



DESIGNATING HERITAGE PROPERTIES

A Guide to Municipal Designation of Individual Properties Under the Ontario Heritage Act

Ontario Heritage Tool Kit





Franklin Carmichael (1890-1945)

A Northern Silver Mine 1930

oil on canvas

101.5 x 121.2 cm

Gift of Mrs. A.J. Latner

McMichael Canadian Art Collection

1971.9

This guide is one of several published by the Ministry of Culture as part of the Ontario Heritage Tool Kit. It is designed to help municipal Councils, municipal staff, Municipal Heritage Committees, land use planners, heritage professionals, heritage organizations, property owners, and others understand the heritage conservation process in Ontario.

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Every community in Ontario has its own unique culture and heritage.

Each city, town, township or county has places, spaces and stories that enrich it, inspire it, enlighten it and guide it in its growth and development.

These places are integral parts of the identity of our communities, but they also play a significant role in economic development by helping to enhance a community's quality of life, strengthen its distinctiveness, stimulate revitalization and attract tourist dollars.

Under the Ontario Heritage Act, municipalities can pass bylaws to formally designate properties of cultural heritage value or interest. Formal designation of heritage properties is one way of publicly acknowledging a property's heritage value to a community. At the same time, designation

helps to ensure the conservation of these important places for the benefit and enjoyment of present and future generations.

In April 2005, the Ontario Heritage Act was strengthened to provide municipalities and the province with enhanced powers to conserve Ontario's Heritage. A number of improvements were made with respect to designation, providing a clearer process and better protection for designated properties – including protection from demolition.

Properties can be designated individually or as part of a larger area or Heritage Conservation District. This guide concentrates on individual property designation under section 29 in Part IV of the Ontario Heritage Act. It explains what designation is, describes the steps in the process, and explores how it helps to conserve heritage properties into the future.



What's in this guide?

1. Introduction to Designation 5

This section describes what designation is and how it works to protect cultural heritage properties.

2. The Designation Process 7

A step-by-step description of the designation process is provided, including a discussion of the role of the municipality, the Municipal Heritage Committee and the property owner.

3. Preparing the Designation Bylaw and Related Material 13

This section explains each of the different written requirements for a designation and provides advice on how these should be prepared.

4. Conserving the Heritage Value of a Designated Property 23

This section describes how designation can work to conserve the heritage value of a property by managing alterations and supporting ongoing maintenance and conservation.

5. Preventing Demolition 28

This part of the guide relates to a request for demolition of a building or structure on a designated property and how demolition can be prevented.

6. Amending a Designation Bylaw 30

When and how should a designation bylaw be amended? This section helps to answer these questions and also discusses when and how a designation bylaw would be repealed.

7. Resources and Further Information 32

Appendix: Designation Flowcharts 33

Although the individual processes are described throughout this guide, this appendix provides a series of detailed flowcharts for easy reference.



Chiefswood – the birthplace of poet Pauline Johnson, was designated by Band Council resolution by the Six Nations of the Grand River. (Photo courtesy of Chiefswood Museum)

Note: The Ministry of Culture has published this Guide as an aid to municipalities. Municipalities are responsible for making local decisions including compliance with applicable statutes and regulations. Before acting on any of the information provided in this Guide, municipalities should refer to the actual wording of the legislation and consult their legal counsel for specific interpretations.



1

Introduction to Designation

Our cultural heritage is what we value from the past, and what we want to preserve for future generations.

Identifying and protecting places in our communities that have *cultural heritage value* is an important part of planning for the future, and of helping to guide change while keeping the buildings, structures and landscapes that give each of our communities its unique identity.

Municipalities have a key role to play in conserving places that have cultural heritage value. The designation of individual properties under the Ontario Heritage Act is one tool that municipalities have used to protect thousands of heritage properties in hundreds of communities across Ontario.

Heritage designation:

- **RECOGNIZES** the importance of a property to the local community;
- **PROTECTS** the property's cultural heritage value;
- **ENCOURAGES** good stewardship and conservation; and
- **PROMOTES** knowledge and understanding about the property.

Designation under the Ontario Heritage Act applies to real property, and helps to recognize and protect the heritage features on that property.

Property designation is not limited to buildings or structures but can include groups of buildings, cemeteries, natural features, cultural landscapes or landscape features, ruins, archaeological and marine archaeological sites, or areas of archaeological potential.

Designation not only publicly recognizes and promotes awareness of heritage properties, it also provides a process for ensuring that changes to a heritage property are appropriately managed and that these changes respect the property's heritage value. This includes protection from demolition.



*The Comfort Sugar Maple Tree, designated under the Ontario Heritage Act by the Town of Pelham, is one of the oldest sugar maples in Canada.
(Photo: Ministry of Culture)*



2

The Designation Process

There are six key steps to designating an individual property under section 29 of the Ontario Heritage Act. These include:

1. Identifying the property as a candidate for designation;
2. Researching and evaluating the property;
3. Serving *Notice of Intention to Designate*, with an opportunity for objection;
4. Passing and registering the designation bylaw;
5. Listing the property on the municipal register; and
6. Listing on the provincial register.

Once designated, the property is also eligible for listing on the Canadian Register of Historic Places.

A flowchart outlining the designation process is provided in the appendix.



The Elam Martin Farmstead was designated in 2001 as one of the last remaining Mennonite farmsteads in the City of Waterloo. (Photo courtesy of the City of Waterloo)

Step 1: Identifying the property

Identifying local heritage resources is the first step toward conserving and protecting them.

Properties of cultural heritage value or interest are usually identified by Municipal Heritage Committees, or through a local community process such as an inventory of cultural resources, a municipal cultural planning process, or a community planning study.

Many municipalities keep registers of property of cultural heritage value or interest. The Ontario Heritage Act allows property that has not been designated, but that municipal council believes to be of cultural heritage value or interest, to be listed on the municipal register. Many of these listed properties are eventually recommended for designation.

A property can also be recommended for designation by a property owner, or through the suggestion of an individual or group in the community. In some cases, this can occur because a property is threatened with demolition. Initiating a designation is one way of protecting a threatened heritage property to allow more time for considering alternatives.

Step 2: Researching and evaluating the property

Careful research and an evaluation of the candidate property must be done before a property can be recommended for designation. Criteria are set out in a regulation made under the Ontario Heritage Act to determine whether property is of cultural heritage value or interest. See the Ministry of Culture's *Heritage Property Evaluation: A Guide to Listing, Researching and Evaluating Cultural Heritage Property in Ontario Communities* for further information on this process – this guide provides advice on evaluating properties to determine their cultural heritage value or interest.

A designation report should be prepared for council's consideration, containing the written statements and descriptions required to support the designation. These are discussed in more detail in the next section.

Before deciding whether or not to proceed with a designation, council must consult with its Municipal Heritage Committee (where one has been established). A Municipal Heritage Committee is instrumental in ensuring that all relevant heritage information is considered and assisting in the evaluation of the property.



The St. Cyril & Methodius Ukrainian Catholic Church in the City of St. Catherines was designed by well-known architect Rev. Philip Ruh in the Byzantine style of Ukrainian churches in Western Canada. The interior is adorned with iconography by artist Igor Suhacev. (Photo: Ministry of Culture)

DESIGNATION AND THE PROPERTY OWNER

The property owner is a key player in a designation under the Ontario Heritage Act. As early as possible in the process, designation should be discussed with owners to ensure that they are actively engaged in the process. There are many myths and misconceptions about designation that may need to be clarified. Once they understand the process, many owners are interested in designation as a way of expressing pride in their property and ensuring it is protected for the future.

Municipal Heritage Committees across Ontario have built positive relationships with owners of designated properties to support them in their conservation efforts, and owners value the advice and information committee members and municipal staff provide.

OWNERS AND TENANTS

In cases where a property being considered for designation is occupied by tenants, owners should be encouraged to notify those tenants of the potential designation and any implications it may have for work they plan to undertake on the property.

In the case of a potential cemetery designation, the owner should be encouraged to notify the burial rights holders, if known.

Step 3: Serving Notice of Intention to Designate

If council passes a motion to proceed with designating a property, it must notify the owner as well as the Ontario Heritage Trust (formerly called the Ontario Heritage Foundation) and publish a *Notice of Intention to Designate* in a local newspaper.¹

Under section 29 of the Ontario Heritage Act, the notice to the owner and the Ontario Heritage Trust must include the following:

- The *Description of Property* so that it can be readily ascertained;
- The *Statement of Cultural Heritage Value or Interest*, which identifies the property's heritage significance;
- The *Description of Heritage Attributes* outlining the particular features that should be protected for the future; and
- A statement that notice of objection to the designation must be filed with the municipality within 30 days after the date of publication of the newspaper notice.

The notice in the newspaper must include the same information as above, except the *Description of Heritage Attributes*. The newspaper notice could include a statement that further information respecting the proposed designation is available from the municipality.

