



Committee of the Whole Report

Report Number:	ED2023-061
Meeting Date:	November 7, 2023
Title:	Ontario Heritage Act Notices Policy
Description:	Proposed Council policy related to the provision of notice under the Ontario Heritage Act
Author and Title:	Emily Turner, Economic Development Officer – Heritage Planning

Recommendations:

That Report ED2023-061, **Ontario Heritage Act Notices Policy**, be received;

That the policy entitled Ontario Heritage Act Notices Policy, appended to Report ED2023-061, be adopted, numbered and inserted into the Corporate Policy Manual; and

That this recommendation be brought forward to Council for consideration at the next Regular Council Meeting.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

The Ontario Heritage Act (Act) requires municipalities to provide notice for certain types of processes and decisions related to heritage properties. These include the individual designation of property, the designation of heritage conservation districts, the alteration or demolition of designated properties and the listing of property on the Heritage Register. There are two types of notices required under the Act:

1. notices sent directly to property owners and the Ontario Heritage Trust to communicate decisions made under the Act; and
2. public notices which are published in a local newspaper and intended to alert the public at large of matters and decisions related to heritage properties.

The City has historically published its public notices in Kawartha Lakes This Week, as it had a broad circulation throughout the municipality and was free. However, the closure of Kawartha Lakes This Week in September 2023 means that an alternative is required to fulfil the City's notice obligations under the Ontario Heritage Act. While the Act requires that a notice must be published in a newspaper with general circulation in the municipality, it has been determined by staff that there are no other print publications in Kawartha Lakes that fulfil this criterion.

Although the Act stipulates that public notice must be served in a newspaper, it also makes provisions for alternate arrangements, should a newspaper not be available or a municipality prefer to publish notice in another medium, such as on a municipal website. Sections 26 and 39.1, in relation to notices regarding individually designated properties and heritage conservation districts respectively, allow municipalities to pass policies under Section 270 of the Municipal Act to establish methods of giving notice other than publication in a newspaper. Section 270 of the Municipal Act allows municipal Councils to pass policies to outline the circumstances in which municipalities will provide notice to the public and the form, manner and times that the notice is provided. A policy passed under this section outlining how notices related to heritage properties are served and published is deemed to satisfy the requirements under the Ontario Heritage Act with regard to public notices.

As such, staff have drafted a policy related to the provision of notice under the Ontario Heritage Act, including both public notices and those served directly on property owners and the Ontario Heritage Trust. The policy is attached to this report as Appendix A. In

particular, the draft policy establishes that public notices related to heritage matters will be published on the City's website.

Rationale:

The draft policy, entitled the Ontario Heritage Act Notices Policy, identifies how notices made under the Ontario Heritage Act will be served, both in relation to public notices and those served directly on property owners and the Ontario Heritage Trust. In particular, it establishes an alternative method for providing public notice due to the lack of availability of a local newspaper so that the City can fulfil the legislative requirements for notice under the Act.

Under the Ontario Heritage Act, public notices are required in relation to the following actions:

- The designation of property under Part IV of the Ontario Heritage Act, including intention to designate, passage of designation by-laws and withdrawals of notices of intention to designate;
- Amendments to and repeals of designation by-laws under Part IV of the Act, including notices of intention, withdrawals and the passage of by-laws;
- Decisions related to the demolition of a building or structure or removal of a property's heritage attributes under Part IV of the Act; and
- Passage of by-laws in relation to the designation of heritage conservation districts under Part V of the Act, including the establishment of a study area and adoption of a heritage conservation district plan.

Under the new policy, public notices related to these matters will be published on the City's corporate website. Public notices that are not required under the Ontario Heritage Act but that the City regularly provides for community information, such as for public information sessions related to heritage conservation districts, will also be published on the City's website. The website was chosen as the most appropriate method for the publication of notice as there is no newspaper or other publication with a large circulation that can reach large numbers of households in Kawartha Lakes. The website is accessible and convenient, can be accessed from peoples' homes or from public computers such as at the City's library branches, and is already used for a range of City notices from different departments. Publication on the website also allows staff additional control as to when notices are published, their formatting, and the inclusion

of additional information outside of the scope of the statutory notice provisions such as links to Council reports and heritage evaluations, which cannot be included in a newspaper print notice.

The notices on the City website will be considered the statutory notices required under the Act and will include the information the Act requires for notices of these types. In addition to publication on the City website, the policy also states that staff may publish notice in third-party media, such as in a local print publication or on the City's social media. However, these notices will not be considered statutory notices and will be intended to publicize these heritage matters more broadly within the community, direct the public to the statutory notice on the City website, and provide a higher level of customer service than publishing solely on the website.

