

**Report to  
Rapport au:**

**Built Heritage Sub-Committee / Sous-comité du patrimoine bâti  
October 13, 2020 / 13 octobre 2020**

**and Council / et au Conseil  
October 28, 2020 / 28 octobre 2020**

**Submitted on October 9, 2020  
Soumis le 9 octobre 2020**

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**Ward:** CITY WIDE / À L'ÉCHELLE DE LA VILLE      **File Number:** ACS2020-PIE-RHU-0022

**SUBJECT:** *Ontario Heritage Act* – Proposed Regulations Pursuant to Bill 108

**OBJET:** *Loi sur le patrimoine de l'Ontario* – règlements proposés conformément au projet de loi 108

#### **REPORT RECOMMENDATIONS**

**That the Built Heritage Sub-Committee recommend that Council:**

- 1. Request, via the letter attached as Document 1 to this report, that the Minister delay implementation of the changes to the *Ontario Heritage Act* pursuant to Bill 108 due to challenges associated with COVID-19;**
- 2. Approve the Mayor's letter attached as Document 1 to this report and summary of Staff comments attached as Document 2 to this report and the City Clerk forward both to the Minister in response to the Request for Comment posted on the Regulatory Registry with respect to the proposed content of *Ontario Heritage Act* Regulations; and**
- 3. Waive the requirement in the Built Heritage Sub-Committee's Terms of Reference that it report on this matter through a Standing Committee, so that Council may consider this Report prior to the due date set by the Province for comments.**

## RECOMMANDATIONS DU RAPPORT

Que le Sous-comité du patrimoine bâti recommande au Conseil :

1. De demander au ministre, au moyen de la lettre jointe au présent rapport en tant que document 1, de reporter la mise en œuvre des modifications à la *Loi sur le patrimoine de l'Ontario* proposées conformément au projet de loi 108, en raison des difficultés associées à la COVID-19; et
2. D'approuver la lettre du maire, ci-jointe en tant que document 1 ainsi que le résumé des commentaires du personnel joint au présent rapport en tant que document 2, et que le greffier municipal achemine les deux pièces jointes au ministre en réponse à l'appel à commentaires affiché dans le registre de la réglementation, concernant le contenu proposé des règlements d'application de la *Loi sur le patrimoine*; et
3. De renoncer à l'obligation prévue dans le mandat du Sous-comité du patrimoine bâti relative à la reddition de comptes sur cette question par le biais d'un comité permanent, afin que le Conseil puisse examiner le présent rapport avant la date limite de commentaires fixée par le gouvernement provincial.

## BACKGROUND

The Government of Ontario introduced *Bill 108, More Homes, More Choice Act*, 2019, for first reading on May 2, 2019. The Bill was described as the provincial government's plan to tackle Ontario's housing crisis and contains 13 schedules which affect 15 Acts. Many of these amendments have municipal implications.

As of June 6, 2019, Bill 108, the *More Homes, More Choice Act* ("Bill 108") received Royal Assent. This legislation has significant impacts on City operations including on development charges, planning appeals, inclusionary zoning, endangered species management, and heritage matters, which were detailed as part of report [ACS2019-PIE-GEN-0004](#) approved by Council on June 12, 2019.

Many of the amendments with respect to the *Ontario Heritage Act* did not immediately come into force and were awaiting release of supporting regulations. With respect to the *Ontario Heritage Act*, Bill 108:

- Permitted appeal of all *Ontario Heritage Act* decisions (i.e. designation decisions and alteration and demolition permit applications) to the Local Planning Appeal Tribunal;

- Amended provisions to clarify that the statutory protection of designated properties includes the demolition or removal of “heritage attributes” of a property, in addition to the demolition or removal of a designated “building or structure”;
- Gave the Minister authority to prescribe principles that a municipal council shall consider when making individual property designation and Heritage conservation district designation decisions (Parts IV and V of the *Act*);
- Gave the Minister authority to prescribe mandatory requirements for the content of designation by laws;
- Added a 90-day timeline for issuing a Notice of Intent to Designate (NOID) when the property is subject to prescribed events related to *Planning Act* applications, subject to any exceptions prescribed by regulation;
- Added a requirement that designation decisions be made within 120 days, subject to any exceptions prescribed by regulation, otherwise the NOID expires; and
- Added a requirement for the municipality to respond to a property owner about the completeness of their application for alteration or demolition of a heritage property within 60 days and permit the Minister to prescribe regulations about minimum requirements for a “complete” application.

On September 21, 2020, the Province released a [proposal for draft regulations to implement the legislative changes to the \*Ontario Heritage Act\*](#) and is seeking comments on the draft regulations by November 5. The Province has indicated its intent to finalize the regulations and have the legislative changes and regulations proclaimed into force as of January 1, 2021.

This report provides an update on the implications of the changes to the *Ontario Heritage Act* on the work of the Heritage Planning Branch, addresses initial staff comments on the proposed regulations, and seeks Council approval to share these with the Province.

## **DISCUSSION**

### **Proposed *Ontario Heritage Act* Regulations**

The proposal, issued on September 21, 2020, proposed regulatory changes which are outlined in detail in Document 1. These proposed regulations are pursuant to the legislative changes made through Bill 108. The changes are summarized as follows:

1. The regulation enumerates “principles” to guide designations under Parts IV and V (see Document 2, item “a.” for the specific principles)

2. Service of a Notice of Receipt of Application for Official Plan amendment, Zoning By-law amendment, or subdivision approval are stated to be the “prescribed events” which trigger a 90-day timeline during which the City may serve a notice of intent to designate under Part IV, after which it is prohibited from doing so.
3. The regulation sets a timeline to pass a designation by-law under Part IV at 120 days after service of a notice of intent to designate.
4. The Regulation prescribes what information a designating by-law must contain.
5. The Regulation limits the number of times an owner may apply for repeal of the designating by-law to once in a one-year period.
6. The Regulation prescribes a new process that must be followed after the demolition or removal of a building, structure or heritage attribute on a property that is designated under Part IV, requiring Council to reconsider whether the property, after the construction, continues to merit designation.
7. The Regulation prescribes the information which must be included in an application to alter or demolish a building which is designated under Part IV. Council continues to be permitted to prescribe additional requirements.
8. The Regulation prescribes the materials that must be forwarded to the Tribunal in the event of an appeal from the various decisions made under the *Act*.
9. The Regulation provides transition provisions that note that Ontario Heritage Matters that have commenced prior to proclamation would continue under the current rules while matters commenced after that date would proceed under the new rules.