If no objections are filed with the municipality within 30 days after the date of the publication of notice in the newspaper, council can proceed to pass a bylaw designating the property.

1. Throughout this guide, where notices must be published in a newspaper, the newspaper must have general circulation in the municipality.

If an objection to a designation is filed with the municipality within the 30-day period, council must refer the objection to the Conservation Review Board (CRB) for a hearing. The Ontario Heritage Act mandates this tribunal to conduct hearings and make recommendations to council regarding objections to proposals to designate, as well as other council decisions under Part IV of the Ontario Heritage Act.



This street light standard is on the west side of Queen Street, at the approach to the main Chatham Public Library entrance and was designated in 1986. (Photo courtesy of the Municipality of Chatham-Kent)

Following the hearing, the CRB writes a report to council with its recommendation on whether or not the property should be designated. Council is not bound to follow the recommendation of the CRB, however. After considering the CRB recommendation, council may decide to go ahead with the designation, or to withdraw its intention to designate.

PROTECTION FOR A THREATENED PROPERTY

Sometimes, it is only when a property is threatened that a community recognizes its value. Municipal councils can use the *Notice of Intention to Designate* as a way of preventing the demolition or alteration of a threatened property that may be worthy of designation. This gives council an opportunity to consider the significance of the property, and alternatives to alteration or demolition, before the damage is done.

If a *Notice of Intention to Designate* is issued for a property, the property will be subject to certain interim protections. Any existing permit that allowed for the alteration or demolition of the property, including a building permit or a demolition permit, becomes void. Any proposed demolition or alteration affecting the property's heritage attributes will require council's consent.

The owner's consent is not required for a designation to proceed. In some cases, council may have to act in the public interest to conserve a significant property, despite objections by the owner. The owner can then appeal to the Conservation Review Board, which provides a recommendation back to council.

In November 2003, an Ontario Divisional Court decision in the case of *Tremblay v. Lakeshore (Town)* held that requiring the owner's consent before considering the designation of a property was not consistent with the intent of the Ontario Heritage Act. This court decision suggests that a council should consider a request for designation, regardless of whether or not the owner supports it. This means that if council is approached with a request for a designation, it must consult with its Municipal Heritage Committee (where one exists) and discuss the matter at a council meeting.

Step 4: Passing and registering the heritage designation bylaw

Once council decides to proceed with designation, it may then pass a designation bylaw.

A copy of the bylaw, with the *Statement of Cultural Heritage Value or Interest* and the *Description of Heritage Attributes*, is registered on the title of the property at the local land registry office. Notice that the bylaw has passed is given to the property owner and to the Ontario Heritage Trust, and is published in the newspaper.

Step 5: Listing the property on the municipal register

Under section 27 of the Ontario Heritage Act, designated properties must then be listed on the municipal register of property that is of cultural heritage value or interest, kept by the municipal clerk. The listing includes the following:

- *Legal Description* of the property;
- Name and address of the owner;

- *Statement of Cultural Heritage Value or Interest*; and
- *Description of Heritage Attributes* of the property.

Step 6: Listing on the provincial register

Once a property has been designated and notice has been given to the Ontario Heritage Trust, the property is then listed on the provincial register of heritage properties. This register, which can be accessed at www.culture.gov.on.ca, is a valuable resource tool for learning about and promoting heritage properties across the province. It also sets heritage properties in a provincial context. Municipalities, heritage groups and members of the public can search by keyword, property type or municipality to learn what properties have been protected in Ontario.



The Pagani House, built in 1961 and designed by architect Richard Pagani as his own home, is one of the best examples in Guelph of modern design. (Photo courtesy of Frank Hochstenbach)

Listing on the Canadian Register

Once designated, the property also becomes eligible for nomination and listing on the Canadian Register of Historic Places. While listing to the Canadian Register is recommended, it is not a requirement of the Ontario Heritage Act.

The province will nominate a designated property to the Canadian Register when the municipality has provided the necessary documentation. This documentation is provided as part of a request for nomination, which can be completed online.

CANADIAN REGISTER OF HISTORIC PLACES

WWW.HISTORICPLACES.CA

The Canadian Register of Historic Places, developed under the Historic Places Initiative, a federal-provincial-territorial partnership, is an online register of locally, provincially and federally recognized heritage properties from across Canada.

Inclusion on the Canadian Register is honorific and does not place additional controls on a property. It provides communities with the opportunity to build awareness, understanding and support for their cultural heritage resources by making information on these resources available in an accessible format.

In Ontario, properties and districts that have been designated under the Ontario Heritage Act are eligible for listing. Municipalities must formally request the nomination of their designated properties and provide additional documentation on the heritage property. This request and documentation can be submitted online.

Properties owned or recognized at the provincial and federal levels will be nominated to the Canadian Register through the Ministry of Culture and the federal government.



PREPARING THE

Designation Bylaw and Related Material

3

In putting forward a property for designation, there are four key pieces of information that must be prepared.

1. *Description of Property (so that the property can be readily ascertained);*
2. *Statement of Cultural Heritage Value or Interest;*
3. *Description of Heritage Attributes; and*
4. *Legal Description.*

How should these statements and descriptions be written?

Municipal staff, property owners and others are generally familiar with the concept of a *Legal Description*, which describes the property and its boundaries using legal terminology and plans of survey (where appropriate). The other statements noted above may, however, be less familiar.

These statements and descriptions must be carefully written so as to:

- Raise community awareness and understanding about the importance of the property;
- Meet the requirements of the Ontario Heritage Act, and ensure that designations are defensible before the Conservation Review Board;
- Help the property owner, council, Municipal Heritage Committee and municipal staff make good decisions about alterations to the property; and,
- Facilitate nomination of the property to the Canadian Register of Historic Places.

WHEN ARE DESIGNATION STATEMENTS AND DESCRIPTIONS USED?

Before a designation bylaw is passed (OHA, ss 29(4))

- The *Notice of Intention to Designate* published in the newspaper, sent to the property owner and sent to the Ontario Heritage Trust, must include the *Description of Property* and the *Statement of Cultural Heritage Value or Interest*. This statement and description inform the public about what is being designated and why. The *Statement of Cultural Heritage Value or Interest* is also the basis upon which any person can object to or question the proposed designation.

In the designation bylaw (OHA, clauses 29(6)(a) and 29(14)(a))

- The *Legal Description*, the *Statement of Cultural Heritage Value or Interest* and the *Description of Heritage Attributes* are included (usually as a schedule) in the designation bylaw and registered on the title of the property, so that subsequent owners will be informed of the property's cultural heritage value and heritage attributes.

On the municipal register of property of cultural heritage value or interest (OHA, ss 27)

- The *Legal Description*, the *Statement of Cultural Heritage Value or Interest* and the *Description of Heritage Attributes* for designated properties are included in the municipal register, maintained by the clerk of the municipality.

When alterations are proposed to a designated property (OHA, ss 33)

- The *Statement of Cultural Heritage Value or Interest* and the *Description of Heritage Attributes* help to guide future alterations to the designated property by clearly identifying the heritage attributes of the property that should be protected and conserved.

In listing on the provincial register (OHA, ss 23)

- Once a property is listed on the provincial register, the *Description of Property*, the *Statement of Cultural Heritage Value or Interest* and the *Description of Heritage Attributes* will play an important role in communicating information about the significance of the property to the public and future property owners.

In listing on the Canadian Register of Historic Places

- A well-written *Description of Property*, *Statement of Cultural Heritage Value or Interest* and *Description of Heritage Attributes* can be used together as a Statement of Significance, one of the key requirements for nomination to the Canadian Register of Historic Places.

Recommended approaches to writing these statements and descriptions are provided below.

1. *Description of Property* – describes what will be designated so that the property can be readily ascertained.

The *Description of Property* describes the general character of the property and identifies those aspects of the property to which the designation applies. In addition to providing information so that the location of the property can be identified (i.e. municipal address and neighbourhood if appropriate), it should outline the principal resources that form part of the designation (i.e. buildings, structures, landscapes,

remains, etc.) and identify any discernible boundaries.

The *Description of Property* should be no longer than two or three sentences.

2. *Statement of Cultural Heritage Value or Interest* – describes why the property is being designated.

The *Statement of Cultural Heritage Value or Interest* should convey why the property is important and merits designation, explaining cultural meanings, associations and connections the property holds for the community. This statement should reflect one or more of the standard designation criteria prescribed in the designation criteria regulation under the Ontario Heritage Act (Ontario Regulation 9/06).



