Powers of Trust**

**9** The Trust may advise and make recommendations to the Minister on any matter relating to property of historical, architectural, archaeological, recreational, aesthetic, natural or scenic interest and to advise and assist the Minister in all matters to which this Act refers and in all matters as are assigned to it by or under any Act or regulation thereunder. R.S.O. 1990, c. O.18, s. 9; 2005, c. 6, ss. 1, 7.

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

2005, c. 6, s. 1, 7 - 28/04/2005

### **Further powers of Trust**

**10** (1) The Trust may, in accordance with the policies and priorities determined by the Minister for the conservation, protection and preservation of the heritage of Ontario,

- (a) receive and acquire by purchase, donation, lease, public subscription, grant, bequest or otherwise, property of historical, architectural, archaeological, recreational, aesthetic, natural and scenic interest for the use, enjoyment and benefit of the people of Ontario;
- (b) hold, preserve, maintain, reconstruct, restore, manage and lease for a term of five years or less property described in clause (a) for the purposes described in that clause;
- (c) enter into agreements, covenants and easements with owners of real property or interests in real property for the conservation, protection and preservation of the heritage of Ontario;
- (d) borrow money for the purpose of carrying out the objects of the Trust where a guarantee is provided under section 18;
- (e) conduct and arrange exhibits or other cultural or recreational activities to inform and stimulate the interest of the public in historical, architectural and archaeological matters;
- (f) enter into agreements with prospective donors, subject to any conditions governing the use of property;
- (g) enter into agreements with persons respecting any matter within the objects of the Trust, and provide financial assistance by way of grant or loan to persons who are parties to such agreements for the purpose of,
  - (i) providing educational, research and communications programs,
  - (ii) maintaining, restoring and renovating property, and
  - (iii) providing for the management, custody and security of property;
- (h) invest its funds, and sections 26 to 30 of the *Trustee Act* apply, with necessary modifications, to the investment of those funds;
- (i) engage the services of experts and other persons;
- (j) undertake programs of research and documentation of matters relating to the heritage of Ontario and cause information to be compiled and studies to be undertaken;
- (k) with the consent of the owner of property, place markers, signs, cairns or other interpretive facilities in or on the property for the interest and guidance of the public;
- (l) provide assistance, advisory services and training programs to individuals, institutions, agencies and organizations in Ontario having similar aims and objectives as the Trust. 2009, c. 33, Sched. 11, s. 6 (1).

#### **Minister's approval for sale of Trust property**

(2) The Trust may, in accordance with the policies and priorities determined by the Minister for the conservation, protection and preservation of the heritage of Ontario, and with the approval of the Minister, dispose of property by sale, by lease for a term of more than five years or by any other manner and execute any deeds or other instruments as may be required to effect the disposal, subject to the terms of any trust in connection with the property. 2009, c. 33, Sched. 11, s. 6 (1).

#### **Minister's right to exercise Trust's powers**

(3) Despite subsections (1) and (2), the Minister may exercise any of the powers of the Trust referred to in subsections (1) and (2) if, in the Minister's opinion, it is necessary in order to ensure the carrying out of the intent and purpose of this Act. 2009, c. 33, Sched. 11, s. 6 (1).

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

1998, c. 18, Sched. B, s. 10 - 01/07/1999

2002, c. 18, Sched. A, s. 14 - 29/06/2001

2005, c. 6, s. 8 - 28/04/2005

2009, c. 33, Sched. 11, s. 6 (1) - 15/12/2009

#### **Crown agency**

**11** (1) The Trust is, for all purposes of this Act, an agent of Her Majesty in right of Ontario, and its powers under this Act may be exercised only as an agent of Her Majesty in right of Ontario. R.S.O. 1990, c. O.18, s. 11 (1); 2005, c. 6, s. 1.

#### **Property**

(2) Property acquired by the Trust is the property of Her Majesty in right of Ontario and title thereto may be vested in the name of Her Majesty in right of Ontario or in the name of the Trust. R.S.O. 1990, c. O.18, s. 11 (2); 2005, c. 6, s. 1.

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

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

**General fund**

**12** (1) The Trust shall maintain a fund, hereinafter called the “general fund”, which shall, subject to section 13, consist of money received by it from any source, including grants made under section 17. R.S.O. 1990, c. O.18, s. 12 (1); 2005, c. 6, s. 1.

**Operating expenditures**

(2) The Trust may, subject to any conditions attached to money comprising the general fund, disburse, expend or otherwise deal with any of its general fund for the purposes of any of the objects of the Trust and to defray any expenses in connection therewith. R.S.O. 1990, c. O.18, s. 12 (2); 2005, c. 6, s. 1.

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

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

**Reserve fund**

**13** (1) The Trust shall maintain a reserve fund, which shall consist of money received by the Trust expressly for allocation thereto. R.S.O. 1990, c. O.18, s. 13 (1); 2005, c. 6, s. 1.

**Income**

(2) The income of the reserve fund, or any part thereof, may be paid into and form part of the general fund. R.S.O. 1990, c. O.18, s. 13 (2).

**Capital expenditures**

(3) The Trust shall not expend any of the capital of its reserve fund, except for investment under clause 10 (1) (h), without the consent of the Lieutenant Governor in Council. R.S.O. 1990, c. O.18, s. 13 (3); 2005, c. 6, s. 1; 2009, c. 33, Sched. 11, s. 6 (2).

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

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

2009, c. 33, Sched. 11, s. 6 (2) - 15/12/2009

**No remuneration for board members**

**14** (1) The members of the board of directors of the Trust shall serve without remuneration but they shall be reimbursed for proper and reasonable travelling and other expenses incurred in the work of the Trust. 1997, c. 34, s. 3; 2005, c. 6, s. 1.

**Same**

(2) Except as provided by subsection (1), a person who is a member of the board of directors shall not receive, directly or indirectly, any compensation or benefit from the Trust for any service provided to the Trust or pursuant to any contract with the Trust. 1997, c. 34, s. 3; 2005, c. 6, s. 1.

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

1997, c. 34, s. 3 - 18/12/1997

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

**Exemption from taxation**

**15** The Trust, its real and personal property and business and income are exempt from all assessment and taxation made, imposed or levied by or under the authority of any Act of the Legislature, but this section does not apply to any property of the Trust while leased under clause 10 (1) (b) and subsection 10 (2) to a person or organization not registered as a charitable organization under the *Income Tax Act* (Canada). R.S.O. 1990, c. O.18, s. 15; 2004, c. 16, Sched. D, Table; 2005, c. 6, s. 1; 2009, c. 33, Sched. 11, s. 6 (3).

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

2004, c. 16, Sched. D, Table - 01/01/2004

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

2009, c. 33, Sched. 11, s. 6 (3) - 15/12/2009

## **Audit**

**16** The accounts and financial transactions of the Trust shall be audited annually by the Auditor General. R.S.O. 1990, c. O.18, s. 16; 2004, c. 17, s. 32; 2005, c. 6, s. 1.

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

2004, c. 17, s. 32 - 30/11/2004

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

## **Grants**

**17** The Minister may make grants to the Trust at such times, in such amounts and upon such terms and conditions as he or she considers advisable and may allocate any grants so made to the general fund or reserve fund. R.S.O. 1990, c. O.18, s. 17; 2005, c. 6, s. 1.

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

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

## **Guarantee of loans**

**18** Upon the recommendation of the Minister, the Lieutenant Governor in Council may, upon such terms as the Lieutenant Governor in Council considers proper, agree to guarantee and may guarantee the payment of any loan to the Trust, or any part thereof, together with interest thereon, borrowed for the purpose of carrying out the objects of the Trust. R.S.O. 1990, c. O.18, s. 18; 2005, c. 6, s. 1.

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

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

## **Form of guarantee**

**19** The form and manner of the guarantee shall be such as the Lieutenant Governor in Council approves, and the guarantee shall be signed by the Treasurer of Ontario or such other officer or officers as are designated by the Lieutenant Governor in Council, and, upon being so signed, Ontario is liable for the payment of the loan or part thereof and interest thereon guaranteed according to the terms of the guarantee. R.S.O. 1990, c. O.18, s. 19.

## **Payment of guarantee**

**20** The Lieutenant Governor in Council may make arrangements for supplying the money necessary to fulfil the requirements of any guarantee and to advance the amount necessary for that purpose out of the public funds of the Province of Ontario. R.S.O. 1990, c. O.18, s. 20.

## **Annual report**

**21** (1) The Trust shall prepare an annual report, provide it to the Minister and make it available to the public. 2017, c. 34, Sched. 46, s. 37.

### **Same**

(2) The Trust shall comply with such directives as may be issued by the Management Board of Cabinet with respect to,

- (a) the form and content of the annual report;
- (b) when to provide it to the Minister; and
- (c) when and how to make it available to the public. 2017, c. 34, Sched. 46, s. 37.

### **Same**

(3) The Trust shall include such additional content in the annual report as the Minister may require. 2017, c. 34, Sched. 46, s. 37.

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

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

2017, c. 34, Sched. 46, s. 37 - 01/01/2018

## **Tabling of annual report**

**21.1** The Minister shall table the Trust's annual report in the Assembly and shall comply with such directives as may be issued by the Management Board of Cabinet with respect to when to table it. 2017, c. 34, Sched. 46, s. 37.

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

2017, c. 34, Sched. 46, s. 37 - 01/01/2018

**Other reports**

**21.2** The Minister may require the Trust to provide other reports. 2017, c. 34, Sched. 46, s. 37.

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

2017, c. 34, Sched. 46, s. 37 - 01/01/2018

**Easements and covenants**

**22** (1) Any easement or covenant entered into by the Trust may be registered against the real property affected in the proper land registry office. R.S.O. 1990, c. O.18, s. 22 (1); 2005, c. 6, s. 1.

**Idem**

(2) Where an easement or covenant is registered against real property under subsection (1), such easement or covenant shall run with the real property and the Trust may enforce such easement or covenant, whether positive or negative in nature, against the owner or any subsequent owners of the real property and the Trust may enforce such easement or covenant even where it owns no other land which would be accommodated or benefited by such easement or covenant. R.S.O. 1990, c. O.18, s. 22 (2); 2005, c. 6, s. 1.

**Assignment**

(3) Any easement or covenant entered into by the Trust under subsection (1) may be assigned to any person and such easement or covenant shall continue to run with the real property, and the assignee may enforce the easement or covenant as if it were the Trust and it owned no other land which would be accommodated or benefited by such easement or covenant. R.S.O. 1990, c. O.18, s. 22 (3); 2005, c. 6, s. 1.

**Conflict**

(4) Where there is a conflict between an easement or covenant entered into by the Trust and section 33 or 34, the easement or covenant shall prevail. R.S.O. 1990, c. O.18, s. 22 (4); 2005, c. 6, s. 1.

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

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

**Register**

**23** The Trust shall keep a register and shall enter in the register particulars of,

- (a) all properties designated under Parts IV and VI;
- (b) all heritage conservation districts designated under Part V; and
- (c) any other properties that in the opinion of the Minister are of cultural heritage value or interest. 2005, c. 6, s. 9.

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

2002, c. 18, Sched. F, s. 2 (3) - 26/11/2002

2005, c. 6, s. 9 - 28/04/2005

**Transition**

**23.1** Any reference to the Ontario Heritage Foundation in any Act, regulation, agreement or document in effect immediately before the day the *Ontario Heritage Amendment Act, 2005* receives Royal Assent shall be deemed to be a reference to the Ontario Heritage Trust. 2005, c. 6, s. 10.

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

2005, c. 6, s. 10 - 28/04/2005

### **PART III**

#### **CONSERVATION REVIEW BOARD**

##### **Review Board**

**24** (1) The Review Board known as the Conservation Review Board is continued under the name Conservation Review Board in English and Commission des biens culturels in French, and shall consist of not fewer than five persons appointed by the Lieutenant Governor in Council. R.S.O. 1990, c. O.18, s. 24 (1); 2005, c. 6, s. 11 (1).

