



Council Policy

Council Policy No.:	CP2021-040
Council Policy Name:	Heritage Applications
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Related SOP, Management Directive, Council Policy, Forms	Heritage Permit Processing SOP By-law 2019-154 Delegate Authority for the Alteration of Heritage Property Heritage Permit Application Form

Policy Statement and Rationale:

The Ontario Heritage Act and the City's Official Plan authorize the City to have set procedures which require the submission of certain documentation as part of an application by an owner to alter or demolish a heritage property located within the municipality, to allow new construction on an individually designated property or within a heritage conservation district, or to repeal a heritage designation by-law. This policy is intended to establish the process for application for the alteration or demolition of heritage property, new construction on an individually designated property or within a heritage conservation district or the repeal of a heritage designation by-law, including the submission requirements for applicants, and staff and Council procedures for processing such applications.

Ontario Regulation 385/21 under the Ontario Heritage Act prescribes minimum submission requirements for an application to alter or demolish a heritage property or to undertake new construction related to heritage properties, but stipulates that a municipality may also request additional materials which have been established through by-law, Council resolution or Official Plan. Similarly, Sections 27, 34 and 42 of the Ontario Heritage Act require Council to identify the information it requires when processing an application for the demolition of a listed or individually designated property and the alteration and/or demolition of a property designated as part of or new construction within a heritage conservation district. This policy responds to that legislative direction.

The Provincial Policy Statement (2020), the Growth Plan for the Greater Golden Horseshoe (2019), and the City's Official Plan require the municipality to conserve its heritage resources as part of its broader approach to planning, development and growth. This policy is intended to strike a balance between the preservation of important heritage properties in the City of Kawartha Lakes with the understanding that alteration and demolition applications are received for these properties for a variety of reasons. It is also intended to address provincial requirements under the Ontario Heritage Act and its regulations, while providing transparency and consistency for applicants, staff, and Council regarding the process, submission requirements, and evaluation procedures for applications related to a heritage property.

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Scope:

This policy applies to heritage properties as identified on the City's Heritage Register. These include:

- Properties designated individually under Part IV of the Ontario Heritage Act
- Properties designated under Part V of the Ontario Heritage Act as part of a heritage conservation district
- Properties listed on the Heritage Register as properties of cultural heritage value or interest

This policy also applies to individual properties for which a Notice of Intention to Designate has been issued by Council in accordance with Section 30 of the Act, which provides for interim control prior to the passage of a designation by-law. It may also apply to properties located in a heritage conservation district study area if Council has passed a study area by-law under Section 40.1 of the Act with interim controls that prohibits or sets limitations with regard to the demolition or removal of buildings or structures within the study area. It does not apply to a heritage conservation district study area if a by-law has not been passed to designate it as a study area and provide interim controls.

Properties located within a heritage conservation district which have been identified as non-contributing properties in a heritage conservation district plan are also subject to these requirements in instances where they are required to submit heritage permit applications to the municipality. In general, this would include the construction of a new building, the demolition of property, or the installation of commercial signage. However, for these properties, the submission requirements may be scoped or waived as appropriate and as identified in the relevant heritage conservation district plan.

The requirements for the request to repeal a designation by-law only applies to properties designated under Part IV of the Act for which an individual designation by-law

can be repealed. Individual properties within a heritage conservation district designated under Part V of the Act cannot opt out of a heritage conservation district plan.

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Definitions:

In this policy,

“**alter**” means to change in any manner and includes to restore, renovate, repair, erect or disturb; and “alteration” and “altering” have corresponding meaning;

“**applicant**” means a person who applies for a permit, the repeal of a by-law or the removal of a property from the Heritage Register, and includes any person authorized by an owner to apply for a permit on the owner’s behalf;

“**Building Code Act**” means the Building Code Act, S.O. 1992, Chap. 23, as amended or any successor thereof;

“**Building By-law**” means the by-law or by-laws passed by the municipality for the administration and enforcement of the Building Code Act within the City of Kawartha Lakes, as amended from time to time;

“**building permit**” means a permission or authorization given in writing by the Chief Building Official for the construction or demolition of a building or structure, of part thereof, as defined in subsection 1(1) of the Building Code Act;

“**building used for religious practices**” means (a) with respect to an alteration that is required for an Indigenous community or organization, a building that the Indigenous community or organization has identified as a place used for Indigenous religious or spiritual practices, or (b) with respect to an alteration that is required for a religious organization that is not an Indigenous organization, a building that the religious organization has identified as a church, mosque, synagogue, temple, chapel or other place of worship, but not a building where the primary function is to provide education, healthcare, long-term care, community services, social services or commercial, institutional or industrial operations, even if the building contains a space within it dedicated to religious practices;

“**Chief Building Official**” means the person appointed by Council as the Chief Building Official for the purpose of the enforcement of the Building Code Act;

“**City**”, “**City of Kawartha Lakes**” or “**Kawartha Lakes**” means the Corporation of the City of Kawartha Lakes and includes its entire geographic area;

“**City Clerk**” means the person appointed by Council to carry out the duties of the clerk as described in section 228 of the Municipal Act, 2001;

“Consolidated Fees By-law” means the by-law passed by the municipality to establish or require payment of fees for information, services, activities and use of City property, as amended from time to time;

“Council” or **“City Council”** means the municipal council for the City;

