



Figure 1. "10268 Yonge Street – Built in 1897, the original Richmond Hill High School was later used as the town hall and a library. It is now a well-loved coffee house. It was restored by the City of Richmond Hill and integrated into the newly built Richmond Hill Centre for the Performing Arts (Images courtesy of the City of Richmond Hill).

Designating Heritage Properties

Every community in Ontario has its own unique culture and heritage. Each city, town, township or county has places, spaces and stories that enrich it, inspire it, enlighten it and guide it in its growth and development.

These places are integral parts of the identity of our communities, and they play a significant role in economic development by helping to enhance a community's quality of life, strengthen its distinctiveness, stimulate revitalization and attract tourist dollars.

Under the Ontario Heritage Act, municipalities can pass bylaws to formally designate properties of cultural heritage value or interest. Formal designation of heritage properties is one way of publicly acknowledging a property's heritage value to a community. At the same time, designation helps to ensure the conservation of these important places for the benefit and enjoyment of present and future generations.

Amendments to the Ontario Heritage Act proclaimed in January 2021 seek to increase transparency and efficiency in municipal decision-making, while continuing to protect the heritage properties that communities value.

Properties can be designated individually or as part of a larger area or heritage conservation district. This guide concentrates on individual property designation under section 29 in Part IV of the Ontario Heritage Act. It explains what designation is, describes the steps in the process, and explores how it helps to conserve heritage properties into the future. For more information about heritage conservation districts, please see *Heritage Conservation Districts: A Guide to District Designation Under the Ontario Heritage Act*.

1. What's in this guide?

2. Introduction to Designation

This section describes what designation is and how it works to protect cultural heritage properties.

3. The Designation Process

A step-by-step description of the designation process is provided, including a discussion of the role of the municipality, the municipal heritage committee and the property owner.

4. Preparing the Designation Bylaw and Related Material

This section explains each of the different written requirements for a designation and provides advice on how these should be prepared.

5. Conserving the Heritage Value of a Designated Property

This section describes how designation can work to conserve the heritage value of a property by managing alterations and supporting ongoing maintenance and conservation.

6. Demolition Control

This part of the guide relates to a request for demolition or removal of a building, structure or heritage attribute on a designated property and how demolition can be avoided,

7. Amending a Designation Bylaw

When and how should a designation bylaw be amended? This section helps to answer these questions and also discusses when and how a designation bylaw would be repealed.

8. Resources and Further Information

Appendix: Designation Flowcharts

Although the individual processes are described throughout this guide, this appendix provides a series of detailed flowcharts for easy reference.

This guide is one of several published by the Ministry of Heritage, Sport, Tourism and Culture Industries as part of the Ontario Heritage Tool Kit. The Ministry has published these guidance materials as an aid to municipalities and others working with the Ontario Heritage Act. The information in this guidance is not intended to take the place of legal advice. In the event of any conflict between this guidance and any applicable legislation or regulations, including the Ontario Heritage Act and its regulations, the legislation or regulations prevails.



Figure 2. The Elam Martin Farmstead was designated in 2001 as one of the last remaining Mennonite farmsteads in the City of Waterloo (Image courtesy of the City of Waterloo).

2. Introduction to designation

Our cultural heritage is what we value from the past, and what we want to preserve for future generations.

Identifying and protecting places in our communities that have cultural heritage value is an important part of planning for the future, and of helping to guide change while keeping the buildings, structures and landscapes that give each of our communities its unique identity.

Municipalities have a key role to play in conserving places that have cultural heritage value. The designation of individual properties under the Ontario Heritage Act is one tool that municipalities have used to protect thousands of heritage properties in hundreds of communities across Ontario.

Heritage designation:

- Recognizes the importance of a property to the local community;
- Protects the property's cultural heritage value;
- Encourages good stewardship and conservation; and
- Promotes knowledge and understanding about the property.

Designation under the Ontario Heritage Act applies to real property, and helps to recognize and protect the heritage features on that property.

Property designation is not limited to buildings or structures but can include groups of buildings, cemeteries, natural features, cultural heritage landscapes or landscape features, ruins, or archaeological sites.