(2) REPEALED: 2006, c. 34, s. 37.

##### **Chair**

(3) The Lieutenant Governor in Council shall appoint one of the members of the Review Board as chair and another of the members as vice-chair. R.S.O. 1990, c. O.18, s. 24 (3).

##### **Quorum**

(4) One member of the Review Board constitutes a quorum. R.S.O. 1990, c. O.18, s. 24 (4).

##### **Remuneration and expenses**

(5) The members of the Review Board shall be paid such remuneration and expenses as the Lieutenant Governor in Council determines. R.S.O. 1990, c. O.18, s. 24 (5).

##### **Professional assistance**

(6) Subject to the approval of the Minister, the Review Board may engage persons to provide professional, technical or other assistance to the Review Board. R.S.O. 1990, c. O.18, s. 24 (6).

##### **Hearings**

(7) The Review Board shall hold such hearings and perform such other duties as are assigned to it by or under this or any other Act or regulation thereunder. R.S.O. 1990, c. O.18, s. 24 (7).

##### **Procedures**

(8) Sections 4.3 to 4.6, 5.1, 5.2, 5.4, 6 to 16, 17.1, 21, 21.1, 22, 23, 25.0.1 and 25.1 of the *Statutory Powers Procedure Act* apply to the Review Board and any hearing held by the Review Board under this Act. 2005, c. 6, s. 11 (2).

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

2005, c. 6, s. 11 (1, 2) - 28/04/2005

2006, c. 34, s. 37 - 20/12/2006

##### **Protection from personal liability**

**24.1** (1) No action or other proceeding shall be instituted against a member of the Review Board or an employee appointed under Part III of the *Public Service of Ontario Act, 2006* to work for the Review Board as a result of any act done in good faith in the performance or intended performance of any duty under any Act or in the exercise or intended exercise of any power under any Act, or of any alleged neglect or default in the performance or exercise in good faith of such duty or power. 2009, c. 33, Sched. 2, s. 52 (1).

##### **Exception**

(2) Subsection (1) does not apply in the case of an application for judicial review or an action or proceeding that is specifically provided for under an Act with respect to a person referred to in that subsection. 2009, c. 33, Sched. 2, s. 52 (1).

##### **Crown liability**

(3) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an agent or servant of the Crown to which it would otherwise be subject. 2009, c. 33, Sched. 2, s. 52 (1).

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

2009, c. 33, Sched. 2, s. 52 (1) - 15/12/2009

##### **Expenditures**

**25** The money required for the purposes of the Review Board shall be paid out of the money appropriated therefor by the Legislature. R.S.O. 1990, c. O.18, s. 25.



### **L.P.A.T. hearings**

**25.1** (1) Despite section 3 of the *Local Planning Appeal Tribunal Act, 2017*, the Tribunal may appoint a member of the Review Board to sit on a panel of the Tribunal conducting an appeal under this Act for the duration of the appeal. 2017, c. 23, Sched. 5, s. 63.

### **Same**

- (2) If a member of the Review Board is appointed to sit on a Tribunal panel under subsection (1),
- (a) the member shall have all of the powers of a member of the Tribunal appointed under section 3 of the *Local Planning Appeal Tribunal Act, 2017* and shall be entitled to participate fully in the appeal; and
  - (b) for the purposes of any further proceeding or appeal under the *Local Planning Appeal Tribunal Act, 2017*, any decision or order made by a panel of the Tribunal that includes a Review Board member appointed under subsection (1) shall be deemed to be as valid as a decision or order made by a panel of the Tribunal constituted in accordance with the requirements of section 3 of the *Local Planning Appeal Tribunal Act, 2017*. 2017, c. 23, Sched. 5, s. 63.

### **Conflict**

(3) A member of the Review Board is not eligible to be appointed to sit on a Tribunal panel under subsection (1) if the member has participated in any hearing by the Review Board relating to the property that is the subject of the appeal being heard by the Tribunal panel. 2017, c. 23, Sched. 5, s. 63.

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

2005, c. 6, s. 12 - 28/04/2005

2017, c. 23, Sched. 5, s. 63 - 03/04/2018

## **PART III.1**

### **STANDARDS AND GUIDELINES FOR PROVINCIAL HERITAGE PROPERTIES**

#### **Heritage standards and guidelines**

##### **Definition**

**25.2** (1) In this Part,

“property” means real property and includes all buildings and structures thereon. 2005, c. 6, s. 13.

##### **Application**

- (2) This Part applies to property,
- (a) that is owned by the Crown in right of Ontario or by a prescribed public body; or
  - (b) that is occupied by a ministry or a prescribed public body if the terms of the occupancy agreement are such that the ministry or public body is entitled to make the alterations to the property that may be required under the heritage standards and guidelines approved under subsection (5). 2005, c. 6, s. 13.

##### **Heritage standards and guidelines**

- (3) The Minister may prepare heritage standards and guidelines which shall,
- (a) set out the criteria and the process for the identification of properties referred to in subsection (2) that have cultural heritage value or interest; and
  - (b) set standards for the protection, maintenance, use and disposal of property referred to in clause (a). 2005, c. 6, s. 13.

##### **Consultation**

(4) In preparing heritage standards and guidelines under subsection (3), the Minister shall consult with the affected ministries, the Trust and the prescribed public bodies that own or occupy properties referred to in subsection (2). 2005, c. 6, s. 13.

##### **Approval**

(5) The heritage standards and guidelines prepared by the Minister shall be approved by the Lieutenant Governor in Council. 2005, c. 6, s. 13.

## Compliance

(6) The Crown in right of Ontario and any ministry or prescribed public body that owns or occupies properties referred to in subsection (2) shall comply with the heritage standards and guidelines approved under subsection (5). 2005, c. 6, s. 13.

## Not a regulation

(7) The heritage standards and guidelines approved under this section are not regulations within the meaning of Part III (Regulations) of the *Legislation Act, 2006*. 2005, c. 6, s. 13; 2006, c. 21, Sched. F, s. 136 (1).

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

2005, c. 6, s. 13 - 28/04/2005

2006, c. 21, Sched. F, s. 136 (1) - 25/07/2007

## Application

**25.3** Section 37 applies with necessary modifications to property to which this Part applies. 2005, c. 6, s. 13.

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

2005, c. 6, s. 13 - 28/04/2005

# PART IV CONSERVATION OF PROPERTY OF CULTURAL HERITAGE VALUE OR INTEREST

## DEFINITIONS AND APPLICATION

### Definition

**26 (1)** In this Part,

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

### ~~Same~~

~~(2) In sections 27 to 34.4,~~

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

### Publication of notice, City of Toronto

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

### Publication of notice

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

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

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

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

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

### 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.

## Application

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

## Conflict

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

### Exception

(3) Nothing in subsection (1) shall prevent a municipality acting under subsection 27 (~~31.2~~) from including in the register referred to in that subsection a reference to property described in clause 25.2 (2) (a). 2005, c. 6, s. 14.

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

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

## REGISTER AND MUNICIPAL HERITAGE COMMITTEE

### Register

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

### Contents of register

(~~21.4~~) The register kept by the clerk shall list all property situated in the municipality that has been designated by the municipality or by the Minister under this Part and shall contain, with respect to each property,

- (a) a legal description of the property;
- (b) the name and address of the owner; and
- (c) a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property. ~~2005, c. 6, s. 15.~~

### Same

(~~31.2~~) In addition to the property listed in the register under subsection (~~21.4~~), the register may include property that has not been designated under this Part but that the council of the municipality believes to be of cultural heritage value or interest and shall contain, with respect to such property, a description of the property that is sufficient to readily ascertain the property. ~~2005, c. 6, s. 15.~~

### Consultation

(~~41.3~~) ~~If~~~~Where~~ the council of a municipality has appointed a municipal heritage committee, the council shall, before including a property that has not been designated under this Part in the register under subsection (~~31.2~~) or removing the reference to such a property from the register, consult with its municipal heritage committee. ~~2005, c. 6, s. 15.~~

### 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 the 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. ~~R.S.O. 1990, c. O.18, s. 27 (2); 2002, c. 18, Sched. F, s. 2 (6).~~

**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.

**Restriction on demolition, etc.**

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

**Same**

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

**Same**

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

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

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

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

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

**Municipal heritage committee**

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

**Members**

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

### Continuation of old committees

(3) Every local architectural conservation advisory committee established by the council of a municipality before the day subsection 2 (7) of Schedule F to the *Government Efficiency Act, 2002* comes into force is continued as the municipal heritage committee of the municipality, and the persons who were the members of the local architectural conservation advisory committee immediately before that day become the members of the municipal heritage committee. 2002, c. 18, Sched. F, s. 2 (7).

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

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

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

## DESIGNATION OF PROPERTIES BY MUNICIPALITIES

### Designation by municipal by-law

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

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

### Notice required

(1.1) Subject to subsections (1.2) and (2), if the council of a municipality intends to designate a property within the municipality to be of cultural heritage value or interest, it shall cause notice of intention to designate the property to be given by the clerk of the municipality in accordance with subsection (3). 2005, c. 6, s. 17 (1).

### 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.

### Consultation

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

### Notice of intention

- (3) Notice of intention to designate under subsection (1) shall be,
  - (a) served on the owner of the property and on the Trust; and
  - (b) published in a newspaper having general circulation in the municipality. R.S.O. 1990, c. O.18, s. 29 (3); 2005, c. 6, s. 1.

### Contents of notice

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

### Same

- (4.1) Notice of intention to designate property that is published in a newspaper of general circulation in a municipality under clause (3) (b) shall contain,
  - (a) an adequate description of the property so that it may be readily ascertained;

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

### **Objection**

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

### **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 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.

### **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 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, 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 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, 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 of 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) the 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) or the *Ontario Heritage Amendment Act, 2005*, do not apply to the notice of intention.

### **If no notice of objection**

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

~~— (a) shall,~~

~~— (i) pass a by-law designating the property;~~

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

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

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

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

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

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

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

### **Referral to Review Board**

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

### **Hearing**

~~(8) Pursuant to a reference by the council under subsection (7), the Review Board, as soon as is practicable, shall hold a hearing open to the public to determine whether the property in question should be designated, and the council, the owner,~~



~~any person who has filed an objection under subsection (5) and such other persons as the Review Board may specify, are parties to the hearing. R.S.O. 1990, c. O.18, s. 29 (8).~~

#### **Place of hearing**

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

#### **Review Board may combine hearings**

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

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

#### **Report**

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

#### **Failure to report**

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

#### **Decision of council**

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

~~— (a) shall,~~

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

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

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

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

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

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

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

~~— (ii) to be published in a newspaper having general circulation in the municipality. 2002, c. 18, Sched. F, s. 2 (12); 2005, c. 6, ss. 1, 17 (5).~~

#### **Decision final**

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

#### **Withdrawal of objection**

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

#### **No hearing**

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

#### **Transition**

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

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

#### **Same**

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

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

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

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

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

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

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

#### **Effect of notice of designation**

##### **Permits void**

**30** (1) If a notice of intention to designate a property as property of cultural heritage value or interest is given under section 29, any permit that allowed for the alteration or demolition of the property and that was issued by the municipality under any Act, including a building permit, before the day the notice was served on the owner of the property and on the Trust and published in a newspaper is void as of the day the notice of intention is given in accordance with subsection 29 (3). 2005, c. 6, s. 18.

