



Council Report

Report Number:	ED2024-028
Meeting Date:	August 27, 2024
Title:	Amendments to the Heritage Applications Policy
Description:	Amendments to Council Policy CP2021-040 (Heritage Applications Policy) in response to Bill 139
Author and Title:	Emily Turner, Economic Development Officer – Heritage Planning

Recommendations:

That Report ED2024-028, **Amendments to the Heritage Applications Policy**, be received; and

That Policy CP2021-040, entitled Heritage Applications Policy, be amended as outlined in Appendix A of this report.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

Council Policy CP2021-040, the Heritage Applications Policy, sets the City's submission requirements and procedures for applications made under the Ontario Heritage Act, Building Code Act, and Planning Act related to heritage properties, including those designated individually under Part IV of the Ontario Heritage Act, those designated under Part V of the Ontario Heritage Act as part of a heritage conservation district, and those listed on the City's Heritage Register. The policy is intended to strike a balance between the preservation of heritage properties in Kawartha Lakes while recognizing that applications of various kinds are received by the City for these properties. The policy provides transparency and consistency with regard to submission requirements, process and evaluation procedures for applications related to heritage properties that are consistent with provincial policy and legislation. The policy aligns with the legislative requirements for alterations to heritage properties under the Ontario Heritage Act, its associated regulations and other provincial legislation where applicable, including the Planning Act, the Building Code Act and the Funeral, Burial and Cremation Services Act.

Since it was adopted in 2021, the policy has been amended several times to reflect amendments to various pieces of legislation and their associated regulations. The policy was last amended in 2023 to respond to amendments to the Ontario Heritage Act and the Planning Act made by Bill 108, More Homes More Choice Act (2019) and Bill 23, More Homes Built Faster Act (2022).

In October 2023, the provincial government introduced Bill 139, the Less Red Tape More Common Sense Bill. The intent of the bill was to improve service delivery across a range of sectors and it included a variety of amendments to twenty pieces of diverse legislation, including amendments to Section 33 of the Ontario Heritage Act, which regulates applications to alter individually designated properties. This section of the Ontario Heritage Act allows a municipality to approve, approve with conditions, or deny an application to alter a property designated under Part IV of the Act. Bill 139 received royal assent in December 2023 but not all of the amendments came into effect at that time. In particular, the amendments to the Ontario Heritage Act were not enacted in order to provide time to finalize the regulatory amendments that were also required to enact the changes to Section 33. The regulatory amendments have now been finalized and came into effect on July 1, 2024. The majority of the amendments have been enacted through Ontario Regulation 385/21, which already provides regulations related to alterations to heritage properties.

The intention of the amendments is to provide an alternative processing stream for applications related to buildings used for religious purposes. By the definition under the

Act, this includes buildings where the primary purpose is for spiritual practice or worship, including Indigenous spiritual practice. In Kawartha Lakes, this definition applies only to churches of which fourteen are individually designated, although it is likely that additional churches will be designated as the municipal heritage register is reviewed in light of Bill 23. It does not apply to churches located in heritage conservation districts, of which there are two in the Downtown Lindsay Heritage Conservation District.

The amendments make changes to Section 33 of the Act and O. Reg. 385/21 so that applications to properties used for religious or spiritual practices are approved without conditions if the following conditions are met:

- The building, or part thereof, to be altered is primarily used for religious practices;
- The heritage attributes to be altered are connected to religious practices;
- The alteration of the heritage attributes is required for religious practices;
- Any additional conditions prescribed by regulation; and,
- The applicant provides council with an affidavit or sworn declaration that the application meets the conditions in the Act or prescribed in regulation.

Municipalities would rely on a sworn affidavit to demonstrate that the above conditions are met. As with any other application made under Section 33 of the Act, the deeming of a complete application and consent or denial of said application would need to be undertaken within the prescribed timelines under the Act.