Designation not only publicly recognizes and promotes awareness of heritage properties, it also provides a process for ensuring that changes to a heritage property are appropriately managed and that these changes respect the property's cultural heritage value. This includes protection from demolition.

3. The designation process

There are seven key steps to designating an individual property under section 29 of the Ontario Heritage Act. These include:

- Identifying the property as a candidate for designation;
- Researching and evaluating the property;
- Serving a notice of intention to designate, with an opportunity for objection;
- Passing the designation bylaw;
- Appeals and coming into force;
- Listing the property on the municipal register; and
- Including property on the Ontario Heritage Trust register.

A flowchart outlining the designation process is provided in the appendix.



Figure 3. Harrison Park is recognized for its central role in defining the community of Owen Sound. The Black History Cairn commemorates the contribution of the community's black settlers (Images courtesy of Owen Sound).

3.1.Step 1: Identifying the property

Identifying local heritage resources is the first step toward conserving and protecting them.

Properties of cultural heritage value or interest are usually identified by municipal heritage committees, or through a local community process such as an inventory of cultural resources, a municipal cultural planning process, or a community planning study.

Many municipalities keep registers of property of cultural heritage value or interest. The Ontario Heritage Act allows property that has not been designated, but that municipal council believes to be of cultural heritage value or interest, to be listed on the municipal register. Many of these listed properties are eventually recommended for designation. See *Heritage Property Evaluation: A Guide to Listing, Researching and Evaluating Cultural Heritage Property in Ontario Communities* for more information about the municipal register.

A property can also be recommended for designation by a property owner, or through the suggestion of an individual or group in the community. In some cases, this can occur because a property is about to undergo alteration, demolition or development. Initiating a designation is one way of protecting a property of potential heritage value to allow more time for considering options and alternatives. For properties going through certain planning approvals, the ability to issue a notice of intention to designate is limited. See “Step 3: Serving Notice of Intention to Designate.”



Figure 4. The Black Bay bridge in the city of Thunder Bay was one of the first single spandrel reinforced concrete bridges ever constructed (MHSTCI).

3.2.Step 2: Researching and evaluating the property

Careful research and an evaluation of the candidate property must be done before a property can be recommended for designation. Criteria are set out in a regulation made under the Ontario Heritage Act to determine whether property is of cultural heritage value or interest. See the Heritage Property Evaluation guide for further information on this process – this guide provides advice on evaluating properties to determine their cultural heritage value or interest.

A designation report should be prepared for council’s consideration, containing the written statements and descriptions required to support the designation. These are discussed in more detail in the next chapter.

Before deciding whether or not to proceed with a designation, council must consult with its municipal heritage committee (where one has been established). A municipal heritage committee is instrumental in ensuring that all relevant heritage information is considered and assisting in the evaluation of the property.

Designation and the property owner

The property owner is a key player in a designation under the *Ontario Heritage Act*. As early as possible in the process, designation should be discussed with owners to ensure that they are actively engaged in the process. There are many myths and misconceptions about designation that may need to be clarified. Once they understand the process, many owners are interested in designation as a way of expressing pride in their property and ensuring it is protected for the future.

Municipal heritage committees across Ontario have built positive relationships with owners of designated properties to support them in their conservation efforts, and owners value the advice and information committee members and municipal staff provide.



Figure 5. An award is presented to a homeowner for maintaining their heritage property with pride (Image courtesy of Community Heritage Ontario).

In cases where a property being considered for designation is occupied by tenants, owners should be encouraged to notify those tenants of the potential designation and any implications it may have for work they plan to undertake on the property.

3.3.Step 3: Serving Notice of Intention to Designate

If council passes a motion to proceed with designating a property, it must notify the owner as well as the Ontario Heritage Trust and publish a notice of intention to designate in a newspaper having general circulation in the municipality.

Timeframes

Council has a limited period to give its notice of intention to designate a property when the property is subject to one of the following applications under the Planning Act:

- An official plan amendment (s. 22);
- A zoning bylaw amendment (s.34);
- A plan of subdivision (s.51).