### **Timing of Implementation**

The Province has indicated an intent to declare the amendments and Regulation into force on January 1, 2021. The timeline for the amendments and regulations to come into force is the most challenging element for staff. Based on draft documents released by the Ontario Ministry of Heritage, Sport, Tourism and Culture Industries in January 2020, staff were anticipating an 18-month phased approach to the changes coming into force. The recent indication that all changes and the regulations will come into effect on January 1, 2021, giving municipalities less than three months to implement the changes, will put immense pressure on the Heritage Planning Branch in a number of ways. Staff have identified the following business processes that require updating or creation as a result of the changes to the OHA and regulations:

- New screening system for all applications for Official Plan Amendment, Zoning By-law amendment, Plan of Subdivision to ensure that heritage resources are identified and protected as early as possible in the process
- Update to the Cultural Heritage Impact Statement Terms of Reference
- New processes and procedures for listing, removing and processing objections related to properties listed on the Heritage Register
- Updated process for applications to demolish or alter a property designated under Part IV of the *Ontario Heritage Act*
- New prescribed application information for heritage permits and updates to all application forms
- New process and tracking system for deeming applications “complete” or “incomplete” within the 60-day time period prescribed by the *Act*
- New designation by-law templates and procedures
- New procedures for holding and documenting public meetings related to designations under Parts IV and V of the OHA

Ideally, these new processes would be in place by January 2021, but unfortunately, given current constraints related to COVID-19, existing resources and the extremely short timeline, it is impossible for staff to adequately prepare for the implementation of the legislative changes with such short notice. In addition to the requirements to develop and implement new processes and procedures, staff have identified a variety of broader pressures related to the legislative changes including, but not limited to:

- Expectation that additional staff resources will be dedicated to appearances at the Land Use Appeals Tribunal related to proposed designations and alterations.
- Additional workload related to reactive designations pursuant to applications under the *Planning Act* that cannot be accommodated within current resources
- Additional reporting requirements to committee and Council related to objections to listing of properties on the Heritage Register and applications to demolish or remove heritage attributes
- Additional pressure to update existing outdated HCD plans in the inner core including Centretown, Lowertown West, ByWard Market, Sparks and Bank Street. These are areas of high development pressure and without updated HCD Plans, these areas are vulnerable to loss of significant heritage resources. The changes to the legislation will make the update process more complicated and as such it is anticipated that additional internal and external resources will be required to complete these priority projects in a timely fashion.
- As a result of the additional staff resources dedicated to research and administrative work resulting from the legislative changes, staff are concerned

that it will be difficult to meet statutory deadlines to respond to applications and, it will impede other priority projects for the Branch. These new tasks include, but are not limited to:

- a. Tracking timelines for Notices of Intention to Designate, Designation By-laws, applications for heritage permits;
- b. Reviewing applications for completeness and issuing the statutory notice within the legislated timeframe;
- c. Additional research required to support listing of properties on the Heritage Register; and
- d. Preparation of designation by-laws under the new requirements will be more time consuming and complex.

Staff have recommended, via the letter attached a Document 1 to this report, that the Ministry consider delaying implementation of the legislative changes or adopt a phased implementation approach as was considered by the Ministry earlier this year.

If the provincial government does not take the City's recommendation to delay implementation, there will be impacts on the Heritage Planning Branch's Heritage Action Plan work plan, including several priority projects for the branch such as the Centretown Heritage Study, Lowertown and ByWard Market Heritage Conservation District updates and the designation program in general, as staff resources will be dedicated to addressing the implementation of the new statutory requirements. In addition, following the implementation of all regulations, the City will not be able to maintain current service levels to applicants and residents, and will likely be unable to meet statutory timelines related to the *Ontario Heritage Act*. This may result in the loss of built heritage resources. Once the province confirms the implementation schedule of the regulations, staff will bring forward the necessary resourcing requests in future budgets and/or reports.

### **Staff Comments on other aspects of the Proposed Regulations**

In general, staff support the goals of the regulations to bring consistency to heritage processes under the OHA and to provide clarity for landowners across the province. However, to support the implementation of the legislation and regulations at the municipal level, staff recommend some wording changes to provide greater clarity and consistency. Detailed staff comments are in Document 2 of this report. The main issues of staff concern, other than on the timing of the proclamation discussed in the previous section, include:

- The “prescribed events” which trigger the 90-day deadline to issue a Notice of Intent to designate fall too early in the planning process.

The amended *Act* provides that if one of these “prescribed events” occurs, Council may only issue a Notice of Intention to Designate a property within 90 days, after which it is prevented from doing so. The prescribed events are the service of notice of applications for an Official Plan Amendment, a Zoning By-law Amendment or a Plan of Subdivision.

- Language used for the prescribed “principles” intended to guide municipal decision making.

These principles are intended to guide municipal decision-making regarding designation, alteration and demolition of properties Parts IV and V of the *Ontario Heritage Act*. Vagueness of language regarding the principles for decision making and the delayed release of the revised Ontario Heritage Toolkit that has been promised by the province to assist in interpreting the regulations.

Document 2 contains specific recommendations from Staff regarding changes to the wording.

- Proposed process related to “removal of heritage attributes” or “buildings or structures” on a designated property.

After the construction contemplated in a heritage permit which results in the removal of a “heritage attribute” or any “building or structure” on a heritage property, Council would be required under this Regulation to reconsider the whether the property merits designation under Part IV of the OHA. The reporting requirement would appear to apply even if a fairly small “heritage attribute” were removed, or if a structure which is insignificant from a heritage perspective (such as a shed) were removed. This onerous and will result in significant increase in reporting to Council for Council to reconsider designations. Staff suggests that the process of reconsideration only apply to the demolition or removal of a building or structure that has cultural heritage value as defined in the designation by-law.

These key staff comments are summarized in the letter attached as Document 1 to this report.

## **RURAL IMPLICATIONS**

The implications of this report are City-wide.

## **CONSULTATION**

Given the short timelines to consider and provide feedback on the proposed regulations Staff did not undertake consultation in preparing this report.

## **COMMENTS BY THE WARD COUNCILLORS**

This is a city-wide report – not applicable.

## **LEGAL IMPLICATIONS**

There are no legal impediments to implementing the recommendations of this report. The Minister has sought comments on the proposed regulation and Council is permitted to approve comments related to the City's interests in this matter.

## **RISK MANAGEMENT IMPLICATIONS**

There are no risk management implications associated with this report.

## **ASSET MANAGEMENT IMPLICATIONS**

There are no direct asset management implications associated with the recommendations of this report.

## **FINANCIAL IMPLICATIONS**

Funding to partially address immediate Bill 108 requirements and to prepare for full implementation will be included in the 2021 draft operating budget for Council consideration. Full financial requirements will be identified and brought forward through future year budgets and/or reports.

## **ACCESSIBILITY IMPACTS**

There are no anticipated accessibility impacts associated with this report.

## **DISPOSITION**

If the recommendations of this report are adopted by Council, the Mayor's Office will finalize the letter attached in draft as Document 1 and attach the staff comments attached to this report as Document 2. The Office of the City Clerk will forward these documents to the Minister as the City's comment on these proposed regulations.

**DOCUMENT 1 – Draft Letter of Mayor Jim Watson**

Hon. Lisa MacLeod

Minister, Heritage Sport, Tourism and Culture Industries

6<sup>th</sup> Floor, 438 University Avenue

Toronto, ON

M7A 1N3

Dear Minister MacLeod:

**Re: City of Ottawa comments regarding proposed regulation under the Ontario Heritage Act (Bill 108) ERO 01-1348**

The purpose of this letter is to provide formal comments and requested revisions to the proposed regulations under the Ontario Heritage Act pursuant to Bill 108, which are currently posted on the Environmental Registry of Ontario as ERO 019-1348 for public comment.

In general, the City does not have significant concern with the proposed regulations and supports many of the proposed provisions of the regulation, such as those that standardize the content of designation by-laws and allow for extensions to or exemptions from the statutory timelines in several circumstances. We have identified several areas where clarification of the language would strengthen the regulations, which are outlined in the attached document.

