

REPORT

REPORT TO: Mayor Bonnette and Members of Council

REPORT FROM: Laura Loney, Senior Heritage Planner

DATE: October 2, 2020

REPORT NO.: PD-2020-0050

RE: Bill 108 and Draft Ontario Heritage Act Regulation

RECOMMENDATION:

THAT Report No. PD-2020-0050, dated October 2, 2020, entitled “Bill 108 and Ontario Heritage Act Regulation”, regarding the draft Regulation under the *Ontario Heritage Act*, relating to the *More Homes, More Choice Act*, 2019 (Bill 108), be received;

AND FURTHER THAT Council endorse the comments attached in Appendix A to this report, to be submitted to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) in advance of the commenting deadline of November 5, 2020.

PURPOSE OF THE REPORT:

The purpose of this report is to provide an overview of the draft Regulation under the amended *Ontario Heritage Act (OHA)*, and to provide an overview of staff’s comments to the Ministry of Heritage, Sport, Tourism and Culture Industries (MHSTCI) prior to the commenting deadline of November 5, 2020.

BACKGROUND:

The *More Homes, More Choices Act* (Bill 108) received Royal Assent on June 6, 2019 following its introduction on May 2, 2019. The amendments to the *OHA* arising out of Bill 108 were intended to improve the consistency, transparency and efficiency of municipal decision-making as it relates to cultural heritage resources. The amendments to the *OHA* resulting from Bill 108 are summarized below:

- Notice requirements and objections processes for listing properties on a Municipal Heritage Register;
- Elimination of the Conservation Review Board (CRB) and adjudication of all *OHA* appeals by the Local Planning Appeal Tribunal (LPAT);

- Prescribed principles to be considered by Council when making decisions under the *OHA*;
- Required content for Designation By-laws under Part IV of the *OHA*;
- Complete application requirements for applications for the demolition of and alteration to designated heritage properties (Part IV and Part V); and,
- Broadened definition of demolition to include the removal of any of a property's identified heritage attributes.

The MHSTCI released a draft regulation under the *OHA* associated with the amendments made through Bill 108 on September 21, 2020, and are seeking comment by November 5, 2020. The draft Regulation is intended to provide improved direction and tools from the Province relating to the implementation and interpretation of the *OHA* and to provide consistency in the appeals with the shift from the CRB to the LPAT.

The amendments to the *OHA* and accompanying proposed regulation will be proclaimed and come into force on January 1, 2021.

Proposed Regulation

The following matters are proposed to be prescribed in regulation by the MHSTCI (Appendix B):

1. Principles for Municipal Decision-making

The proposed regulation identifies three principles that relate to the purpose of the *OHA* with the intention of assisting decision-makers when making decisions under the *OHA*. These principles include:

- 1) Property that is determined to be of cultural heritage value or interest should be protected and conserved for all generations.
- 2) Decisions affecting the cultural heritage value or interest of a property or heritage conservation district should,
 - i. Minimize adverse impacts to the cultural heritage value or interest of the property or district,
 - ii. Be based on research, appropriate studies and documentary evidence, and
 - iii. Demonstrate openness and transparency by considering the views of all interested person and communities.
- 3) Conservation of properties of cultural heritage value or interest should be achieved through identification, protection and wise management, including adaptive reuse where appropriate.

2. Mandatory Content for Designation By-laws

The amendments to the *OHA* provide the authority to prescribe mandatory content for designation by-laws in order to provide consistency throughout the province and clarity for property owners, including:

- The municipal address and legal description of the property;
- A general description of where the property is located in the municipality;
- A site plan, scale drawing, aerial photograph or other image identifying the areas of the property that have cultural heritage value or interest;
- A Statement of Significance in accordance with Ontario Regulation 9/06 Criteria for Determining Cultural Heritage Value or Interest;
- A brief description of a property's heritage attributes and how each contributes to the cultural heritage value or interest of the property; and,
- The By-law may identify any physical features that are not identified as heritage attributes of the property.

3. Prescribed Events Relating to Notices of Intention to Designation (NOID)

In order to encourage early discussions with property owners about potential designations, the draft regulation identifies a new 90-day timeline for a municipality to issue a Notice of Intention to Designate (NOID) following three different triggers, or prescribed events, identified as complete applications for Official Plan Amendments, Zoning By-law Amendments, and Plans of Subdivision. The regulation also identifies exceptions to this 90-day timeline including mutual agreement with a property owner to extend or eliminate the 90-day timeline, administrative restrictions such as a declared emergency, or new and relevant information pertaining to the application. Once any of these three applications are complete or disposed of, the 90-day timeline restriction would cease to apply, allowing municipalities to issue a NOID for the property once again.

4. Timelines Relating to the Passing of a Designation By-law After a NOID

The proposed regulation identifies a new requirement for designation by-laws to be passed within 120 days of issuing a NOID. The same exceptions would apply to this timeline as with issuing NOID, including mutual agreement with a property owner, administrative restrictions, and new and relevant information.

