



## Municipal Heritage Committee Report

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**Report Number:** KLMHC2024-036  
**Meeting Date:** June 6, 2024  
**Title:** **Amendments to the Ontario Heritage Act through Bill 139**  
**Description:** Review of amendments to the Ontario Heritage Act and its regulations through Bill 139  
**Author and Title:** Emily Turner, Economic Development Officer – Heritage Planning

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**Recommendations:**

**That** Report KLMHC2024-036, **Amendments to the Ontario Heritage Act through Bill 139**, be received for information.

**Department Head:** \_\_\_\_\_

**Financial/Legal/HR/Other:** \_\_\_\_\_

**Chief Administrative Officer:** \_\_\_\_\_

## **Background:**

In October 2023, the provincial government introduced Bill 139, the Less Red Tape More Common Sense Bill. The intent of the bill was to improve service delivery across a range of sectors and it included a variety of amendments to twenty pieces of diverse legislation, including amendments to Section 33 of the Ontario Heritage Act. The proposed amendments were posted on the Environmental Registry of Ontario for commenting. The Committee reviewed the proposed amendments at its meeting of November 9, 2023 and provided comments related to the amendments to staff. The Committee's comments are attached as Appendix A of this report.

Bill 139 received royal assent in December 2023 but not all of the amendments came into effect at that time. In particular, the OHA amendments were not enacted in order to provide time to finalize the regulatory amendments that were also required to enact the changes to Section 33. The regulatory amendments have now been finalized as an amendment to Ontario Regulation 385/21 (General) and the OHA amendments will come into effect on July 1, 2024. The amendments to Section 33 of the OHA are attached to this report as Appendix B and the amendments to O. Reg. 385/21 are attached as Appendix C.

Section 33 of the Act regulates the approval of alterations to individually designated properties under Part IV of the Act. This section allows a municipality to approve, approve with conditions, or deny an application to alter a property designated under Part IV of the Act. The proposed amendments provide an alternate process for religious properties where the alteration would impact an aspect of the property that is actively used for religious or spiritual practice. Specifically, the amendments propose to amend the section so that applications to properties used for religious or spiritual practices are approved without conditions if the following conditions are met:

- The building, or part thereof, to be altered is primarily used for religious practices;
- The heritage attributes to be altered are connected to religious practices;
- The alteration of the heritage attributes is required for religious practices;
- Any additional conditions prescribed by regulation (this would be a new regulation making authority); and,
- The applicant provides council with an affidavit or sworn declaration that the application meets the conditions in the Act or prescribed in regulation.

Municipalities would rely on the sworn affidavit to demonstrate that the above conditions are met. Religious practices would include both the practices of religious organizations, such as churches, and the religious and spiritual practices of Indigenous communities or organizations. As with any other application made under Section 33 of the Act, the deeming of a complete application and consent or denial of said application would need to be undertaken within the prescribed timelines under the Act.

The stated intention of the amendment is to ensure that that religious organizations and Indigenous communities have a greater level of certainty when applications are being proposed to a designated property and continue to have limited interruptions in its use. The amendments are summarized below. The majority of the amendments have been enacted through O. Reg 385/21. Some changes were made to the original proposed amendments in response to comments received through the ERO. These have been noted below.

### **Timelines**

Municipalities will have 60 days to issue a notice of approval under for properties to which the new processes apply. Where a notice of approval is not issued within 60 days, there will be deemed consent. Where an application is incomplete, a municipality would have 60 days to issue a notice of incomplete application.

At present, the timeline for approval of alteration application under Section 33 of the Act is 90 days. MCM had originally proposed a 30 day timeline for approval, but has extended this.

### **Conditions**

Additional conditions have been prescribed by regulation to clarify to which type of alterations the new process would apply:

- The alteration is not permitted to be an addition to the building.
- The alteration must be for the benefit of an Indigenous community, an Indigenous organization or a religious organization that is not an Indigenous organization where the religious organization is a registered charity under the laws of Ontario or Canada (applies to owners or tenants)

The intention of these additional conditions is to scope the provisions of the application and for additional information to be available to confirm the status of the applicant as a bona fide religious organization.

### **Application Requirements**

In addition to the affidavit or sworn declaration, MCM is proposing that the following information and materials be required as part of a complete application:

- The name, address, telephone number and, if applicable, the email address of the applicant.
- The name of the municipality from which consent is being requested;
- 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;
- A description of the proposed alteration, that includes identifying which heritage attributes would be impacted by the alteration;
- An explanation as to whether the proposal is for the benefit of the owner or a tenant; and
- Where the proposal would benefit an owner or tenant that is a religious organization that is not an Indigenous organization, the registered charity number of the religious organization.
- Additional information as required to process the application

Some of this information is already required as part of a complete application under Ontario Regulation 385/21, while those specifically related to the status of the owner or tenant are new.

### **Proposed Definition**

At present, there is no definition of the word “building” in the OHA or its regulations. The word “building” has now been defined in relation to these provisions to provide additional clarity and scope. For the purposes of the provision, the definition of “building” is as follows:

- With respect to an alteration that is required for an Indigenous community or organization, a building that the Indigenous community or organization has identified as a place used for Indigenous religious or spiritual practices, or

- With respect to an alteration that is required for a religious organization that is not an Indigenous organization, a building that the religious organization has identified as a church, mosque, synagogue, temple, chapel or other place of worship, but not a building where the primary function is to provide education, healthcare, long-term care, community services, social services or commercial, institutional or industrial operations, even if the building contains a space within it dedicated to religious practices.

This definition has been expanded since the original ERO posting to exclude buildings whose primary function is not as a worship space to provide additional clarity.

### **Rationale:**

The amendments outlined above will come into effect on July 1, 2024 and this report is presented for the Committee's information. From an operational standpoint, the amendments are anticipated to have some impact on City operations. The City typically receives very few alteration applications related to religious buildings. However, this may change as additional buildings are designated under the Act as a result of Bill 23. At present, the impact on City operations is anticipated to be primarily on a staff level where any applications will require additional review to ensure that the conditions outlined under the regulatory amendments are met prior to processing. It is likely that additional staff time will also need to be dedicated to working with the owners of religious buildings to walk them through the new requirements and process.

In addition, the City's Heritage Applications Policy will require amendment to reflect the regulatory changes with regard to submission requirements and procedures. Staff are also in the process of reviewing the City's Heritage Delegated Authority by-law to determine if amendments are also needed to the by-law. Staff are intending on bringing forward any required amendments to the Committee for review and to Council for adoption in summer 2024.

### **Other Alternatives Considered:**

There are no recommended alternatives.

### **Financial/Operation Impacts:**

There are no financial or operational impacts as a result of the recommendations of this report.

## **Consultations:**

Ministry of Citizenship and Multiculturalism

## **Attachments:**

Appendix A – MHC Bill 139 Comments



20231130 Bill 139  
MHC Comments.docx

Appendix B – Amendments to Section 33 of the OHA



Adobe Acrobat  
Document

Appendix C – Amendments to Ontario Regulation 385/21



Alteration of  
Buildings Used for Re

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