



Municipal Heritage Committee Report

Report Number: KLMHC2021-12

Meeting Date: March 11, 2021

Title: **Alterations and Demolitions Policy First Draft Review**

Description: Review of the first draft a proposed policy regarding the procedures and application requirements for the alteration or demolition of a heritage property, the repeal of a designation by-law and the removal of property from the Heritage Register

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

Recommendation(s):

That Report KLMHC2021-12, **Alterations and Demolitions Policy First Draft Review**, be received for information.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

In June 2019, the Ontario Government passed the More Homes, More Choice Act (2019) which made amendments to a several pieces of planning-related legislation, including the Ontario Heritage Act. A number of changes were proposed in the legislation, including minimum content requirements for applications to alter a heritage property which are to be prescribed through regulation. These changes and the new regulations are scheduled to come into effect in 2021. At the same time, the legislation in its current form, both before and after the 2019 amendments, requires that Council set its own submission requirements for certain types of applications, including the demolition of designated and listed properties. It also establishes that an owner of a property may apply to the municipality to repeal the designation by-law on their property, but does not specify submission requirements. At present, Kawartha Lakes does not have any policies outlining submission requirements and processes for these types of applications.

In order to address the current legislation and upcoming changes under the More Homes, More Choice Act, staff are proposing that a Council-adopted policy be put in place to provide clear guidance for the policies and processes regarding these types of applications. An initial draft of this policy has been written for review by the Municipal Heritage Committee. An internal staff technical team is also reviewing the proposed policy and providing input on it.

This report presents the first draft of a new policy document which outlines the procedures associated with the four applications which a property owner can make regarding their heritage property under the Act: the alteration of a property; the demolition of a property; the repeal of a designating by-law; and the removal of a listed property from the Heritage Register. The intent of the policy is to ensure that the municipality's heritage resources are protected while providing for situations for which one of the above noted applications might be received.

Rationale:

The proposed policy is broadly intended to respond to three specific matters:

- Legislative direction from the Ontario Heritage Act, its associated regulations, and the amendments made by the More Homes, More Choice Act
- The provision of clarity for property owners regarding submission requirements and municipal procedures for four key processes under the Ontario Heritage Act
- The provision of direction for staff, the Municipal Heritage Committee and Council through a Council adopted policy to ensure consistency of approach to applications regarding heritage property

In order to respond to this issues, the policy covers a wide range of processes and documents which relate to the four types of applications that owners of heritage properties can make under the Ontario Heritage Act. Staff have undertaken a review of provincial legislation and policy and the processes and policies currently in place in other Ontario municipalities and drafted the proposed policy attached as Appendix A. The attached document is the first draft of the proposed policy. A review of the draft allows the Municipal Heritage Committee to provide input on the document in its early stages which can be incorporated into the final policy. The final policy will be presented to and reviewed by the Committee prior to its presentation to Council.

The proposed policy covers a wide range of topics pertinent to the alteration and demolition of heritage properties. The key topics are outlined and summarized below.

Alteration of Property

The new regulations under the Ontario Heritage Act resulting from the More Homes, More Choice Act (2019) will provide minimum submission requirements for an application to alter a property designated individually under Part IV of the Act or as part of a heritage conservation district under Part V of the Act. The draft version of these submission requirement that the Committee reviewed in fall 2020 is attached to this report as Appendix B. The final version of the regulations has not yet been released, but staff are anticipating minimal changes to the proposed submission requirements for the alteration of heritage properties. The regulation outlines minimum requirements which all municipalities are required to request from applicants. However, the regulation also allows the Council of a municipality to introduce specific municipal requirements.

The submission requirements proposed by staff are substantially the same as those outlined by the province and what the City already requires the owner of a heritage property to submit when applying to alter their property. This section of the proposed policy provides additional clarification on the potential for staff to request additional studies and the relationship of heritage permit applications to the City's Building and Planning processes.

Applications to alter a property are the most common type of application made under the Ontario Heritage Act and are regularly received by the City from the owners of properties designated under Parts IV and V of the Act. This section of the policy does not apply to listed properties as owners of listed properties are not required to apply to the municipality for consent to alter their property outside of the usual building and planning processes.

Demolition of Property

Sections 27, 34, and 42 of the Act allow a property owner to apply to the municipality to demolish their heritage property. This includes both designated and listed properties. The Act allows Council to request information be provided with that application such that it can be evaluated and a decision made. At present, there is no municipal procedure for processing this type of request.

Staff are suggesting that, along with a completed heritage permit application form, the owner be required to submit both a Heritage Impact Assessment and the plans and elevations for the proposed future use of the site. The Heritage Impact Assessment would be used to evaluate the proposed future use of the site and proposed demolition.

As with applications for the alteration of property, the submission requirements can be scoped or waived at staff's discretion. This allows staff to make exceptions regarding submission requirements where it is appropriate, particularly in cases where there are mitigating circumstances for the owner's request to demolish, such as catastrophic loss or structural failure in a building. It also allows for staff to request additional studies, such as an engineering report, if it is deemed necessary to evaluate the application.