Designed and erected in 1924, the Parkdale Fire Station is a rare surviving example in Ottawa of a fire station that incorporates pre-1930 fire fighting technology. It is now being adaptively re-used as artists' studios and gallery space. (Photo: Ministry of Culture)

Designed by Ludwig Mies van der Rohe, the TD Centre in Toronto was the tallest building in Canada from 1967 to 1972. A leading example of the International style, it altered the Toronto cityscape and influenced many buildings throughout the country. (Photo: Ministry of Culture)



The Buxton Schoolhouse, now a museum, is a memorial to the Elgin Settlement, established by fugitives of the American system of slavery in the pre-Civil War years. (Photo Copyright 2006 Ontario Tourism)



These criteria include:

- **Design or physical value**, meaning that the property
 - Is a rare, unique, representative or early example of a style, type, expression, material or construction method; or
 - Displays a high degree of craftsmanship or artistic merit; or
 - Demonstrates a high degree of technical or scientific achievement.
- **Historical or associative value**, meaning that the property
 - Has direct associations with a theme, event, belief, person, activity, organization, or institution that is significant to a community; or
 - Yields, or has potential to yield, information that contributes to an understanding of a community or culture; or
 - demonstrates or reflects the work or ideas of an architect, artist, builder, designer or theorist who is significant to a community.

The Hillary House in Aurora is one of the finest examples of Gothic revival architecture in Ontario. The property is designated under the Ontario Heritage Act and is also a National Historic Site. (Photo courtesy of Michael Seaman, Town of Aurora)

- **Contextual value**, meaning that the property
 - Is important in defining, maintaining or supporting the character of an area; or
 - Is physically, functionally, visually or historically linked to its surroundings; or
 - Is a landmark.

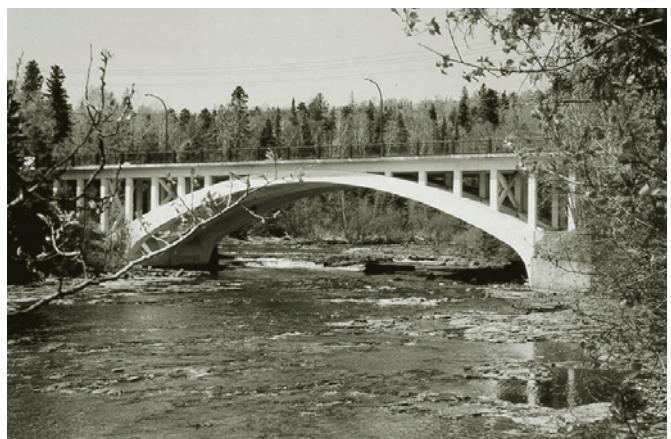
The *Statement of Cultural Heritage Value or Interest* should provide sufficient information to explain the significance of the property but should be no longer than two or three paragraphs, explaining the core aspects of the property's cultural heritage value. It should not provide a broad history of the property, but should focus on what makes the property important. A detailed description of the property's history can be included in the broader designation report and kept on file with other supporting documentation.



The Roseland Park Country Club in the City of Windsor was designed by world-renowned golf architect Donald Ross. (Original Plan provided by Jeff Mingay, Tufts Archive in Pinehurst and photo courtesy of the Convention & Visitors Bureau of Windsor, Essex County & Pelee Island.)



The Townsite Shaft 1 Headframe in Cobalt is a local landmark and also a striking reminder of the rich mining history of the region. (Photo: Ministry of Culture)



The Black Bay Bridge in the City of Thunder Bay is one of the first single spandrel, reinforced concrete bridges ever constructed. Constructed in 1912, this singular span bridge was designed to harmonize with the beauty and grandeur of the landscape. (Photo: Ministry of Culture)

3. Description of Heritage Attributes – describes the key attributes or elements of the property that must be retained to conserve its cultural heritage value or interest.

Heritage attributes are those attributes (i.e. materials, forms, location and spatial configurations) of the property, buildings and structures that contribute to the property's cultural heritage value or interest, and which should be retained to conserve that value.

Heritage attributes include, but are not limited to:

- Style, massing, scale or composition;
- Features of a property related to its function or design;
- Features related to a property's historical associations;
- Interior spatial configurations, or exterior layout;
- Materials and craftsmanship; or
- Relationship between a property and its broader setting.

The *Description of Heritage Attributes* lists the key attributes of the property. It is not an exhaustive account of the property's heritage attributes. The identification of heritage attributes is a selective process. Only those principal features or characteristics that together characterize the core heritage values of the property should be included.

Heritage attributes should be identified and described in relation to the heritage value that they contribute to. Where more than one value has been outlined in the *Statement of Cultural Heritage Value or Interest*, more than one list should be provided to distinguish between the attributes associated with each value.

Only attributes that relate to the values described in the *Statement of Cultural Heritage Value or Interest* should be included.

Examples

The following are examples of statements and descriptions for designated properties in Peterborough, Sault Ste. Marie and Caledon. The statements and descriptions found in the existing designation bylaws have been updated to meet the requirements of the Ontario Heritage Act, 2005, based on the advice in the section above.

EXAMPLE 1: A PROPERTY THAT INCLUDES A SINGLE BUILDING

Description of Property – Verulam, 236 Burnham Street

Verulam is a three-storey residential building, located on the west side of Burnham Street in the former village of Ashburnham, now Peterborough's East City.

Statement of Cultural Heritage Value or Interest

Verulam's cultural heritage value lies in it being one of the best examples of the Second Empire Style of private dwelling architecture in Peterborough. Typical of this style, it features a mansard roof, vertical lines, decorative window trim and brackets. Built in 1877, its proportions and architectural style suggest that Verulam is the work of local architect and engineer, John E. Belcher, who created a number of other Second Empire style buildings in the City of Peterborough.

Verulam's cultural heritage value also lies in its association with John James Lundy, Peterborough's thirteenth mayor. John James Lundy purchased the lot in 1876, the same year he became mayor, and it served as his private residence and a place for social gatherings of Peterborough's elite for the next forty years.

Description of Heritage Attributes

Key exterior attributes that embody the heritage value of Verulam as one of the best examples of Second Empire dwellings in Peterborough include its:

- mansard roof with gabled and elliptical dormer windows;
- rectangular plan, with protruding three storey frontispieces in both the front and rear façades;
- tall windows with moulded surrounds;
- two additional wings on the east façade of the house; and
- tall single stacked chimneys.



(Photo courtesy of the City of Peterborough)

EXAMPLE 2: A CULTURAL LANDSCAPE

Description of Property – Old Town Cemetery, 1186 Queen Street East

The Old Town or Queen Street Cemetery is a small 19th-century cemetery found on the north side of Queen Street, between Pim and Elizabeth Streets.

Statement of Cultural Heritage Value or Interest

The Old Town Cemetery is of cultural heritage value as the last remaining 19th century rural municipal cemetery in Sault Ste. Marie. In use between 1863 and 1914, the gravesites found in the cemetery provide important insight into the lives of Sault Ste. Marie's inhabitants and reflect the key historical themes in the development of the city during this period.

The Old Town Cemetery is also of value as a good example of 19th century rural municipal cemetery design in a Northern Ontario community. It is characterized by a naturalistic setting to attract and comfort the living, the creation of a secure space for the dead, the use of markers and monuments to perpetuate the memory of individuals of historic importance and a park-like layout for public use.

Description of Heritage Attributes

Key attributes of the cemetery that reflect its value as an important link to the history of Sault Ste. Marie include:

- its original markers and monuments, with their surviving inscriptions;
- the variety of styles, materials and symbolism represented in the markers and monuments; and
- the range of size and sophistication of markers and monuments, from modest to elaborate.

Key attributes of the cemetery that reflect its value as an example of 19th century rural municipal cemetery design in northern Ontario include:

- its location, orientation and dimensions;
- its monuments, sculptures and structures;
- its park-like setting, including its mature trees; and
- the original plan and placement of gravesites.



(Photo: Ministry of Culture)

EXAMPLE 3: A COMPLEX OF BUILDINGS ON A SINGLE PROPERTY

Description of Property – Alton Mill, 1402 Queen Street

The Alton Mill is a late 19th-century industrial stone complex located on the bank of Shaw's Creek in the heart of the village of Alton. The 3.4 hectare property comprises the main two-storey stone mill building and three-storey water tower, a brick chimney stack, a stone livery, the remains of the stone wool warehouse and the adjacent mill pond and dam.

Statement of Cultural Heritage Value or Interest

The Alton Mill is one of only two late 19th-century industrial stone complexes remaining in the once-thriving industrial village of Alton. Established in 1881 as the Beaver Knitting Mill by industrialist and 'free thinker' William Algie, it was renowned nation-wide for the production of fleece-lined long underwear. The mill, often referred to as the 'Lower Mill', was subsequently owned by two other leading local industrialists, John Dods of the Dods Knitting Company and Frederick N. Stubbs of the Western Rubber Company. Stubbs purchased and converted the mill for the manufacture of rubber products in the mid-1930s.

The mill complex represents the longest-running, water-powered mill on the upper Credit River system, remaining in operation until 1982. Built between 1881 and 1913, the existing mill buildings are typical of industrial stone construction of the late 19th century, and reflect alterations, changes in use and the effects of flood and fire over a century of industrial operation.