##### **Interim control of alteration, demolition or removal**

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

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

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

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

**30.1** (1) ~~The council of a municipality may, by by-law, amend a by-law designating property made under section 29 and section 29 applies with necessary modifications to an amending by-law as though it were a by-law to designate property under that section. 2005, c. 6, s. 19. 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 (6) do not apply to an amending by-law if the purpose of the amendment is,~~

- ~~— (a) — to clarify or correct the statement explaining the property's cultural heritage value or interest or the description of the property's heritage attributes;~~
- ~~— (b) — to correct the legal description of the property; or~~
- ~~— (c) — to otherwise revise the language of the by-law to make it consistent with the requirements of this Act or the regulations. 2005, c. 6, s. 19.~~

##### **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 the subsection 29 (8), if any.

#### **Same**

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

#### **Content of notice**

(4) A notice of a proposed amendment shall,

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

#### **Consultation with committee**

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

#### **Objection**

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

#### **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. Public 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 (1), subsections 29 (15) to (19) apply with necessary modifications.

### **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 (1), 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.

### **Where no objection**

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

### **Application of s. 29**

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

### **Notice of amendment**

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

### **Requirement to update old by-laws**

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

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

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

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

### **Repeal of designating by-law, council's initiative**

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

## **Consultation**

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

## **Notice of intention**

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

- (a) served on the owner of the property and on the Trust; and
- (b) published in a newspaper having general circulation in the municipality. R.S.O. 1990, c. O.18, s. 31 (3); 2005, c. 6, s. 1.

## **Contents of notice**

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

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

## **Objection**

(5) A person who objects to a proposed repealing by-law shall, 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 or 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. Public 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 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).

### **Objection**

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

### **Application**

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

### **Deletion from Register**

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

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

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

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

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

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

### **Repeal of designating by-law, owner's initiative**

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

### **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 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 this 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 out 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 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 passed.
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 council under sub-subparagraph 2 ii D of subsection (12), the repealing by-law is 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.

### **Decision of council**

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

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

### **Extension of time**

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

### **Application for hearing**

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

### **Referral to Review Board**

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

### **Hearing**

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

### **Place of hearing**

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

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

### **Report**

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

### **Failure to report**

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

### **Decision of council**

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

~~— (a) refuse the application and cause notice of its decision to be given to the owner; or~~

~~— (b) consent to the application and,~~

~~—— (i) cause notice of the intention to repeal the by law to be served on the owner and the Trust, and~~

~~—— (ii) publish notice of the intention to repeal the by law in a newspaper of general circulation in the municipality. 2005, c. 6, s. 20 (3).~~

### **Decision final**

~~(11.1) A decision made under clause (11) (a) is final. 2005, c. 6, s. 20 (3).~~

~~(12) REPEALED: 2005, c. 6, s. 20 (4).~~

### **Withdrawal of application**

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

### **Objection**

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

### **Content of notice of objection**

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

### **If no objection made**

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

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

#### **Referral of objection to Review Board**

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

#### **Application**

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

#### **Decision of council**

~~(19) After considering the report of the Review Board, the council shall, without a further hearing,~~

- ~~— (a) refuse the application and cause notice of its decision to be given to the owner; or~~
- ~~— (b) consent to the application, pass a by law repealing the by law, or the part of the by law, that designated the property as property of cultural heritage value or interest and cause,~~
  - ~~— (i) a copy of the repealing by law to be served on the owner of the property and the Trust,~~
  - ~~— (ii) the reference to the property in the Register referred to in subsection 27 (1) to be deleted,~~
  - ~~— (iii) notice of the repealing by law to be published in a newspaper of general circulation in the municipality, and~~
  - ~~— (iv) a copy of the repealing by law to be registered against the property in the proper land registry office. 2005, c. 6, s. 20 (5).~~

#### **Decision final**

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

#### **Withdrawal of objection**

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

#### **No hearing**

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

#### **Reapplication**

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

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

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

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

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

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

## **Alteration of property**

33 (1) No owner of property designated under section 29 shall alter the property or permit the alteration of the property if the alteration is likely to affect the property's heritage attributes, as set out in the description of the property's heritage attributes in the by-law that was required to be registered under clause 29 (12) (b) or subsection 29 (19) served and registered under subsection 29 (6) or (14), as the case may be, unless the owner applies to the council of the municipality in which the property is situate and receives consent in writing to the alteration. ~~2002, c. 18, Sched. F, s. 2 (16); 2005, c. 6, s. 21 (1).~~

### **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.

#### **Transition**

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

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

#### **Application**

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

#### **Notice of receipt**

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

### **Decision of council**

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

~~— (a) shall,~~

~~— (i) consent to the application,~~

~~— (ii) consent to the application on terms and conditions, or~~

~~— (iii) refuse the application; and~~

~~— (b) shall give notice of its decision to the owner of the property and to the Trust. 2002, c. 18, Sched. F, s. 2 (17); 2005, c. 6, s. 1.~~

### **Extension of time**

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

### **Application for hearing**

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

### **Referral to Review Board**

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

### **Hearing**

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

### **Place for hearing**

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

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

### **Report**

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

### **Failure to report**

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

### **Decision of council**

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

### **Withdrawal of application**

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

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

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

### **Scope of delegation**

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

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

~~1996, c. 4, s. 58 – 03/04/1996~~

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

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

### **Demolition or removal of structure**

34 (1) No owner of property designated under section 29 shall 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 failed 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.

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

### **Application**

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

### **Notice of receipt**

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

### **Decision of council**

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

~~\_\_\_\_\_ (a) \_\_\_\_\_ may,~~

~~\_\_\_\_\_ (i) \_\_\_\_\_ consent to the application;~~

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

~~\_\_\_\_\_ (ii) \_\_\_\_\_ refuse the application;~~

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

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

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

### **Deemed consent**

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

### **Transition**

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

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

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

### **Same**

(6) If, on or before the day the *Ontario Heritage Amendment Act, 2005* received Royal Assent, an owner of property designated under section 29 had applied to a municipality for consent to demolish or remove a building or structure on the property and the council of the municipality had refused the application under subsection (2), then, even though 180 days had elapsed since the date of the council's decision and the owner had complied with the requirements of clause (5) (b) or (7) (b), as they read immediately before that day,

(a) subsections (5) and (7), as they read immediately before the day the *Ontario Heritage Amendment Act, 2005* received Royal Assent, do not apply with respect to the refusal of the application; and



(b) the owner shall not demolish or remove the building or structure on the property. 2005, c. 6, s. 22 (4).

#### **Same, exception**

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

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

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

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

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

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

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

#### **Appeal to Tribunal**

**34.1** (1) If the council of a municipality consents to an application subject to terms and conditions under subclause (4.2) (a) (ii) or refuses an application under subclause (34 (4.2) (a) (iii)) ~~34 (2) (a) (i.1) or refuses an application under subclause 34 (2) (a) (ii)~~, the owner of the property that was the subject of the application may appeal the council's decision to the Tribunal within 30 days of the day the owner received notice of the council's decision. 2017, c. 23, Sched. 5, s. 64.

#### **Notice of appeal**

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

#### **Content of notice**

(3) A notice of appeal shall set out the 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.

### **Content of notice**

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

### **Hearing**

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

### **Notice of hearing**

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

### **Powers of Tribunal**

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

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

### **Decision final**

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

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

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

2005, c. 6, s. 23 — 28/04/2005

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

### **Transition, appeal to Tribunal**

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

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

### **Notice of appeal**

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

### **Application**

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

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

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

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

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

#### Repeal of by-law designating property

34.3 (1) The council of a municipality shall 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 consent 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.

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

~~— (a) the council consents to the application under subclause 34 (2) (a) (i) or (i.1) or is deemed to have consented to the application under subsection 34 (4); or~~

~~— (b) the Tribunal has ordered that the municipality give its consent under clause 34.1 (6) (b). 2005, c. 6, s. 24; 2017, c. 23, Sched. 5, s. 62.~~

#### ~~Duties upon passing a repealing by-law~~

~~(2) When the council passes a repealing by-law under this section, the council shall cause,~~

~~— (a) a copy of the repealing by-law to be served on the owner of the property and on the Trust;~~

~~— (b) notice of the repealing by-law to be published in a newspaper having general circulation in the municipality;~~

~~— (c) reference to the property to be deleted from the Register referred to in subsection 27 (1); and~~

~~— (d) a copy of the repealing by-law to be registered against the property affected in the proper land registry office. 2002, c. 18, Sched. F, s. 2 (18); 2005, c. 6, s. 1.~~

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

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

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

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

#### Transition

34.4 A process relating to a matter dealt with in any of sections 34 to 34.3 that was commenced but not completed under an Act or a part of an Act repealed by section 4 of Schedule F to the *Government Efficiency Act, 2002*, that was continued under sections 34 to 34.3 of this Act by this section on the day subsection 2 (18) of Schedule F to the *Government Efficiency Act, 2002* came into force, and that was not complete on the day the *Ontario Heritage Amendment Act, 2005* received Royal Assent, shall be continued under sections 34 to 34.3 as they read on and after the day the *Ontario Heritage Amendment Act, 2005* received Royal Assent. 2005, c. 6, s. 25.

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

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

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

## DESIGNATION OF PROPERTIES BY MINISTER

### Designation by Minister

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

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

### Effect of designation

(2) If property is designated by the Minister under subsection (1), the owner of the property shall not,

- (a) carry out or permit an alteration of the property of a kind described in subsection (3) unless the Minister consents to the alteration; ~~or~~

(b) carry out or permit the demolition or removal of 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).

~~—(b) carry out or permit the demolition or removal of a building or structure on the property unless the Minister consents to the demolition or removal or the Tribunal orders the demolition or removal under subsection (6). 2005, c. 6, s. 26; 2017, c. 23, Sched. 5, s. 62.~~

### Alterations to property

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

### Application for consent, alteration

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

### 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. ~~2005, c. 6, s. 26.~~

### Same, demolition or removal

(6) The owner of a property designated under subsection (1) may apply to the Minister for the Minister's consent to a demolition or removal referred to in clause (2) (b) or (c) ~~consent to the demolition or removal of a building or structure on the property~~. 2005, c. 6, s. 26.

### Decision of Minister

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

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

### Notice of decision

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

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

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

#### **Deemed consent**

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

#### **Application, appeal to Tribunal**

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

#### **Delegation**

(11) The Minister may delegate in writing his or her power to consent to the alteration of a property designated under subsection (1) and to ~~consent to a demolition or removal referred to in clause (2) (b) or (c) in respect of a property~~ ~~consent to the demolition or removal of a building or structure on property~~ designated under subsection (1),

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

#### **Scope of delegation**

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

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

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

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

#### **Designation process**

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

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

#### **Content of notice**

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

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

#### **Same**

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

- (a) an adequate description of the property so that it may be readily ascertained;
- (b) a statement explaining the cultural heritage value or interest of the property;

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

### **Objection**

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

### **If no notice of objection**

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

### **Referral of objection to Review Board**

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

### **Hearing**

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

### **Parties**

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

### **Open hearing**

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

### **Place of hearing**

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

### **Notice of hearing**

(11) Notice of a hearing under subsection (7) shall be,

- (a) if the hearing is with respect to property situated in a municipality, published in a newspaper of general circulation in the municipality at least 10 days before the day of the hearing; and
- (b) if the hearing is with respect to property situated in unorganized territory, published or otherwise made known in the territory in a manner and at such times as the Review Board considers adequate to give the public in the territory reasonable notice of the hearing. 2005, c. 6, s. 26.

#### **Combining hearings**

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

#### **Reports**

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

#### **Copies**

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

#### **Decision of Minister**

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

#### **Decision final**

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

#### **Withdrawal of objection**

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

#### **No hearing**

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

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

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

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

#### **Effect of notice of designation**

##### **Permits void**

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

##### **Interim control of alteration, demolition or removal**

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

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

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

### **Repeal of order, Minister's initiative**

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

### **Notice of intention**

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

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

### **Content of notice**

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

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

### **Objection**

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

### **Application**

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

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

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

### **Repeal of order, owner's initiative**

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

### **Decision of Minister**

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

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

### **Extension of time**

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



### **Deemed decision**

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

### **Application for hearing**

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

### **Application**

(6) Subsections 32 (5) to (10) and (13), as they read immediately before the day section 10 of Schedule 11 to the *More Homes, More Choice Act, 2019* came into force., apply with necessary modifications to a hearing by the Review Board under this section. 2005, c. 6, s. 26; 2009, c. 33, Sched. 11, s. 6 (12).