See the Ministry of Municipal Affairs and Housing’s website on [Applying for changes to land use](https://www.ontario.ca/page/applying-changes-land-use) at www.ontario.ca/page/applying-changes-land-use to learn more about these types of applications.

The limited period of 90 days starts after a council or planning board has completed giving all the required public notices for a complete application. In many municipalities, the clerk will sign an affidavit that these notice requirements have been fulfilled, signalling the start of the 90 days. Council should use this time to decide whether to issue a notice of intention to designate for any property that is part of the application.

As part of these planning applications, a municipality or approval authority should require a heritage impact assessment (or equivalent study) to evaluate proposed development or site alteration to demonstrate that significant cultural heritage resources will be conserved.

Mitigative (avoidance) measures or alternative development or site alteration approaches may be required. There may be a municipal checklist or management plan to identify properties of potential heritage significance. The Ministry offers a checklist for Evaluating Potential for Built Heritage Resources and Cultural Heritage Landscapes. For more information on identifying cultural heritage resources during Planning Act processes, please see the ministry's A Guide to Cultural Heritage Resources in the Land Use Planning Process.

Exceptions to the 90-Day Restriction

Mutual Agreement

The municipality and the property owner can agree at any time to extend this 90-day period or for the timeframe not to apply with respect to the Planning Act applications. This may be a useful option to explore in many circumstances. For example, if a project needs a building to be temporarily moved to accommodate construction staging, after which the building is moved back to the property, or when a development proposal will result in the subdivision or severance of land, and only a portion of the original property is of cultural heritage value or interest and would be designated.

Municipal Emergency Period

There are times where administrative restrictions could impact a council's ability to issue the notice of intention to designate within those 90 days. An exception is provided for where the head of a council declares a period of emergency under the *Emergency Management and Civil Protection Act*. If any part of the 90 days falls within a municipally declared emergency period, council will have 90 days from the end of the emergency period to issue the notice of intention to designate.

End of 90-day limitation

The 90-day limitation ceases to apply when the Planning Act application that triggered it is finally disposed of either by operation of the Planning Act or through an order of the Tribunal. This would include where:

- A request for an official plan amendment is approved and adopted by the municipality;
- A zoning bylaw amendment is approved and in effect;
- A plan of subdivision is registered;
- The municipality refuses the planning application or request and there is no appeal;
- There is an appeal to the Ontario Land Tribunal, the appeal is complete, a decision has been issued, and that decision is in effect.

Once the 90-day limitation timeframe (or an extended timeframe when an exception has been invoked) no longer applies, the municipality can issue a notice of intention to designate.

Multiple Applications

It may be the case that a municipality receives a subsequent Planning Act application that applies to the same property that would also trigger the 90-day restriction. For example, first a request for an official plan amendment is submitted and while awaiting a decision on that application, the property owner submits a request for a zoning bylaw amendment that affects the same property. Alternatively, some requests or applications are abandoned and receive no decision and later a new and different request or application is made.

A subsequent request or application made for the same property cancels the restriction placed on the property by the previous application. This includes any exceptions that may have been made to the original 90-day timeframe by either a mutual agreement or through others that may have applied or were invoked by the municipality. With the new application, the municipality now has a new 90-day timeframe to issue a notice of intention to designate the property. The date the council or planning board has completed giving all the required public notices for a complete application for the subsequent application is what governs the new 90-day restriction, both for the purposes of applying any exceptions and for determining when the restriction finally ends.

Where a property owner coordinates the submission of multiple applications for the same property, and council or the planning board completes giving all the required public notices for all the applications on the same day, they are effectively considered a single event for the purposes of the 90-day restriction and applying the exceptions for extending the 90-days, as appropriate. However, the restriction on council's ability to issue a notice of intention to

designate ends as the last date on which all of the requests or applications are finally disposed of under the Planning Act.

