

## **SCHEDULE 1: DEMOLITION OF PROPERTY DESIGNATED BY A MUNICIPALITY**

### **UNDER THE ONTARIO HERITAGE ACT, S.O. 1974, c.122**

Application for demolition 34(1) No owner of property designated under this Part shall demolish or remove any building or structure on such property or permit the demolition or removal of any building or structure on such property unless he applies to the council of the municipality in which the property is situate and receives consent in writing to such demolition or removal.

Decision of council (2) The council, after consultation with its local advisory committee, where on is established, shall consider an application under subsection 1 and within ninety days of receipt thereof shall:

(a) consent to the application; or

(b) refuse the application and prohibit any work to demolish or remove any building or structure on the property for a period of 180 days from the date of its decision,

and shall cause notice of its decision,

(c) to be given to the owner and to the Foundation; and

(d) to be published in a newspaper having general circulation in the municipality.

and its decision is final.

Extension of time (3) The applicant and the council may agree to extend the time under subsection 2 and, where the council fails to notify the applicant of its decision within ninety days after the notice of receipt is served on the applicant or within such extended time as may be agreed upon, the council shall be deemed to have consented to the application.

When demolition may proceed (4) Notwithstanding subsection 1, where the period of 180 days prohibiting any work to demolish or remove any building or structure on a property under clause b of subsection 2 has expired and the owner has not agreed to an extension of such period, or where the extension of time agreed upon by the owner and the council under subsection 3 has expired, the owner may proceed to demolish or remove the building or structure on the property subject to the provisions of any other Act or regulation thereunder.

By-law designating property to be repealed

(5) Where

(a) the council consents to an application under clause a of subsection 2, or is deemed to have consented to an application under subsection 3; or

(b) the period of 180 days under clause b of subsection 2 has expired or where the extension of time agreed upon by the owner and the council under

subsection 3 has expired and the demolition or removal of the building or structure on the property has been completed,

the council shall pass a by-law repealing the by-law or part thereof designating the property and shall cause,

(c) a copy of the repealing by-law to be served on the owner and on the Foundation;

(d) notice of the repealing by-law to be published in a newspaper having general circulation in the municipality;

(e) reference to the property to be deleted from the Register referred to in subsection 1 of section 27; and

(f) a copy of the repealing by-law to be registered against the property affected in the proper land registry office.

## **UNDER THE ONTARIO HERITAGE ACT, S.O. 2002, c.18, Sch. F, s.2(18)**

### **Demolition or removal of structure**

**34.** (1) No owner of property designated under this Part shall demolish or remove a building or structure on the property or permit the demolition or removal of a building or structure on the property unless the owner applies to the council of the municipality in which the property is situate and receives consent in writing to the demolition or removal.

### **Decision of council**

(2) Within 90 days after receipt of an application under subsection (1) or within such longer period as is agreed upon by the owner and the council, the council, after consultation with its municipal heritage committee, if one is established,

(a) may,

(i) consent to the application, or

(ii) refuse the application;

(b) shall give notice of its decision to the owner and to the Foundation; and

(c) shall publish its decision in a newspaper having general circulation in the municipality.

### **Decision final**

(3) The decision of the council under subsection (2) is final.

### **Deemed consent**

(4) If the council fails to notify the owner under clause (2) (b) within the time period mentioned in subsection (2), the council shall be deemed to have consented to the application.

**Requirements for demolition or removal if council refuses consent**

(5) If the council refuses the application for consent to the demolition or removal, the owner shall not demolish or remove the building or structure or do any work or cause or permit any work to be done in the demolition or removal of the building or structure or any part of it, unless,

- (a) 180 days have elapsed from the date of the council's decision to refuse the application; and
- (b) the owner has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed.

**Transition, prior application**

(6) If the decision of the council of a municipality on an application under subsection (1) is made or to be made on or after the day subsection 2 (18) of Schedule F to the *Government Efficiency Act, 2002* comes into force, subsections (2) to (5) of this section apply even if the application was made before that day.

**Transition, prior refusal**

(7) If, before the day subsection 2 (18) of Schedule F to the *Government Efficiency Act, 2002* comes into force, the council of a municipality has refused an application by an owner of a property designated under this Part for consent to the demolition or removal of a building or structure on the property and has prohibited any work to demolish or remove the building or structure for a period of 180 days from the date of the council's decision, the owner shall not, on or after the day subsection 2 (18) of Schedule F to the *Government Efficiency Act, 2002* comes into force, demolish or remove the building or structure or do any work or cause or permit any work to be done in the demolition or removal of the building or structure or any part of it, unless,

- (a) 180 days have elapsed from the date of the council's decision to refuse the application; and
- (b) the owner has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed.

**Transition, work commenced**

(8) Subsection (7) applies even if work on the demolition or removal of the building or structure has been commenced before the day subsection 2 (18) of Schedule F to the *Government Efficiency Act, 2002* comes into force.

**Requirement for new building**

**34.1** (1) An owner to whom subsection 34 (5) or (7) applies shall, within two years after commencing the demolition or removal of the building or structure or any part of it, substantially complete the new building to be erected on the site.

**Application to council**

(2) An owner who is subject to the requirement imposed by subsection (1) may apply to the council if the owner considers that,

- (a) it is not possible to substantially complete the new building within the two-year period specified in subsection (1); or
- (b) the construction of the new building is not feasible on economic or other grounds.

**Notice of application**

(3) To apply to the council under subsection (2), the owner must give the clerk of the municipality a notice of application not less than 90 days before the expiry of the two-year period within which the new building must be substantially completed.