“delegated authority by-law” means the by-law or by-laws passed by Council under Sections 33 and 42 of the Ontario Heritage Act to delegate authority to approve the alteration of heritage property to an employee or appointed officer of the City by position occupied, as amended from time to time;

“demolish” means the removal of a building or structure, in whole or in part, from a property, either by destruction or relocation, or the removal of a heritage attribute from a property designated under Part IV or Part V of the Act as identified in a property’s designating by-law or relevant heritage conservation district plan; and “demolition” and “demolishing” have corresponding meanings;

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“demolition permit” means a permission or authorization given in writing by the Chief Building Official for the demolition in whole, or in part, of a structure;

“designated property” means any property that is designated individually under Part IV of the Ontario Heritage Act or under Part V of the Act as part of a heritage conservation district;

“Economic Development Officer – Heritage Planning” means the person who holds that position or his or her designate(s) as appointed, or, in the event of organizational changes, another person designated by Council;

“Funeral, Burial and Cremation Services Act” means the Funeral, Burial and Cremation Services Act, 2002, S.O. 2002, c.33, as amended or any successor thereof;

“heritage conservation district” means a heritage conservation district designated under Part V of the Ontario Heritage Act;

“heritage conservation district plan” means a plan adopted by Council to provide direction on the preservation of the heritage character and defining elements of a heritage conservation district;

“heritage easement agreement” means an agreement entered into by the City and the owner(s) of a heritage property as enabled by Section 37 of the Ontario Heritage Act;

“heritage permit” means the authorization given in writing by the municipality to make alterations, including demolition or the erection of new structures, to a heritage property;

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“heritage property” means any property that is designated under Part IV or Part V of the Ontario Heritage Act, is subject to a Notice of Intention to Designate, is located in a heritage conservation district study area subject to an interim control by-law, or is listed as a property of cultural heritage value or interest on the City’s Heritage Register and includes buildings, structures, landscape features, and subject lands;

“Heritage Register” or **“Register”** means the City’s register of properties situated in the municipality which are of cultural heritage value or interest as required by Section 27 of the Ontario Heritage Act and including properties designated under Part IV of the Act, heritage conservation districts and listed properties;

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“listed property” means a property included on the City’s Heritage Register as being of cultural heritage value or interest that is not designated under Part IV or Part V of the Ontario Heritage Act;

“Municipal Act” means the Municipal Act, S.O. 2001, c.25, as amended or any successor thereof;

“Municipal Heritage Committee” means the Kawartha Lakes Municipal Heritage Committee which makes recommendations to Council and is established under Section 28 of the Ontario Heritage Act;

“Ontario Heritage Act” or **“the Act”** means the Ontario Heritage Act, R.S.O. 1990, c.o.18, as amended or any successor thereof;

“owner(s)” means the owner of a heritage property and includes a corporation of partnership, the heirs, executors, administrators, and other legal representatives of a person to whom the context can apply according to the law, and the person who has made application for approval for the alteration or demolition of a heritage property, the repeal of a heritage designation by-law or new construction on a heritage property or within a heritage conservation district;

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“Planning Act” means the Planning Act, R.S.O. 1990, Chap. 13, as amended or any successor thereof;

“Sign By-law” means the by-law or by-laws passed by the City of Kawartha Lakes to regulate advertising devices in the City, as amended from time to time.

Policy

Heritage Register

As required by subsection 27(1) of the Ontario Heritage Act, the City has established and will maintain a Register of Heritage Properties (the Heritage Register) located within the municipality. The Register will include properties designated under Parts IV and V of the Ontario Heritage Act and listed properties. Properties designated under Part V of the Act are not individually listed, but are identified through the inclusion of maps, outlining the relevant heritage conservation district boundary. As required by the Act, it will be ~~publically~~publicly accessible in the Clerk's Office and on the City's website. The Register will be maintained by the Economic Development Officer – Heritage Planning, or designate, and updated as necessary. Owners of properties located within the municipality and other members of the public will be able to access the Heritage Register to ascertain whether or not a property is subject to this policy. There is no fee to access the Heritage Register.

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Properties for which a Notice of Intention to Designate has been issued or are located in a heritage conservation district study area for which an interim control by-law has been passed are not included on the Register. Appropriate notice will be provided both to the owners and to the public, as required by the Ontario Heritage Act.

Roles

The implementation of this policy will be coordinated by the City's Economic Development Officer – Heritage Planning on conjunction with Building and Planning staff. Staff will:

- Ensure that the Heritage Register is kept up to date and accessible to the public to provide a complete inventory of all properties to which this policy applies
- Conduct pre-submission meetings with the applicant(s)
- Conduct site visits to subject properties, as required
- Advise applicants of the submission requirements and ensure all appropriate documentation is submitted
- Request additional information from the applicant, as required
- Deem applications complete
- Review applications, studies and plans and make recommendations to the Municipal Heritage Committee and Council
- Ensure statutory requirements under relevant legislation including, but not limited to, the Ontario Heritage Act, the Planning Act, and the Building Code Act, are met
- Waive submission requirements, as outlined below
- Review and approve applications for certain classes of alterations for which authority is delegated to staff, as outlined in the delegated authority by-law
- Issue appropriate permits and execute relevant documents as directed by Council

