



# INFORMATION REPORT

<b>TO:</b>	Chair and Members Hamilton Municipal Heritage Committee
<b>COMMITTEE DATE:</b>	November 28, 2023
<b>SUBJECT/REPORT NO:</b>	<i>Bill 139, Schedule 14, Less Red Tape, More Common Sense Act, 2023</i> , and Proposed Changes to the <i>Ontario Heritage Act</i> and the Heritage Permit Requirements for Alterations to Part IV Designated Properties with Buildings Used for Religious Practices (PED23253) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Alissa Golden (905) 546-2424 Ext. 1202
<b>SUBMITTED BY:</b>	Anita Fabac Acting Director, Planning and Chief Planner Planning and Economic Development Department
<b>SIGNATURE:</b>	

## INFORMATION

On October 19, 2023, *Less Red Tape, More Common Sense Act, 2023* was introduced at the Ontario Legislature. Schedule 14 of *Bill 139* (attached as Appendix “A” of Report PED23253) proposes amendments to the *Ontario Heritage Act* and Ontario Regulation 385/21 (General).

The Environmental Registry of Ontario Posting, ERO # 019-7684, for *Bill 139*, Schedule 14 (attached as Appendix “B” of Report PED23253), provides the following summary of the proposed amendments:

“A proposal to make amendments to the Ontario Heritage Act (OHA) and O.Reg. 385/21 (General) which would allow religious organizations and Indigenous communities or organizations to move forward with their proposed alterations where the requirements of the provision are met.”

The details of the proposed amendments indicate that the amendments would “require that municipalities consent, without terms and conditions, to proposed alterations to buildings on designated properties, where the building is primarily used for religious

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OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

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practices, the heritage attributes to be altered are connected to religious practices, the alterations are required for religious practices and all other conditions of the proposed legislative and regulatory amendments are met. The proposal would also reduce application requirements and shorten decision making timelines.”

The Environmental Registry of Ontario commenting period on the proposed changes ends on **December 3, 2023**. As indicated in the posting, if the amendments are passed and the regulatory amendments are made, these amendments are anticipated to come into force on January 1, 2024.

The key components of the proposed amendments include:

- **Automatic approval of alterations** – The proposed amendments to Section 33 of the *Ontario Heritage Act* would ensure that any alterations to a Part IV designated property are consented to, without terms and conditions, when the following requirements are met:
  - The building, or part thereof, to be altered is primarily used for religious practices;
  - The heritage attributes to be altered are connected to religious practices;
  - The alteration of the heritage attributes is required for religious practices;
  - Any additional conditions prescribed by regulation; and,
  - The applicant provides council with an affidavit or sworn declaration that the application meets the conditions in the Act or prescribed in regulation.
  
- **Prescribed conditions** – It is also proposed that the following additional conditions be prescribed by regulation:
  - The alteration is not permitted to be an addition to the building; and,
  - The alteration must be for the benefit of an Indigenous community, an Indigenous organization or a religious organization that is not an Indigenous organization where the religious organization is a registered charity under the laws of Ontario or Canada (applies to owners or tenants).
  
- **Processing timelines** – Municipalities will have 30 days to issue a notice of incomplete application, 30 days to issue a notice of consent upon receipt of a complete application and consent would be deemed to be provided where these timelines have not been met.

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- **Application requirements** – In addition to an affidavit or sworn declaration from the applicant, complete applications would also require: applicant contact information; property information; a description of the proposed alterations and how they impact identified heritage attributes; clarification of who the alterations are for (owner or tenant); and, confirmation that the related religious organization is a registered charity.
- **Defining “building”** – The term is defined with respect to the proposed amendments to the requirements for applications to alter buildings used for religious practices.

### **Staff Analysis**

The Environmental Registry of Ontario posting identifies key questions it has for the owners of designated properties used primarily for religious practices, as well as for the municipalities who administer heritage permits for these properties. The questions for municipalities to comment on, including the initial comments from staff, are as follows:

1. Is 30 days a sufficient time for municipalities to process applications and determine if they are complete?

Staff Comment - A 60-day review timeline would be more reasonable and would also be consistent with the timelines for reviewing other Heritage Permit applications under Part IV of the *Ontario Heritage Act*, as per Sections 33(7) and 34(4.3), which would cause less administrative confusion for municipalities and applicants.