5. Minimum Requirements for Applications to Alter or Demolish Heritage Properties

The regulation identifies a new 60-day timeline for municipalities to respond to property owners regarding the completeness of an application to alter or demolish a heritage property. Minimum requirements for complete applications are also identified and are summarized below:

- Applicant contact information;
- Municipal approval authority;
- Description of the subject property;
- Photographs of those buildings, structures, and heritage attributes and their existing context that are anticipated to be impacted by the proposal;
- A site plan or sketch showing the location of the proposed alteration or demolition;
- Drawings and written specifications for the proposal;
- Rationale for the proposal and potential impacts to the heritage property;
- Relevant technical studies; and,
- An affidavit or sworn declaration confirming accuracy of the application.

6. Prescribed Steps following Demolition or Removal of a Heritage Attribute

Previously, following Council's approval of a demolition under Section 34.3 of the *OHA*, municipalities were required to repeal a designation by-law in its entirety. The regulation provides for Council to consider whether a heritage property retains its value following the demolition of a heritage attribute, structure or building and to consider whether no changes to the by-law are required, whether the by-law should be amended, or whether the by-law should be repealed. Council's decision in this regard would not be appealable to the LPAT.

7. Information to be Provided to the LPAT for Appeals

All final decisions relating to the designation of a heritage property, amendment and repeal of a designation by-law, and alterations to a heritage property under the *OHA* will now be appealable to the LPAT instead of the Conservation Review Board. With this shift, decisions relating to *OHA* applications at the LPAT will be binding, whereas decisions made at the CRB were not binding. The regulation also provides direction for materials required by the LPAT in the event of a hearing relating to an application under the *OHA*, to be received within 15 calendar days of a municipality's decision.

8. Housekeeping Amendments Relating to the Amendment or Repeal of a Designation By-law

The draft regulation addresses several housekeeping amendments relating to modified processes for amendment of a designation by-law, notices of proposed amendments to a designation by-law, and restrictions of a property owner to apply for a repeal of a designating by-law.

9. Transition Provisions

The draft regulation also identified provisions for those matters that are already underway at the time the amendments to the *OHA* come into force. Any application process that begins prior to the proclamation will follow the former process, with exceptions applying to outstanding NOID and municipal issuance of a new NOID.

COMMENTS:

Staff are generally supportive of the proposed Regulation as the amendments are in line with our established practices and processes. In addition to several administrative and housekeeping amendments, the proposed Regulation provides additional clarity and guidance to municipalities for the content of designation by-laws, processes relating to demolition, and transitioning from the former Ontario Municipal Board (OMB) and Conservation Review Board (CRB) to the LPAT.

There are two issues about which staff will be requesting further clarity from the Province, including further guidance relating to identified prescribed events and timelines for issuing Notices of Intention to Designate (NOID), in addition to the expiration of timelines following the closure of a planning application.

Staff's comments and questions relating to the draft Regulation under the *OHA* are attached in Appendix A to this report.

Next Steps

The consultation period for the proposed *OHA* regulation closes on November 5, 2020, after which it will be finalized and proclaimed along with the amended *OHA* on January 1, 2021. It is recommended that staff be directed to report back to Council following the proposed proclamation in 2021

RELATIONSHIP TO STRATEGIC PLAN:

This report directly aligns to the following values in the Strategic Plan 2019-2022:

Preserve, Protect & Promote our Distinctive History

To preserve the historical urban and rural character of Halton Hills through the conservation and promotion of our built heritage, cultural heritage landscapes and archaeological resources.

Achieve Sustainable Growth

To ensure that growth is managed so as to ensure a balanced, sustainable, well planned community infrastructure and services to meets the needs of its residents and businesses.

The report is also closely linked with a number of Focus Areas/Priorities, including Shaping Growth.

FINANCIAL IMPACT:

There are no financial impacts associated with this particular report.

CONSULTATION:

Heritage Halton Hills was consulted in the preparation of this report.

PUBLIC ENGAGEMENT:

No public consultation was required as part of the preparation of this report.

SUSTAINABILITY IMPLICATIONS:

The Town is committed to implementing our Community Sustainability Strategy, Imagine Halton Hills. Doing so will lead to a higher quality of life.

The recommendation outlined in this report advances the Strategy's implementation. This report supports the Cultural Vibrancy pillar(s) of Sustainability and the theme of Valued Heritage Legacy. In summary the alignment of this report with the Community Sustainability Strategy is Good.

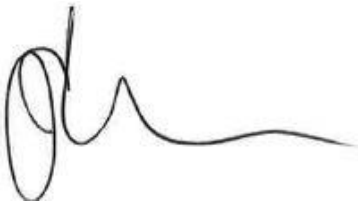
COMMUNICATIONS:

A copy of this report will be forwarded to the Ministry of Heritage, Sport, Tourism and Culture Industries by the deadline of November 5, 2020.

CONCLUSION:

This report has provided an overview of the contents of the draft *Ontario Heritage Act* Regulation. It is recommended that Council endorse the comments contained in this report in Appendix A and that staff be directed to forward the comments to the Ministry of Heritage, Sport, Tourism and Culture Industries as the Town's comments on the proposed regulation.

Reviewed and Approved by,



John Linhardt, Commissioner of Planning and Development



Chris Mills, Acting Chief Administrative Officer