

April 2005

Heritage Protection Strengthened for Ontario:

Major revisions to the Ontario Heritage Act

For the first time since the Ontario Heritage Act was introduced in 1975, the Ontario government has announced comprehensive amendments to the act.

These changes, through the Ontario Heritage Amendment Act, 2005 (Bill 60), came into force on April 28, 2005.

The amendments to the Ontario Heritage Act provide new municipal and provincial powers to identify and protect heritage sites and districts, marine heritage sites and archaeological resources. The key changes are outlined below.

Changes to Protect Built Heritage

Demolition Controls

- ▶ Allow local municipalities to prohibit demolition or removal of property designated under the act (both individually and in districts), or to attach terms and conditions to approval of demolition. This power applies to properties currently designated as well as new designations and is effective immediately.
- ▶ Ensure procedural fairness by providing property owners with the right of appeal of municipal decisions refusing demolition, or attaching terms and conditions to demolition, to the Ontario Municipal Board.

Municipal Listing and Designation

- ▶ Enables local municipalities to list cultural heritage properties that have not been designated on their municipal registers.
 - ▶ Requires municipalities to use and apply standard criteria when designating individual property. The criteria will be prescribed by regulation following consultation with municipalities and other stakeholders, including property owners.
 - ▶ Requires that designation bylaws be accompanied by a statement explaining the cultural heritage value or interest of the property, and a description of the specific heritage attributes of the property.
 - ▶ Shortens the information required to be published in newspaper notices of proposed designations.
 - ▶ Requires that public notice be given, with opportunity to object, when owners of designated property apply to have the designation by-law repealed.
 - ▶ Provides a specific streamlined process for amending designation bylaws for the purpose of correcting or updating a bylaw.
 - ▶ Allows municipalities with established heritage committees to delegate alteration approvals for designated property to municipal staff.
 - ▶ Enables municipalities with an existing property standards bylaw under the Building Code Act to prescribe and enforce minimum standards for the maintenance of designated property.
 - ▶ Removes the provision permitting alterations to designated property by property owners without municipal consent in cases where alteration is carried out for reasons of “public health, safety or the preservation of the property.”
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Enhanced Protection for Heritage Conservation Districts

- ▶ Enables municipalities to undertake studies of areas for potential designation as heritage conservation districts, in consultation with their municipal heritage committees, and to place interim controls (e.g., no demolitions) for up to one year on changes to areas identified for study, subject to property owners' right to appeal to the Ontario Municipal Board.
- ▶ Requires that municipalities adopt heritage conservation district plans for new designated districts, and allows the adoption of such plans for existing districts.
- ▶ Extends alteration controls in designated districts to cover property features, in addition to the exterior of buildings and structures. Requires municipalities to be consistent with the district plan in their bylaws and public works.
- ▶ Where provided for in the district plan, allows municipalities to exempt minor alterations from approval requirements.
- ▶ Requires that district designation bylaws be registered on the title of properties in the district.
- ▶ Provides that individually designated properties that are included in a heritage conservation district with a district plan be subject to district controls under Part V of the act, except with respect to any interior features which would be subject to controls under Part IV.

New Provincial Powers

- ▶ Allow the Minister of Culture to list properties of cultural heritage value on the provincial register of designated property.
- ▶ Enable the Minister of Culture to designate cultural heritage property of provincial significance, in consultation with the Ontario Heritage Trust (formerly the Ontario Heritage Foundation), in accordance with criteria to be prescribed by regulation. This would enable

the Minister to prohibit demolition or removal of such property.

- ▶ Allow the Minister of Culture to issue a stop order for up to 60 days on work that is likely to alter, damage or demolish heritage resources, to permit the Minister time to consider the significance of property and options for its preservation.
- ▶ Enable the Minister of Culture to develop mandatory standards and guidelines, to be approved by the Lieutenant Governor in Council, for the identification and protection of heritage property owned or controlled by the Province. These standards and guidelines, to be developed in consultation with those affected, will apply to the provincial Crown and other provincial bodies to be prescribed in a regulation.

Better Protection for Marine and Archaeological Sites

- ▶ Gives the Province the power to protect the most significant marine archaeological sites by prescribing these sites in a regulation and prohibiting access to them without a site-specific licence.
- ▶ Provides the Province with powers to allow access to certain archaeological information it collects under the act, and to monitor the compliance of archaeological licensees through inspection of archaeological fieldwork and sites.
- ▶ Increases fines to a maximum of \$1 million for the illegal alteration of archaeological sites or removal of artifacts.

Updated Provincial Agency Provisions

- ▶ Change the Ontario Heritage Foundation name to “Ontario Heritage Trust.”
 - ▶ Clarify that the mandate of the Ontario Heritage Trust includes property of “natural” heritage importance.
 - ▶ Change the size of the Conservation Review Board to not fewer than five persons (from not more than three) and update its procedural powers in line with changes to the Statutory Powers Procedure Act.
 - ▶ Allow members of the Conservation Review Board to be cross-appointed to Ontario Municipal Board panels hearing appeals under the Ontario Heritage Act.
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The Ministry of Culture is committed to consulting with affected stakeholders on the development of standards, guidelines and regulations required for the implementation of the amended act.

Further information on changes to the Ontario Heritage Act is available at www.culture.gov.on.ca.

If you have questions or comments, please call or e-mail:

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