The City of Ottawa has identified four key concerns with the proposed legislation:

**1. Timing of proclamation**

The intended timeline of January 1, 2021 to have all amended sections of the Ontario Heritage Act and the proposed regulations come into force does not provide the City with the time it requires to prepare for these legislative changes which will have a significant impact on internal processes and procedures related to heritage matters. Given the current situation with COVID-19, the City is not able to adequately respond to these legislative changes in the short time frame provided. Respectfully, we request a delay of the proclamation of these legislative changes and proposed regulations into force until to January 1, 2022 in order to allow the City

the opportunity prepare and respond to the new statutory requirements. If this is not possible, we suggest a phased approach to the implementation as was proposed by the Ministry earlier in 2020.

## **2. Principles for Decision Making**

The language proposed for the principles to guide Council in making decisions related to properties designated under Parts IV and V of the *Ontario Heritage Act* is vague and in conflict with other provincial legislation such as the Provincial Policy Statement. The City is concerned that the ambiguous language and the lack of an interpretation document such as the Ontario Heritage Toolkit will cause confusion regarding interpretation and further complicate the decision-making process. We request revisions to the language as noted in the attached document.

## **3. Process for demolition or removal of a building, structure or heritage attribute under Section 34**

The proposed process that is to be followed under Section 34 of the revised *Ontario Heritage Act* is unclear and too onerous as it is currently written. We would suggest that the process should only apply to the demolition or removal of a building or structure that has cultural heritage value as defined in the designation by-law. As written, the process will require the re-consideration of the cultural heritage value of a property if any building or structure on the property is demolished or removed or if one heritage attribute (such as a window opening) is removed. We suggest that the language could be amended to clarify the intention of the process.

## **4. Prescribed events for issuance of a Notice of Intention to Designate**

The proposed prescribed events, which trigger a 90-day deadline by which the City must issue a notice of intent to designate, are extremely early in the planning process and do not provide staff with flexibility to undertake appropriate due diligence regard new designations under Part IV of the *Act*. The City recommends that the “prescribed event” occur later in the planning process.

Attached you will find a detailed table of comments and requested amendments to the regulations that are technical in nature and would streamline the implementation of this legislation at the municipal level. We sincerely hope the Province will consider these minor amendments through revisions to the regulations before they are finalized.

We would be pleased to discuss our requests in further detail.

## Document 2 – Detailed Staff Comments

Proposed Regulation Detail	Context/Synopsis	Staff Comment
<p><b>Principles to Guide Municipal Decisions</b></p> <p>S. 1(1) Sets out those provisions which are prescribed for the purpose of Section 26.0.1 of the <i>Act</i>: Sections 29, 30.1, 31, 32, 33, 34.</p> <p>S. 1(2) Sets out those provisions which are prescribed for the purpose of Section 39.1.2 of the <i>Act</i>: Sections 41, 41.1, 42.</p> <p>S. 1(3) Sets out principles that a council of a municipality shall consider when exercising the decision-making authority under a provision set out in Subsections (1) or (2):</p> <ol style="list-style-type: none"> <li>1. Property that is determined to be of cultural heritage value or interest should be protected and conserved for all generations.</li> <li>2. Decisions affecting the cultural heritage value or interest of a property or heritage conservation district should, <ol style="list-style-type: none"> <li>a. Minimize adverse impacts to the cultural heritage value or interest of the property or district,</li> <li>b. Be based on research, appropriate studies and documentary evidence, and</li> <li>c. Demonstrate openness and transparency by considering the views of all interested persons and communities.</li> </ol> </li> <li>3. Conservation of properties of cultural heritage value or interest should be achieved through identification, protection and wise management, including adaptive reuse where appropriate.</li> </ol>	<p>Section 1 implements principles which are to be considered by the Council when making decisions under the <i>Heritage Act</i>, including designation under Part IV, alteration or demolition permits for a Part IV designated property, designation under Part V (Heritage Conservation District) or alteration or demolition of a Part V designated property.</p>	<p>Staff have concerns with the proposed use of “should” for these principles and anticipate considerable debate over how these principles can be satisfied when Council is making decisions related to Parts IV and V of the OHA. The use of “should” instead of “shall” creates a conflict between these principles and the language used in the updated Provincial Policy Statement.</p> <p>Staff believe the language is too vague and will make the decision-making process more complicated for Council. These principles should be further described in the Ontario Heritage Toolkit to ensure that there is a clear understanding of their meaning by both staff, property owners, interested members of the community and the Tribunal.</p> <p>Staff believe the updated Ontario Heritage Toolkit should have been released along with these regulations as they are interrelated.</p>

	Proposed Regulation Detail	Context/Synopsis	Staff Comment
	<p>S. 1 (4) defines “adaptive reuse” as 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.</p>		
	<p><b>Trigger for 90 Day deadline to issue a NOID</b></p> <p>S. 2(1) Prescribes for the purposes of Subsection 29(1.2) the following events in respect of a property:</p> <ol style="list-style-type: none"> <li>1. A council or planning board, as applicable, has completed giving notice in accordance with Clause 22 (6.4) (a) of the <i>Planning Act</i> of a request for amendment referred to in that clause, if the subject land to which the amendment applies includes the property.</li> </ol>	<p>New Subsection 29 (1.2) provides that a municipality may not give a NOID after 90 days have elapsed from a prescribed event. The regulation lists those triggering events as (1) service of public notice</p>	<p>Staff continue to caution that these new requirements will mean that designation may more often be a reactive process than a proactive one. This change will limit the ability to work with property owners on proposed designations as they relate to large scale developments.</p> <p>The prescribed events will result in screening all applications for OPA, ZBLA and Plan of Subdivision at the time of submission in order to ensure that any</p>

Proposed Regulation Detail	Context/Synopsis	Staff Comment
<p>2. A council has completed giving notice in accordance with Clause 34 (10.7) (a) of the <i>Planning Act</i> 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.</p> <p>A council or planning board, as the approval authority, has completed giving notice in accordance with Subsection 51 (19.4) of the <i>Planning Act</i> of an application referred to in that clause, if the subject land to which the application applies includes the property.</p>	<p>of a request to amend the OP, (2) service of public notice of an application for zoning by-law amendment, or (3) service of public notice of a subdivision application.</p>	<p>potential cultural heritage resources are identified as early as possible in the process. This will have a significant impact on workload.</p> <p>The proposed timelines associated with these requirements will make it impossible, without the consent of the owner, to bring a NOI with an associated <i>Planning Act</i> application, which are considered by BHSC, PC and Council, concurrently.</p>
<p><b>Exceptions to 90-day deadline to serve NOID - Agreement</b></p> <p>S. 3(1) Prescribes the following exceptions for the purposes of Subsection 29 (1.2) of the <i>Act</i>:</p> <p>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,</p> <p>i. At any time after the event, agree that the period of time under Subsection 29 (1.2) of the <i>Act</i> does not apply to the property, or</p> <p>ii. Within 90 days after the event, agree to extend the applicable period of time under Subsection 29 (1.2) of the <i>Act</i> after which the council may not give a notice of intention to designate the property.</p>	<p>Section 3 sets out several exceptions to the 90-day timeline to serve a NOID.</p> <p>The owner and the City may agree that the 90-day deadline to serve a NOID does not apply or to extend the timeline.</p>	<p>Staff are supportive of opportunities to extend the deadline.</p>
<p><b>Exceptions to 90-day deadline to serve NOID – Emergency</b></p> <p>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 <i>Emergency Management and Civil Protection Act</i> by the head of the council of the</p>	<p>Additionally, the 90-day timeline does not run during a period of emergency under the <i>Emergency</i></p>	<p>Staff are supportive of opportunities to extend the deadline.</p>