### **Decision of Minister**

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

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

### **Objection**

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

### **Application**

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

### **Reapplication**

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

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

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

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

## **GENERAL**

### **Notice of change of ownership**

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

### **Same, Minister**

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

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

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

### **Conflict**

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

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

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

### **Stop order**

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

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

### **Same**

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

### **Order**

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

### **Assessment**

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

### **Service of order**

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

### **Service deemed effective**

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

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

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

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

### **Building standards by-law**

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

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

### **Application**

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

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

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

### **Purchase or lease by-laws**

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

### **Expropriating by-law**

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

### **Delegation**

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

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

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

### **Easements**

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

### **Idem**

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

### **Idem**

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

### **Assignment**

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

### **Conflict**

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

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

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

## **Inspection**

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

## **Obstruction of investigator**

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

## **Grants and loans**

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

## **Loan is lien or charge on land**

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

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

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

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

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

# **PART V HERITAGE CONSERVATION DISTRICTS**

## **Definition**

**39.1** (1) In this Part,

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

## **Publication of notice, City of Toronto**

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

## **Publication of notice**

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

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

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

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

## **Application**

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

## **Conflict**

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

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

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

## **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.**

### **Register**

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

### **Extracts**

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

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

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

### **Area study**

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

### **Scope of study**

(2) A study under subsection (1) shall,

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

### **Consultation**

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

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

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

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

### **Designation of study area**

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

### **Same**

(2) A by-law made under subsection (1) may prohibit or set limitations with respect to,

- (a) the alteration of property situated in the heritage conservation study area; and
- (b) the erection, demolition or removal of buildings or structures, or classes of buildings or structures, in the heritage conservation study area. 2005, c. 6, s. 29.

### **Notice of by-law**

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

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

## **Appeal to Tribunal**

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

## **Application**

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

## **Limitation**

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

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

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

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

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

## **Designation of heritage conservation district**

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

## **Property designated under Part IV**

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

## **Which Part applies**

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

## **Same**

(2.2) A property that is designated by a municipality under section 29 and is included in an area designated as a heritage conservation district under this Part is subject to section 30 and sections 33 to 34.4, and not to this Part, with respect to any demolition or removal referred to in subsection 34 (1) in respect of the property any alterations of the property or any demolition or removal of buildings or structures on the property if,

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

## **Same**

(2.3) Subject to subsection (2.4), a property that is designated by a municipality under section 29 and is included in an area designated as a heritage conservation district under this Part for which a heritage conservation district plan has been adopted under section 41.1 is subject to this Part and to the plan with respect to any alterations of the property or demolition or removal referred to in subsection 42 (1) in respect of the property or demolition or removal of buildings or structures on the property, and is not subject to section 30 or to sections 33 to 34.4. 2005, c. 6. s. 30 (1).

## **Same**

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

### Notice of by-law

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

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

### Appeal to Tribunal

(4) Any person who objects to the by-law may appeal to the Tribunal by giving the Tribunal and the clerk of the municipality ~~by giving the clerk of the municipality~~, within 30 days after the date of publication under clause (3) (b), a notice of appeal setting out the objection to the by-law and the reasons in support of the objection, accompanied by the fee charged under the *Local Planning Appeal Tribunal Act, 2017*. 2017, c. 23, Sched. 5, s. 66 (1).

### If no notice of appeal

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

- (a) the by-law comes into force on the day following the last day of the period; and
- (b) the clerk shall ensure that a copy of the by-law is registered against the properties affected by the by-law in the appropriate land registry office. 2005, c. 6, s. 30 (2).

### If notice of appeal

(6) If a notice of appeal is given ~~to the clerk~~ within the time period specified in subsection (4), the Tribunal shall hold a hearing ~~open to the public and~~, before holding the hearing, shall give notice of the hearing to such persons or bodies and in such manner as the Tribunal may determine. 2017, c. 23, Sched. 5, s. 66 (2).

### Powers of Tribunal

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

- (a) dismiss the appeal; or
- (b) allow the appeal in whole or in part and,
  - (i) repeal the by-law,
  - (ii) amend the by-law in such manner as the Tribunal may determine,
  - (iii) direct the council of the municipality to repeal the by-law, or
  - (iv) direct the council of the municipality to amend the by-law in accordance with the Tribunal's order. 2017, c. 23, Sched. 5, s. 66 (2).

### Dismissal without hearing of appeal

(8) Despite the *Statutory Powers Procedure Act* and subsections (6) and (7), the Tribunal may, on its own motion or on the motion of any party, dismiss all or part of the appeal without holding a hearing on the appeal if,

- (a) the Tribunal is of the opinion that,
  - (i) the reasons set out in the notice of appeal do not disclose any apparent ground upon which the Tribunal could allow all or part of the appeal, or
  - (ii) the appeal is not made in good faith, is frivolous or vexatious, or is made only for the purpose of delay;
- (b) the appellant has not provided written reasons in support of the objection to the by-law;
- (c) the appellant has not paid the fee charged under the *Local Planning Appeal Tribunal Act, 2017*;
- (d) the appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal; or
- (e) the appellant has not participated in the public process for the adoption of the relevant heritage conservation district plan under section 41.1 by either making an oral submission at a public meeting or by submitting written submissions to the council of the municipality and the Tribunal believes there is no reasonable explanation for failing to do so. 2017, c. 23, Sched. 5, s. 66 (2).

## **Representations**

(9) Before dismissing all or part of an appeal on any of the grounds mentioned in subsection (8), the Tribunal shall,

- (a) notify the appellant of the proposed dismissal; and
- (b) ~~hold a hearing with respect to the proposed dismissal or~~ give the appellant an opportunity to make representations with respect to the proposed dismissal. 2002, c. 18, Sched. F, s. 2 (25); 2017, c. 23, Sched. 5, s. 62.

## **Coming into force**

(10) If one or more notices of appeal are given to the clerk within the time period specified in subsection (4),

- (a) the by-law comes into force when all of such appeals have been withdrawn or dismissed;
- (b) if the by-law is amended by the Tribunal under subclause (7) (b) (ii), the by-law, as amended by the Tribunal, comes into force on the day it is so amended; or
- (c) if the by-law is amended by the council pursuant to subclause (7) (b) (iv), the by-law, as amended by the council, comes into force on the day it is so amended. 2002, c. 18, Sched. F, s. 2 (25); 2017, c. 23, Sched. 5, s. 66 (3).

## **Registration of by-law**

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

## **Transition**

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

## **Same**

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

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

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

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

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

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

## **Heritage conservation district plans**

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

## **Same, where district already designated**

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

## **Notice**

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

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



### **Application**

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

### **Content of plan**

(5) A heritage conservation district plan shall include,

- (a) a statement of the objectives to be achieved in designating the area as a heritage conservation district;
- (b) a statement explaining the cultural heritage value or interest of the heritage conservation district;
- (c) a description of the heritage attributes of the heritage conservation district and of properties in the district;
- (d) policy statements, guidelines and procedures for achieving the stated objectives and managing change in the heritage conservation district; and
- (e) a description of the alterations or classes of alterations that are minor in nature and that the owner of property in the heritage conservation district may carry out or permit to be carried out on any part of the property, other than the interior of any structure or building on the property, without obtaining a permit under section 42. 2005, c. 6, s. 31.

### **Consultation**

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

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

### **Notice of public meeting**

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

### **Time of public meeting**

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

### **Oral representations**

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

### **Information provided at meeting**

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

### **Written submissions**

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

### **Copies of proposed plan available**

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

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

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

### **Consistency with heritage conservation district plan**

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

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

### **Conflict**

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

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

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

### **Erection, demolition, etc.**

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

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

### **Exception**

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

### **Application for permit**

(2.1) The owner of property situated in a designated heritage conservation district may apply to the municipality for a permit to alter any part of the property other than the interior of a building or structure on the property or to do anything referred to in paragraph 2, 3 or 4 of subsection (1) in respect of the property ~~or to erect, demolish or remove a building or structure on the property.~~ 2005, c. 6, s. 32 (1).

### **Content of application**

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

### **Notice of receipt**

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

### **Decision of council**

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

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

#### **Consultation**

(4.1) If the council of a municipality has established a municipal heritage committee under section 28, the council shall, before taking any action under subsection (4) with respect to an application to do anything referred to in paragraph 2, 3 or 4 of subsection (1) in respect of the property to demolish or remove any building or structure on property in a heritage conservation district, consult with its municipal heritage committee. 2005, c. 6, s. 32 (3).

#### **Deemed permit**

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

#### **Appeal to Tribunal**

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

#### **Notice of appeal**

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

#### **Tribunal's powers**

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

#### **Transition, prior failure to give permit or notice**

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

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

#### **Transition**

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

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

#### **Same**

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

- (a) subsections (10) and (12), as they read immediately before the day the *Ontario Heritage Amendment Act, 2005* received Royal Assent, do not apply with respect to the refusal of the application; and

(b) the owner shall not demolish or remove the building or structure on the property. 2005, c. 6, s. 32 (5).

**Same, exception**

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

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

**Transition, appeal to Tribunal**

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

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

**Notice of appeal**

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

**Application**

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

**Delegation**

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

**Same**

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

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

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

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

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

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

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

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

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

**Application, ss. 36 to 39**

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

### Building standards by-law

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

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

### Application

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

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

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

### Delegation

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

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

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

## PART VI CONSERVATION OF RESOURCES OF ARCHAEOLOGICAL VALUE

### Definitions, Part VI

**47** In this Part,

“designated property” means property that is designated by the Minister under this Part; (“bien désigné”)

“property” means real property, but does not include buildings or structures other than ruins, burial mounds, petroglyphs and earthworks. (“bien”) R.S.O. 1990, c. O.18, s. 47.

### Licence, activity on archaeological sites

**48** (1) Subject to subsection (2), no person shall do any of the following unless the person applies to the Minister and is issued a licence under this Part that allows the person to carry out the activity in question:

1. Carry out archaeological fieldwork.
2. Knowing that a site is a marine or other archaeological site, within the meaning of the regulations, alter the site or remove an artifact or any other physical evidence of past human use or activity from the site.
3. With respect to a marine archaeological site that is prescribed ~~by regulation~~,
  - i. Dive within 500 metres of the site or within any other distance of the site as may be prescribed ~~by regulation~~.
  - ii. Operate within 500 metres of the site or within any other distance of the site as may be prescribed ~~by regulation~~ any type of submersible vehicle, including a remotely operated vehicle, autonomous underwater vehicle or submarine.
  - iii. Operate within 500 metres of the site or within any other distance of the site as may be prescribed ~~by regulation~~ any type of equipment, machine, device or thing capable of being used to conduct a survey, whether towed or not, including a side scan sonar or a camera. 2002, c. 18, Sched. F, s. 2 (27); 2005, c. 6, s. 35; 2009, c. 33, Sched. 11, s. 6 (15).

### No licence required

(2) A licence is not required if,

- (a) the site is prescribed, ~~or belongs to a prescribed class of sites or belongs to a class of sites prescribed, by the regulations;~~
- (b) the activity undertaken can be classified as normal agricultural work or the routine maintenance of property; or

- (c) the activity undertaken is prescribed, ~~or belongs to a prescribed class of activities or belongs to a class of activities prescribed, by the regulations.~~ 2002, c. 18, Sched. F, s. 2 (27).

