

The Corporation of the City of Kawartha Lakes
Kawartha Lakes Municipal Heritage Committee Report

Report Number KLMHC2020-29

Meeting Date: November 19, 2020

Title: New Ontario Heritage Act Processes

Description: New Ontario Heritage Act processing coming into effect January 1, 2021

Author and Title: Emily Turner, Economic Development Officer – Heritage Planning

Recommendation(s):

That Report KLMHC2020-29, **Ontario Heritage Act Processes**, be received;

That property owners be provided with notice in advance of the listing of their properties on the Heritage Register in addition to the new statutory notice; and

That that this recommendation be forwarded to Council for approval.

Background:

In June 2019, the province passed the More Homes, More Choice Act which made amendments to a number of pieces of planning related legislation, including the Ontario Heritage Act. The amendments made changes to a number of heritage related processes which the municipality undertakes, including the inclusion of property on the Heritage Register as listed properties and alteration applications for individually designated properties.

The amendments are scheduled to come into effect on January 1, 2021 and will include the new regulations which the Committee has previously reviewed.

This report addresses several changes to the legislation which may have an immediate impact on the Committee's work once they come into force and are provided for the Committee's information. It also makes recommendations regarding the provision of notices for listed properties.

Rationale:

Prescribed Principles: There are a number of subsections added to the Act, namely with regard to the designation of individual properties and heritage conservation districts, which stipulate that a municipality must consider prescribed principles when making decisions under the Act. These principles are prescribed in regulation.

The regulations have not yet been finalized by the province as the commenting period for the draft regulations closed on November 5, 2020. Should the regulation regarding prescribed principles be adopted as drafted, the principles are as follows:

1. Property that is determined to be of cultural heritage value or interest should be protected and conserved for all generations.
2. Decisions affecting the cultural heritage value or interest of a property or heritage conservation district should,
 - i. minimize adverse impacts to the cultural heritage value or interest of the property or district,
 - ii. be based on research, appropriate studies and documentary evidence, and
 - iii. demonstrate openness and transparency by considering the views of all interested persons and communities.
3. Conservation of properties of cultural heritage value or interest should be achieved through identification, protection and wise management, including adaptive reuse where appropriate.

The Committee will need to ensure that its decision making and recommendations are consistent with these principles and that adherence to these principles can be demonstrated through documentation.

Alterations to Individually Designated Properties: Changes have been made to the Act which change the definition of an alteration as opposed to a demolition. Currently, demolition, as defined by Section 34 of the Act, constitutes the demolition or removal of a structure on a designated property. The amended Section 34 reads:

34(1) No owner of property designated under section 29 shall do either of the following, 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:

1. Demolish or remove, or permit the demolition or removal of, any of 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.
2. Demolish or remove a building or structure on the property or permit the demolition or removal of a building or structure on the property, whether or not the demolition or removal would 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. 2019, c. 9, Sched. 11, s. 12.

Under the Act, and the City's delegated authority by-law, demolitions require Council approval, while most alterations are delegated to staff and the Municipal Heritage Committee. The change in definition will change the alterations approvals process for any alterations which involve the removal of a heritage attribute. Any removal of a heritage attribute will now require approval by Council and the publication of a notice in a local newspaper. In practice, applications which fall under this category will be received by staff before proceeding to the Municipal Heritage Committee for a recommendation. The application and committee recommendation will then proceed to Council which can approve or deny the application. The owner may appeal Council's decision to the Local Planning Appeals Tribunal. There is no scope in the Act to delegate authority under Section 34.

Listing Properties: The Act, in its current form, has no provisions for notifying owners regarding the listing of their properties on the Heritage Register, nor does it have an objection and appeals process for owners who do not wish their property to be included. The amendments now require that an owner be notified within 30 days of having their property listed on the register. If they object at that

time, they may then file an objection with the clerk of the municipality. The objection is heard by Council.

Presently, the City notifies owners prior to listing their property on the Heritage Register. This notice is a courtesy notice and designed to provide information, to allow owners to ask questions and for clarification, or to object formally to Council when the staff report detailing the proposed listing is received. The notices are sent because of the following Council resolution from its meeting of December 12, 2017:

CR2017-1051

Moved By Councillor Macklem

Seconded By Councillor Miller

Resolved That Report ED2017-022, **Adding Listed Properties to the Heritage Register**, be received;

That staff be directed to add a Section Two: Properties of Potential Heritage Value or Interest section to the Kawartha Lakes Heritage Property Register;

That the Municipal Heritage Committee identify and include properties of potential heritage interest and value in Section Two of the Heritage Property Register; and

That the property owners be notified of inclusion on the list and of the nature of the listing.

CARRIED

The notification of owners prior to the inclusion of their property is recognized as a best practice throughout Ontario and has proven effective in Kawartha Lakes in communicating with property owners and educating them about the role of listing in municipal heritage planning. Staff are recommending that, in addition to the new statutory notice required by the amendments to the Act, that the City continue to send notices in advance of listing to ensure transparency and create an open dialogue between the owners of heritage properties and the municipality.

Other Alternatives Considered:

The Committee could choose not to endorse the provision of an extra notice for listed properties and receive the report only.

Financial/Operation Impacts:

There will be additional costs with mailing extra notices to owners regarding the listing of their properties on the Heritage Register. These costs can be covered by the existing Heritage Planning budget.

Consultations:

N/A

Attachments:

N/A

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