	Proposed Regulation Detail	Context/Synopsis	Staff Comment
	<p>municipality, the 90-day period set out in Subsection 29 (1.2) of the <i>Act</i> does not begin until the day immediately after the day on which the emergency has terminated.</p> <p>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 <i>Act</i> an emergency is declared to exist in the municipality in which the property is situate, or in any part thereof, under the <i>Emergency Management and Civil Protection Act</i> by the head of the council of the municipality, the following rules apply:</p> <ul style="list-style-type: none"> <li>i. The 90-day period is terminated on the day the emergency is declared.</li> <li>ii. A new 90-day period commences on the day immediately after the day on which the emergency is terminated.</li> </ul>	<p><i>Management and Civil Protection Act</i>, as declared by the head of the Council. A new 90-day timeline starts on the day the emergency has been terminated.</p>	
	<p><b>Exceptions to 90-day deadline to serve NOID – Unable to Consult Heritage Committee</b></p> <p>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 <i>Act</i>, 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:</p> <ul style="list-style-type: none"> <li>i. An event described in Section 2 has occurred in respect of the property.</li> <li>ii. The municipality has established a municipal heritage committee.</li> <li>iii. The municipality has not consulted with its municipal heritage committee regarding designation of the property in accordance with Subsection 29 (2) of the <i>Act</i> by the end of the 90-day period set out in Subsection 29 (1.2) of the <i>Act</i>.</li> </ul>	<p>Where the municipality has not consulted with its municipal heritage committee (i.e. BHSC) the 90-day deadline to serve a NOID may be extended by Council passing a resolution to that effect. The extension is for 180 days from the triggering event or such other period prescribed by</p>	<p>Staff are supportive of opportunities to extend the deadline.</p>

	Proposed Regulation Detail	Context/Synopsis	Staff Comment
	<p>Subsection 3 (2) states that 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</p>	<p>Council in the resolution.</p>	
	<p>Exceptions to 90-day deadline to serve NOID – New Information</p> <p>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:</p> <ul style="list-style-type: none"> <li>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.</li> <li>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 <i>Act</i> 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 <i>Act</i> does not apply for the period set out in the resolution.</li> </ul> <p>Subsection 3 (3) states that 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</p>	<p>If the Council receives “new and relevant information” relating to a property, Council may pass a resolution with respect to the timeline to serve a NOID. Whether the resolution is passed within the original 90-day period or after, council may elect that the restriction on issuing a NOID does not apply for 180 days from the date of the resolution or such other period prescribed by Council in the resolution.</p>	<p>Staff are supportive of opportunities to extend the deadline.</p>

Proposed Regulation Detail	Context/Synopsis	Staff Comment
<p>resolution is served on the owner of the property, and the notice shall include the reasons for the new period of time.</p> <p>Subsection 3 (4) states that if 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 <i>Act</i> 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.</p> <p>Subsection 3 (5) states:            For the purposes of paragraph 5 of Subsection (1), “new and relevant information” means information or materials that satisfy all of the following:</p> <ol style="list-style-type: none"> <li>1. The information or materials affect or may affect,               <ol style="list-style-type: none"> <li>i. The determination of the cultural heritage value or interest of the property, or</li> <li>ii. An evaluation of the potential effect of the <i>Planning Act</i> application giving rise to the event on any cultural heritage value or interest of the property.</li> </ol> </li> <li>2. The information or materials are received by council after the relevant event occurred.</li> <li>3. The information or materials do not form part of the information and materials that were provided to the municipality under the <i>Planning Act</i> for the purposes of the relevant event described in Section 2.</li> </ol>	<p>Notice of the new time period must be served on the owner within 15 days of passing such a resolution.</p> <p>“New and relevant information” is defined in Subsection 3 (5).</p>	
<p><b>Exceptions to 90-day deadline to serve NOID – Triggering Application Disposed of</b></p> <ol style="list-style-type: none"> <li>6. If an event described in Section 2 has occurred in respect of a property, Subsection 29 (1.2) of the <i>Act</i> no longer applies to restrict the council of the municipality</li> </ol>	<p>Once the planning application in question which triggered the 90 day timeline to serve a</p>	<p>It is unclear what “finally disposed” of means. The language should be revised to provide clarity as to whether this means that Council has approved the</p>

	Proposed Regulation Detail	Context/Synopsis	Staff Comment
	<p>in which the property is situate from giving a notice of intention to designate the property as of the day on which the event is finally disposed of under the <i>Planning Act</i>.</p>	<p>NOID (e.g. OPA, ZBLA, subdivision) is “finally disposed of”, Subsection 29 (1.2) of the <i>Act</i> no longer applies to restrict the council of the municipality in which the property is situate from giving a NOID.</p>	<p>application, an appeal has been settled or the application has been withdrawn.</p>
	<p><b>120 Day Timeline to enact By-law after NOID – Exceptions</b>  S. 4 states:  4. (1) The following circumstances and corresponding periods of time are prescribed for the purpose of paragraph 1 of Subsection 29 (8) of the <i>Act</i>:</p> <ol style="list-style-type: none"> <li>1. If, before the end of the 120-day period referred to in paragraph 1 of Subsection 29 (8) of the <i>Act</i>, 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.</li> <li>2. If any part of the 120-day period referred to in paragraph 1 of Subsection 29 (8) of the <i>Act</i> 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 <i>Emergency Management and Civil Protection Act</i> 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 <i>Act</i> is 120 days after the day on which the emergency has terminated.</li> </ol>	<p>S. 29 (8) of the <i>Act</i> provides that the by-law must be passed within 120 days after the date of publication of the NOID, however it permits the Minister to prescribe circumstances where an exception to the timeline applies. The three circumstances giving rise to an exception are (1) where</p>	<p>Staff are supportive of opportunities to extend the timeline to enact a by-law.</p>

	Proposed Regulation Detail	Context/Synopsis	Staff Comment
	<p>3. If, during the 120-day period referred to in paragraph 1 of Subsection 29 (8) of the <i>Act</i>, 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.</p> <p>(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.</p> <p>(3) For purposes of paragraph 3 of Subsection (1), “new and relevant information” means information or materials that satisfy the following:</p> <ol style="list-style-type: none"> <li>1. The information or material affects or may affect any of the matters set out in paragraph 2 of Subsection 29 (8) of the <i>Act</i>.</li> <li>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 <i>Act</i>.</li> </ol>	<p>the owner and municipality agree to a different time period, (2) declared emergencies, and (3) council passing a resolution stating that the municipality has received “new and relevant information” during the original 120 day period.</p>	
	<p><b>Requirements of Designating By-law</b></p> <p>Section 5 states:</p> <p>5. (1) The following requirements are prescribed for the purpose of paragraph 2 of Subsection 29 (8) of the <i>Act</i>:</p> <ol style="list-style-type: none"> <li>1. The by-law must identify the property by, <ol style="list-style-type: none"> <li>i. The municipal address of the property, if it exists,</li> <li>ii. The legal description of the property, including the property identifier number that relates to the property, and</li> </ol> </li> </ol>	<p>This section lists what must be contained in the by-law required to enact a Part IV designation.</p>	<p>Staff caution that the inclusion of a map or drawing which forms part of the bylaw will render it unregistrable with the Land Registry Office under current practices.</p> <p>Staff also caution that the inclusion of the Property Identifier Number in the by-law will mean that a by-law will have to be amended every time a property identification number changes.</p>