Under the Ontario Heritage Act, the Municipal Heritage Committee must be consulted regarding the demolition of a heritage property or, the repeal of a designating by-law under Part IV of the Act. The Committee must also be consulted when an application for alteration or new construction is presented to Council. Similarly, under the City's delegated authority by-law, staff must also consult with the Committee regarding the approval of certain classes of alterations for which authority is delegated to staff when the property in question is designated under Part IV of the Act. The Municipal Heritage Committee will:

- Review applications, studies, plans, and recommendations from staff
- Request additional information from staff and/or the applicant as required
- Provide recommendations to staff regarding the approval of certain classes of alterations to individually designated properties for which authority is delegated to staff, as outlined in the delegated authority by-law
- Provide recommendations to Council regarding alterations, demolitions, new construction, and the repeal or amendment of heritage designation by-laws

The Ontario Heritage Act establishes Council as the decision-making body on matters regarding the demolition or alteration of a heritage property or the repeal of a heritage designation by-law. As per the Act, only Council may consent to the full or partial demolition of a property or the repeal a heritage designation by-law. While under the City's delegated authority by-law, certain classes of alterations are delegated to staff for approval, certain types of alterations are not delegated and must be approved by Council. This includes new construction on properties designated under Part IV of the Act or within heritage conservation districts, excluding accessory and agricultural buildings for which the approval is delegated to staff. Similarly, Council may retain authority related to the approval of any application to alter a heritage property. Council will:

- Review applications, studies, plans, and recommendations from staff and the Municipal Heritage Committee
- Request additional information from staff, the Municipal Heritage Committee, and/or the applicant as required
- Consent to or deny applications to demolish or remove a heritage property, in full or in part
- Consent to or deny applications to alter a heritage property, with or without conditions
- Consent to or deny applications to undertake new construction on a property designated under Part IV of the Act or within a heritage conservation district, with or without conditions
- Amend designation by-laws, as required
- Repeal designation by-laws, as appropriate

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Removal of Heritage Attributes

Subsections 34(1) and 42(1) of the Ontario Heritage Act defines the demolition of a designated property as either the full demolition or removal of a property designated under Part IV or Part V, respectively, of the Act or the removal of any of a designated property's heritage attributes as identified in the property's designating by-law, for properties designated under Part IV of the Act, or in the relevant heritage conservation district plan, for properties designated under Part V of the Act.

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For the purpose of determining submission requirements and processing applications, a property's heritage attributes will be considered to have been removed when they are removed from a property and not replaced. Such applications will follow the submission requirements and process for demolition. Applications where heritage attributes are removed and replaced in kind, for example as part of a restoration project, will not be considered to have been removed and will be processed as alterations.

Cultural Heritage Evaluation Reports and Heritage Impact Assessments

As part of an application to alter or demolish a heritage property, repeal a designating by-law, or a Planning Act application related to a heritage property, staff may request either a Cultural Heritage Evaluation Report or a Heritage Impact Assessment from the applicant. Each study is designed to fulfil a different purpose and will be requested based on the nature of the proposal. The preparation of either study will be undertaken by a qualified professional, as defined by the study Terms of Reference, and follow the respective Terms of Reference developed by the City, as amended from time to time.

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A Cultural Heritage Evaluation Report (CHER):

- Reviews and summarizes the history and development of a site
- Identifies any cultural heritage resources, including built or natural heritage and cultural heritage landscapes, present on the site
- Evaluates the identified cultural heritage resources based on O. Reg. 9/06 and/or O. Reg. 10/06
- Identifies the potential for impact from future development on the site, if applicable
- Provides conclusions and recommendations regarding the cultural heritage value of the site

A CHER may be requested when the cultural heritage value of a property is unclear or in question, or when it is required to determine the presence and scope of cultural heritage resources on a site. In general, a CHER will be requested when an application is made to repeal a designation by-law when there is not a corresponding application for demolition or alteration.

A Heritage Impact Assessment (HIA):

- Determines the impact of a proposed development on a cultural heritage resource
- Identifies any cultural heritage resources, including built or natural heritage and cultural heritage landscapes, present on the site and summarizes its historical development
- Identifies potential mitigation and conservation strategies to protect the cultural heritage resources present on the site
- Provides recommendations and conclusions regarding the most appropriate mitigation and conservation strategies for identified heritage resources in relation to the proposed development

An HIA may be requested when a proposed development has the potential to impact an identified cultural heritage resource. An HIA may also include an Urban Design Addendum to address the impact of the proposed development on the wider urban fabric and ensure that it is context-specific and enhances the City's existing historic urban landscapes. In general, an HIA will be requested when an application is submitted under the Planning Act which directly involves or is adjacent to an identified heritage property or cultural heritage landscape, including a heritage conservation district. An HIA will also be requested with an application to demolish a heritage property.

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Submission Requirements

The Ontario Heritage Act and its associated regulations allows for a municipality to request the submission of certain documents as part of a complete application to alter a heritage property or demolish a heritage property and the power for a municipality to deem when an application is complete. The following sets out the documents required for a complete application for the alteration or demolition of a heritage property, new construction on a property designated under Part IV of the Act or within a heritage conservation district, and/or the repeal of a designating by-law under Part IV of the Act.