#### **Same**

- (3) A licence is not required under subsection (1) if,
- (a) a licensee under this Part,
    - (i) has already completed archaeological fieldwork, within the meaning of the regulations, on the site, and
    - (ii) has provided a report to the Minister under subsection 65 (1) stating that the site has no further cultural heritage value or interest; and
  - (b) the report referred to in subclause (a) (ii) has been filed in the register referred to in section 65.1. 2009, c. 33, Sched. 11, s. 6 (16).

#### **Limits of licence**

- (4) A licence issued under this Part,
- (a) is effective only in the geographic area specified in the licence;
  - (b) subject to subsection (9), is effective only for the term specified in the licence or, if the licence does not specify a term, is effective indefinitely;
  - (c) permits the carrying out of a type of archaeological fieldwork only if that type of archaeological fieldwork is specified in the licence; and
  - (d) may contain such other terms and conditions to give effect to the purposes of this Part as the Minister may direct. 2002, c. 18, Sched. F, s. 2 (28).

#### **Licence not transferable**

- (5) A licence is not transferable. R.S.O. 1990, c. O.18, s. 48 (5).

#### **Application**

- (6) An application to the Minister for a licence or renewal of a licence to carry out archaeological fieldwork may be made only by an individual. 2002, c. 18, Sched. F, s. 2 (29).

#### **Same**

- (7) The application shall contain such information as the Minister may require and shall be submitted in such form and manner as the Minister may require. 2002, c. 18, Sched. F, s. 2 (29).

#### **Issuance of licence**

- (8) The Minister may issue a licence of a class prescribed under clause 70 (1) (d.1) to an applicant if the applicant proves, to the satisfaction of the Minister, that,
- (a) the applicant is competent to conduct archaeological fieldwork in a responsible manner in accordance with this Part and the regulations;
  - (b) the past conduct of the applicant does not afford reasonable grounds for the belief that the archaeological fieldwork will not be carried out in accordance with this Part and the regulations;
  - (c) the activities proposed by the applicant are consistent with the conservation, protection and preservation of the heritage of Ontario; and
  - (d) the applicant is in compliance with such eligibility criteria and other requirements for the issuance of a licence of that class as may be prescribed ~~by the regulations.~~ 2002, c. 18, Sched. F, s. 2 (29); 2009, c. 24, s. 29 (1, 2).

#### **Non-application**

- (8.1) Subsection (8) does not apply to an applicant to whom subsection (8.2) applies. 2009, c. 24, s. 29 (3).

#### **When applicant holds a licence from another Canadian jurisdiction**

- (8.2) The Minister may issue a licence of a class prescribed under clause 70 (1) (d.1) to an applicant if the applicant proves, to the satisfaction of the Minister, that,

- (a) he or she holds an authorizing certificate, as defined in the *Ontario Labour Mobility Act, 2009*, granted by an out-of-province regulatory authority, as defined in the *Ontario Labour Mobility Act, 2009*, and the authorizing certificate is in good standing;
- (b) the authorizing certificate permits the applicant to carry out, in a province or territory of Canada that is a party to the Agreement on Internal Trade, as defined in the *Ontario Labour Mobility Act, 2009*, the same type of archaeological fieldwork as that permitted by the class of licence being applied for;
- (c) the past conduct of the applicant does not afford reasonable grounds for the belief that the archaeological fieldwork will not be carried out in accordance with this Part and the regulations;
- (d) the activities proposed by the applicant are consistent with the conservation, protection and preservation of the heritage of Ontario; and
- (e) the applicant is in compliance with such eligibility criteria and other requirements for the issuance of a licence of that class as may be prescribed ~~by the regulations~~ and as do not contravene the *Ontario Labour Mobility Act, 2009*. 2009, c. 24, s. 29 (3).

#### **Revocation and refusal to renew**

- (9) Subject to section 49, the Minister may refuse to renew or may suspend or revoke a licence,
  - (a) for any reason that would prevent the Minister from issuing a licence to the licensee under subsection (8) or (8.2) if the licensee were an applicant; or
  - (b) if the licensee is in breach of a term or condition of the licence. 2002, c. 18, Sched. F, s. 2 (29); 2009, c. 24, s. 29 (4).

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

1996, c. 4, s. 59 - 03/04/1996

2002, c. 18, Sched. F, s. 2 (27-29) - 26/11/2002

2005, c. 6, s. 35 - 28/04/2005

2009, c. 24, s. 29 (1-4) - 15/12/2009; 2009, c. 33, Sched. 11, s. 6 (15, 16) - 15/12/2009

#### **Refusal or revocation, etc., of licence**

**49** (1) Where the Minister proposes to refuse to issue or renew a licence or proposes to suspend or revoke a licence, he or she shall serve notice of the proposal, together with written reasons therefor, on the applicant or licensee. R.S.O. 1990, c. O.18, s. 49 (1); 2002, c. 18, Sched. F, s. 2 (30).

#### **Notice requiring hearing**

(2) A notice under subsection (1) shall inform the applicant or licensee of the entitlement to a hearing by the Review Board if the applicant or licensee mails or delivers to the Minister, within fifteen days after the notice under subsection (1) is served, notice in writing requiring a hearing, and the applicant or licensee may so require such a hearing. R.S.O. 1990, c. O.18, s. 49 (2); 1993, c. 27, Sched.

#### **Powers of Minister where no hearing**

(3) Where an applicant or licensee does not require a hearing by the Review Board in accordance with subsection (2), the Minister may carry out the proposal stated in the notice under subsection (1). R.S.O. 1990, c. O.18, s. 49 (3).

#### **Referral to Review Board**

(4) Where an applicant or licensee requires a hearing by the Review Board in accordance with subsection (2), the Minister shall refer the matter to the Review Board for a hearing and report. R.S.O. 1990, c. O.18, s. 49 (4).

#### **Hearing**

(5) Pursuant to a reference by the Minister under this section, the Review Board shall, as soon as is practicable, hold a hearing to determine whether the Minister should refuse to issue or renew a licence or should suspend or revoke a licence, as the case may be, and the Minister, the applicant or licensee and such other persons as the Review Board may specify are parties to the hearing. R.S.O. 1990, c. O.18, s. 49 (5); 2002, c. 18, Sched. F, s. 2 (31).

#### **Place of hearing**

(6) A hearing under subsection (5) shall be held at such place as the Review Board may determine. 2005, c. 6, s. 36.

(7) REPEALED: 2005, c. 6, s. 36.

## **Report**

(8) The Review Board shall, within thirty days after the conclusion of a hearing under this section, make a report to the Minister setting out its findings of fact, its recommendations and any information or knowledge used by it in reaching its recommendations, and the Review Board shall send a copy of its report to the other parties to the hearing. R.S.O. 1990, c. O.18, s. 49 (8).

## **Failure to report**

(9) If the Review Board fails to make a report within the time limited by subsection (8), such failure does not invalidate the procedure. R.S.O. 1990, c. O.18, s. 49 (9).

## **Decision of Minister**

(10) After considering the report under this section, the Minister without a further hearing shall carry out the proposal or refrain from carrying it out or take such action as he or she considers proper in accordance with this Part and the regulations, and the Minister's decision is final. R.S.O. 1990, c. O.18, s. 49 (10).

## **Request for cancellation**

(11) Despite subsection (1), the Minister may cancel a licence if the licensee requests its cancellation in writing. 2002, c. 18, Sched. F, s. 2 (32).

## **Withdrawal of hearing request**

(12) An applicant or licensee who has submitted a notice requiring a hearing under subsection (2) may withdraw the notice at any time before the conclusion of a hearing into the matter by serving a notice of withdrawal on the Minister and on the Review Board and, upon receipt of the notice of withdrawal, the Review Board shall not hold a hearing into the matter or, if a hearing into the matter is in progress, shall discontinue the hearing and the Minister may carry out the proposal stated in the notice under subsection (1) as if no notice had been submitted under subsection (2). 1996, c. 4, s. 60.

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

1993, c. 27, Sched. - 31/12/1991; 1996, c. 4, s. 60 - 03/04/1996

2002, c. 18, Sched. F, s. 2 (30-32) - 26/11/2002

2005, c. 6, s. 36 - 28/04/2005

## **Extension of time**

**50** (1) The Minister may extend the time for requiring a hearing under section 49, either before or after expiration of the time fixed therein, if satisfied that there are apparent grounds for granting relief to the applicant or licensee pursuant to a hearing and that there are reasonable grounds for applying for the extension, and may give such directions as he or she considers proper consequent upon the extension. R.S.O. 1990, c. O.18, s. 50 (1).

## **Continuance pending renewal**

(2) If a licensee applies for renewal of a licence before the end of the term of the licence, the licence shall be deemed to continue,

- (a) until the renewal is granted; or
- (b) where the licensee is served with notice under section 49 that the Minister proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired, or until the Minister after considering the report of the Review Board carries out the proposal stated in the notice under subsection 49 (1). R.S.O. 1990, c. O.18, s. 50 (2); 2002, c. 18, Sched. F, s. 2 (33).

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

2002, c. 18, Sched. F, s. 2 (33) - 26/11/2002

## **Provisional refusal or revocation, etc.**

**51** Despite sections 49 and 50, the Minister, by notice to a licensee and without a hearing, may provisionally refuse renewal of, suspend or revoke a licence where in the Minister's opinion it is necessary to do so for the immediate protection and preservation of a property or an artifact for the purposes of this Part or where the continuation of archaeological fieldwork under the licence is in the Minister's opinion an immediate threat to the public's interest and the Minister so states in such notice, giving his or her reasons therefor, and thereafter section 49 applies as if the notice given under this section were a notice of a proposal to revoke the licence under subsection 49 (1). R.S.O. 1990, c. O.18, s. 51; 1993, c. 27, Sched.; 2002, c. 18, Sched. F, s. 2 (34).



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

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

2002, c. 18, Sched. F, s. 2 (34) - 26/11/2002

**Appointment of inspectors**

**51.1** (1) The Deputy Minister may appoint inspectors for the purposes of carrying out inspections under section 51.2. 2005, c. 6, s. 37.

**Certificate of appointment**

(2) The Deputy Minister shall issue to every inspector a certificate of appointment bearing his or her signature or a facsimile of his or her signature. 2005, c. 6, s. 37.

**Production of certificate**

(3) An inspector conducting an inspection under section 51.2 shall produce his or her certificate of appointment upon request. 2005, c. 6, s. 37.

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

2005, c. 6, s. 37 - 28/04/2005

**Inspection**

**51.2** (1) An inspector may conduct an inspection for the purpose of ensuring that a person licensed under section 48 is complying with the Act and the regulations and remains entitled to a licence under the Act. 2005, c. 6, s. 37.

**Power of entry**

(2) An inspector conducting an inspection may enter and inspect any of the following places:

1. An archaeological site or any other land on which a licensee is carrying out archaeological fieldwork.
2. An archaeological site or any other land on which archaeological fieldwork is no longer being carried out but was carried out by a licensee within the one-year period preceding the inspection.
3. A laboratory at which artifacts and other materials found on an archaeological site are analysed.
4. A building or structure in which the licensee stores artifacts and other materials found at an archaeological site.
5. A licensee's business premises. 2005, c. 6, s. 37.

**Dwellings**

(3) An inspector entering a place under subsection (2) shall not enter any part of the place that is used as a dwelling without the consent of the occupant. 2005, c. 6, s. 37.

