

### **Alteration of property**

**33** (1) No owner of property designated under section 29 shall alter the property or permit the alteration of the property if the alteration is likely to affect the property's heritage attributes, as set out in the description of the property's heritage attributes in the by-law that was required to be registered under clause 29 (12) (b) or subsection 29 (19), as the case may be, unless the owner applies to the council of the municipality in which the property is situate and receives consent in writing to the alteration. 2019, c. 9, Sched. 11, s. 11.

### **Application**

(2) An application under subsection (1) shall be accompanied by the prescribed information and material. 2019, c. 9, Sched. 11, s. 11.

### **Other information**

(3) A council may require that an applicant provide any other information or material that the council considers it may need. 2019, c. 9, Sched. 11, s. 11.

### **Notice of complete application**

(4) The council shall, upon receiving all information and material required under subsections (2) and (3), if any, serve a notice on the applicant informing the applicant that the application is complete. 2019, c. 9, Sched. 11, s. 11.

### **Notification re completeness of application**

(5) The council may, at any time, notify the applicant of the information and material required under subsection (2) or (3) that has been provided, if any, and any information and material under those subsections that has not been provided. 2019, c. 9, Sched. 11, s. 11.

### **Decision of council**

(6) The council, after consultation with its municipal heritage committee, if one is established, and within the time period determined under subsection (7),

(a) shall,

(i) consent to the application,

(ii) consent to the application on terms and conditions, or

(iii) refuse the application; and

(b) shall serve notice of its decision on the owner of the property and on the Trust. 2019, c. 9, Sched. 11, s. 11.

### **Same**

(7) For the purposes of subsection (6), the time period is determined as follows:

1. Unless paragraph 2 applies, the period is 90 days after a notice under subsection (4) is served on the applicant or such longer period after the notice is served as is agreed upon by the owner and the council.

2. If a notice under subsection (4) or (5) is not served on the applicant within 60 days after the day the application commenced, as determined in accordance with the regulations, the period is 90 days after the end of that 60-day period or such longer period after the end of the 60-day period as is agreed upon by the owner and the council. 2019, c. 9, Sched. 11, s. 11.

### **Deemed consent**

(8) If the council fails to notify the owner under clause (6) (b) within the time period determined under subsection (7), the council shall be deemed to have consented to the application. 2019, c. 9, Sched. 11, s. 11.

### **Appeal to Tribunal**

(9) If the council of a municipality consents to an application upon certain terms and conditions or refuses an application, the owner may, within 30 days after receipt of the notice under clause (6) (b), appeal the council's decision to the Tribunal by giving a notice of appeal to the Tribunal and to the clerk of the municipality setting out the objection to the decision and the reasons in support of the objection, accompanied by the fee charged by the Tribunal. 2019, c. 9, Sched. 11, s. 11; 2021, c. 4, Sched. 6, s. 74 (2).

### **If notice of appeal**

(10) If a notice of appeal is given within the time period specified in subsection (9), the Tribunal shall hold a hearing and, before holding the hearing, shall give notice of the hearing to the owner of the property and to such other persons or bodies as the Tribunal may determine. 2019, c. 9, Sched. 11, s. 11.

### **Powers of Tribunal**

(11) After holding a hearing, the Tribunal may order,

- (a) that the appeal be dismissed; or
- (b) that the municipality consent to the application without terms and conditions or with such terms and conditions as the Tribunal may specify in the order. 2019, c. 9, Sched. 11, s. 11.

### **Dismissal without hearing of appeal**

(12) Despite the *Statutory Powers Procedure Act* and subsections (10) and (11), the Tribunal may, on its own motion or on the motion of any party, dismiss all or part of the appeal without holding a hearing on the appeal if,

- (a) the Tribunal is of the opinion that,
  - (i) the reasons set out in the notice of appeal do not disclose any apparent ground upon which the Tribunal could allow all or part of the appeal, or
  - (ii) the appeal is not made in good faith, is frivolous or vexatious, or is made only for the purpose of delay;
- (b) the appellant has not provided written reasons in support of the objection to the decision of the council of the municipality;
- (c) the appellant has not paid the fee charged by the Tribunal; or
- (d) the appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal. 2019, c. 9, Sched. 11, s. 11; 2021, c. 4, Sched. 6, s. 74 (2).