Situated in the heart of the village amidst residential buildings of a similar age, the Alton Mill complex is a well-known local landmark that has defined the industrial character and history of the village of Alton since its construction.

Description of Heritage Attributes

Key attributes that express the value of the mill complex as an example of late 19th-century industrial style that reflects alterations, changes in use and the effects of flood and fire throughout a century of operation include its:

- plain but imposing design of rectangular buildings of coursed stone construction;
- varied ashlar renderings and symmetrical fenestration patterns associated with different period additions;
- interior features of the main mill building including steel fire doors and hardware, plank flooring, interior wood columns and steel tie-rod support systems, office paneling and glazing and remnant industrial machinery; and
- ancillary features including a square stone water tower with brick quoins and a hipped roof, a brick chimney stack, a remnant stone wool warehouse; a stone livery; the mill pond and associated dam and mill race.

Key attributes that express the value of the mill complex as a landmark that continues to define the industrial character and history of the village include:

- its location in the village core, adjacent to the mill pond and creek in the heart of the village, which forms significant vistas from Queen Street, a principal road running parallel to the creek and mill pond, and the 'Pinnacle', a prominent landform directly north of the mill.



(Photo courtesy of Sally Drummond, Town of Caledon)

DESIGNATION STATEMENTS AND DESCRIPTIONS – CHECKLIST

1	DESCRIPTION OF PROPERTY <ul style="list-style-type: none"><input type="checkbox"/> Has the general character and extent of what is being designated been briefly outlined, including the principal resources (i.e. buildings, structures, landscapes, remains, etc.) that form part of the designation?<input type="checkbox"/> Has enough information been provided so that the property can be readily ascertained?<input type="checkbox"/> Has the description been kept short – two or three sentences long?
2	STATEMENT OF CULTURAL HERITAGE VALUE OR INTEREST <ul style="list-style-type: none"><input type="checkbox"/> Have all the core values of the property been clearly conveyed?<input type="checkbox"/> Have the standard evaluation criteria for determining cultural heritage value or interest been reflected?<input type="checkbox"/> Has the statement been kept concise and to the point – two or three paragraphs long?
3	DESCRIPTION OF HERITAGE ATTRIBUTES <ul style="list-style-type: none"><input type="checkbox"/> Have the key heritage attributes of the property, those that need to be retained for the cultural heritage value of the property to be conserved, been identified?<input type="checkbox"/> Has the relationship between the individual attributes and the heritage values identified in the <i>Statement of Cultural Heritage Value</i> been clearly demonstrated?<input type="checkbox"/> Has the description kept to the property's existing attributes, not ones that could or should be added?



CONSERVING THE HERITAGE VALUE of a Designated Property

4

Property owners and municipalities share a concern about the cultural heritage value of the heritage property. They understand that caring for the property's heritage attributes protects its heritage value.

If a property is important for its architectural design or original details, and that design is irreparably changed, it loses its value and its integrity. Imagine the difference between a Georgian house built at the beginning of the 19th-century that has its original floors, windows and details, compared with a house of a similar vintage, that has been covered with aluminium siding and has been “updated” with vinyl windows and modern finishes.

If a property is designated for its association with a significant person or event, but the physical evidence from that period has disappeared, the property's cultural heritage value is diminished. What a difference it makes to see the symbols and hideaway

places associated with the Underground Railroad in a building, compared with only the ability to say “this happened here.”

The same consideration applies to properties that are designated for their contextual qualities – trees that have stood for a hundred years, a view that was seen by generations before us, a complex of industrial buildings that tell the story of the work that went on there. A building, structure or other feature that has lost its context, has lost an important part of its heritage value.

Designation of heritage properties provides a process for ensuring that their cultural heritage value is conserved over time. The following section focuses on how alterations to designated properties are managed, and the kinds of support that can be provided to assist with conservation.

Making alterations to designated properties

The alteration process under section 33 of the Ontario Heritage Act helps to ensure that the heritage attributes of a designated property, and therefore its heritage value, are conserved. If the owner of a designated property wishes to make alterations to the property that affect the property's heritage attributes, the owner must obtain written consent from council.

This applies not only to alterations of buildings or structures but also to alterations of other aspects of a designated property, such as landscape features or natural features, which have been identified as heritage attributes.

In general, this should be a cooperative process, where a property owner submits an application for the proposed work, and receives advice and guidance from the Municipal Heritage Committee and/or municipal staff. Council

makes the final decision on heritage permit applications unless this power has been delegated to municipal staff under Section 33(15) of the Ontario Heritage Act.

INSURANCE AND DESIGNATED PROPERTIES

Premiums should not go up as a result of a heritage designation. A variety of other reasons cause insurance companies to increase premiums for older buildings if there is a higher level of risk, such as out-dated wiring, old heating systems, etc. In fact, some companies do not insure buildings over a certain age. Designation itself, however, does not place additional requirements on the insurer and therefore should not affect premiums.



Heritage buildings can be adapted to a remarkable range of new uses, as can be seen in Toronto's Distillery District.
(Photo Copyright 2006 Ontario Tourism)

The process for alterations is described below and outlined in a flowchart provided in the appendix:

1. Application to Council:

The owner applies to council to alter the property. All relevant information, including a detailed plan, must be included. When all the information required by Council has been received, notice of receipt of the complete application is sent to the owner. Some municipalities have formalized the heritage alteration permit process to facilitate changes to designated properties.

2. Review of Application:

Council reviews the application and seeks the advice of its Municipal Heritage Committee, where one has been established. In some municipalities, applications for alterations are sent directly to the committee or to municipal staff.



The new addition on the Woodstock Public Library respects the heritage value of the property. (Photo: Ministry of Culture)

3. Decision:

Within 90 days after notice of receipt of the complete application has been sent to the owner,² council or its delegate decides whether to consent to the alteration, to consent with terms and conditions, or to refuse the application altogether. Council notifies the applicant of its decision.

4. Referral Process:

If the owner objects to council's decision, the owner may apply to council for a hearing before the Conservation Review Board. Applications must be made within 30 days of receipt of council's decision. Council must then refer the matter to the Review Board for a hearing and publish notice of the hearing in a newspaper at least 10 days prior to the hearing. The Review Board then holds the hearing to review the alteration application.

5. Final Decision:

Following the hearing, the Conservation Review Board prepares a report including its recommendation to council. After considering the report, council decides whether to confirm or alter its original decision. The final decision rests with council. Council notifies the applicant and any other parties to the hearing, of its final decision.

General maintenance work, such as repainting exterior trim or replacement or repairs to an existing asphalt roof, and alterations and repairs to property features that are not

2. Unless an extension is agreed upon, failure of council to notify the owner within 90 days (after the applicant is notified that their application has been received) shall be deemed consent.

covered by the designation bylaw do not usually require heritage approvals. However, property owners may still need a building permit, and should be encouraged to check with their local building department.

Owners of designated properties, like other property owners, must maintain their properties to the basic standards set out in municipal maintenance and occupancy bylaws. As of April 2005, municipalities may also stipulate special minimum maintenance standards for the heritage attributes of designated properties.

International charters and agreements have established guiding principles for the conservation of heritage properties around the world. Conservation guidelines based on these principles have been developed at all levels of government. For more information on making sensitive alterations to heritage properties, you may wish to refer to:

- the conservation principles outlined on the Ministry of Culture website at www.culture.gov.on.ca; and/or
- the *Standards and Guidelines for the Conservation of Historic Places in Canada* at www.historicplaces.ca, developed under the Historic Places Initiative, a federal-provincial-territorial partnership.



These stones mark the final resting place of many Irish immigrants who died at Chaffey's Lock during the construction of the Rideau Canal. (Photo: Ministry of Culture)

ALTERATIONS TO CEMETERIES

The operation and management of cemeteries in Ontario falls under the Cemeteries Act, administered by the Ministry of Government Services. Many municipalities have taken an increasing interest in designation as a way of recognizing and protecting cemeteries – either through individual designation under Part IV of the Ontario Heritage Act, or as part of Heritage Conservation Districts under Part V.

If a cemetery is also designated under the Ontario Heritage Act, most day-to-day activities, including new burials, would not require heritage permits. As with other kinds of designated properties, a permit would be required if an activity or alteration is to be made that would affect the heritage attributes outlined in the designation. These might include the relocation of original markers, the removal of trees or other important landscape features, etc.

The Cemeteries Act contains specific procedures for the closure (i.e. removal) of cemeteries if the Registrar of cemeteries determines that the closure is “in the public interest.” These provisions apply to all cemeteries in Ontario including those that have been designated under the Ontario Heritage Act. For more information on the policy regarding the closure of designated cemeteries, refer to the Ministry of Government Services *Registrar’s Bulletin No. 01-2005: Application for Closure of Heritage Cemetery Sites*.