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Alteration

Authorization for the alteration of a heritage property is granted through the issuance of a heritage permit and applicants will apply using the heritage permit application form. For alterations which require either a building permit or permission under the Planning Act, the applicant may submit the relevant building and planning applications concurrently with their heritage permit application. Building permits and planning approvals will not be issued unless a heritage permit has been approved.

Applicants are required to submit a complete application for alteration of a heritage property prior to their application being processed. An application for the alteration of a heritage property is not deemed to be complete until the owner has submitted the following documents to the Economic Development Officer – Heritage Planning:

- Completed Heritage Permit Application Form including the following information:
 - The name, address, telephone number, and, if applicable, the email address of the applicant
 - A description of the subject property including the municipal address and legal description
 - A written description of the proposed alterations and reasons for undertaking them
 - Identification of other applications made to the City relating to the proposed alteration
 - An affidavit or sworn declaration by the applicant certifying that the information provided is complete and accurate
- Photo documentation of the portion of the property to be altered
- Site plan, elevations, and other drawings, as appropriate, clearly demonstrating the proposed alteration to the property. Drawings must include all architectural details and proposed materials

An application is deemed complete when all of the required documentation is submitted to the Economic Development Officer – Heritage Planning. In addition to the requirements listed above, the applicant may be required to submit additional supporting documents that may be identified by the City as being relevant or necessary to the evaluation of the application. These may include, but are not limited to, a Heritage Impact Assessment or Engineering Report. Any additional requirements will be established at a pre-submission meeting prior to application. Staff may request entry onto the property in order to evaluate the proposed alterations on the heritage attributes of the site.

If a heritage permit is granted for the alteration of the property, the applicant is responsible for applying for a building permit from the City's Building and Septic Division and fulfilling any and all requirements under the Building Code Act and as required by the City's Building By-law, as amended, prior to the issuance of a building permit. Applications for new commercial signage are required to apply for and receive a sign permit as required by the City's Sign By-law. Some alterations to heritage properties for which a heritage permit is required may not require a building permit. The applicant should consult with the Building and Septic Division to verify the requirements under the Building Code Act.

The applicant is also responsible for ensuring any permissions required under the Planning Act are received and any conditions related to those applications are fulfilled. Not all heritage permit applications will require an application made under the Planning Act, but the applicant should consult with the Planning Division to verify the requirements under the Planning Act.

There is no additional fee to process an application to alter a heritage property. The appropriate fee is payable for the application for a building permit from the Building and Septic Division as per the fee schedule in the Building By-law. Applicants are also responsible for any fees incurred related to relevant Planning Act applications made in support of the alteration.

Owners of listed properties are not required to apply for a heritage permit to alter their property, except for demolition. This section of the policy does not apply to listed properties.

Alterations to Buildings Used for Religious Practices

Certain alterations to buildings used for religious practices may follow the alternative process for the approval outlined under subsection 33(18) of the Act. This application stream applies specifically to buildings used primarily for religious purposes and in relation to alterations that impact heritage attributes of a property that are used for religious purposes where the alteration is required for continued religious practice. The owners and/or tenants of these buildings must be either an Indigenous community or Indigenous organization or a religious organization that is a registered charitable organization.

Applicants are required to submit a complete application for alteration of a heritage property prior to their application being processed. An application for the alteration of a heritage property is not deemed to be complete until the owner has submitted the following documents to the Economic Development Officer – Heritage Planning:

- Completed Heritage Permit Application Form including the following information:
 - The name, address, telephone number, and, if applicable, the email address of the applicant
 - A description of the subject property including the municipal address and legal description
 - A written description of the proposed alterations and reasons for undertaking them
 - Identification of other applications made to the City relating to the proposed alteration
 - An affidavit or sworn declaration by the applicant certifying that the information provided is complete and accurate

- Photo documentation of the portion of the property to be altered
- Site plan, elevations, and other drawings, as appropriate, clearly demonstrating the proposed alteration to the property. Drawings must include all architectural details and proposed materials
- Identification of the heritage attributes of the building that are connected to religious practices and a description of the potential impacts of the proposed alteration on those heritage attributes
- Information as to if the required alteration is required for the benefit of the tenant or property owner
- The registered charity number of the religious organization, if the applicant is a non-Indigenous organization
- An affidavit or sworn declaration that the application meets the conditions prescribed under subsection 33(18) of the Act

Owners and tenants of buildings used for religious practices may choose which alteration stream to follow if their alteration qualifies for consideration under the alternative stream under subsection 33(18). Applications made under this stream may only be approved or denied and are not subject to approval with conditions. Should an application be deemed to not qualify for this processing stream, the applicant will be informed by staff and the application will be processed through the regular stream for alteration applications.

Alterations which require building permits or permission under the Planning Act must still apply for and receive permits and permissions as needed prior to undertaking their project. The applicant should consult with the Building and Septic Division and the Planning Division to verify additional permissions required under the Building Code Act and the Planning Act prior to submission.

There is no additional fee to process an application to alter a building used primarily for religious purposes. The appropriate fee is payable for the application for a building permit from the Building and Septic Division as per the fee schedule in the Building By-law. Applicants are also responsible for any fees incurred related to relevant Planning Act applications made in support of the alteration.

Owners of listed properties are not required to apply for a heritage permit to alter their property, except for demolition. This section of the policy does not apply to listed properties.