**Powers of inspector**

(4) While carrying out an inspection, an inspector may,

- (a) take up and examine any artifact, device, article, thing or material;
- (b) require a person at the place being inspected to produce any artifact, drawing, field notes, specifications, licence, document, record, report, photograph, video or other visual recording or any other material or thing that is relevant to the inspection and examine, audit or make copies of such material or things;
- (c) upon giving a receipt therefore, remove, for the purpose of making copies or extracts, any material or thing referred to in clause (b);
- (d) conduct tests at the place being inspected or take samples from the place, including tests conducted on, or samples taken from, artifacts found at the place;
- (e) require in writing that any test or sample referred to in clause (d) be conducted or taken by a person specified by the inspector, including a person having special, expert or professional knowledge or qualifications accompanying the inspector under subsection (6);
- (f) require the person conducting or taking tests or samples to provide a report to the inspector within such time as the inspector may specify;

- (g) take photographs, video or other visual recording, make acoustic recordings or make notes of the field or site conditions, of the conditions of any other place being inspected or of the artifacts or materials found at the place and take with him or her such equipment or recording materials required for this purpose;
- (h) make such inquiries of any person working at the place being inspected as are relevant to the inspection;
- (i) observe on-going field work being carried out on an archaeological site or on other lands on which archaeological fieldwork is carried out or observe laboratory work taking place in a laboratory;
- (j) prohibit persons from entering an archaeological site or other lands on which archaeological fieldwork is carried out, a laboratory or storage area or parts thereof for a reasonable period of time for the purposes of carrying out an examination, excavation or test. 2005, c. 6, s. 37.

#### **Return of things removed**

(5) An inspector who removes any material or other thing from a place under clause (4) (c) shall return them to the licensee from whom they were taken within a reasonable time. 2005, c. 6, s. 37.

#### **Experts, etc.**

(6) An inspector entering premises under subsection (2) may be accompanied by a person having special, expert or professional knowledge of any matter relevant to the inspection. 2005, c. 6, s. 37.

#### **Use of force**

(7) An inspector is not entitled to use force to enter and inspect a place. 2005, c. 6, s. 37.

#### **Time of entry**

- (8) An inspector may enter a place referred to in subsection (2),
  - (a) in the case of a place referred to in paragraphs 2, 3, 4 and 5 of subsection (2), during normal business hours; and
  - (b) in the case of a place referred to in paragraph 1 of subsection (2), at any time at which archaeological fieldwork is being carried out. 2005, c. 6, s. 37.

#### **Obstruction of inspector**

(9) No person shall obstruct an inspector conducting an inspection under this section or withhold from him or her or conceal or destroy any artifact, document, material or thing that is relevant to the inspection. 2005, c. 6, s. 37.

#### **Obligation to assist**

(10) Any person shall, on request by an inspector, provide such assistance as is reasonably necessary. 2005, c. 6, s. 37.

#### **Obligation to produce**

(11) A person who is required to produce an artifact, document, material or thing under clause (4) (b) shall produce it. 2005, c. 6, s. 37.

#### **False information**

(12) No person shall knowingly furnish an inspector with false information or neglect or refuse to furnish information to an inspector. 2005, c. 6, s. 37.

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

2005, c. 6, s. 37 - 28/04/2005

#### **Report by inspector**

**51.3** If an inspector believes that a person licensed under section 48 has failed to comply with the Act, the regulations or a term of the licence, the inspector shall prepare a report and provide a copy of the report to the Minister and to the licensee. 2005, c. 6, s. 37.

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

2005, c. 6, s. 37 - 28/04/2005

#### **Designation process**

**52** (1) Where the Minister, after consultation with the Trust, intends to designate a property to be of archaeological or historical significance, he or she shall cause notice of intention to designate to be given by the Trust in accordance with subsection (2). R.S.O. 1990, c. O.18, s. 52 (1); 2005, c. 6, s. 1.

### **Notice of intention**

- (2) Notice of intention to designate under subsection (1) shall be,
- (a) served on the owner of the property and on the clerk of the municipality in which the property is situate; and
  - (b) published in a newspaper having general circulation in the municipality in which the property is situate. R.S.O. 1990, c. O.18, s. 52 (2).

### **Contents of notice**

- (3) Notice of intention to designate under subsection (1) shall contain,
- (a) an adequate description of the property so that it may be readily ascertained;
  - (b) a statement of the reason for the proposed designation;
  - (c) a statement of the period of time that the designation of the property is to remain in effect; and
  - (d) a statement that notice of objection to the designation may be served on the Minister within thirty days of the date of publication of the notice of intention in a newspaper having general circulation in the municipality in which the property is situate. R.S.O. 1990, c. O.18, s. 52 (3); 1996, c. 4, s. 61 (1).

### **Objection**

- (4) A person who objects to a proposed designation may, within thirty days of the date of publication of the notice of intention in a newspaper having general circulation in the municipality in which the property is situate, serve on the Minister a notice of objection setting out the reason for the objection and all relevant facts. R.S.O. 1990, c. O.18, s. 52 (4); 1996, c. 4, s. 61 (2).

### **Where no notice of objection**

- (5) Where no notice of objection is served within the thirty-day period under subsection (4), the Minister shall,
- (a) make an order designating the property for the period provided for in the notice of intention referred to in subsection (3) and cause a copy of the order together with the reasons for the designation,
    - (i) to be registered against the property affected in the proper land registry office, and
    - (ii) to be served on the owner and on the clerk of the municipality in which the property is situate,
- and publish a notice of such order in a newspaper having general circulation in the municipality in which the property is situate; or
- (b) withdraw the notice of intention to designate the property by serving and publishing notice of such withdrawal in the manner and to the persons as required for the notice of intention to designate under subsection (2). R.S.O. 1990, c. O.18, s. 52 (5).

### **Referred to Review Board**

- (6) Where a notice of objection has been served under subsection (4), the Minister shall, upon expiration of the thirty-day period under subsection (4), refer the matter to the Review Board for a hearing and report. R.S.O. 1990, c. O.18, s. 52 (6).

### **Hearing**

- (7) Pursuant to a reference by the Minister under subsection (6), the Review Board, as soon as is practicable, shall hold a hearing open to the public to determine whether the property in question should be designated, and the Minister, the owner, any person who has filed an objection under subsection (4) and such other persons as the Review Board may specify, are parties to the hearing. R.S.O. 1990, c. O.18, s. 52 (7).

### **Place of hearing**

- (8) A hearing under subsection (7) shall be held at such place in the municipality in which the property is situate as the Review Board may determine, and notice of such hearing shall be published in a newspaper having general circulation in the municipality in which the property is situate at least ten days prior to the date of such hearing. R.S.O. 1990, c. O.18, s. 52 (8).

### **Review Board may combine hearings**

- (9) The Review Board may combine two or more related hearings to conduct them in all respects and for all purposes as one hearing. R.S.O. 1990, c. O.18, s. 52 (9).
- (10) REPEALED: 2005, c. 6, s. 38.

## **Report**

(11) Within thirty days after the conclusion of a hearing under subsection (7), the Review Board shall make a report to the Minister setting out its findings of fact, its recommendations as to whether or not the property should be designated under this Act and any information or knowledge used by it in reaching its recommendations, and the Review Board shall send a copy of its report to the other parties to the hearing. R.S.O. 1990, c. O.18, s. 52 (11).

## **Failure to report**

(12) Where the Review Board fails to make a report within the time limited by subsection (11), such failure does not invalidate the procedure. R.S.O. 1990, c. O.18, s. 52 (12).

## **Decision of Minister**

(13) After considering the report under subsection (11), the Minister without a further hearing shall,

- (a) make an order designating the property for the period provided for in the notice of intention referred to in subsection (3) and cause a copy of the order together with the reasons for the designation,
  - (i) to be registered against the property affected in the proper land registry office,
  - (ii) to be served on the owner and on the clerk of the municipality in which the property is situate,

and publish a notice of such order in a newspaper having general circulation in the municipality in which the property is situate; or

- (b) withdraw the notice of intention to designate the property by serving and publishing notice of such withdrawal in the manner and to the persons as required for the notice of intention to designate under subsection (2),

and the decision is final. R.S.O. 1990, c. O.18, s. 52 (13).

## **Withdrawal of objection**

(14) A person who has served a notice of objection under subsection (4) may withdraw the objection at any time before the conclusion of a hearing into the matter by serving a notice of withdrawal on the clerk of the municipality and on the Review Board. 2009, c. 33, Sched. 11, s. 6 (17).

## **No hearing**

(15) If the Review Board has received notices of withdrawal for all the notices of objection that were served under subsection (4), the Review Board shall not hold a hearing into the matter or, if a hearing into the matter is in progress, shall discontinue the hearing and the council shall act in accordance with subsection (5) as if no notice of objection had been served. 2009, c. 33, Sched. 11, s. 6 (17).

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

1996, c. 4, s. 61 (1-3) - 03/04/1996

2005, c. 6, s. 1, 38 - 28/04/2005

2009, c. 33, Sched. 11, s. 6 (17) - 15/12/2009

## **Application of s. 56**

**53** Where a notice of intention to designate a property has been served and published under subsection 52 (2) and has not been withdrawn under clause 52 (5) (b) or 52 (13) (b), section 56 applies as if such property were designated property. R.S.O. 1990, c. O.18, s. 53.

## **Revocation of designation, Minister's initiative**

**54** The Minister may at any time, after consultation with the Trust, order the designation of a property designated under this Part to be revoked and where the designation is revoked shall,

- (a) cause a copy of the revoking order to be served on the owner and on the clerk of the municipality in which the property is situate;
- (b) cause notice of the revoking order to be published in a newspaper having general circulation in the municipality in which the property is situate;
- (c) cause reference to the property to be deleted from the Register referred to in section 23; and
- (d) cause a copy of the revoking order to be registered against the property affected in the proper land registry office. R.S.O. 1990, c. O.18, s. 54; 2005, c. 6, s. 1.

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

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

### **Revocation of designation, owner's initiative**

**55** (1) An owner of property designated under this Part may apply to the Minister to have the designation revoked. R.S.O. 1990, c. O.18, s. 55 (1).

### **Decision of Minister**

(2) The Minister after consultation with the Trust shall consider an application under subsection (1) and may consult with the council of the municipality in which the designated property is situate and within ninety days of receipt thereof shall,

- (a) refuse the application and cause notice of the decision to be given to the owner; or
- (b) consent to the application and order the designation of the property to be revoked, and shall cause,
  - (i) a copy of the order to be served on the owner and the clerk of the municipality in which the property is situate,
  - (ii) reference to the property to be deleted from the Register referred to in section 23,
  - (iii) notice of such revocation of the designation of the property to be published in a newspaper having general circulation in the municipality in which the property is situate, and
  - (iv) a copy of the order to be registered against the property affected in the proper land registry office. R.S.O. 1990, c. O.18, s. 55 (2); 2005, c. 6, s. 1.

### **Extension of time**

(3) The applicant and the Minister may agree to extend the time under subsection (2) and, where the Minister fails to notify the applicant of the decision within ninety days after receipt of the application or within such extended time as may be agreed upon, the Minister shall be deemed to have consented to the application. R.S.O. 1990, c. O.18, s. 55 (3).

### **Application for hearing**

(4) Where the Minister refuses an application under subsection (2), the owner may, within thirty days after receipt of the notice under subsection (2), apply to the Minister for a hearing before the Review Board. R.S.O. 1990, c. O.18, s. 55 (4).

### **Referral to Review Board**

(5) The Minister shall, upon receipt of a notice under subsection (4), refer the matter to the Review Board for a hearing and report, and shall publish a notice of the hearing in a newspaper having general circulation in the municipality in which the designated property is situate at least ten days prior to the date of the hearing. R.S.O. 1990, c. O.18, s. 55 (5).

### **Hearing**

(6) The Review Board shall, as soon as is practicable, hold a hearing open to the public to review the application and the Minister and the owner and such other persons as the Review Board may specify are parties to the hearing. R.S.O. 1990, c. O.18, s. 55 (6).

### **Place of hearing**

(7) A hearing under subsection (6) shall be held at such place in the municipality in which the property is situate as the Review Board may determine. R.S.O. 1990, c. O.18, s. 55 (7).

(8) REPEALED: 2005, c. 6, s. 39.