2. Are there any further conditions that should be applied to these types of applications?

Staff Comment - It is unclear whether educational and outreach practices would fall under “religious practices”, as proposed by the legislative amendments. It would be helpful to distinguish or clarify if these types of practices are covered by the amendments and, if not, this should be outlined in the applied conditions to ensure that accessory structures or buildings, like Sunday schools, are still subject to the standard alteration approval requirements under Section 33.

3. Is the list of information and materials required as part of complete application sufficient? Are there any materials or information that is missing or should be removed?

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Staff Comment - The list of information and materials is consistent with much of the basic information that would be expected to accompany a Heritage Permit application. However, staff recommend that the application requirements also include photographs of the existing condition of heritage attributes to be impacted, as well as any plans or drawings that have been prepared that depict the proposed changes, to assist staff with interpreting the description of the proposed alterations that would be required. If staff or Heritage Committee analysis are not required to advise if the application should be consented to, then no supporting studies or reports would be required.

4. Are the types of buildings listed considered by religious organizations to be reflective of what are commonly thought of, or referred to as a place of worship? Do Indigenous communities and organizations consider the definition as reflective of buildings where their religious and spiritual Indigenous practices might take place? Are there modifications or additions to the definition that religious organizations, Indigenous communities or Indigenous organizations would suggest?

Staff Comment - No comments at this time.

5. How many applications do you receive each year from municipally designated heritage properties that are primarily used for religious practices or Indigenous spiritual or religious practices requesting an alteration to identified heritage attributes connected to those practices?

Staff Comment - Based on a review of Heritage Permit applications processed over the last 5 years, since 2018, the City of Hamilton has received 18 applications to alter designated properties with buildings used primarily for religious practices. This includes 11 applications for individually designated properties under Part IV of the *Ontario Heritage Act* and 7 applications for district designated properties under Part V of the Act.

Of the 11 applications under Part IV (Section 33) of the Act, none of the alterations appear to be directly related to religious practices or Indigenous spiritual or religious practices. Types of applications include: repairs to heritage features, including windows, porches, ceilings, and roofs; the introduction of new entrances; and accessibility upgrades (e.g. elevator). One permit dealt with alterations to the Sunday school building on the property, an identified heritage attribute, but it is unclear if the reasons for the alterations were directly related to religious practices, as proposed in the amendments.

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6. How long does it typically take to review such an application (in hours)? How long do you believe it would take under the revised process and requirements?

Staff Comment - The time required to review and process a Heritage Permit application to alter a Part IV designated property varies depending on the complexity of the application, supporting documentation and reports, discussions with the owner/applicant and whether approval can be issued by staff through the delegated authority of Council, or whether a report to Heritage Committee, Planning Committee and a decision of Council is required. A conservative estimated range of time would be between 5 hours for a simple application to 40 hours for a complex one.

Under the proposed revised process, since there would be no documentation to review or analysis to perform, it would take approximately 5 hours to process.

7. What level of employee in your organization typically undertakes this work (e.g., administrative staff, management)?

The processing of Heritage Permit applications requires administrative support by the Assistant Cultural Heritage Planner, review and processing time by Cultural Heritage Planning staff, and supervisory and upper management review and approval time, including the Cultural Heritage Program Lead, Director of Heritage and Urban Design and Director of Planning and Chief Planner.

Cultural Heritage Planning staff are in the process of preparing more detailed comments on the changes to the *Ontario Heritage Act* to be submitted prior to the commenting deadline. Staff will report back to the Hamilton Municipal Heritage Committee, Planning Committee and Council with any necessary actions to address the legislative changes, once passed, and the impacts on the City's policies and procedures, as applicable.

## **APPENDICES AND SCHEDULES ATTACHED**

Appendix "A" to Report PED23253 – *Bill 139, Schedule 14 Excerpt*

Appendix "B" to Report PED23253 – Environmental Registry of Ontario Posting Number 019-7684, for *Bill 139, Proposed changes to the Ontario Heritage Act and O.Reg. 385/21 General with respect to certain alteration requests*

AG/mb