The stated intention of the amendments is to ensure that that religious organizations and Indigenous communities have a greater level of certainty when applications are being proposed to a designated property and continue to have limited interruptions in its use. However, there are no known widespread issues or challenges to the processing of heritage alteration applications related to religious buildings in the Ontario municipal context and the amendments to the Act make the application process more complex for both applicants and municipal staff. Nevertheless, municipal policies must align with provincial legislation and amendments to the City's Heritage Applications Policy are required to address the amendments to O. Reg. 385/21.

The primary impact on the permitting process for these properties are new application requirements and different application requirements, as well as the fact that municipalities may not approve an application with conditions because applications may only be approved or denied. The timeline for review and processing has also been shortened from 90 to 60 days. The municipality has historically received very few

heritage permit applications from designated churches and staff do not anticipate any significant changes in workload or processes as a result of the legislative and policy amendments, despite the added complexity to certain types of applications.

At its meeting of July 4, 2024, the Kawartha Lakes Municipal Heritage Committee reviewed the proposed policy amendments and adopted the following resolution:

KLMHC2024-064

Moved By Councillor Ashmore

Seconded By S. McCormack

That Report KLMHC2024-042, **Proposed Amendments to the Heritage Applications Policy**, be received;

That the proposed amendments to the Heritage Applications Policy (CP2021-040), as outlined in Appendix A of this report, be endorsed; and

That this recommendation be forwarded to Council for approval.

Carried

This report presents the proposed amendments to the Heritage Applications Policy for adoption. A red-line version of the policy outlining the proposed amendments is attached to this report as Appendix A.

Rationale:

The proposed policy amendments are intended to align Council's Heritage Applications Policy with the amendments to the Ontario Heritage Act and Ontario Regulation 385/21 through Bill 139. The proposed amendments are summarized below.

1. Definitions

A new definition has been added to clarify the definition of a "building used for religious purposes." This definition is the definition created by the Ministry as part of the amendments to the Act to clarify the types of properties to which to new regulations apply.

2. Alterations to Buildings Used for Religious Purposes

A new section has been added to the Policy to provide an overview of the application requirements and permitting process for religious buildings. This section includes the new application requirements, as outlined in Ontario Regulation 385/21, information around which stream an applicant should choose when applying for a permit, and

information regarding application for other permits and approvals, such as Building and Septic Permits and Planning Act applications. It also establishes that applications made under this processing stream cannot be approved with conditions, and may only be approved or denied.

3. Timeframes

Information regarding the timeline for the approval of applications related to buildings used for religious purposes has been added.

4. Administrative Amendments

A number of amendments have also been made to the Policy to correct administrative errors, such as typos, and to update section and subsection references in the Ontario Heritage Act where numbering has changed due to recent amendments through Bill 139 and Bill 200. Additional wording for clarification has also been added related to consultation with Indigenous communities, appeals to the Ontario Land Tribunal, and deemed consent which was lacking in previous versions of the Policy.

Other Alternatives Considered:

There are no recommended alternatives. The Heritage Applications Policy must align with current provincial legislation and the amendment of the Policy to include information regarding applications for religious buildings provides transparency regarding the City's processes for receiving and reviewing heritage permit applications. Although the proposed amendments add additional complexity to the heritage permit application process for religious buildings, the amendments are being proposed to ensure the Policy aligns with provincial direction and the option for property owners and tenants to pursue this approval stream for qualifying properties must be available in City policy and processes.

Alignment to Strategic Priorities

The amendments to Council's Heritage Applications Policy support the following goals from the Council-adopted Strategic Plan:

- A Vibrant and Growing Economy
- Good Government

The processing of heritage permit applications is a core function of the heritage planning program offered as part of the City's economic development and business development programming which has been identified as one of the Vibrant and Growing Economy priority area's action items. The alignment of existing City policies with

updates to provincial legislation supports the goal of Good Government by streamlining by-laws, policies and processes to support provincial direction.

Financial/Operation Impacts:

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

Consultations:

Ministry of Citizenship and Multiculturalism
Municipal Heritage Committee
Director, Development Services
Manager, Economic Development

Attachments:

Appendix A – Proposed Amendments to the Heritage Applications Policy (red-lined)



CP2021-040
Heritage Applicator

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