Demolition

Authorization for the full or partial demolition of a heritage property is granted through the issuance of a heritage permit and applicants will apply using the Heritage Permit

Application form. Heritage approvals must be granted prior to the issuance of demolition permit from the Building and Septic Division. Applicants may submit their heritage and demolition applications concurrently. For applications made to demolish a heritage property as part of a Planning Act application, the application to demolish may be made concurrently with the Planning Act application but planning approval will not be issued until the heritage permit is approved. Applicants are required to submit a complete application for the demolition of a heritage property prior to their application being processed. Approval from Council is required for the full or partial demolition of a heritage property.

An application for the demolition of a heritage property is not deemed to be complete until the owner has submitted the following documents to the Economic Development Officer – Heritage Planning:

- Completed Heritage Permit Application Form
- Heritage Impact Assessment prepared in accordance with the City's Heritage Impact Assessment Terms of Reference
- A scaled, full size site plan and elevation drawings which clearly show the proposed future use of the site with the location of the existing building(s) clearly identified. Elevation drawings must include all architectural details and proposed materials.
- Photo documentation of the property and all structures demonstrating the architectural and heritage features and including at least one photograph of each elevation of any structures on the property
- A complete and certified title search of the property including:
 - A chain of title with instrument numbers and brief legal descriptions identified with the title searcher's name, stamp or similar;
 - Block map
 - Certified copy of PIN
 - Certified copy of old abstract pages
 - Full copies of transfers or other relevant title documents (wills, mortgages, etc.)
 - Copies of reference plans

For properties where the demolition involves the relocation of a heritage building to another site, the owner will also be required to submit a site plan which clearly shows the proposed future location of the heritage building.

An application is deemed complete when all of the required documentation is submitted to the Economic Development Officer- Heritage Planning. In addition to the requirements listed above, the applicant may be required to submit any other supporting

materials that may be identified by the City as being relevant and necessary to the evaluation of the application. Any additional requirements will be established at a pre-submission meeting prior to application. Staff may request entry onto the property as part of an evaluation of the heritage significance of the site.

The documents required for a complete submission under this policy may be waived in whole or in part in writing by the Economic Development Officer – Heritage Planning, in consultation with Planning and Building staff. Reasons for waiver of some or all submission documents may include, but are not limited to:

- Demolition of a property, in whole or in part, that is required to ensure public safety as determined by the Chief Building Official
- Measures required to deal with an emergency that puts the integrity of a building or structure in danger as determined by the Chief Building Official
- Demolition of the interior of a building when the building is listed on the Heritage Register, designated under Part V of the Ontario Heritage Act as part of a heritage conservation district, or designated under Part IV of the Ontario Heritage Act and does not have identified interior attributes and the interior demolition will not compromise the structural integrity of the building or the property's identified heritage attributes
- Demolition of an accessory structure not identified in a heritage designation by-law

In situations where documents and/or requirements are waived prior to the full or partial demolition of a structure, the applicant still must receive consent in writing from the Economic Development Officer – Heritage Planning, through the issuance of a heritage permit, and a demolition permit from the Building and Septic Division prior to commencing demolition. For instances where public safety is at risk or there is an emergency, the waiver will be coordinated internally by the Chief Building Official.

If a Heritage Permit is granted for the demolition of a structure, the applicant is then responsible for applying for a demolition permit from the City's Building and Septic Division and fulfilling any and all requirements under the Building Code Act and as required by the City's Building By-law, as amended, prior to the issuance of a demolition permit.

In cases where there will be new construction, either of a new building or as an addition to an existing heritage building, as the next step to demolition, the application for a heritage permit for new construction may be processed simultaneously with the application to demolish.

If an application for demolition involves partial demolition of a property, can be considered minor in nature, and will not have an impact on the property's heritage attributes, such as, for example, the removal of a non-historic addition, staff may process the application through the heritage alterations application process, as opposed to the demolition process outlined in this policy. This may allow a permit to be granted without approval from Council, should it be deemed appropriate, under the City's delegated authority by-law. In such cases, the application will follow the submission requirements, processes, and timelines prescribed under Sections 33 or 42 the Act and in this policy for alterations to heritage properties. Applicants will be advised regarding the processing stream for their application at the pre-submission meeting.

Demolition by neglect will be addressed through provisions in the Property Standards By-law.

The applicant will be required to pay the established fee for the demolition of a heritage property as outlined in the City's Consolidated Fees By-law. The applicant is also responsible for any additional fees incurred as a result of the application which may include peer review or appeal to the Ontario Land Tribunal (OLT). The application fee will be waived in the following circumstances:

- Demolitions ordered by the Chief Building Official due to emergencies or reasons of public safety
- The demolition of interior attributes in listed properties, properties designated under Part V of the Act as part of a heritage conservation district or properties designated under Part IV of the Act for which there are no identified interior heritage attributes
- The demolition of accessory buildings or structures where the accessory building or structure is not identified as part of the heritage designation by-law or listing

This section of the policy applies to all heritage properties located within the municipality.

New Construction

Authorization for new construction located within a heritage conservation district or on a property designated under Part IV of the Act is granted through the issuance of a heritage permit and applicants will apply using the relevant heritage permit application form. For new construction which requires either a building permit or permission under the Planning Act, the applicant may submit the relevant building and planning applications concurrently with their heritage permit application. Building permits and planning approvals will not be issued unless a heritage permit has been approved. Approval from Council is required for the new construction, except for the construction of accessory and agriculture-related structures. New construction may include the construction of additional structures on a property designated individually under Part IV

of the Act or as part of a heritage conservation district, on a vacant lot within a heritage conservation district, or a replacement for a building for which demolition has been approved.