The Act also requires notices to be served directly on property owners and the Ontario Heritage Trust in relation to the following actions:

- The designation of property under Part IV of the Ontario Heritage Act, including intention to designate, passage of designation by-laws and withdrawals of notices of intention to designate;
- Amendments to and repeals of designation by-laws under Part IV of the Act, including notices of intention, withdrawals and the passage of by-laws;
- Decisions related to the demolition of a building or structure or removal of a property's heritage attributes under Part IV of the Act;
- Passage of by-laws in relation to the designation of heritage conservation districts under Part V of the Act, including the establishment of a study area and adoption of a heritage conservation district plan;
- Decisions related to the alteration of property and issuance of heritage permits designated under both Part IV and Part V of the Act; and
- The inclusion or removal of a listed property on the Heritage Register.

The closure of the local newspaper does not impact the City's processes regarding the service of notice directly to property owners or the Ontario Heritage Trust. However, staff felt that it was appropriate to also outline the manners in which notices of these types would be served in the policy to ensure transparency with the notice process as a whole. Section 67 of the Act outlines the requirements for sufficient service of notice which require municipalities to serve notice by mail, email or commercial courier to the

last known address or email address of the property owner, by personal service, or a prescribed method. In accordance with the Act, the policy states that the City will send notices to property owners via mail, email or both. In practice, the use of mail or email largely depends on the type of notice being sent and the City's relationship with the receiver of the notice. For example, notices related to heritage permit applications are currently sent almost exclusively by email because staff are working with a single applicant whose full contact information has been provided through an application form and the use of email enhances service delivery and processing times, whereas notices related to heritage conservation district designations are sent by mail as staff do not always have access to contact information for property owners other than their mailing addresses. Notices will be sent to the Ontario Heritage Trust via mail, email or any other method requested by the Trust. Currently, notices to the Trust are served via an online portal. The methods outlined in the policy for service of notice are consistent with current City practice and is in alignment with legislative requirements.

At present, the City's Public Notice By-law (By-law 2015-095) which is passed under Section 270 of the Municipal Act, provides direction for the provision of notice for a variety of matters under that Act. Staff have deemed it appropriate that direction related to the notices under the Ontario Heritage Act should be presented as a separate policy as By-law 2015-095 addresses notices given under the Municipal Act but not other legislation, such as the Planning Act and the Environmental Assessment Act which contain their own public notice provisions. However, the proposed policy is in alignment with the guiding principles of the City's Public Notice By-law in providing timely, clear and accessible communication to the public about City matters and decision-making.

Staff reached out to heritage planning staff at other municipalities in Ontario to gauge how public notice was being provided elsewhere. Many other municipalities have adopted policies to enable them to place heritage-related public notices on their municipal website. These include municipalities such as Oakville, Brampton, Markham, Mississauga, Ottawa and Toronto. The reason for the adoption of these policies is related to both the closure of local newspapers in a variety of communities across the province and the increasing costs of advertising in print newspapers, particularly in relation to the increase in designations resultant from the passage of Bill 23, the More Homes Built Faster Act, in late 2022 and its amendments to the Ontario Heritage Act. The policy presented in this report is in alignment with those of other municipalities, many of which are providing their statutory notices on their website and using other

media sources, such as print media and social media, to direct the public to the municipal website to view the full notice.

The adoption of the proposed policy is also supported by the Municipal Heritage Committee. Review of heritage-related policies by the Committee is not required under the provisions of the Ontario Heritage Act but staff typically bring policies forward to the Committee for review and commenting prior to their presentation to Council. Due to the time sensitive nature of implementing a policy to address the notice requirements under the Act, the draft policy was circulated to the Committee by email for comment, as opposed to at one of their monthly meetings. The Committee had no concerns with the policy.

Other Alternatives Considered:

There are no recommended alternatives. The provision of notice is a requirement for a range of actions under the Ontario Heritage Act and the closure of Kawartha Lakes This Week requires the City to develop alternative arrangements for providing public notice. Staff consider the use of the website the best and most accessible alternative for providing notice, particularly when used in conjunction with third-party media.

Alignment to Strategic Priorities

The proposed policy supports the strategic priority of Good Government by promoting service improvements and streamlining City policies, by-laws and processes. The policy provides transparent direction as to how the City provides notice for matters relation to heritage properties and is in alignment with both provincial legislative requirements and best practice in other Ontario municipalities.

Financial/Operation Impacts:

The provision of public notices currently forms a large part of the Heritage Planning budget and the costs incurred from advertising in Kawartha Lakes This Week rose substantially due to the increase in designations resulting from Bill 23. The adoption of this policy would decrease the advertising fees incurred by the City in relation to heritage matters by shifting the bulk of notices onto the existing City website.

Consultations:

Clerk's Office
Communication, Advertising and Marketing
Manager, Economic Development
Manager, Planning
Municipal Heritage Committee
Ontario Heritage Planners Network

Attachments:

Appendix A – Ontario Heritage Act Notices Policy



Adobe Acrobat
Document

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Department Head: Richard Holy, Director of Development Services