Contents of the notice of intention to designate and public notices

Under section 29 of the Ontario Heritage Act, the notice of intention to designate served on the owner and the Ontario Heritage Trust must include the following:

- The description of property so that it can be readily ascertained;
- The statement of cultural heritage value or interest, which identifies the property's heritage significance;
- The description of heritage attributes outlining the particular features that should be protected for the future; and
- A statement that any notice of objection to the notice of intention to designate the property must be filed with the municipality within 30 days after the date of publication of the newspaper notice.

The notice in the newspaper must include the above information, except for the description of heritage attributes. The newspaper notice must say that further information about the proposed designation is available from the municipality.

Considering objections

The 2019 amendments to the Ontario Heritage Act introduced a new review role for municipal councils.

If an objection to a notice of intention to designate is filed with the municipality within the 30-day period from the date of publication of notice in the newspaper, council must consider the objection, then decide whether to withdraw the notice or proceed with designation.

Council must consider the objection and make a decision whether or not to withdraw within 90 days after the end of the 30-day notice period. If council fails to meet this deadline, the notice will be deemed withdrawn, and council will have to issue a notice of withdrawal.

This notice of withdrawal must be given to the property owner, any person who objected, and the Ontario Heritage Trust. The notice must also be published in a newspaper.

As part of its overall heritage conservation approach, a municipality should establish public facing procedures for how council will consider objections to notices of intention to designate property of cultural heritage value or interest.

These procedures should specify how to provide a suitable notice of objection, including how to set out the reason for the objection and all relevant facts. They should also include factors or criteria a council takes into account when deciding whether to withdraw the notice.

Questions council should ask in deciding whether to withdraw the notice of intention to designate may include:

- Has any new or relevant information come to light about the cultural heritage value or interest of the property since the notice was given?
- Are there concerns, inaccuracies or discrepancies, or some other issue with the property evaluation or other documentation related to the notice of intention to designate raised by one or more objections?

If council decides to withdraw the notice of intention to designate, it must issue a notice of withdrawal.

Protecting a property of heritage value

Sometimes, it is only when change is imminent that a community recognizes a property's heritage value. Municipal councils can use the notice of intention to designate as a way of avoiding the demolition or alteration of a property that may be worthy of designation. This gives council an opportunity to consider the significance of the property, and alternatives to alteration or demolition, before irreversible change takes place.

If a notice of intention to designate is issued for a property, the property will be subject to certain interim protections. Any existing permit that allowed for the alteration or demolition of the property, including a building permit or a demolition permit, becomes void. Proposed activities that will require council's consent during the period of interim protection include any:

- Alteration affecting the property's heritage attributes;
- Demolition or removal of heritage attributes; or
- Demolition or removal of a building or structure.

The owner's consent is not required for a designation to proceed. The owner's objections can be considered by following the objection procedure described above.

3.4.Step 4: Passing the heritage designation bylaw

If there are no objections filed within the required time period, or council decides not to withdraw the notice of intention to designate following such an objection, council may then pass a designation bylaw. The bylaw must include the description of property, the statement

explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property

The 2019 amendments to the Ontario Heritage Act introduced two new requirements for bylaws: one relating to content, the other to process.

Content requirement

New bylaws must now comply with the requirements set out in regulation XXX/21. See more information on preparing the designation bylaw in chapter 4.

Timeframe requirement

Council must pass the bylaw within 120 days after publishing the notice of intention to designate in a newspaper. If council fails to meet this deadline the notice will be deemed withdrawn, and council will have to issue a notice of withdrawal.

If a notice is deemed withdrawn, council may issue a new notice. Council needs to ensure, however, that no prescribed events have occurred that might trigger the 90-day limit on giving notice of intention to designate.

Exceptions to the 120-day timeframe for passing a designating by-law

Mutual Agreement

The municipality and the property owner can agree at any time within the 120-day period to extend the timeframe by any amount of time.

Municipal Emergency Period

An exception is provided for where the head of a council declares a period of emergency under the *Emergency Management and Civil Protection Act*. If any part of the 120 days falls within a municipally declared emergency period, council will have 120 days from the end of the emergency period to pass the designating bylaw.