	Proposed Regulation Detail	Context/Synopsis	Staff Comment
	<p>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.</p> <p>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.</p> <p>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 <i>Act</i> are met and must explain how each criterion is met.</p> <p>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.</p> <p>5. The by-law may list any physical features of the property that are not heritage attributes.</p> <p>(2) For clarity, the requirements set out in Subsection (1) apply for the purposes of Subsection 29 (8) of the <i>Act</i>, as set out in the Schedule.</p>		<p>Staff emphasize the importance of supporting documentation through the Ontario Heritage Toolkit to provide explanation of clauses such as 4 and 5.</p>
	<p>Section 6 states:</p> <p>6. The Schedule sets out Section 29 of the <i>Act</i>, as modified, that applies to an amending bylaw for the purposes of Subsection 30.1 (1) of the <i>Act</i>. [The Schedule to the regulation is omitted here, but lists a process to be followed for by-laws amending an existing designation by-law]</p>	<p>This provision adopts a process, contained in the Schedule to this regulation, for notice and adoption of by-laws amending an existing designation by-law.</p>	<p>No comment.</p>

	Proposed Regulation Detail	Context/Synopsis	Staff Comment
		<p>The process is substantially similar to s. 29, except (a) the purpose and effect of the amendment must be articulated in the notice, and (b) Council has 365 days instead of 120 to enact the amending by-law.</p>	
	<p><b>Circumstances where Application to Repeal By-law prohibited</b> Section 7 states:</p> <p>7. For the purposes of Subsection 32 (18) of the <i>Act</i>, 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:</p> <p>1. In circumstances where a council refuses an application under paragraph 1 of Subsection 32 (5) of the <i>Act</i> and a notice of appeal is not given within the time period specified in Subsection 32 (7) of the <i>Act</i>, 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 <i>Act</i>.</p> <p>2. In circumstances where an owner of the property appeals a decision of council to refuse the application under Subsection 32 (7) of the <i>Act</i> and the Tribunal dismisses the appeal</p>	<p>The <i>Act</i> permits an owner to apply to repeal a designating by-law (s. 32). This section of the regulation sets out circumstances in which another application for repeal is prohibited – generally 12 months from when the final decision was made on the previous application.</p>	<p>No comment.</p>

	<b>Proposed Regulation Detail</b>	<b>Context/Synopsis</b>	<b>Staff Comment</b>
	<p>under paragraph 1 of Subsection 32 (12) of the <i>Act</i>, the time period is 12 months after the date of the Tribunal's decision under paragraph 1 of Subsection 32 (12) of the <i>Act</i>.</p> <p>3. In circumstances where an owner of the property appeals a decision of council to refuse the application under Subsection 32 (7) of the <i>Act</i> and the Tribunal dismisses the appeal under Subsection 32 (13) of the <i>Act</i>, the time period is 12 months after the date of the Tribunal's decision under Subsection 32 (13) of the <i>Act</i>.</p> <p>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 <i>Act</i> and the Tribunal allows the appeal in whole or in part under paragraph 2 of Subsection 32 (12) of the <i>Act</i>, the time period is 12 months after the date of the Tribunal's decision under paragraph 2 of Subsection 32 (12) of the <i>Act</i>.</p>		
	<p><b>Information for Applications to Alter/Demolish Part IV Properties</b></p> <p>8. (1) For the purpose of Subsections 33 (2) and 34 (2) of the <i>Act</i>, the following information and material shall accompany an application:</p> <p>1. The name, address, telephone number and, if applicable, the email address of the applicant.</p> <p>2. The name of the municipality from which consent is being requested.</p> <p>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.</p> <p>4. Photographs that depict the existing buildings, structures and heritage attributes that are affected by the application and their condition and context.</p> <p>5. A site plan or sketch that illustrates the location of the proposed alteration, demolition or removal.</p>	<p>Section 8 prescribes the materials/information that must accompany an application to alter or demolish a Part IV designated building.</p> <p>The current <i>Act</i> permits Council to prescribe the required information.</p> <p>The amended <i>Act</i> requires the information listed here as a</p>	<p>Currently there are no prescribed requirements for applications. Typically, staff require most of the items in the list (many being captured within the application form) but have the discretion to waive those that do not apply to a particular application.</p> <p>Staff believe that these requirements may be too onerous for minor applications to alter Part IV properties and comment that where the municipality has outlined its own application requirements, those should take precedence.</p>

	Proposed Regulation Detail	Context/Synopsis	Staff Comment
	<p>6. Drawings and written specifications of the proposed alteration, demolition or removal.</p> <p>7. The reasons for the proposed alteration, demolition or removal and the potential impacts to the heritage attributes of the property.</p> <p>8. All technical cultural heritage studies that are relevant to the proposed alteration, demolition or removal.</p> <p>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.</p> <p>(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.</p> <p>(3) The owner of the property shall serve an application made under Subsection 33 (1) or 34 (1) of the <i>Act</i> on the council of the municipality.</p> <p>(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 <i>Act</i>.</p> <p>(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.</p> <p>(6) For the purpose of paragraph 2 of Subsection 33 (7) of the <i>Act</i> and paragraph 2 of Subsection 34 (4.3) of the <i>Act</i>, an application is considered to have commenced on the day that it is served on the council of the municipality.</p>	<p>minimum, Council may also prescribe additional information that council considers it may need.</p>	<p>For consistency, these application requirements should apply to both applications for both Parts IV and V under Sections 33, 34 and 42 of the <i>Act</i>.</p>

**Process when Council consents to an application to demolish or remove under Section 34 of the OHA**

Section 9 states:

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

This section sets out a process to be followed when an application under S. 34 of the *Act* to demolish all or part of a designated building is accepted by Council. The current process requires Council to pass a by-law repealing the designation and provide notice of the by-law. The amended provision provides that an assessment should be done as to whether the property continues to have heritage value after the demolition.

Typically, staff process the removal of an attribute as an alteration to a property. Staff caution that this process will be required for the "removal" of attributes, that have previously been processed as minor alterations, such as changing window openings, for example.

This process will result in additional work for staff in developing a new process and additional reporting to the Built Heritage Sub-Committee and City Council.

Staff believe that this process is extremely onerous as it relates to the "removal of a heritage attribute" and should be restricted only to the removal of a building or structure on the property that has cultural heritage value as defined in the designation by-law. As written, this process would apply to the removal of any building or structure on a designated property.