Fortunately, many of Ontario’s older cemeteries remain substantially intact, but they deserve thoughtful, long-term conservation planning. The Ministry of Culture’s *Landscapes of Memories – A Guide for Conserving Historic Cemeteries: Repairing Tombstones*, contains information and technical advice intended to encourage the conservation of Ontario’s heritage cemeteries in a way that recognizes their value as an irreplaceable heritage resource.

Providing support for conservation of designated properties

Municipal Heritage Committees and municipal staff can work with property owners to create conservation plans for heritage properties.

Many municipalities have also established financial incentive programs to assist property owners with the conservation of their designated heritage properties.

These include Heritage Property Tax Relief programs to support ongoing maintenance and conservation of designated properties. The province shares in the cost of these programs by funding the education portion of the property tax relief. For more information, refer to the Ministry of Culture's publication entitled, *Getting Started: Heritage Property Tax Relief – A Guide for Municipalities* at www.culture.gov.on.ca.

Grant and loan programs also exist at the provincial and federal levels to help with individual capital projects.



The restoration of Peterborough's former market hall was a key part of the city's broader heritage conservation and economic development program. (Photo courtesy of Erik Hanson, City of Peterborough)



5

Preventing Demolition

As of April 2005, designation under the Ontario Heritage Act gives council the power to prevent the demolition of a building or structure on a heritage property. If the owner of a designated property wishes to demolish or remove a building or structure, the owner must obtain written consent from council.

The process, under section 34, 34.1 & 34.3 of the Ontario Heritage Act, is as follows:

1. Application to Council:

The owner applies to council for a permit to demolish or remove the building or structure.

2. Review of Application:

Council has 90 days to review the application and seek the advice of its Municipal Heritage Committee, where one has been established.

In many cases, an alternative to demolition can be negotiated with the owner and agreed to at this stage. Council,

with the aid of its Municipal Heritage Committee and concerned citizens, has an opportunity to work with the property owner toward a means to conserve the threatened property.

Depending on the circumstances, there are several approaches:

- Sharing information with the owner about the property's heritage value and the benefits of heritage conservation;



The former mill in Elora is now operated as an inn and restaurant – a very successful adaptive re-use of a heritage property. (Photo Copyright 2006 Ontario Tourism)

- Exploring ideas about how the building or structure might contribute to a proposed development or future use of the site;
- Suggesting alternative uses for the building or the property;
- Providing an opportunity for the owner to sell the heritage property to the municipality or a purchaser who will conserve it; or
- Expropriating the property.

3. Decision:

Within the 90 day period,³ and after considering the advice of the Municipal Heritage Committee, council must decide whether to refuse the application, consent to it, or consent with terms and conditions.

If council does choose to allow the demolition, it is advisable to include terms and conditions. For example, council can require that the owner obtain a building permit for a replacement building on the property. This helps to prevent valuable heritage structures from being replaced by vacant lots. The owner would need to apply for the building permit through the normal municipal process, and will only receive such a permit for a new building that meets applicable zoning and other requirements.

At minimum, council should require full documentation of a heritage building or structure prior to its demolition, as well as documentation of any other heritage

resources on the property that may be affected.

Council notifies the applicant and the Ontario Heritage Trust of its decision. Council also publishes its decision in a local newspaper.

Where there is a potential impact on archaeological resources, an archaeological assessment should be undertaken in accordance with the Ontario Heritage Act.

4. Appeal Process:

An owner may appeal council's decision to deny the permit, or to consent to it with conditions, to the Ontario Municipal Board (OMB).

An appeal must be made within 30 days of receipt of council's decision. The appeal must set out the reasons for the objection to the decision. The appeal must also be accompanied by the fee prescribed under the Ontario Municipal Board Act.

Following receipt of the notice of appeal, the OMB gives notice of the hearing date and then holds the hearing. A member of the Conservation Review Board (CRB) may be appointed to sit on the panel of the OMB hearing the appeal.

5. Final Decision:

After holding the hearing, the OMB decides whether to dismiss the appeal, to order the municipality to consent to the demolition, or to consent with such terms and conditions as the OMB specifies. The OMB's decision is final.

A detailed flowchart outlining the demolition application process is provided in the appendix to this guide.

3. Failure of council to notify the owner within 90 days shall be deemed consent.



6

Amending a Designation Bylaw

Over time, municipal councils may need to update different parts of an existing designation bylaw. Generally, a bylaw may need to be amended because:

- Changes affecting the *Statement of Cultural Heritage Value or Interest* or the *Description of Heritage Attributes* have been made to the property or new information has emerged about the property's significance;
- the *Legal Description* has changed or must be corrected; or
- the information provided in the original bylaw does not provide sufficient information to guide and manage alterations to the property.

If the amendments to an existing bylaw are substantial, the procedure provided in Section 29 of the Ontario Heritage Act for passing the bylaw in the first instance would be the procedure to employ in amending it. A flowchart outlining this process is provided in the appendix.

For minor amendments to a designation bylaw, however, municipalities can follow an abbreviated process. As of April 2005, section 30.1(2) to (10) of the Ontario Heritage Act provides a process for amending designation bylaws that does not require the public notice required for designation.

A municipality should seek the advice of its solicitor when considering the options for amending a bylaw.

Bylaws can be amended under section 30.1(2) to (10) to:

- clarify or correct the *Statement of Cultural Heritage Value or Interest* or the *Description of Heritage Attributes*;
- correct the *Legal Description* of the property; or
- revise the language of the bylaw to make it consistent with the current requirements of the Act or its regulations.

Notice of the proposed amendment is sent to the owner of the property, who is given the opportunity to object. If the owner does not object within 30 days then council may pass the amending bylaw. If the owner chooses to object, the proposed amendment is referred to the Conservation Review Board (CRB) in a process similar to the objection process for designation. As with designations, council must consider the CRB report before deciding to go ahead with the amendment, or to withdraw its intention to amend the designation. Council is not bound, however, to follow the recommendation of the CRB.

A flowchart outlining this process is provided in the appendix to this guide.

Repeal of Designation Bylaws

There are rare instances where a designation bylaw may need to be repealed. If a building on a designated property has been relocated or demolished, council must repeal the designation bylaw in question to ‘clean up’ the legal title of the affected property. This also ensures that municipal and provincial registers of heritage properties are accurate and up to date. For a relocated designated building or structure, council may consider passing a new designation on the property that the building or structure has been relocated to.

As with the amending process, flowcharts outlining the repeal process are provided in the appendix to this guide.

In a case where an owner requests a repeal of the bylaw designating the owner’s property, it is important to determine the nature of the owner’s concerns. It is advisable for the municipality, through the Municipal Heritage Committee or municipal staff, to discuss the matter with the owner. Because properties are designated to protect and conserve them for future generations, the repeal of a designation bylaw is a serious matter that should be given careful consideration.



7

RESOURCES AND Further Information

Heritage designation is an important way for communities to recognize and protect places of cultural heritage value. The efforts made today to conserve community heritage will ensure a lasting legacy for future generations.

For more information on the Ontario Heritage Act and conserving your community heritage, contact the Ministry of Culture or the Ontario Heritage Trust at:

Ministry of Culture

900 Bay Street
4th Floor, Mowat Block
Toronto, ON M7A 1C2
Tel: 416-212-0644
1-866-454-0049
TTY: 416-325-5170
www.culture.gov.on.ca