New and relevant information

The 120-day timeframe applies to passing a bylaw following a notice of intention to designate. The research required to produce the notice should have been thorough. However, circumstances may result in the discovery of new and relevant information. Examples could include, but are not limited to:

- A peer review of a heritage impact assessment that was part of required documentation for a development proposal might identify inaccurate information or information that was missed in the report about the property's cultural heritage value or interest.
- An adjacent property may be subject to a development proposal or other change (e.g., fire) that might affect the proposed cultural heritage value or interest of the property in question.
- Information that came to light during the municipal council's consideration of any objections of the notice of intention to designate

The municipality can extend the timeframe if it determines that new and relevant information has come to light that could have an impact on the potential cultural heritage value or interest of the property, and that information was received after the notice of intention to designate was issued. Further investigation may be needed.

Where new and relevant information is revealed, the municipality may pass a resolution to state that new and relevant information that could impact the potential cultural heritage value or interest of the property has been received and that it will have 180 days from the date of the resolution to pass the designating bylaw. The 180 days allows for where further information, including a technical cultural heritage study, may also be required to determine if the municipality wishes to pass the designating bylaw. Council must ensure that notice of the extension is served on the owner. The notice must include the reasons for the extension and state the period of the extension.

3.5.Step 5 : Providing notice of bylaw

Should council pass the bylaw following the process set out in section 29, it must ensure that the following are served on the property owner, the Ontario Heritage Trust and anyone who objected to the notice of intention to designate in accordance with the requirements under section 29:

- A copy of the bylaw;
- In accordance with the requirements under section 29, a notice that any person who objects to the bylaw may appeal to the Ontario Land Tribunal and the clerk of the municipality, within 30 days after the date of publication of newspaper notice.

Notice that the bylaw has passed is also published in the newspaper. The public notice in the newspaper must also include the information about appeal rights in accordance with the requirements under section 29. Appeal rights are broad: a person does not have to have

objected to the notice of intention to designate to retain the right to appeal the bylaw to the Ontario Land Tribunal.

3.6.Step 6: Appeals and coming into force

Anyone who objects to council's decision to designate a property through bylaw may appeal to the Ontario Land Tribunal.

An appeal must be made within 30 days of publication of notice in the newspaper. The appeal must set out the reason for the objection to the bylaw and all relevant facts.

The appeal must also be accompanied by the fee charged under the Ontario Land Tribunal Act.

If a hearing is held, the tribunal would decide whether to dismiss the appeal, to repeal or amend the bylaw, or to order the municipality to repeal or amend the bylaw.

Coming into force

The bylaw comes into force on the day after the 30-day notice period ends, if there were no appeals given within that time period.

If there were appeals given within the 30 day period, the bylaw comes into force automatically if the appeals are withdrawn or dismissed.

If the tribunal orders the bylaw amended, or directs the municipality to amend the bylaw, the bylaw comes into force the day it is amended.

Once the bylaw comes into force, the municipality must register a copy of the final bylaw on against the properties affected by the by-law in the appropriate land registry office and serve a copy of the registered bylaw to the Ontario Heritage Trust.



Figure 6. The Pagani House, built in 1961 and designed by architect Richard Pagani as his own home, is one of the best examples in Guelph of modern design (Image courtesy of Frank Hochtchenbach).

3.7.Step 7: Listing the property on the municipal register

Under section 27 of the Ontario Heritage Act, designated properties must then be listed on the municipal register of property that is of cultural heritage value or interest, kept by the municipal clerk. The listing includes the following:

- Legal description of the property;
- Name and address of the owner;
- Statement explaining the cultural heritage value or interest of the property; and
- Description of heritage attributes of the property.

3.8.Step 8: Including the property on the Ontario Heritage Trust register

Once a bylaw comes into force and the registered copy has been sent to the Ontario Heritage Trust, the property is then listed on the provincial register of heritage properties. This register, which can be accessed at www.heritagetrust.on.ca/en/index.php/pages/tools/ontario-heritage-act-register, is a valuable resource tool for learning about and promoting heritage properties across the province. It also sets heritage properties in a provincial context. With access to a computer, any person can search the OHT's register by keyword, property type or municipality.