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| <p>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</p> <p>ii. The clerk of the municipality shall,</p> <p>A. Ensure that a copy of the amending by-law is served on the owner of the property,</p> <p>B. Publish notice of the amending by-law in a newspaper having general circulation in the municipality, and</p> <p>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.</p> <p>4. If the council makes the determination described in subparagraph 1 iii,</p> <p>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 <i>Act</i>, and</p> <p>ii. the clerk of the municipality shall,</p> <p>A. Ensure that a copy of the repealing by-law is served on the owner of the property,</p> <p>B. Publish notice of the repealing by-law in a newspaper having general circulation in the municipality,</p> <p>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</p> <p>D. Ensure that any reference to the property is deleted from the register referred to in Subsection 27 (1) of the <i>Act</i>.</p> <p>5. If, as part of the removal mentioned in paragraph 1, a building or structure is moved to another property,</p> <p>i. The council of a municipality shall, in consultation with the municipal heritage committee established under Section 28 of the <i>Act</i>, determine if the other property meets the criteria referred to in Clause 29 (1) (a) of the <i>Act</i>,</p> |  |  |
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<p>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</p> <p>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.</p> <p>6. If a designating by-law is passed under subparagraph 5 ii, the clerk of the municipality shall,</p> <p>i. Ensure that a copy of the designating by-law is served on the owner of the property affected by the designating by-law,</p> <p>ii. Publish notice of the designating by-law in a newspaper having general circulation in the municipality, and</p> <p>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.</p> <p>(2) A by-law passed under this section comes into force on the day the by-law is passed.</p> <p>(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 <i>Act</i>.</p> <p>(4) For greater certainty, Sections 29, 30.1 and 31 of the <i>Act</i> do not apply in respect of passing a by-law under this section, but Sections 30.1 and 31 of the <i>Act</i> apply in respect of an amendment or repeal of a by-law or part thereof passed under this section.</p>		
<p><b>Record of Decision on Appeal – Designation under Part IV</b>  Section 10 states:  10.(1) If a notice of appeal under Section 29 of the <i>Act</i> is given within the time period specified in Subsection 29 (11) of the <i>Act</i>, the clerk of the municipality shall ensure that the record</p>	<p>This section outlines what materials must be forwarded to the Tribunal upon an</p>	<p>The use of the term public meeting is unclear. There are no requirements for public meetings related to designation under Part IV of the <i>Ontario Heritage Act</i>. Staff suggest that “public meeting” should be</p>

<p>of the decision under Subsection 29 (8) of the <i>Act</i> 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.</p> <p>The following material and information must be included in a record of the decision referred to in Subsection (1):</p> <ol style="list-style-type: none"> <li>1. A certified copy of the notice of intention to designate the property.</li> <li>2. A certified copy of the by-law.</li> <li>3. A certified copy of the notice referred to in paragraph 4 of Subsection 29 (8) of the <i>Act</i>.</li> <li>4. A copy of any report considered by council.</li> <li>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.</li> <li>6. The original or a certified copy of all written submissions and comments related to the decision and the dates they were received.</li> <li>7. If a public meeting was held that related to the decision,             <ol style="list-style-type: none"> <li>i. A copy of the minutes; and</li> <li>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.</li> </ol> </li> <li>8. Any additional material or information that the council considered in making its decision.</li> <li>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.</li> </ol> <p>(3) The following material and information must be included in a record of the decision under Subsection 29 (6) of the <i>Act</i> to be forwarded to the Tribunal as required by Subsection 29(14) of the <i>Act</i>:</p>	<p>appeal from a decision to designate the property under Part IV. The Clerk has 15 days to forward the materials.</p>	<p>defined or described in order to ensure that existing processes are amended to document the appropriate information for the Tribunal as necessary.</p>
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	<p>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 <i>Act</i>, and the date on which each notice was served.</p>		
	<p><b>Record of Decision on Appeal – Amendment of designation under Part IV</b></p> <p>Section 11 states:</p> <p>11. (1) References in this section to Section 29 of the <i>Act</i> are references to that section as it applies to an amending by-law mentioned in Subsection 30.1 (1) of the <i>Act</i>, as modified in the Schedule.</p> <p>(2) The following rule applies if the council to a municipality proposes under Section 30.1 of the <i>Act</i> to amend a by-law designating property and the exception set out in Subsection 30.1 (2) of the <i>Act</i> does not apply to the amending by-law:</p> <p>1. If a notice of appeal under Section 30.1 of the <i>Act</i> is given within the time period specified in Subsection 29 (11) of the <i>Act</i>, the clerk of the municipality shall ensure that the record of the decision under Subsection 29 (8) of the <i>Act</i> is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.</p> <p>(3) The following material and information must be included in a record of the decision referred to in paragraph 1 of Subsection (2):</p> <p>1. A certified copy of the notice of proposed amendment to the by-law designating the property.</p> <p>2. A certified copy of the by-law that is the subject to the proposed amendment.</p> <p>3. A certified copy of the amending by-law.</p>	<p>This section outlines what materials must be forwarded to the Tribunal upon an appeal from a decision to amend a Part IV property designation. This doesn't apply to corrections/clarifications which meet the definition in s. 30.1 (2) of the <i>Act</i>. The Clerk has 15 days to forward the materials.</p>	<p>See comments related to minutes of public meetings on item (n).</p>

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| <p>4. A certified copy of the notice referred to in paragraph 4 of Subsection 29 (8) of the <i>Act</i>.</p> <p>5. The material and information described in paragraphs 4 to 9 of Subsection 10 (2).</p> <p>(4) The following material and information must be included in a record of the decision under Subsection 29 (6) of the <i>Act</i> to be forwarded to the Tribunal as required by Subsection 29(14) of the <i>Act</i>:</p> <p>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 <i>Act</i> and the date on which it was served.</p> <p>(5) The following rule applies if the council to a municipality proposes under Section 30.1 of the <i>Act</i> to amend a by-law designating property and the exception set out in Subsection 30.1(2) applies to the amending by-law:</p> <p>1. If a notice of appeal is given within the time period specified in Subsection 30.1 (10) of the <i>Act</i>, the clerk of the municipality shall ensure that the record of the decision under Subsection 30.1 (9) of the <i>Act</i> 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.</p> <p>(6) The following material and information must be included in a record of the decision referred to in paragraph 1 of Subsection (5):</p> <p>1. A certified copy of the notice referred to in Subparagraph 1 ii of Subsection 30.1 (9) of the <i>Act</i>.</p> <p>2. The material and information described in paragraphs 1, 3, 4 and 5 of Subsection (3).</p> <p>(7) The following material and information must be included in a record of the decision under Subsection 30.1 (7) of the <i>Act</i> to be forwarded to the Tribunal as required by subsection</p> |  |  |
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<p>30.1 (14) of the <i>Act</i>:</p> <p>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 <i>Act</i> and the date on which it was filed.</p>		
<p><b>Record of Decision on Appeal – Repeal of designation under Part IV</b></p> <p>Section 12 states:</p> <p>12. (1) If a notice of appeal under Section 31 of the <i>Act</i> is given within the time period specified in Subsection 31 (9) of the <i>Act</i>, the clerk of the municipality shall ensure that the record of the decision under Subsection 31 (8) of the <i>Act</i> 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.</p> <p>(2) The following material and information must be included in a record of the decision referred to in Subsection (1):</p> <ol style="list-style-type: none"> <li>1. A certified copy of the notice of intention to repeal the by-law or part thereof designating property.</li> <li>2. A certified copy of the repealing by-law.</li> <li>3. A certified copy of the by-law that is subject to the repealing by-law.</li> <li>4. A certified copy of the notice referred to in paragraph 2 of Subsection 31 (8) of the <i>Act</i>.</li> <li>5. The material and information described in paragraphs 4 to 9 of Subsection 10 (2).</li> </ol>	<p>Sections 12 and 13 relate to the materials that must be sent to the Tribunal within 15 days of the date on which an appeal from a Council-initiated or owner-initiated by-law repealing a designation is received.</p>	<p>See comments related to minutes of public meetings on item (n).</p>

(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.