Ontario Heritage Trust

10 Adelaide Street East
Toronto, ON M5C 1J3
Tel: (416) 325-5000
www.heritagetrust.on.ca

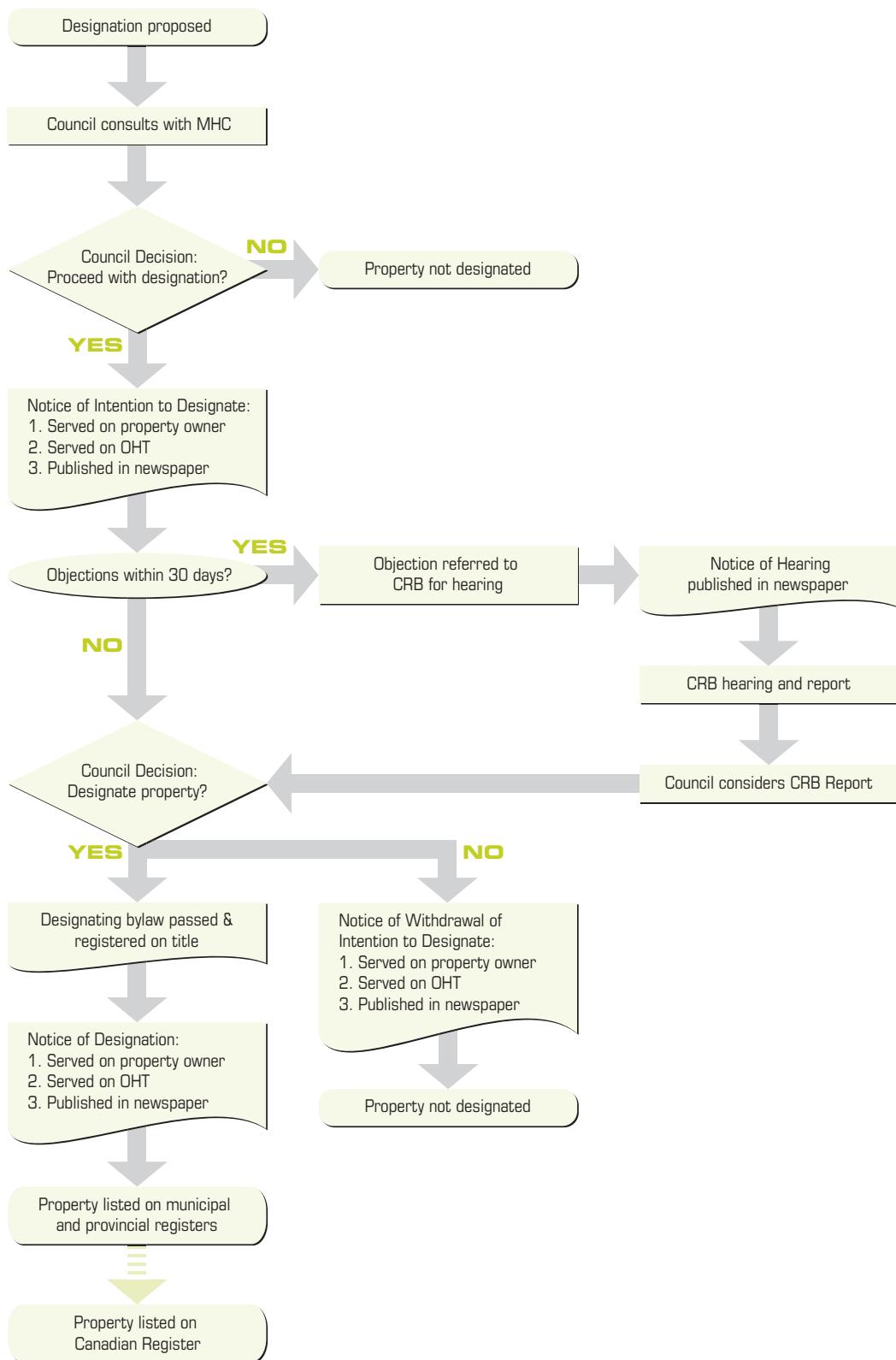


Appendix: Flowcharts

1. Designation by Municipal Bylaw
2. Amendment of Designating Bylaw
3. Amendment of Designating Bylaw (Exception)
4. Repeal of Designating Bylaw, Council's Initiative
5. Repeal of Designating Bylaw, Owner's Initiative
6. Alteration of Property
7. Demolition or Removal of Structure

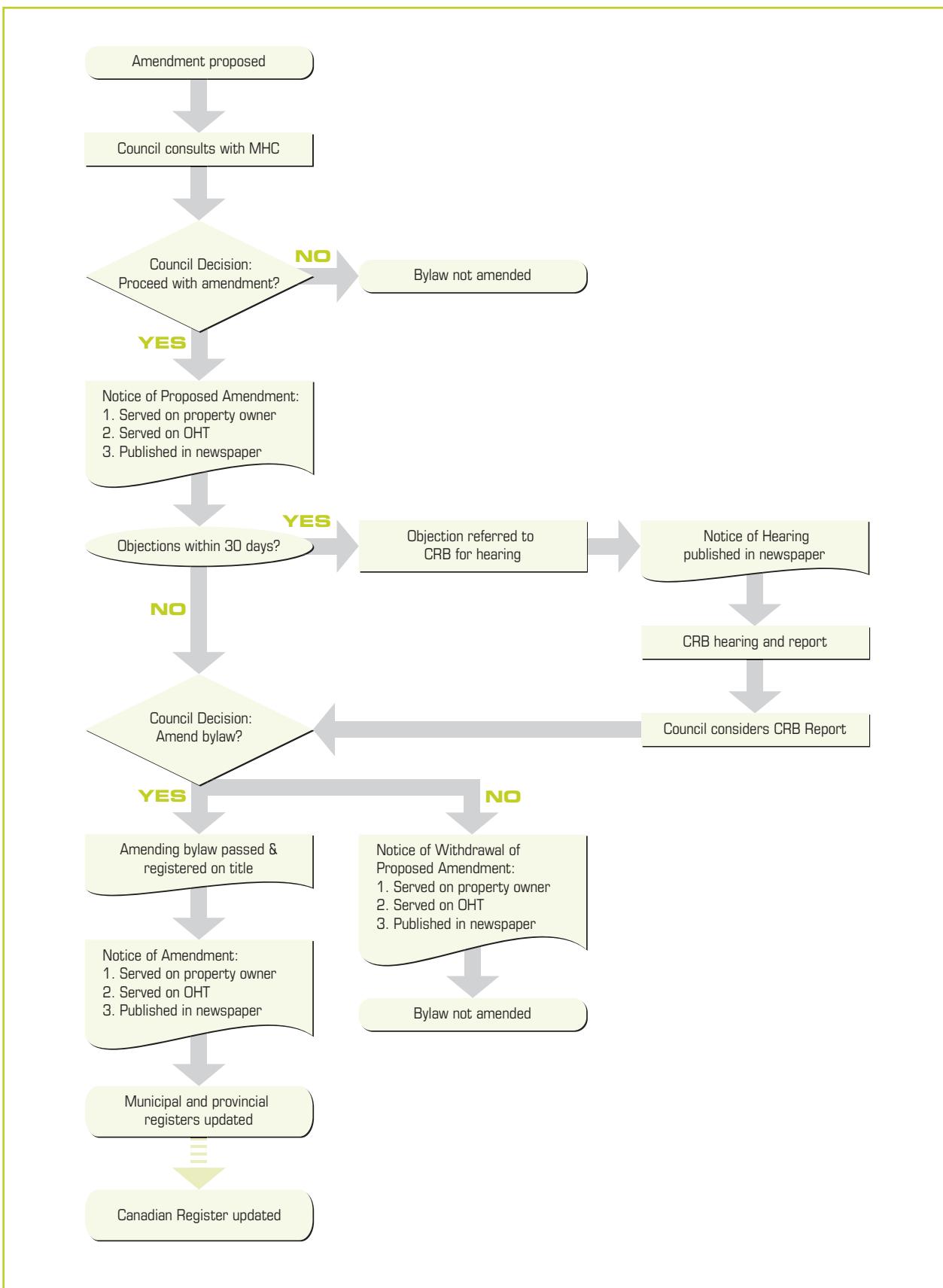
1. Designation by Municipal Bylaw

(Section 29 of the Ontario Heritage Act)