PLACE HOLDER: MHSTCI is interested in obtaining images of heritage properties that illustrate the cultural diversity of Ontario's communities. Please send suggested images to joseph.harvey@ontario.ca

4. Preparing the designation bylaw and related material

In putting forward a property for designation, there are four key pieces of information that must be prepared.

1. Description of property (so that the property can be readily ascertained);
2. Statement of cultural heritage value or interest;
3. Description of heritage attributes; and
4. Legal description.

How should these statements and descriptions be written?

Municipal staff, property owners and others are generally familiar with the concept of a legal description, which describes the property and its boundaries using legal terminology and reference plans (where appropriate). The other statements noted above may, however, be less familiar.

These statements and descriptions must be carefully written so as to:

- Raise community awareness and understanding about the importance of the property;
- Help the property owner, council, municipal heritage committee and municipal staff make good decisions about alterations to the property.



Figure 8. Designed by Ludwig Mies van der Rohe, the TD Centre in Toronto was the tallest building in Canada from 1967-1972. A leading example of the international style it altered the Toronto city scape and influenced many building throughout the country (MHSTCI)

4.1. When are designation statements and descriptions used?

Before a designation bylaw is passed (OHA, subsection 29(4))

The notice of intention to designate published in a newspaper, sent to the property owner and sent to the Ontario Heritage Trust, must include an adequate description of property and a statement explaining the cultural heritage value or interest of the property. This statement and description inform the public about what is being designated and why. The statement of cultural heritage value or interest is also the basis upon which any person can object to or question the notice of intention to designate.

Notice to the Ontario Heritage Trust and the property owner must include a description of property, a statement explaining the cultural heritage value or interest and a description of the heritage attributes of the property.

In the designation bylaw (OHA, subsection 29(8), paragraph 2))

Designation bylaws must include a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property. Best practice is to include them in the designation bylaw as schedules. The bylaw is registered on the title of the property, so that subsequent owners and decision-makers will know the property's cultural heritage value and its heritage attributes.

On the municipal register of property of cultural heritage value or interest (OHA, subsection 27(2))

The legal description of the property, the name and address of the owner, the statement explaining the cultural heritage value or interest and the description of heritage attributes of for designated properties are included in the municipal register, maintained by the clerk of the municipality.

When changes are proposed to a designated property (OHA, section 33 and 34)

The statement of cultural heritage value or interest and the description of heritage attributes help to guide future decisions about alteration and demolition proposals by clearly identifying the heritage attributes of the property that should be protected and conserved.

4.2. Mandatory requirements

The designation bylaw must include the following information to conform to regulation XXX.

1. Description of property – describes what will be designated so that the property can be readily ascertained.

The legal description of the property is always required to register the bylaw against the property in the land registry office. The by-law must identify the property by:

1. the municipal address of the property, if it exists,
2. the legal description of the property, including the property identifier number that relates to the property, and
3. a general description of where the property is located within the municipality, for example, the name of the neighbourhood in which the property is located and the nearest major intersection to the property.

4. a site plan or scale drawing that identifies each area of the property that has cultural heritage value or interest. Alternatively, a description may be provided in writing to clarify the areas of the property that has cultural heritage value or interest.

Under the Ontario Heritage Act, designation of a heritage property applies to real property — the land itself and the buildings and structures on it. In some cases only a portion of a property may be considered to have cultural heritage value or interest, not the entire property. In such cases, a registerable description (usually a reference plan) is used to define the area of the property that is included in the designation.

For example, imagine a 100-acre farm where council considers only the historic farmhouse and the barn to be of cultural heritage value or interest and worthy of designation under the Ontario Heritage Act. The remaining farmland could be excluded from the designation bylaw. A reference plan can be used to identify the protected area.

The description of property would, in most cases, be no longer than two or three sentences.

