

**Caution:**

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

**CONSULTATION DRAFT**

**ONTARIO REGULATION**

to be made under the

**ONTARIO HERITAGE ACT**

**GENERAL**

**CONTENTS**

[PRINCIPLES](#)

[1.](#) Principles

[RULES RE SECTION 29 OF THE ACT](#)

[2.](#) Prescribed events, s. 29 (1.2) of the Act

[3.](#) Prescribed exceptions, s. 29 (1.2) of the Act

[4.](#) Prescribed circumstances, s. 29 (8) para. 1

[5.](#) Designation by municipal by-law, requirements

[AMENDMENT OF DESIGNATING BY-LAW](#)

[6.](#) Amending by-laws, modified s. 29 of the Act

[REAPPLICATION FOR REPEAL OF BY-LAW – SUBSECTION 32 \(18\) OF THE ACT](#)

[7.](#) Prescribed circumstances and time periods

[INFORMATION AND MATERIAL – SUBSECTIONS 33 \(2\) AND 34 \(2\) OF THE ACT](#)

[8.](#) Prescribed information and material

[REQUIRED STEPS – SECTION 34.3 OF THE ACT](#)

[9.](#) Council consents to application under s. 34 of the Act

[RECORD OF DECISION](#)

[10.](#) Record of decision under s. 29 of the Act

[11.](#) Record of decision under s. 30.1 of the Act

[12.](#) Record of decision under s. 31 of the Act

[13.](#) Record of decision under s. 32 of the Act

[14.](#) Record of decision under s. 33 of the Act

[15.](#) Record of decision under s. 34.1 of the Act

[16.](#) Record of decision under s. 40.1 of the Act

[17.](#) Record of decision under s. 41 of the Act

[18.](#) Record of decision under s. 41.1 of the Act

[19.](#) Record of decision under s. 42 of the Act

[TRANSITION](#)

[20.](#) Transitional rules

[21.](#) Commencement

[SCHEDULE](#)

[SECTION 29 OF THE ACT AS MODIFIED FOR THE PURPOSES OF SUBSECTION 30.1 \(1\) OF THE ACT](#)

## PRINCIPLES

### **Principles**

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

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

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

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

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

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

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

(4) For the purpose of this section,

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

#### RULES RE SECTION 29 OF THE ACT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



## AMENDMENT OF DESIGNATING BY-LAW

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

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

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

### **Prescribed circumstances and time periods**

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

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

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

**Prescribed information and material**

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

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

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

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

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

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

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

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

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

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

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

2. If the council makes the determination described in subparagraph 1 i, the clerk of the municipality shall ensure that notice of the determination is served on the Trust.

3. If the council makes the determination described in subparagraph 1 ii,

i. the council shall,

A. pass a by-law that amends the by-law made under section 29 of the Act designating the property to update the statement of cultural heritage value or interest and the description of the property's heritage attributes to reflect the changes resulting from the demolition or removal, and

B. ensure that the amending by-law complies with the requirements set out in section 5 and includes a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property, and

ii. the clerk of the municipality shall,

A. ensure that a copy of the amending by-law is served on the owner of the property,

B. publish notice of the amending by-law in a newspaper having general circulation in the municipality, and

C. ensure that a copy of the amending by-law is registered against the property affected by the amending by-law in the appropriate land registry office and that a copy of the registered amending by-law is served on the Trust.

4. If the council makes the determination described in subparagraph 1 iii,

i. the council shall pass a by-law to repeal the by-law or the part thereof designating the property under section 29 of the Act, and

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

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

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

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

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

#### RECORD OF DECISION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### TRANSITION

##### **Transitional rules**

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

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

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

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



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

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

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

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

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

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

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

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

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

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

## **Commencement**

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

## **SCHEDULE**

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

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

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

## **Notice required**

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

## **Consultation**

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

## **Notice of proposed amendment**

(3) A notice of proposed amendment shall be,

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

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

**Contents of notice**

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

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

**Same**

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

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

## **Objection**

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

## **Consideration of objection by council**

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

## **Notice of withdrawal**

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

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

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

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

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

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

### **Deemed withdrawal**

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

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

### **Same**

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

### **Appeal to Tribunal**

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

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

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

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

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

### **If notice of appeal**

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

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

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

### **Powers of Tribunal**

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

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

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

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

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

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

### **Representations**

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

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



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

### **Coming into force**

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

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

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

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