### **Representations**

(13) Before dismissing all or part of an appeal on any of the grounds mentioned in subsection (12), the Tribunal shall,

- (a) notify the appellant of the proposed dismissal; and
- (b) give the appellant an opportunity to make representations with respect to the proposed dismissal. 2019, c. 9, Sched. 11, s. 11.

### **Notice of Tribunal's decision**

(14) The council shall serve notice of the Tribunal's decision under subsection (11) or (12) on the Trust. 2019, c. 9, Sched. 11, s. 11.

### **Delegation of council's consent**

(15) The power to consent to alterations to property under this section may be delegated by by-law by the council of a municipality to an employee or official of the municipality if the council has established a municipal heritage committee and has consulted with the committee prior to delegating the power. 2019, c. 9, Sched. 11, s. 11.

### **Scope of delegation**

(16) A by-law that delegates the council's power to consent to alterations to a municipal employee or official may delegate the power with respect to all alterations or with respect to such classes of alterations as are described in the by-law. 2019, c. 9, Sched. 11, s. 11.

### **Transition**

(17) If property is designated under this Part as property of historic or architectural value or interest, either before the day section 29 of this Act is amended by section 2 of Schedule F to the *Government Efficiency Act, 2002* or under subsection 29 (16) of this Act after that day,

- (a) subsection (1) of this section does not apply to the property;
- (b) despite its amendment by subsection 2 (16) of Schedule F to the *Government Efficiency Act, 2002*, subsection (1) of this section, as it read immediately before the day subsection 2 (16) of Schedule F to the *Government Efficiency Act, 2002* came into force, continues to apply to the property. 2019, c. 9, Sched. 11, s. 11.

**Alteration of building used for religious practices**

(18) The council shall consent to an application to alter or permit the alteration of a building, or part thereof, on property under subsection (1), without terms or conditions, where the following conditions are met:

1. The building, or part thereof, to be altered is primarily used for religious practices.
2. The heritage attributes are connected to religious practices.
3. The alteration of the heritage attributes is required for religious practices.
4. Any prescribed conditions.
5. The applicant provides the council with an affidavit or sworn declaration that the application meets the conditions set out in paragraphs 1 to 4.
6. The applicant provides the council with any information and material prescribed under subsection (2).

**Indigenous religious or spiritual practices**

(19) For the purposes of subsection (18), religious practices include Indigenous religious or spiritual practices.

**Notice re incomplete application**

(20) The council shall, in accordance with the prescribed time period, notify the applicant if the affidavit or sworn declaration required under paragraph 5 of subsection (18) is not complete or if any information and material required under paragraph 6 of subsection (18) is not provided.

**Same**

(21) For greater certainty, the council shall provide additional notice in accordance with subsection (20) if the applicant resubmits an affidavit or sworn declaration that remains incomplete or if any information and material required is still not provided.

**Notice re consent**

(22) Upon receiving the complete affidavit or sworn declaration required under paragraph 5 of subsection (18) and all information and material required under paragraph 6 of subsection (18), the council shall, in accordance with the prescribed time period, serve notice of its consent to the application under subsection (18) on the applicant and the Trust.

**Deemed consent, incomplete application**

(23) If the council receives an affidavit or sworn declaration required under paragraph 5 of subsection (18) that is incomplete or if any information and material required under paragraph 6 of subsection (18) is not provided by the applicant, and the council fails to provide the applicant with notice of an incomplete application in accordance with subsection (20) or (21), as the case may be, the council shall be deemed to have consented to the application.

**Deemed consent, complete application**

(24) If the council receives the complete affidavit or sworn declaration required under paragraph 5 of subsection (18) and all of the information and material required under paragraph 6 of subsection (18) but does not provide notice of consent to the applicant in accordance with the time period prescribed under subsection (22), the council shall be deemed to have consented to the application.

**Reliance on affidavit or sworn declaration**

(25) For greater certainty, the council shall rely exclusively on the affidavit or sworn declaration under paragraph 5 of subsection (18) to demonstrate that the application meets the conditions under paragraphs 1 to 4 of subsection (18).

**Non-application, subss. (3) to (14)**

(26) Subsections (3) to (14) do not apply to an application to alter under subsection (18).