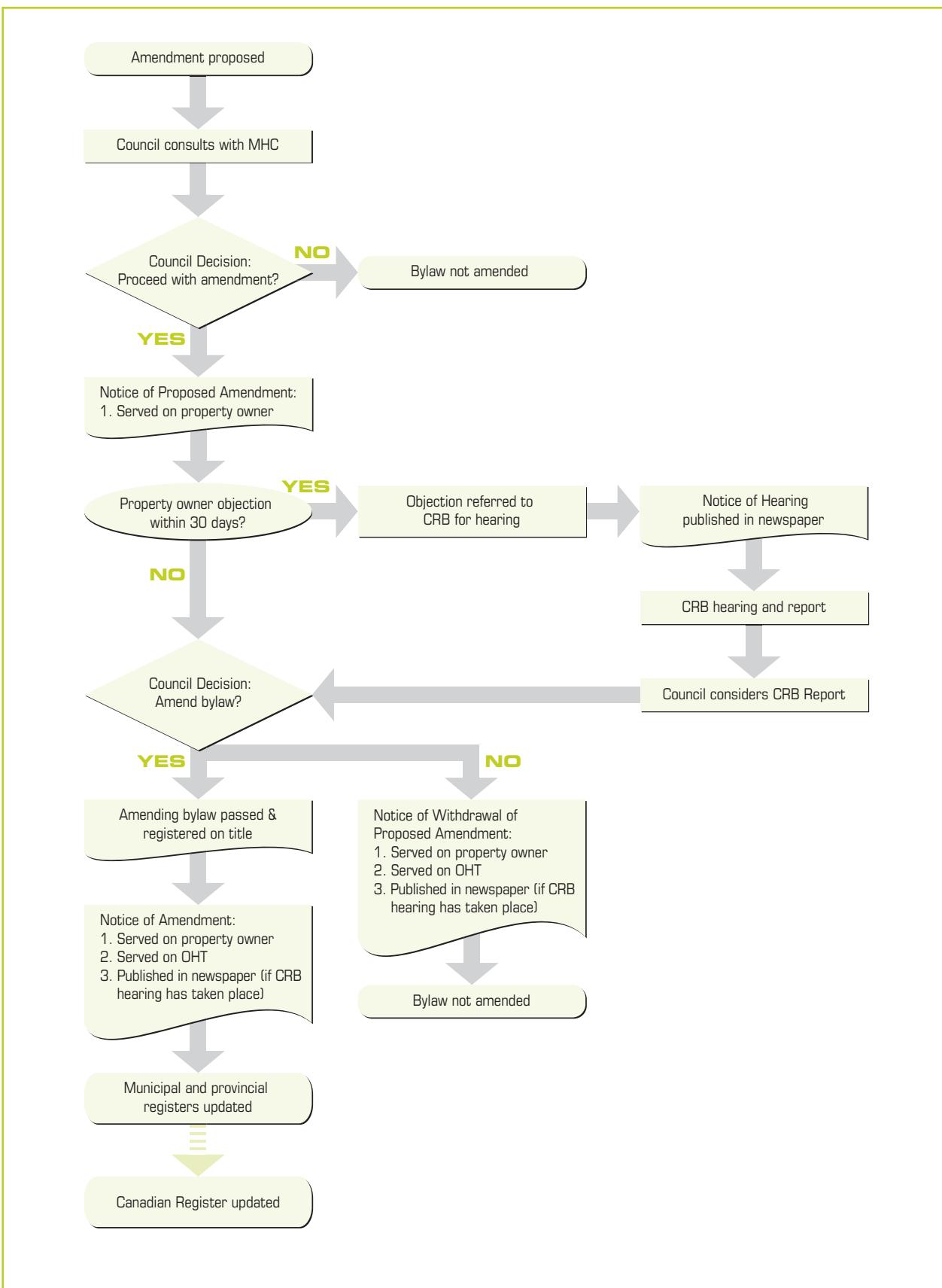
2. Amendment of Designating Bylaw

(Section 30.1 (1) of the Ontario Heritage Act)



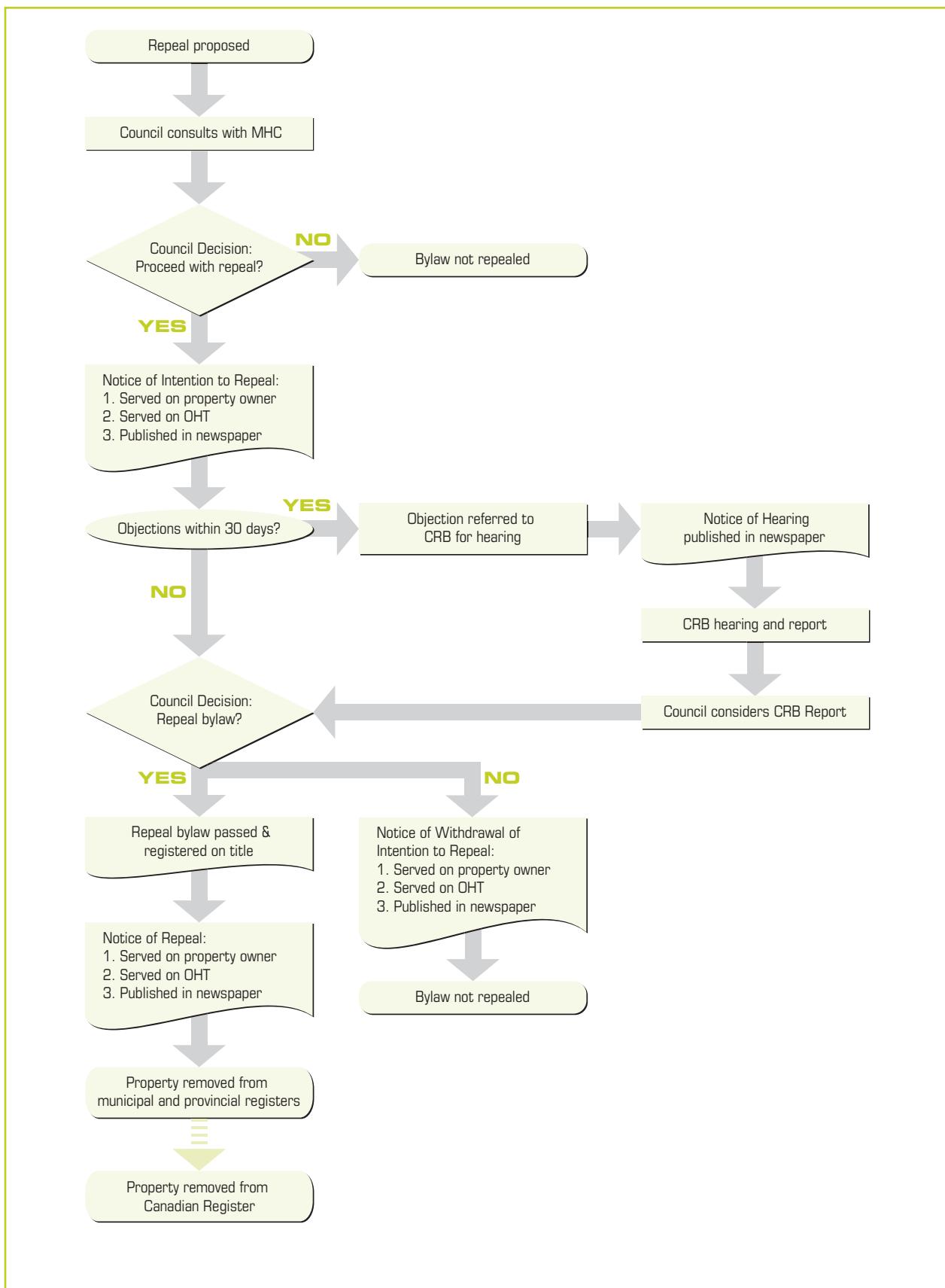
3. Amendment of Designating Bylaw (Exception)

(Section 30.1 (2) to (10) of the Ontario Heritage Act)



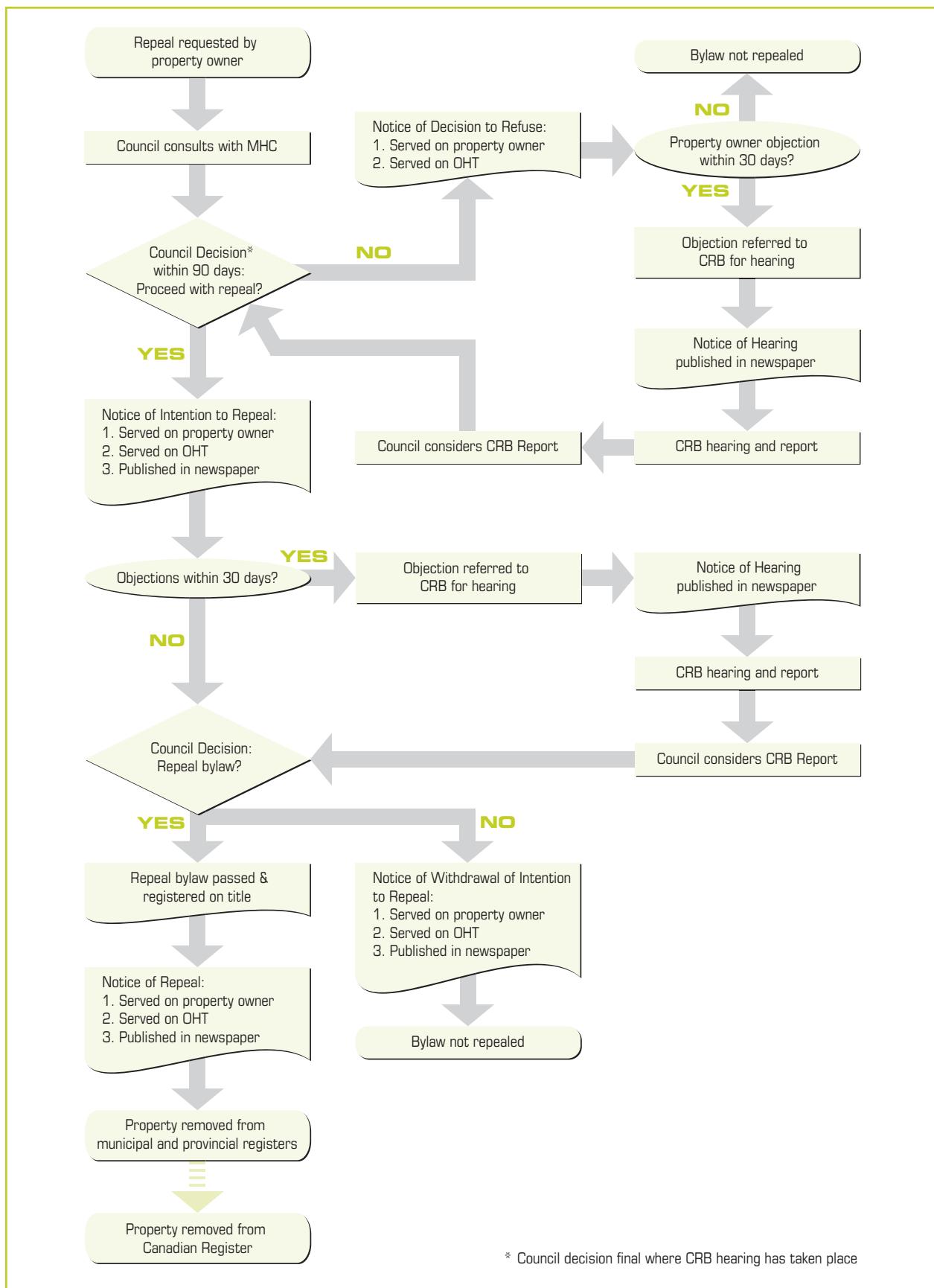
4. Repeal of Designating Bylaw, Council's Initiative