**Decision of council**

- (4) After considering an application under subsection (2), the council may,
- (a) extend the time for substantial completion of the new building for such further period as the council considers reasonable;
  - (b) relieve the owner from the requirement of constructing the new building; or
  - (c) refuse the application.

**Extension of time**

(5) If the council extends the time for substantial completion of the new building under clause (4) (a), the owner shall substantially complete the new building within the extended completion time.

**Relief from construction requirement**

(6) If the council relieves the owner from the requirement of constructing the new building under clause (4) (b), the owner's failure to substantially complete the new building shall be deemed not to contravene this Act.

**Refusal of application**

(7) If the council refuses the application under clause (4) (c), the council may extend the time for substantial completion of the new building for such further period as the council considers reasonable, and the owner shall substantially complete the new building within the extended completion time.

**Second application**

(8) An owner who is subject to the requirement imposed by subsection (5) may apply to the council if the owner considers that,

- (a) it is not possible to substantially complete the new building within the extended completion time; or
- (b) the construction of the new building has become not feasible on economic or other grounds.

**Notice of application**

(9) To apply to the council under subsection (8), the owner must give the clerk of the municipality a notice of application not less than 90 days before the expiry of the extended completion time.

**Decision of council**

- (10) After considering an application under subsection (8), the council may,
- (a) extend the time for substantial completion of the new building for such further period as the council considers reasonable;
  - (b) relieve the owner from the requirement of constructing the new building; or
  - (c) refuse the application.

**Extension of time**

(11) If the council extends the time for substantial completion of the new building under clause (10) (a), the owner shall substantially complete the new building within the extended completion time.

**Relief from construction requirement**

(12) If the council relieves the owner from the requirement of constructing the new building under clause (10) (b), the owner's failure to substantially complete the new building shall be deemed not to contravene this Act.

**Refusal of application**

(13) If the council refuses the application under clause (10) (c), the council may extend the time for substantial completion of the new building for such further period as the council considers reasonable, and the owner shall substantially complete the new building within the extended completion time.

**Appeal to Board**

**34.2** (1) An owner who makes an application under subsection 34.1 (2) may appeal to the Board,

- (a) from a decision of the council under clause 34.1 (4) (a) or (c); or
- (b) if the owner has not received any notice of a decision of the council under subsection 34.1 (4) within 90 days after the notice of application is given to the clerk under subsection 34.1 (3).

**Same**

(2) An owner who makes an application under subsection 34.1 (8) may appeal to the Board,

- (a) from a decision of the council under clause 34.1 (10) (a) or (c); or
- (b) if the owner has not received any notice of a decision of the council under subsection 34.1 (10) within 90 days after the notice of application is given to the clerk under subsection 34.1 (9).

**Notice of appeal**

(3) To appeal to the Board, the owner must give the Board a notice of appeal,

- (a) for an appeal under clause (1) (a) or (2) (a), within 30 days after the day notice of the council's decision is given to the owner; and
- (b) for an appeal under clause (1) (b) or (2) (b), within 30 days after the expiration of the period set out in that clause.

**Deemed extension of time**

(4) If an appeal is made to the Board under subsection (1) or (2), the period within which the new building is to be substantially completed shall be deemed to be extended to the date of the Board's decision.

**Board's powers**

(5) If an owner appeals under subsection (1) or (2), the Board shall hear the appeal and shall,

- (a) extend the time for substantial completion of the new building for such further period as the Board considers reasonable;
- (b) relieve the owner from the requirement of constructing the new building; or
- (c) dismiss the appeal.

### **Extension of time**

(6) If the Board extends the time for substantial completion of the new building under clause (5) (a), the owner shall substantially complete the new building within the extended completion time.

### **Relief from construction requirement**

(7) If the Board relieves the owner from the requirement of constructing the new building under clause (5) (b), the owner's failure to substantially complete the new building shall be deemed not to contravene this Act.

### **Dismissal of appeal**

(8) If the Board dismisses the appeal under clause (5) (c), the Board may extend the time for substantial completion of the new building for such further period as the Board considers reasonable, and the owner shall substantially complete the new building within the extended completion time.

### **Decision final**

(9) The decision of the Board on the appeal is final.

### **Repeal of by-law designating property**

**34.3** (1) The council of a municipality shall pass a by-law to repeal a by-law or the part thereof designating a property under this Part, if the owner of the property has applied to the council for consent in writing to the demolition or removal of a building or structure on the property and,

- (a) the council consents to the application under subclause 34 (2) (a) (i) or is deemed to have consented to the application under subsection 34 (4);
- (b) the owner has substantially completed the new building to be erected on the site; or
- (c) the council or the Board has relieved the owner from the requirement of constructing the new building.

### **Duties upon passing a repealing by-law**

(2) When the council passes a repealing by-law under this section, the council shall cause,

- (a) a copy of the repealing by-law to be served on the owner of the property and on the Foundation;
- (b) notice of the repealing by-law to be published in a newspaper having general circulation in the municipality;
- (c) reference to the property to be deleted from the Register referred to in subsection 27 (1); and
- (d) a copy of the repealing by-law to be registered against the property affected in the proper land registry office.

### **Transition**

**34.4** If, on the day section 4 of Schedule F to the *Government Efficiency Act, 2002* comes into force, a process relating to a matter dealt with in any of sections 34 to 34.3 of this Act has been commenced but not completed under an Act or a part of an Act repealed by section 4 of Schedule F to the *Government Efficiency Act, 2002*, the process shall be continued under sections 34 to 34.3 of this Act.