Section 13 states:

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

	<p>ii. A certified copy of the notice referred to in subparagraph 2 ii of Subsection 32 (5) of the <i>Act</i>.</p> <p>7. The material and information described in paragraphs 4 to 9 of Subsection 10 (2).</p>		
	<p><b>Record of Decision on Appeal – Alteration Permit under Part IV</b></p> <p>Section 14 states:</p> <p>14.(1) If a notice of appeal under Section 33 of the <i>Act</i> is given within the time period specified in Subsection 33 (9) of the <i>Act</i>, the clerk of the municipality shall ensure that the record of the decision under Subsection 33 (6) of the <i>Act</i> is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.</p> <p>(2) The following material and information must be included in a record of the decision referred to in Subsection (1):</p> <ol style="list-style-type: none"> <li>1. A certified copy of the by-law designating the property.</li> <li>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 <i>Act</i>.</li> <li>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 <i>Act</i> and the date it was served.</li> <li>4. A certified copy of any records relating to a notification referred to in Subsection 33 (5) of the <i>Act</i>.</li> </ol>	<p>Section 14 relates to the materials that must be sent to the Tribunal within 15 days of the date on which an appeal from a decision to approve with conditions or refuse a permit to alter a Part IV designated property is received.</p>	<p>See comments related to minutes of public meetings on item (n).</p>

	<p>5. A certified copy of the notice of the council's decision referred to in Clause 33 (6) (b) of the <i>Act</i>.</p> <p>6. The material and information described in paragraphs 4 to 9 of Subsection 10 (2).</p>		
r)	<p><b>Record of Decision on Appeal – Demolition Permit under Part IV</b></p> <p><b>15.(1)</b> If a notice of appeal under Section 34.1 of the <i>Act</i> is given within the time period specified in Subsection 34.1 (2) of the <i>Act</i>, the clerk of the municipality shall ensure that the record of the decision under Subsection 34 (4.2) of the <i>Act</i> is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.</p> <p>(2) The following material and information must be included in a record of the decision referred to in Subsection (1):</p> <ol style="list-style-type: none"> <li>1. A certified copy of the by-law designating the property.</li> <li>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 <i>Act</i>.</li> <li>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 <i>Act</i> and the date it was served.</li> <li>4. A certified copy of any records relating to a notification referred to in Subsection 34 (4.1) of the <i>Act</i>.</li> <li>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 <i>Act</i>.</li> </ol>	<p>Section 15 relates to the materials that must be sent to the Tribunal within 15 days of the date on which an appeal from a decision to approve with conditions or refuse a permit to demolish/remove a Part IV designated building is received.</p>	<p>See comments related to minutes of public meetings on item (n).</p>

	6. The material and information described in paragraphs 4 to 9 of Subsection 10 (2).		
s)	<p><b>Record of Decision on Appeal – Designation of Area Study for HCD under Part V</b></p> <p>16.(1) If a notice of appeal under Section 40.1 of the <i>Act</i> is given within the time period specified in Subsection 40.1 (4) of the <i>Act</i>, the clerk of the municipality shall ensure that the record of the decision under Subsection 40.1 (1) of the <i>Act</i> is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.</p> <p>(2) The following material and information must be included in a record of the decision referred to in Subsection (1):</p> <ol style="list-style-type: none"> <li>1. A certified copy of the by-law made under Subsection 40.1 (1) of the <i>Act</i>.</li> <li>2. A certified copy of the notice referred to in Subsection 40.1 (3) of the <i>Act</i>.</li> <li>3. The material and information described in paragraphs 4, 6, 7, 8 and 9 of Subsection 10(2).</li> </ol>	Section 16 relates to the materials that must be sent to the Tribunal within 15 days of the date on which an appeal from a by-law designating an area to be studied as a Heritage Conservation District is received.	See comments related to minutes of public meetings on item (n).
t)	<p><b>Record of Decision on Appeal – Designation of HCD Area under Part V</b></p> <p>17.(1) If a notice of appeal under Section 41 of the <i>Act</i> is given within the time period specified in Subsection 41 (4) of the <i>Act</i>, the clerk of the municipality shall ensure that the record of the decision under Subsection 41 (1) of the <i>Act</i> is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.</p> <p>(2) The following material and information must be included in a record of the decision referred to in Subsection (1):</p> <ol style="list-style-type: none"> <li>1. A certified copy of the by-law made under Subsection 41 (1) of the <i>Act</i>.</li> </ol>	Section 17 relates to the materials that must be sent to the Tribunal within 15 days of the date on which an appeal from a by-law designating an area as a Heritage Conservation District is received.	The use of the term “public meeting” is unclear. The requirement to maintain records and minutes of all non-statutory “public meetings” is unclear and clarification about what constitutes a public meeting is required. Staff suggest that “public meeting” should be defined or described in order to ensure that existing processes are amended to document the appropriate information for the Tribunal as necessary.

<ol style="list-style-type: none"> <li>2. A certified copy of the notice referred to in Subsection 41 (3) of the <i>Act</i>.</li> <li>3. A certified copy of the heritage conservation district plan adopted by a by-law under Subsection 41.1 (1) of the <i>Act</i>.</li> <li>4. A certified copy of the information referred to in Clause 41.1 (6) (a) of the <i>Act</i>.</li> <li>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 <i>Act</i>, and the dates they were received.</li> <li>6. For every public meeting referred to in Clause 41.1 (6) (b) of the <i>Act</i> that is held, <ol style="list-style-type: none"> <li>i. A copy of the notice of the public meeting referred to in Subsection 41.1 (7) of the <i>Act</i>,</li> <li>ii. A copy of the minutes, and</li> <li>iii. A list of all persons that made oral representations referred to in Subsection 41.1 (9) of the <i>Act</i> and, if available, the record of those representations.</li> </ol> </li> <li>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 <i>Act</i>, <ol style="list-style-type: none"> <li>i. A copy of the minutes,</li> <li>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.</li> </ol> </li> <li>8. The material and information described in paragraphs 4, 5, 8 and 9 of Subsection 10 (2).</li> </ol>	<p>Section 18 applies the same requirement when a by-law adopting an HCD Plan for an already-designated HCD area is adopted.</p>	<p>Staff caution that this requirement will create additional administrative work in the process of designating a new heritage conservation district.</p>
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- 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