Applicants are required to submit a complete application for new construction prior to their application being processed. An application for new construction is not deemed to be complete until the owner has submitted the following documents to the Economic Development Officer – Heritage Planning:

- Completed Heritage Permit Application Form including the following information:
 - The name, address, telephone number, and, if applicable, the email address of the applicant
 - A description of the subject property including the municipal address and legal description
 - A written description of the proposed new construction and reasons for undertaking them
 - Identification of other applications made to the City relating to the proposed alteration
 - An affidavit or sworn declaration by the applicant certifying that the information provided is complete and accurate
- Photo documentation of the portion of the property to be altered
- Site plan, elevations, and other drawings, as appropriate, clearly demonstrating the proposed new construction on the property. Drawings must include all architectural details and proposed materials.

An application is deemed complete when all of the required documentation is submitted to the Economic Development Officer – Heritage Planning. In addition to the requirements listed above, the applicant may be required to submit additional supporting documents that may be identified by the City as being relevant or necessary to the evaluation of the application. These may include, but are not limited to, a Heritage Impact Assessment or Engineering Report. A Heritage Impact Assessment will be required for any application which proposes more than three residential units on a lot or which includes a commercial or industrial use, and the applicant may also be required to complete an Urban Design Addendum to discuss the impact of the proposed development on the urban landscape more broadly. Any additional requirements will be established at a pre-submission meeting prior to application. Staff may request entry onto the property in order to evaluate the proposed alterations on the heritage attributes of the site.

New construction includes the construction of any new structures on a heritage property or located within a heritage conservation district. This may include, but is not limited to:

- New residential, commercial, industrial or mixed-use construction
- Construction of Accessory Dwelling Units separate from a primary residential structure
- Accessory buildings, such as sheds and garages
- New agricultural buildings

If a heritage permit is granted for new construction, the applicant is responsible for applying for a building permit from the City's Building and Septic Division and fulfilling any and all requirements under the Building Code Act and as required by the City's Building By-law, as amended, prior to the issuance of a building permit. The applicant should consult with the Building and Septic Division to verify the requirements under the Building Code Act.

The applicant is also responsible for ensuring any permissions required under the Planning Act are received and any conditions related to those applications are fulfilled. Not all heritage permit applications will require an application made under the Planning Act, but the applicant should consult with the Planning Division to verify the requirements under the Planning Act.

In cases where there will be new construction, either of a new building or as an addition to an existing heritage building, as the next step to demolition, the application for a heritage permit for new construction may be processed simultaneously with the application to demolish. A Heritage Impact Assessment will be required for any applications which include the demolition of a heritage building, with the exception of certain types of accessory structures.

There is no additional fee to process an application for new construction on a heritage property or within a heritage conservation district. The appropriate fee is payable for the application for a building permit from the Building and Septic Division as per the fee schedule in the Building By-law. Applicants are also responsible for any fees incurred related to relevant Planning Act applications made in support of the alteration.

Owners of listed properties are not required to apply for a heritage permit for the construction of new structures on their property. This section of the policy does not apply to listed properties.

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Repeal of Designation By-law

Section 32(1) of the Ontario Heritage Act allows the owner of an individually designated property to apply to the Council of a municipality to repeal the designation by-law of their heritage property. Approval from Council is required for the repeal of a designating by-law. An application to repeal, in whole or in part, a designating by-law for a property designated under Part IV of the Ontario Heritage Act is not deemed complete until the

owner has submitted the following documents to the Economic Development Officer – Heritage Planning:

- Notification, in writing, of the applicant's intention to apply to Council to repeal the designation by-law including a detailed description of the reasons for which the repeal of the designating by-law is being requested
- A Cultural Heritage Evaluation Report prepared in accordance with the City's Cultural Heritage Evaluation Report Terms of Reference, or a Heritage Impact Assessment prepared in accordance with the City's Heritage Impact Assessment Terms of Reference, as appropriate
- Photo documentation of the property and all structures demonstrating the architectural and heritage features and including at least one photograph of each elevation of any structures on the property
- A complete and certified title search of the property including:
 - A chain of title with instrument numbers and brief legal descriptions identified with the title searcher's name, stamp or similar;
 - Block map
 - Certified copy of PIN
 - Certified copy of old abstract pages
 - Full copies of transfers or other relevant title documents (wills, mortgages, etc.)
 - Copies of reference plans

If the applicant is also seeking a heritage permit for demolition or alteration, they must also submit the documentation noted above as part of their application to demolish or alter the property. Applications which involve both the demolition or alteration of a property and the repeal of a designating by-law should be submitted concurrently and will be processed as a single application. Applicants are not required to submit duplicate documentation.

An application is deemed complete when all of the required documentation is submitted to the Economic Development Officer- Heritage Planning. Staff may request entry onto the property as part of an evaluation of the heritage significance of the site.

Staff will request either a Cultural Heritage Evaluation Report or a Heritage Impact Assessment Report as part of an application to repeal a designating by-law. In general, a CHER will be requested in situations where the applicant is seeking to only repeal the designating by-law. An HIA will be requested where the repeal of the designating by-law is requested in conjunction with an application to demolish or alter and/or an application made under the Planning Act. Staff will advise the applicant as to the required study at the pre-submission meeting.