### **Report**

(9) Within thirty days after the conclusion of a hearing under subsection (6), the Review Board shall make a report to the Minister setting out its findings of fact, its recommendations as to whether or not the application should be approved, and any information or knowledge used by it in reaching its recommendations, and shall send a copy of its report to the other parties to the hearing. R.S.O. 1990, c. O.18, s. 55 (9).

### **Failure to report**

(10) Where the Review Board fails to make a report within the time limited by subsection (9), such failure does not invalidate the procedure. R.S.O. 1990, c. O.18, s. 55 (10).

### **Decision of Minister**

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

- (a) refuse the application and cause notice of the decision to be given to the owner; or
- (b) consent to the application and order the designation of the property revoked, and cause,
  - (i) a copy of the order to be served on the owner and the clerk of the municipality in which the property is situate,
  - (ii) reference to the property to be deleted from the Register referred to in section 23,
  - (iii) notice of the revocation to be published in a newspaper having general circulation in the municipality in which the property is situate, and
  - (iv) a copy of the order to be registered against the property affected in the proper land registry office,

and the decision is final. R.S.O. 1990, c. O.18, s. 55 (11).

#### **Withdrawal of application**

(12) The owner may withdraw an application made under subsection (4) at any time before the conclusion of a hearing into the matter by serving a notice of withdrawal on the Minister and on the Review Board and, upon receipt of the notice of withdrawal, the Review Board shall not hold a hearing into the matter or, if a hearing into the matter is in progress, shall discontinue the hearing and the Minister shall act in accordance with subsection (2) as if no application had been made under subsection (4). 1996, c. 4, s. 62.

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

1996, c. 4, s. 62 - 03/04/1996

2005, c. 6, s. 1, 39 - 28/04/2005

#### **Permit for excavation, etc.**

**56** (1) No person shall excavate or alter property designated under this Part or remove any artifact therefrom without first applying to the Minister and receiving a permit therefor. R.S.O. 1990, c. O.18, s. 56 (1); 2002, c. 18, Sched. F, s. 2 (35).

#### **Issuance of permit**

(2) An applicant is entitled to a permit or renewal of a permit by the Minister to excavate or alter designated property and remove artifacts therefrom except where the Minister is of the opinion that such excavation, alteration or the taking or removal of artifacts would impair or interfere with the protection of the designated property. R.S.O. 1990, c. O.18, s. 56 (2); 2002, c. 18, Sched. F, s. 2 (36).

#### **Terms and conditions of permit**

(3) A permit is subject to such terms and conditions to give effect to the purposes of this Part, including terms of rehabilitation and security therefor as are consented to by the applicant, imposed by the Minister or as may be prescribed ~~or prescribed by the regulations~~. R.S.O. 1990, c. O.18, s. 56 (3).

#### **Permit not transferable**

(4) A permit is not transferable. R.S.O. 1990, c. O.18, s. 56 (4).

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

2002, c. 18, Sched. F, s. 2 (35, 36) - 26/11/2002

#### **Permit, grounds for revocation and refusal to renew**

**57** Subject to section 58, the Minister may refuse to renew or may suspend or revoke a permit for any reason that would disentitle the permittee to a permit under section 56 if the permittee were an applicant or where the permittee is in breach of a term or condition of the permit. R.S.O. 1990, c. O.18, s. 57; 2002, c. 18, Sched. F, s. 2 (37).

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

2002, c. 18, Sched. F, s. 2 (37) - 26/11/2002

#### **Refusal or revocation, etc., of permit**

**58** (1) Where the Minister proposes to refuse to issue or renew a permit or proposes to suspend or revoke a permit, he or she shall serve notice of the proposal together with written reasons therefor on the applicant or permittee. R.S.O. 1990, c. O.18, s. 58 (1); 2002, c. 18, Sched. F, s. 2 (38).

### **Contents of notice**

(2) A notice under subsection (1) shall state that the applicant or permittee is entitled to a hearing by the Review Board if the applicant or permittee mails or delivers to the Minister a written request for a hearing within fifteen days after service of the notice under subsection (1). R.S.O. 1990, c. O.18, s. 58 (2).

### **Minister may carry out proposals**

(3) Where the applicant or permittee does not request a hearing by the Review Board in accordance with subsection (2), the Minister may carry out the proposals stated in the notice under subsection (1). R.S.O. 1990, c. O.18, s. 58 (3).

### **Referral to Review Board**

(4) Where an applicant or permittee requests a hearing by the Review Board in accordance with subsection (2), the Minister shall refer the matter to the Review Board for a hearing and report. R.S.O. 1990, c. O.18, s. 58 (4).

### **Hearing**

(5) Pursuant to a reference by the Minister under this section, the Review Board shall, as soon as is practicable, hold a hearing as to whether the permit to which the hearing relates should be issued or renewed or should be suspended or revoked, as the case may be, and the applicant or permittee and such other persons as the Review Board may specify shall be parties to the hearing. R.S.O. 1990, c. O.18, s. 58 (5).

### **Place of hearing**

(6) A hearing under subsection (5) shall be held at such place in the municipality in which the property is situate as the Review Board may determine and notice of such hearing shall be published in a newspaper having general circulation in the municipality in which the property is situate at least ten days prior to the date of such hearing. R.S.O. 1990, c. O.18, s. 58 (6).

(7) REPEALED: 2005, c. 6, s. 40.

### **Report**

(8) Within thirty days after the conclusion of a hearing under subsection (5), the Review Board shall make a report to the Minister setting out its findings of fact, its recommendations as to the issue, renewal, suspension or revocation of the permit to which the hearing relates, as the case may be, and any information or knowledge used by it in reaching its recommendations, and shall send a copy of its report to the other parties to the hearing. R.S.O. 1990, c. O.18, s. 58 (8).

### **Decision of Minister**

(9) After considering a report made under this section, the Minister shall without a further hearing confirm or revise the decision under subsection (1) with such modifications as the Minister considers proper and shall give notice of the decision and the reasons therefor to the applicant or permittee and to the other parties to the hearing, and the decision is final. R.S.O. 1990, c. O.18, s. 58 (9).

### **Withdrawal of hearing request**

(10) An applicant or permittee who has requested a hearing under subsection (2) may withdraw the request at any time before the conclusion of a hearing into the matter by serving a notice of withdrawal on the Minister and on the Review Board and, upon receipt of the notice of withdrawal, the Review Board shall not hold a hearing into the matter or, if a hearing into the matter is in progress, shall discontinue the hearing and the Minister may carry out the proposal stated in the notice under subsection (1) as if the applicant or permittee had not requested a hearing. 1996, c. 4, s. 63.

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

1996, c. 4, s. 63 - 03/04/1996

2002, c. 18, Sched. F, s. 2 (38) - 26/11/2002

2005, c. 6, s. 40 - 28/04/2005

### **Extension of time**

**59** (1) The Minister may extend the time for requiring a hearing under section 58, either before or after expiration of the time fixed therein, if satisfied that there are apparent grounds for granting relief to the applicant or permittee pursuant to a hearing and that there are reasonable grounds for applying for the extension and may give such directions as he or she considers proper consequent upon the extension. R.S.O. 1990, c. O.18, s. 59 (1).

### **Continuance pending renewal**

(2) If a permittee applies for renewal of a permit before the end of the term of the permit, the permit shall be deemed to continue,

- (a) until the renewal is granted; or
- (b) where the permittee is served with notice under section 58 that the Minister proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired, or until the Minister after considering the report of the Review Board carries out the proposal stated in the notice under subsection 58 (1). 2002, c. 18, Sched. F, s. 2 (39).

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

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

2002, c. 18, Sched. F, s. 2 (39) - 26/11/2002

### **Provisional refusal or revocation, etc.**

**60** Despite sections 58 and 59, the Minister, by notice to a permittee and without a hearing, may provisionally refuse renewal of, or suspend the permittee's permit where the continuation of operations under the permit is, in the Minister's opinion an immediate threat to the public's interest and the Minister so states in such notice, giving reasons therefor, and thereafter section 58 applies as if the notice given under this section were a notice of a proposal to revoke the permit under subsection 58 (1). R.S.O. 1990, c. O.18, s. 60.

### **Licence or permit not authority to enter**

**61** The issue of a licence under section 48 or a permit under section 56 does not authorize the holder of such licence or permit to enter upon any property. R.S.O. 1990, c. O.18, s. 61.

### **Stop order**

**62** (1) Where the Minister after consultation with the Trust is of the opinion that property is of archaeological or historical significance and is likely to be altered, damaged, or destroyed by reason of commercial, industrial, agricultural, residential or other development, the Minister may issue a stop order directed to the person responsible for such commercial, industrial, agricultural, residential or other development prohibiting any work on the property for a period of no longer than 180 days, and within that period the Minister or any person authorized by the Minister in writing may examine the property and remove or salvage artifacts from the property. R.S.O. 1990, c. O.18, s. 62 (1); 2002, c. 18, Sched. F, s. 2 (40); 2005, c. 6, s. 1.

### **Compensation**

(2) Where a stop order is made by the Minister under subsection (1) and no agreement as to payment of compensation has been reached by the Minister and the person affected by the stop order, the person affected by the stop order shall be entitled to compensation for personal or business damages resulting from the stop order, and the *Expropriations Act* with respect to the negotiation, payment and fixing of compensation applies with necessary modifications as if the stop order imposed by this Part were an expropriation of rights. R.S.O. 1990, c. O.18, s. 62 (2).

### **Service of order**

(3) The Minister may serve a stop order issued under this section on the person affected by the stop order by any method of service described in subsection 67 (1) and by posting the order in a conspicuous place on the property to which it applies. 2009, c. 33, Sched. 11, s. 6 (18).

### **Service deemed effective**

(4) Service under subsection (3) is effective from the earlier of the date of posting or the effective date of service described in subsections 67 (2) to (4). 2009, c. 33, Sched. 11, s. 6 (18).

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

2002, c. 18, Sched. F, s. 2 (40) - 26/11/2002

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

2009, c. 33, Sched. 11, s. 6 (18) - 15/12/2009

### **Compensation where property designated**

**63** Where property is designated under section 52 and no agreement as to the payment of compensation has been reached by the Minister with the owner, the owner shall be entitled to compensation for personal or business damages for the period provided for in the order designating the property, and the *Expropriations Act* with respect to the negotiation, payment and



fixing of compensation applies with necessary modifications as if the designation and the resulting restrictions imposed by this Act were an expropriation of rights. R.S.O. 1990, c. O.18, s. 63.

### **Inspection**

**64** (1) For the purpose of carrying out this Part, any person authorized by the Minister in writing may, upon producing proper identification, inspect at any reasonable time property designated or property proposed to be designated under this Part where a notice of intention to designate has been served and published under subsection 52 (2).

### **Obstruction of investigator**

(2) No person shall obstruct a person authorized to make an investigation under this section or conceal or destroy anything relevant to the subject-matter of the investigation. R.S.O. 1990, c. O.18, s. 64.

### **Reports**

**65** (1) When so required by the Minister, a licensee shall file with the Minister a report, containing full details of work done under the licence and such other information as the Minister may require. 2005, c. 6, s. 41 (1).

### **Report of archaeological sites**

(2) When so required by the Minister, a person, organization or corporation shall prepare and file with the Minister particulars of all property of archaeological or historical significance in Ontario, known to such person, organization or corporation. R.S.O. 1990, c. O.18, s. 65 (2).

### **Form and manner**

(3) A report under subsection (1) and particulars under subsection (2) shall be filed with the Minister in such form and manner as the Minister may require. 2005, c. 6, s. 41 (2).

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

2002, c. 18, Sched. F, s. 2 (41, 42) - 26/11/2002

2005, c. 6, s. 41 (1, 2) - 28/04/2005

### **Provincial register**

**65.1** (1) The Minister shall establish and maintain a register of the reports referred to in subsection 65 (1). 2005, c. 6, s. 42.