	<p>iii. A list of all persons that made oral representations referred to in Subsection 41.1 (9) of the <i>Act</i> and, if available, the record of those representations.</p> <p>8. The material and information described in paragraphs 4, 5, 8 and 9 of Subsection 10 (2).</p>		
u)	<p><b>Record of Decision on Appeal – Permit for Erection, Demolition, etc. under Part V</b></p> <p>19.(1) If a notice of appeal under Section 42 of the <i>Act</i> is given within the time period specified in Subsection 42 (7) of the <i>Act</i>, the clerk of the municipality shall ensure that the record of the decision under Subsection 42 (4) of the <i>Act</i> is forwarded to the Tribunal within 15 days after the notice of appeal is given to the clerk of the municipality.</p> <p>(2) The following material and information must be included in a record of the decision referred to in Subsection (1):</p> <ol style="list-style-type: none"> <li>1. If a heritage conservation district plan was adopted by a by-law under Subsection 41.1(1) or (2) of the <i>Act</i>, a certified copy of the plan.</li> <li>2. The original or a certified copy of the information required under Subsection 42 (2.2) of the <i>Act</i>.</li> <li>3. A certified copy of the notice of receipt referred to in Subsection 42 (3) of the <i>Act</i>.</li> <li>4. If the council refused the application for a permit under Section 42 of the <i>Act</i>, a copy of the notice referred to in Clause 42 (4) (b) of the <i>Act</i>.</li> <li>5. If the council approved the application for a permit under Section 42 of the <i>Act</i> with terms or conditions attached, a copy of the permit.</li> </ol>	<p>Section 19 relates to the materials that must be sent to the Tribunal within 15 days of the date on which an appeal from a decision to refuse or impose conditions on a permit to erect/demolish/alter a property in a Heritage Conservation District is received.</p>	<p>See comments related to minutes of public meetings on item (n).</p>

	6. The material and information described in paragraphs 4, 5, 6, 7, 8 and 9 of Subsection 10 (2).		
<b>v)</b>	<p><b>Transitional rules</b></p> <p>20.(1) Except as provided otherwise, references in this section to a provision of the <i>Act</i> are references to the provision as it read immediately before the day this section comes into force.</p> <p>(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 <i>Act</i> as it read before that date.</p> <p>(3) For the purposes of Subsection (2), a matter or proceeding shall be deemed to have been commenced,</p> <p>(a) In the case of the designation of property by by-law under Section 29 of the <i>Act</i>, on the date of the publication of a notice of intention to designate under Clause 29 (3) (b) of the <i>Act</i>;</p> <p>(b) In the case of the amendment of a by-law designating property under Section 30.1 of the <i>Act</i>,</p> <p>(i) If Subsection 30.1 (2) of the <i>Act</i> 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 <i>Act</i>, as made applicable by Subsection 30.1 (1) of the <i>Act</i>, or</p> <p>(ii) If Subsection 30.1 (2) of the <i>Act</i> applies to the notice, on the day the notice of proposed amendment is received by the owner of the property;</p>	<p>Section 20 deals with transitional rules.</p> <p>Heritage “matters or proceedings” which were “commenced” prior to this section coming into force continue under the old rules.</p> <p>The date of “commencement” depends on the type of matter:</p> <ul style="list-style-type: none"> <li>- By-laws to designate under Part IV, or amendment by-laws, as of the date NOID was published;</li> <li>- Repeal of designations under</li> </ul>	No comment.

<p>(c) In the case of the repeal of a by-law or part thereof designating property under Section 31 of the <i>Act</i>, 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 <i>Act</i>;</p> <p>d) In the case of an application to repeal a by-law or part thereof designating a property under Section 32 of the <i>Act</i>, on the day the application is received by the council of the municipality;</p> <p>(e) In the case of an application for consent to alter or permit the alteration under Section 33 of the <i>Act</i>, on the day the application is received by the council of the municipality;</p> <p>(f) In the case of an application for consent to demolish or remove or permit demolition or removal under Section 34 of the <i>Act</i>, on the day the application is received by the council of the municipality;</p> <p>(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 <i>Act</i>, on the day the application is received by the Minister;</p> <p>(h) In the case of the designation of a study area under Section 40.1 of the <i>Act</i>, the day on which the by-law is passed under that section;</p> <p>(i) In the case of the designation of a heritage conservation district under Section 41 of the <i>Act</i>, the day on which the by-law is passed under that section;</p> <p>(j) In the case of the adoption of a heritage conservation district plan under Subsection 41.1 (2) of the <i>Act</i>, the day on which the by-law is passed under that section;</p>	<p>Part IV as of the date notice of intent to repeal was published.</p> <ul style="list-style-type: none"> <li>- Application by owner to repeal as of day application is received by the City;</li> <li>- Applications for consent to alter Part IV property as of the date of receipt of the application</li> <li>- Application for consent to demolish/remove Part IV property as of the date of receipt of the application.</li> <li>- By-law designating a study area for</li> </ul>	
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<p>(k) In the case of an application described in Subsection 42 (2.1) of the <i>Act</i>, the day on which the application is received by the council of the municipality.</p> <p>(4) Despite Subsection (2), if a notice of intention to designate a property under Subsection 29 (1) of the <i>Act</i> was published in accordance with Clause 29 (3) (b) of the <i>Act</i> before the day this section comes into force and the council of the municipality has not passed a by-law designating the property and has not withdrawn the notice of intention to designate before that day, the notice of intention to designate the property is deemed to be withdrawn unless the council of the municipality passes a by-law designating the property within 365 days after the day this section comes in force in accordance with Section 29 of the <i>Act</i>.</p> <p>(5) For the purposes of Subsection (4), if a person objects to a proposed designation under Subsection 29 (5) of the <i>Act</i>, 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 <i>Act</i> and that is before the earliest of the following:</p> <ol style="list-style-type: none"> <li>1. The day the Review Board makes a report to council under Subsection 29 (12) of the <i>Act</i>.</li> <li>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 <i>Act</i>.</li> </ol> <p>(6) If a notice of intention to designate is deemed to be withdrawn under Subsection (4), the municipality shall cause a notice of withdrawal,</p> <p>(a) To be served on the owner of the property and on the Trust; and</p>	<p>HCD after the by-law has passed</p> <ul style="list-style-type: none"> <li>- By-law designating HCD area after the by-law is passed</li> <li>- By-law adopting an HCD plan as of the date the by-law is passed.</li> <li>- Permit to alter/demolish/erect on a Part V designated property as of the date the application is submitted.</li> </ul> <p>Notwithstanding the above, if a NOID was published before the transition provisions came into force, the City has one year from the date the provisions come into force to pass</p>	
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<p>(b) To be published in a newspaper having general circulation in the municipality.</p> <p>(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 <i>Act</i> 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 <i>Act</i> or is deemed to have consented to the application under Subsection 34 (4) of the <i>Act</i> or the Tribunal has ordered that the municipality give its consent under Clause 34.1 (6) (b) of the <i>Act</i>:</p> <ol style="list-style-type: none"> <li>1. If the council has not passed a repealing by-law under Section 34.3 of the <i>Act</i>, the application shall be continued and disposed of in accordance with Section 34.3 of the <i>Act</i> as it reads on and after the day this section comes into force.</li> <li>2. If the council has passed a repealing by-law under Section 34.3 of the <i>Act</i>, the application shall be continued and disposed of in accordance with Section 34.3 of the <i>Act</i> as it read immediately before the day this section comes into force.</li> </ol> <p>(8) Subsection 29 (1.2) of the <i>Act</i>, 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.</p>	<p>a by-law designating the property (the time required to dispose of any objections before the Review Board does not count toward the one year).</p> <p>If an application for a permit to demolish a Part IV building was received prior to this provision coming into force, and Council consented to that application, if the repealing by-law has not yet been passed when this provision of the regulation comes into force, then the rules for notice under the regulation apply. If a repealing by-law was already passed, the old rules for notice apply.</p>	
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<p>For the purposes of the 90-day deadline to issue of a NOID, “triggering events” described in Section 2 of this Regulation that took place before this provision of the Regulation came into force don’t trigger the timeline.</p>	
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