(Section 31 of the Ontario Heritage Act)



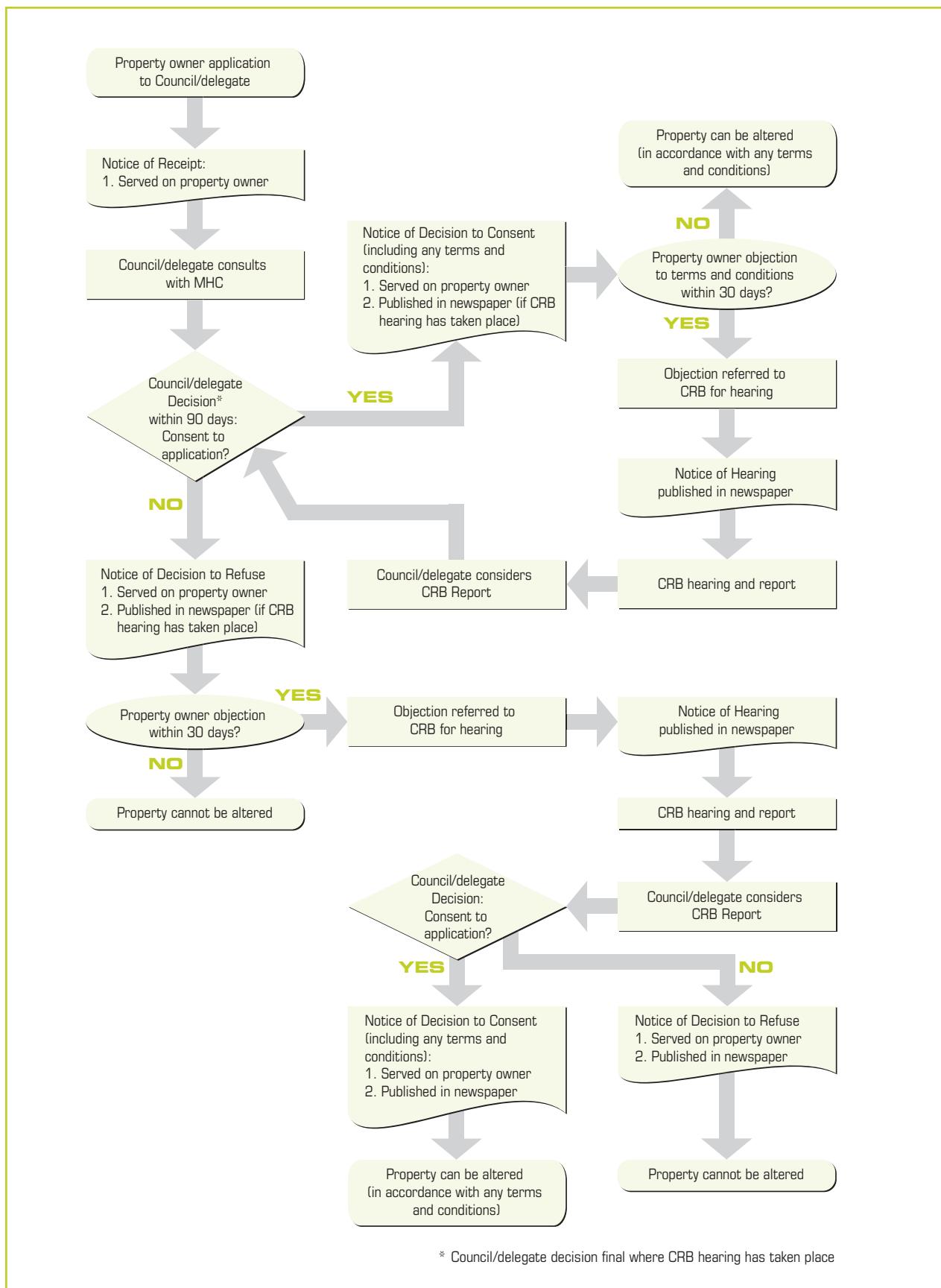
5. Repeal of Designating Bylaw, Owner's Initiative

(Section 32 of the Ontario Heritage Act)



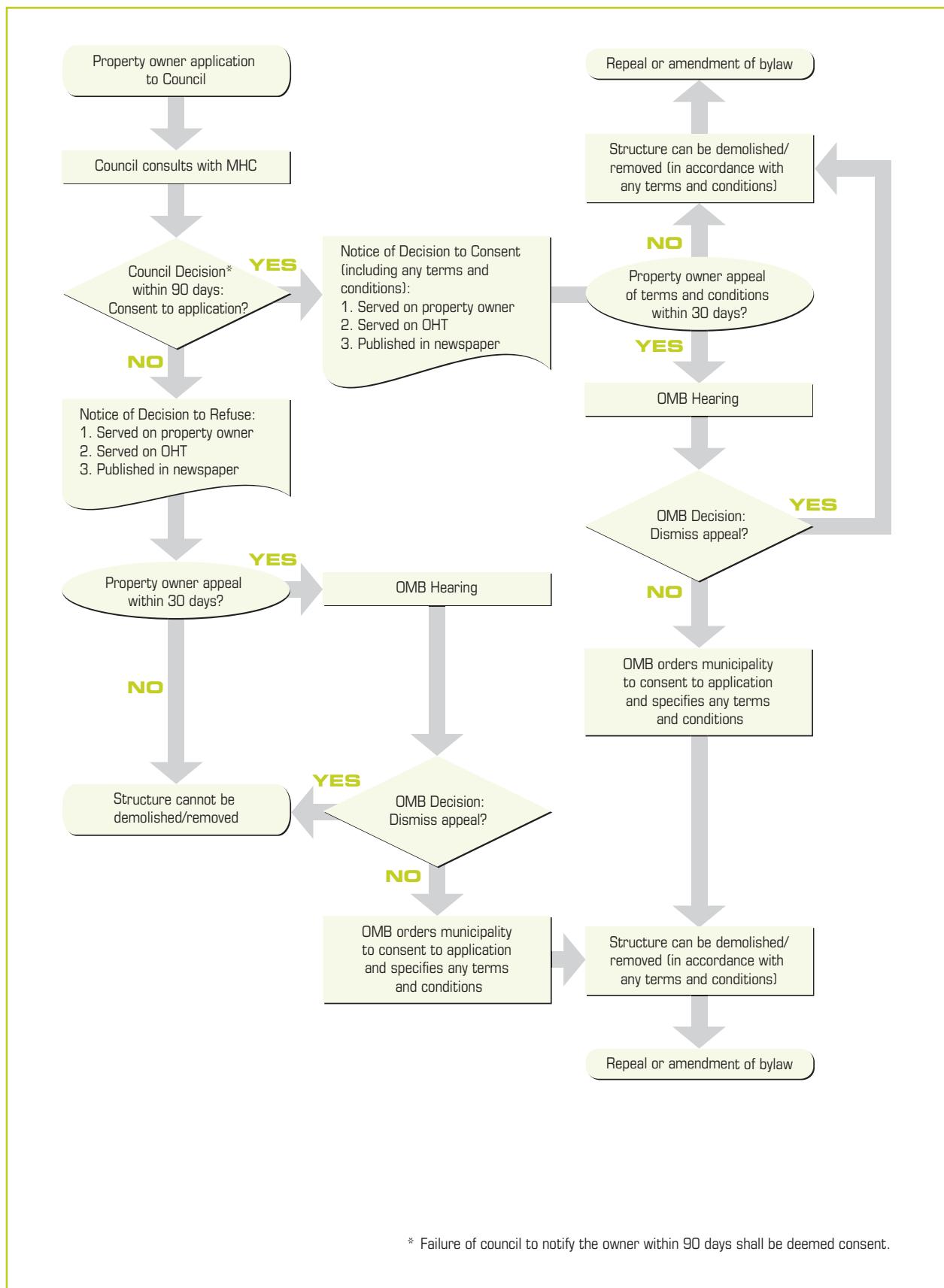
6. Alteration of Property

(Section 33 of the Ontario Heritage Act)



7. Demolition or Removal of Structure

(Section 34, 34.1 & 34.3 of the Ontario Heritage Act)



Acknowledgements

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