### **Excluding information from register**

(2) The Minister may exclude from a record that is entered in the register information relating to the location of an archaeological site. 2005, c. 6, s. 42.

### **Inspection**

(3) The register shall be available for inspection by any person at a location, in a format and at the times determined by the Minister. 2009, c. 33, Sched. 11, s. 6 (19).

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

2005, c. 6, s. 42 - 28/04/2005

2009, c. 33, Sched. 11, s. 6 (19) - 15/12/2009

### **Artifacts may be held in trust**

**66** (1) The Minister may direct that any artifact taken under the authority of a licence or a permit be deposited in such public institution as the Minister may determine, to be held in trust for the people of Ontario. 2002, c. 18, Sched. F, s. 2 (43).

### **Same**

(2) Any artifact that is taken by a person who is not a licensee or by a licensee in contravention of a licence or this Part may be seized by a person authorized to do so by the Minister and deposited in such public institution as the Minister may determine, to be held in trust for the people of Ontario. 2002, c. 18, Sched. F, s. 2 (43).

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

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

2002, c. 18, Sched. F, s. 2 (43) - 26/11/2002

## **PART VII GENERAL**

### **Service**

**67** (1) Any document required to be given, delivered or served under this Act or the regulations is sufficiently given, delivered or served if it is served,

- (a) by personal service;
- (b) by mail to the last known address of the person to whom delivery or service is required to be made;
- (c) by commercial courier to the last known address of the person to whom delivery or service is required to be made; or
- (d) by a ~~prescribed method~~~~method prescribed by regulation. 2009, c. 33, Sched. 11, s. 6 (20).~~

### **Same**

(2) Personal service of a document is effective on the day it is given when it is left with the individual. 2009, c. 33, Sched. 11, s. 6 (20).

### **Same**

(3) Subject to subsection (5), service or delivery of a document by mail is effective five days after the day the document is mailed. 2009, c. 33, Sched. 11, s. 6 (20).

### **Same**

(4) Subject to subsection (5), service or delivery of a document by commercial courier is effective two days after the day the commercial courier received it. 2009, c. 33, Sched. 11, s. 6 (20).

### **Same**

(5) Subsections (3) and (4) do not apply if the person establishes that the service was not effective at the time specified in those subsections because of an absence, accident, illness or other cause beyond the person's control. 2009, c. 33, Sched. 11, s. 6 (20).

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

1996, c. 4, s. 64 - 03/04/1996

2009, c. 33, Sched. 11, s. 6 (20) - 15/12/2009

### **Pre-hearing conference**

**67.1** (1) In any case under this Act where the Review Board is required to hold a hearing, the Review Board may direct the parties to a hearing to participate in a pre-hearing conference to consider,

- (a) the settlement of any or all of the issues;
- (b) the simplification of the issues;
- (c) facts or evidence that may be agreed upon;
- (d) the dates by which any steps respecting the hearing are to be taken or begun;
- (e) the estimated duration of the hearing; and
- (f) any other matter that may assist in the just and most expeditious disposition of the hearing.

### **Who conducts conference**

(2) The chair of the Review Board may designate a member of the Review Board or any other person to conduct a pre-hearing conference.

### **Orders**

(3) A member of the Review Board who conducts a pre-hearing conference may make such orders as he or she considers necessary or advisable with respect to the conduct of the hearing, including adding parties.

### **Disqualification**

(4) A member of the Review Board who conducts a pre-hearing conference at which the parties attempt to settle issues shall not conduct the hearing into the matter unless the parties consent.

### **Electronic pre-hearing conference**

(5) A pre-hearing conference may be held by conference telephone or some other form of electronic technology that allows persons to hear one another.

### **Exception**

(6) A pre-hearing conference shall not be held in the manner described in subsection (5) if one of the parties satisfies the person conducting the conference that such a conference is likely to cause the party significant prejudice.

### **Same**

(7) Subsection (6) does not apply if the only purpose of the pre-hearing conference is to deal with procedural matters.

### **Participants to be able to hear one another**

(8) In a pre-hearing conference held in the manner described in subsection (5), all the parties and the person conducting the conference must be able to hear one another throughout the conference. 1996, c. 4, s. 65.

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

1996, c. 4, s. 65 - 03/04/1996

### **Designation under public or private Acts**

**68** (1) Where, before the 5th day of March, 1975, a building or structure is designated by by-law under any public or private Act as a building or structure of historic or architectural value or interest, the building or structure shall be deemed to be property designated under Part IV of this Act and Part IV applies.

### **Land deemed to be property under Part VI**

(2) Where, before the 5th day of March, 1975, land was designated under *The Archaeological and Historic Sites Protection Act* as an archaeological or historic site, as the case may be, the land shall be deemed to be property designated under Part VI of this Act and Part VI applies.

### **Conflict**

(3) Where there is a conflict between this Act or the regulations and any other Act or regulation, this Act or the regulations shall prevail. R.S.O. 1990, c. O.18, s. 68.

**68.1** (1, 2) REPEALED: 2009, c. 33, Sched. 11, s. 6 (21).

(3) REPEALED: 2009, c. 33, Sched. 2, s. 52 (2).

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

2005, c. 6, s. 43 - 28/04/2005

2009, c. 33, Sched. 2, s. 52 (2) - 15/12/2009; 2009, c. 33, Sched. 11, s. 6 (21) - 15/12/2009

### **Non-application**

**68.2** Section 21.2 of the *Statutory Powers Procedure Act* does not apply to a decision or order made by the Tribunal under this Act. 2005, c. 6, s. 43; 2017, c. 23, Sched. 5, s. 62.

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

2005, c. 6, s. 43 - 28/04/2005

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

### **No compensation**

**68.3** (1) Except as may be provided under this Act, no owner of property or other person is entitled to compensation in respect of any designation, order or decision made by a municipality, the Minister, Review Board or Tribunal under this Act. 2005, c. 6, s. 43; 2017, c. 23, Sched. 5, s. 68.

### **No expropriation or injurious affection**

(2) Nothing done or not done in accordance with this Act or the regulations under it constitutes an expropriation or injurious affection for the purposes of the *Expropriations Act* or otherwise at law. 2005, c. 6, s. 43.

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

2005, c. 6, s. 43 - 28/04/2005

### **Offences and restoration costs**

**69** (1) Subject to subsection (2), every person who,

- (a) knowingly, furnishes false information in any application under this Act or in any statement, report or return required to be furnished under this Act or the regulations;
- (b) fails to comply with any order, direction or other requirement made under this Act; or
- (c) contravenes this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing of false information, failure or contravention is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than one year, or to both. R.S.O. 1990, c. O.18, s. 69 (1).

### **Corporations**

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$250,000 and not as provided therein. R.S.O. 1990, c. O.18, s. 69 (2).

(2.1) REPEALED: 2005, c. 6, s. 44 (1).

### **Exception**

(3) Despite subsections (1) and (2), if a person is convicted of the offence of contravening section 34 or 34.5, ~~demolishing or removing a building, structure or heritage attribute in contravention of section 42~~~~demolishing or removing a building or structure in contravention of section 42~~ or contravening subsection 48 (1) or if a director or officer of a corporation is convicted of knowingly concurring in such an act by the corporation, the maximum fine that may be imposed is \$1,000,000. 2005, c. 6, s. 44 (2).

(4) REPEALED: 2005, c. 6, s. 44 (3).

### **Property altered in contravention of the Act**

(5) Subsection (5.1) applies if,

- (a) property designated under Part IV is altered in contravention of section 33 or 34.5; or
- (b) property located in a heritage conservation district designated under Part V is altered in contravention of section 42. 2009, c. 33, Sched. 11, s. 6 (22).

### **Recovery of restoration costs**

(5.1) In addition to any other penalty imposed under this Act, the council of the municipality or the Minister, as the case may be, may restore the property described in subsection (5) as nearly as possible to its previous condition, if it is practicable to do so, and may recover the cost of the restoration from the owner of the property. 2009, c. 33, Sched. 11, s. 6 (22).

### **Exception**

(5.2) Despite subsection (5.1), the council of the municipality or the Minister shall not restore the property if,

- (a) in the opinion of the council or the Minister, the property is in an unsafe condition or incapable of repair; or
- (b) the alteration was carried out for reasons of public health or safety or for the preservation of the property. 2009, c. 33, Sched. 11, s. 6 (22).

### **Idem**

(6) For the purpose of subsection (5), the council of a municipality may authorize any person in writing to enter on the property to carry out restorations. R.S.O. 1990, c. O.18, s. 69 (6); 2002, c. 18, Sched. F, s. 2 (47).

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

2002, c. 18, Sched. F, s. 2 (44-47) - 26/11/2002

2005, c. 6, s. 44 (1-3) - 28/04/2005

2009, c. 33, Sched. 11, s. 6 (22) - 15/12/2009

### **Regulations**

**70** (1) The Lieutenant Governor in Council may make regulations,

- (a) governing applications for payment of grants or loans under this Act;
- (b) prescribing additional rules and methods of service for the purposes of section 67;
- (c) affixing fees or charges for services rendered under this Act;
- (d) governing applications for a licence or renewal of a licence;
- (d.1) prescribing classes of a licence;
- (d.2) prescribing terms, conditions and limitations of a licence or a class of licence, including prescribing the type of archaeological fieldwork that may be carried out by the holder of the licence or the class of licence;
- (d.3) prescribing the eligibility criteria and other requirements for the issuance of a licence or a class of licence;
- (e) providing for the apportionment and distribution of money appropriated by the Legislature for,
  - (i) the establishment, maintenance, development and promotion of museums and historical institutions and providing for the condition covering the payment thereof,
  - (ii) any person, organization or corporation who, with the consent of the owner of the property, places markers, signs, cairns or other interpretive facilities for the interest and guidance of the public;
- (f) prescribing sites or classes of sites for which no licence is required;
- (g) prescribing activities or classes of activities for which no licence is required;
- (h) defining “archaeological fieldwork”, “archaeological site”, “artifact”, “cultural heritage” and “marine archaeological site” for the purposes of this Act and the regulations;
- (i) prescribing public bodies for the purposes of Part III.1;
- (j) prescribing criteria for the purposes of clause 29 (1) (a);
- (k) prescribing criteria for the purposes of clause 34.5 (1) (a);
- (l) prescribing marine archaeological sites for the purposes of paragraph 3 of subsection 48 (1);
- (m) prescribing the alternate distance from a marine archaeological site for the purposes of subparagraphs 3 i, ii and iii of subsection 48 (1) and prescribing the circumstances in which the alternate distance applies.
- (n) REPEALED: 2009, c. 33, Sched. 11, s. 6 (25).

**Note:** On the day subsection 4 (1) of the *Not-for-Profit Corporations Act, 2010* comes into force, subsection 70 (1) of the Act is amended by adding the following clause: (See: 2017, c. 20, Sched. 8, s. 112 (2))

- (n) prescribing provisions of the *Not-for-Profit Corporations Act, 2010* that apply to the Trust.

R.S.O. 1990, c. O.18, s. 70; 2002, c. 18, Sched. F, s. 2 (48-50); 2005, c. 6, s. 45 (1); 2009, c. 33, Sched. 11, s. 6 (23-25).

- (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 anything required or permitted to be done in accordance with the regulations.

#### Same

(2) A regulation under clause (1) (j) may provide such transitional rules as are necessary in order to bring the criteria into force, including providing for different rules or criteria to apply to properties that were designated at different times under section 29 or to properties in respect of which notice of intention to designate the properties was issued at different times under section 29. 2005, c. 6, s. 45 (2).

#### 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.

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

2002, c. 18, Sched. F, s. 2 (48-50) - 26/11/2002

2005, c. 6, s. 45 (1, 2) - 28/04/2005

2009, c. 33, Sched. 11, s. 6 (23-25) - 15/12/2009

2017, c. 20, Sched. 8, s. 112 (2) - not in force

**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*.**

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