Although applications to demolish a property and repeal its designating by-law should be submitted together, the designating by-law for the property will be presented to Council for repeal after the subject property has been demolished.

The documents required for a complete submission may be waived, in whole or in part, in writing by the Economic Development Officer – Heritage Planning in consultation with Building and Planning staff if it is deemed appropriate. Reasons for waiver include, but are not limited to, the unexpected loss of the property. Waiver of documents will be established at the pre-submission meeting with the applicant.

The applicant will be required to pay the established fee for the demolition of a heritage property as outlined in the City's Consolidated Fees By-law. The applicant is also responsible for any additional fees incurred as a result of the application which may include peer review or appeal to the Ontario Land Tribunal (OLT).

Application Process

Application for the alteration or demolition of a heritage property, new construction related to a heritage property or district or the repeal of a designating by-law will follow the requirements and processes outlined in the Ontario Heritage Act and the City's delegated authority by-law and will take place within the timeframes outlined by the Act (see below). In general, the process will be as follows:

1. The applicant meets with staff at a pre-submission meeting before submitting an application where staff will advise on their proposal and establish waiver of document submission, if applicable, and/or any additional documentation that might be required. It is the responsibility of the applicant to reach out to staff to coordinate the meeting. The meeting will be coordinated by the Economic Development Officer – Heritage Planning. For applications with an associated Planning Act application which are participating in the City's preconsultation process, heritage staff will inform the applicant of the requirement to participate in a heritage specific pre-submission meeting. There is no additional fee to participate in a pre-submission meeting.
2. The applicant submits a completed heritage permit application form or notice of intent and all required documentation. Staff review application for completeness and request additional information if necessary. A notice of receipt is served on the applicant when the application is deemed complete.
3. For applications where authority is delegated to staff, staff review the application and approve, approve with conditions, or deny the application. A notice of decision is served on the applicant. The applicant may appeal the decision to Council.
4. For applications where authority is not delegated or where recommendations from the Municipal Heritage Committee are required, staff prepare a report for

the Municipal Heritage Committee including a staff recommendation, the application, and all submitted documents.

5. The application is reviewed by the Municipal Heritage Committee which makes a recommendation, through a resolution, regarding the application.
6. For applications for which authority is delegated to staff in consultation with the Municipal Heritage Committee, staff serve a notice of decision, approving, approving with conditions, or denying the application, on the applicant. The applicant may appeal the decision to Council.
7. For applications where authority is not delegated, staff prepare a report for Council including the Municipal Heritage Committee's recommendation, the application, and all submitted documents.
8. Council reviews the application and makes a decision to approve, approve with conditions, or deny the application. The applicant may appeal the decision to the Ontario Land Tribunal.
9. Staff execute the appropriate documents, bring forward any amending or repealing by-laws to Council, provide notification to the owner, revise the Heritage Register, publish appropriate public notices, and notify the Ontario Heritage Trust, as necessary with respect to the type and outcome of the application.

For applications to repeal a designation by-law that also include the demolition of the designated property in question, the applications should be submitted simultaneously and will be processed as a single application. However, the designating by-law will only be repealed after the property has been demolished and a final inspection carried out by a Building Inspector. Similarly, a listed property for which demolition is proposed will only be removed from the Heritage Register once the property has been demolished and an inspection carried out. The issuance of a demolition permit does not automatically necessitate the removal of a property from the Register and the property will remain listed on the Register if the cultural heritage value is retained.

For applications related to alterations to buildings used for religious purposes submitted under subsections 33(18) of the Act, applications may only be approved or denied and conditions may not be imposed on an approved heritage permit.

Building and/or demolition permits will not be issued until heritage permits have been issued as per the requirements of the Building Code Act. Similarly, applications under the Planning Act will not be approved until heritage permits have been issued for the proposed alterations or demolition. Applicants may submit their Heritage applications concurrently with their Building and Planning applications.

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Planning Act Applications

Planning Act applications, including those identified as prescribed events under Ontario Regulation 385/21, made in relation to heritage properties will require the submission of a Heritage Impact Assessment prepared in accordance with the City's Terms of Reference which may include the requirement for additional analysis with regard to urban design as outlined in the Terms of Reference. The applicant may submit the same HIA for a heritage permit application and a Planning Act application related to the same development proposal. The submission of an HIA may be waived by staff if deemed appropriate.

For heritage permit applications which are made as part of certain Planning Act applications, the applicant may be required to enter into a heritage easement agreement with the City under Section 37 of the Ontario Heritage Act, depending on the scope of the application. The intention of the heritage easement agreement is to ensure the continued preservation of the heritage property or, if the building is to be demolished, the construction of a suitable replacement as agreed upon with the applicant. Easements will be secured as a condition of the relevant required approval(s). In general, a heritage easement agreement will be required for the following types of applications:

- Plans of subdivision which include the retention, alternation or reconstruction of a heritage property
- Site plan applications which include the retention, alteration or reconstruction, in whole or in part, of a heritage property
- Official Plan and Zoning By-Law amendments which include the retention, alteration or reconstruction, in whole or in part, of a heritage property
- Any Planning Act application which includes the whole or partial demolition of a heritage property
- Relocation of a heritage property

The requirement to enter into an easement agreement may be waived by staff where deemed appropriate, such as where the Planning Act matters may have minor impacts on a heritage property more suited to approval through the heritage permitting process. For the construction of a suitable replacement building as the result of a demolition of a heritage property, the heritage easement agreement may be terminated with mutual agreement from the applicant once the replacement structure is complete and a successful inspection carried out.