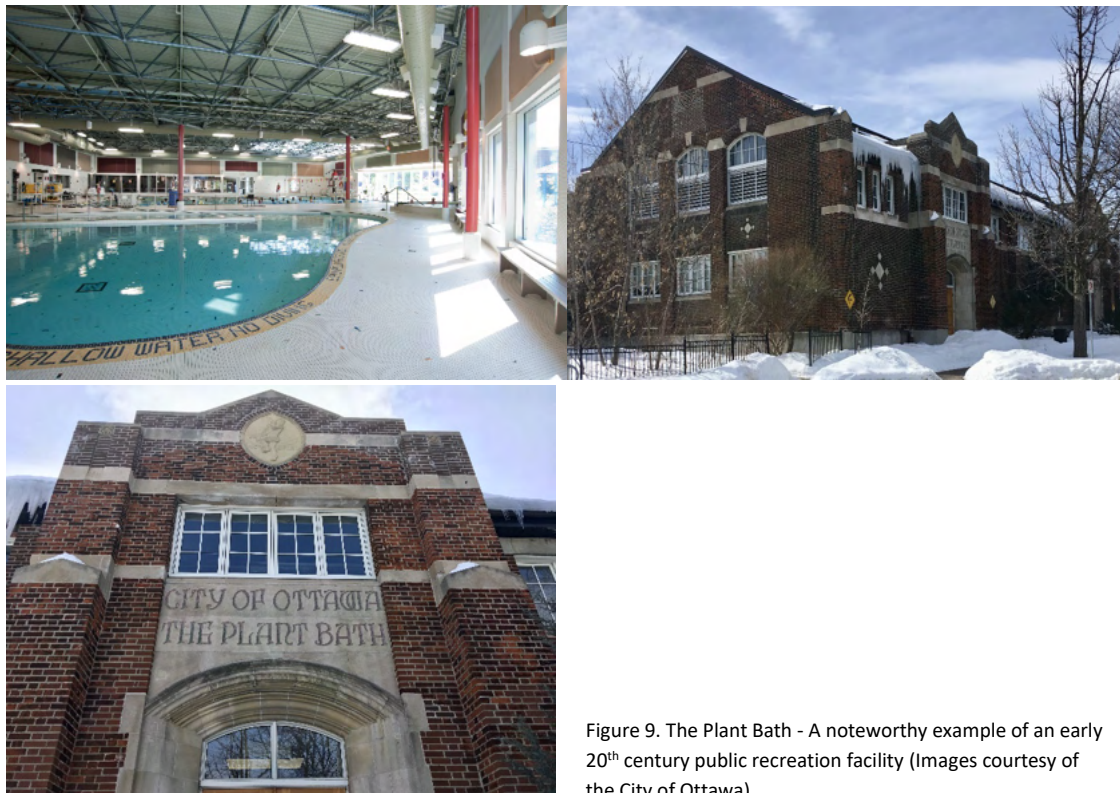


Figure 9. The Plant Bath - A noteworthy example of an early 20th century public recreation facility (Images courtesy of the City of Ottawa).

2. Statement of cultural heritage value or interest – describes why the property is being designated.

It conveys why the property is important and merits designation, explaining cultural meanings, associations and connections the property holds for the community. This statement must reflect the relevant criteria for determining cultural heritage value or interest prescribed in Ontario Regulation 9/06 of the Ontario Heritage Act.



Figure 10. Hamilton's first skyscraper is a representative example of the Art Deco and Gothic Revival Architectural styles (Image courtesy of the city of Hamilton).

These criteria include:

- Design or physical value, meaning that the property:
 - Is a rare, unique, representative or early example of a style, type, expression, material or construction method; or
 - Displays a high degree of craftsmanship or artistic merit; or
 - Demonstrates a high degree of technical or scientific achievement.



Figure 11. J.E.H Macdonald House – Associated with the Group of Seven the property continues to be a center of artistic activity in the community of Vaughan (Images courtesy of the Archives and Records Management Services Division, Office of the City Clerk, City of Vaughan).

- Historical or associative value, meaning that the property:
 - Has direct associations with a theme, event, belief, person, activity, organization, or institution that is significant to a community; or
 - Yields, or has potential to yield, information that contributes to an understanding of a community or culture; or

- Demonstrates or reflects the work or ideas of an architect, artist, builder, designer or theorist who is significant to a community.