Repeal of a Designating By-law

The process for the repeal of a designating by-law at the request of an owner is informed by section 32 of the Act. This section allows for the owner of a designated property to apply to Council for the by-law of their property to be repealed and establishes the process that a municipality must follow should it receive a request of this type. It does not specify what documents must be submitted as part of this type of application. At present, there is also no municipal process or associated submission requirements for an owner to make this request. This section of the policy is intended to establish and provide direction for those types of applications.

Staff are suggesting that an owner submit a Cultural Heritage Evaluation Report along with their application to repeal the by-law. The intent of the Cultural Heritage Evaluation Report is to establish whether or not a property has cultural heritage value and what that value is based on the Ontario Regulation 9/06 criteria. This report, which would have to be prepared by a qualified heritage consultant, would help inform the recommendations provided by staff and the Municipal Heritage Committee and Council's decision making process.

This section of the proposed policy only applies to properties designated under Part IV of the Act for which there is a designating by-law to repeal. Properties located in a heritage conservation district cannot opt out of a heritage conservation district plan. The repeal of a heritage conservation district designation by-law would be a public process requiring extensive consultation and is not included in this policy which only addresses applications for individual properties. It also does not apply to the repeal of a heritage designation by-law at Council's initiative which has an associated public process under Section 31 of the Act and does not require the submission of documents.

Removal of a Listed Property from the Heritage Register

Outside of the new appeals process introduced in Section 27 of the Ontario Heritage Act by the More Homes, More Choice Act, there is no process for removing a property from a municipality's Heritage Register outlined in the Act. The Act stipulates that an owner must supply any information that a Council may require along with an application to demolish, but does not identify what that information must consist of. Council must also consult its Municipal Heritage Committee prior to removing a property from the Register. At present, there is no established municipal process for an owner to apply for their property to be removed from the Register.

Staff have identified two instances where an owner might want their property removed from the Register, namely an application to demolish the property or a request to remove the property because the owner does not believe it has sufficient heritage value to warrant inclusion on the Register. Applications for demolition for a listed property will follow the same requirements for demolition as for other heritage properties to ensure consistency across the City's processes. An application to remove a property from the Heritage Register without demolition will require the owner to demonstrate why they do not believe their property has cultural heritage value.

An application to remove a property from the heritage register without demolishing it are substantially the same as those to repeal a Part IV designation by-law. The owner will be required to submit a Cultural Heritage Evaluation Report for their property to which studies and evaluations its cultural heritage value.

Fees

Staff are proposing the introduction of new fees for the applications to demolish a heritage property and to repeal a heritage designation by-law. These new fees are

intended to cover the costs to the municipality associated with these types of applications, namely the registration of by-laws and the provision of public notice.

The dollar amount of these fees has not yet been determined but would be in line with those currently charged by other municipalities for these types of applications.

This policy also provides for the payment of fees associated with appeal to the LPAT and peer review of technical studies. The payment of these fees is already established within the Planning process.

Terms of Reference

The proposed policy refers to two different types of study and their respective terms of reference: the Cultural Heritage Evaluation Report (CHER) and the Heritage Impact Assessment (HIA). These two studies, which serve different purposes, are both widely used by municipalities as part of the planning process to understand the heritage value of a site and help to identify and mitigate the impacts of a proposed development on a cultural heritage resource. A CHER is used to determine what, if any, heritage value a property has, based on Ontario Regulation 9/06. An HIA is used to determine the impact of a proposed development on an identified heritage resource and provide mitigation and conservation strategies.

These two types of reports are already used to assist staff with determining heritage value and the potential impact of proposed developments and are enabled by the City's Official Plan and the Provincial Policy Statement (2020). The proposed policy is intended to clarify their use and the requirement to submit them for different types of heritage-related applications. The terms of reference for HIAs and CHERs are attached as Appendix C and Appendix D respectively. The Terms of Reference for CHERs are currently in draft form and are in the process of being finalized.

Removal of Heritage Attributes

One of the changes made to the Ontario Heritage Act by the More Homes, More Choice Act was a change in the definition of demolition to include the removal of heritage attributes from a property. This would require every application involving the removal of a heritage attribute of a designated property to be reviewed and approved by Council as authority cannot be delegated for demolition.

Staff from the Ministry of Heritage, Sport, Tourism and Culture Industries have provided verbal guidance that this means the permanent removal of heritage attributes. The proposed policy provides an explanation of where the removal of a heritage attribute would be considered an alteration and where it would be considered a demolition.

Other Alternatives Considered:

There are no recommended alternatives.

Financial/Operation Impacts:

There are no financial or operational impacts as a result of the recommendations of this report.

Consultations:

Ministry of Heritage, Sport, Tourism, and Culture Industries
Director, Development Services
Manager, Planning
Manger, Economic Development
Chief Building Official
Policy Planning Supervisor
Development Planning Supervisor

Attachments:

Appendix A – Heritage Alterations and Demolitions Draft Policy



Alteration and
Demolition Policy Dra

Appendix B – Proposed Submission Requirements (OHA Regulation)



Submission
Requirements Propos

Appendix C – Heritage Impact Assessment Terms of Reference



HIA Terms of
Reference 2021.pdf

Appendix D – Cultural Heritage Evaluation Report Terms of Reference



Cultural Heritage
Evaluation Report Ter

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Department Head: Chris Marshall, Director of Development Services