For those applications which are subject to a site plan agreement, the cash deposit or letter of credit required to be deposited with the City as part of the site plan agreement will include securities related to the continued preservation or the approved replacement of the heritage building. Securities will be calculated either as 50% of the cost of completing the work as outlined in the agreement or the replacement value of elements

to be preserved when the heritage building will be retained, either in whole or in part. Elements to be preserved will be identified in the related heritage easement agreement. The securities will be returned to the applicant after a successful inspection from the Economic Development Officer – Heritage Planning. Site visits will be coordinated with Planning staff.

Heritage easement agreements will also be required for all properties participating in a heritage property tax relief program related to the improvement or redevelopment of the property, as required by Section 365.2 of the Municipal Act. An agreement may also be required for other funding programs administered by the City.

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Relocation of Heritage Properties

If an application to demolish a heritage property involves the relocation of a building to another site, an individual designation by-law will be repealed, repealed and replaced, or amended, as appropriate, to reflect the new site of the building, its associated legal description, and any changes in the heritage attributes of the property or statement of significance. For listed properties, the address will be amended on the Heritage Register to reflect the municipal address of the new site. The by-law will not be repealed or amended or the address amended on the Register until the building is moved to its new site. The processes established under the Ontario Heritage Act for repeal or amendment will be followed.

The applicant will be required to enter into a heritage easement agreement under Section 37 of the Act for the original property and a site plan agreement for the receiving site. The cash deposit or letter of credit required to be deposited with the City as part of the site plan agreement will include securities equal to the cost of relocating the building. The easement on the original property will be released and securities refunded to the applicant once the property is successfully relocated and an inspection carried out by the Economic Development Officer – Heritage Planning. For heritage buildings being relocated on the same property, a heritage easement agreement will be required.

The applicant will also be responsible for applying for and receiving a building permit and any other relevant City permissions, such as a Road Closure or Oversized Load permit.

Any removal which requires the disinterment and/or relocation of human remains or a burial marker from a heritage property will follow the processes outlined in the Funeral, Burial and Cremation Services Act which prevails over the Ontario Heritage Act. Applications of this nature will be processed on a case by case basis in consultation with the applicant and other relevant agencies, including local First Nations and other Indigenous communities as appropriate. Consultation with local First Nations and other

Indigenous communities will occur in accordance with the City's Consultation Policy (CP2022-007).

Amendment of a Heritage Designation By-law Following a Partial Demolition

If an application to demolish a heritage property designated under Part IV of the Act involves the partial demolition of a building, the demolition of one building which forms part of a designated property, or the permanent removal of heritage attributes and the application is approved, the designation by-law for the property will be amended to reflect the changes to the property. The process for amending a designation by-law after a partial demolition, including the provision of notice, is established by Ontario Regulation 385/21.

Applicants do not need to apply to amend the designating by-law for the property. An amending by-law will be brought forward by staff, in accordance with the processes outlined in the Act and its associated regulations, following approval of the demolition by Council to reflect the changes made to the property.

Application Timeframes

The Ontario Heritage Act establishes timeframes for consent to or refusal of permits for the alteration of heritage properties under Sections ~~33(7)~~~~30(4)~~ and 42(4), the alteration of buildings used for religious purposes under Section 33(18) of the Act, the demolition of heritage properties under Sections 27(3), 34(2), and 42(4) of the Act, and for repeal of a designation by-law under Section 32(2). The prescribed timeframes are:

- 60-day review period for the demolition of a listed property
- 90-day review period for the alteration of a property designated under Part IV or V of the Act
- 60-day review period for qualifying alterations to buildings used for religious purposes designated under Part IV or Part V of the Act
- 90-day review period for the demolition of a property designated under Part IV or V of the Act
- 90-day review period for the repeal of a by-law designating a property under Part IV of the Act

The City will make best efforts to adhere to these timeframes which begin when an application is deemed complete and a notice of receipt is served on the applicant. The timelines may be extended through mutual agreement between the City and the applicant. Applications for alterations to or for the demolition of properties designated under Part IV or V will be deemed approved if not approved within the prescribed timeframe and without mutual agreement between the City and the applicant.

Legislative and Administrative Authority

Ontario Heritage Act, 1990
Planning Act, 1990
Building Code Act, 1992
Funeral, Burial and Cremation Services Act, 2002
Municipal Act, 2001
Provincial Policy Statement, 2020
A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019
City of Kawartha Lakes Official Plan (2012), including Official Plan Amendment 26 (2017)
City of Kawartha Lakes By-law 2019-154
City of Kawartha Lakes By-law 2021-194

Revision History:

Proposed Date of Review:

Revision	Date	Description of Changes	Requested By
0.0	September 21, 2021	Initial Release	
0.1	April 18, 2023	Updates implemented through Report ED2023-011	
<u>0.2</u>	<u>July 23, 2024</u>	<u>Updates implemented through Report ED2024-028</u>	