Figure 12. The light house is a recognized landmark within the community of Kincardine on Lake Huron. It reflects both the community's and lake's maritime history (Images courtesy of the Town of Kincardine).

- Contextual value, meaning that the property:
 - Is important in defining, maintaining or supporting the character of an area; or
 - Is physically, functionally, visually or historically linked to its surroundings; or
 - Is a landmark.

Refer to the [Heritage Property Evaluation](#) guide for information on how to apply the criteria in Ontario Regulation 9/06.

The statement of cultural heritage value or interest should be brief. It should provide enough information to explain how each described attribute contributes to the cultural heritage value or interest of the property. The statement should be no longer than two or three paragraphs, explaining the core aspects of the property's cultural heritage value. It should not provide a broad history of the property, but should focus on what makes the property important. A detailed description of the property's history can be included in the broader designation report and kept on file with other supporting documentation.



Figure 13. Brazel Chambers House – This home reflects the building technologies of upper Canada in the mid 19th century. The designation includes its original doors windows and shutters (Image courtesy of Bradford West Gwillimbury).

3. Description of heritage attributes – describes the physical features or elements of the property that must be retained to conserve its cultural heritage value or interest.

Heritage attributes are those physical features or elements of the property, and of buildings and structures on the property, that contribute to the property's cultural heritage value or interest. They work together to characterize the property's cultural heritage value or interest. When these features are clearly identified decision makers can more effectively ensure that future changes to the property do not adversely impact its cultural heritage value or interest.

Readers should be able to understand how an identified heritage attribute contributes to the cultural heritage value or interest of the property. Brief explanations may be required to explain each attribute.

Heritage attributes may include, but are not limited to:

- Style, massing, scale or composition of built forms;
- Features of a property related to its function or design;
- Features related to a property's historical associations;
- Interior spatial configurations, or exterior layout;
- Materials and craftsmanship; or
- Relationship between a property and its broader setting.

4.3.Examples



Figure 14. Images courtesy of the City of Ottawa

SIDEBAR:

Example 1: a property that includes a single building

Description of property – Lipsett House, 37 Oriole Drive, Ottawa

The Lipsett House, 37 Oriole Drive, is a two-storey, flat-roofed, rectangular structure constructed in 1959 and located on the west side of Oriole Drive in Rothwell Heights.

Statement of cultural heritage value or interest

The cultural heritage value of the Lipsett House lies in it being an excellent example of Modernist residential architecture of the mid-20th century in Ottawa, its historical associations with the growth of the National Capital Region and the development of Rothwell Heights during the post-war period and its associations with architect Paul Schoeler, and its contextual value for its contribution to the character of the Rothwell Heights neighbourhood.

The Lipsett House has design value as an excellent example of Modernist architecture. Popular in Canada from 1940 to 1970, Modernist architecture emphasized the simplification of form and lack of decorative features or historical references. The Modern style is expressed in the Lipsett House through its modest footprint, simple rectangular plan, low profile flat roof, attached and integrated open carport, minimal entranceway protected by a simple canopy, simplification of form and the elimination of decorative features, and large floor-to-ceiling rectangular windows, some with exterior spandrel panels.

The Lipsett House has historical value for its associations with the development of Rothwell Heights, the expansion of the National Capital Region in the Post-war era and as an early example of the work of architect Paul Schoeler. Schoeler is considered to be a pioneer of Modernist architecture in Ottawa. Other examples of his work include the Public Service Alliance of Canada Building (1968), the Canadian Brotherhood of Railway Transport Building (1973), and the Canadian Labour Congress Building (1973).

The Lipsett House has contextual value as one of several experimental Modernist buildings in Rothwell Heights. The house was carefully designed and sited to be in harmony with its surrounding natural environment. The lot is well treed and is in keeping with the architectural and forested character of Rothwell Heights.

Description of heritage attributes

Key exterior elements that contribute to the heritage value as an excellent example of the Modern style in Ottawa include its:

- *Simple rectangular plan, small footprint and the siting of the building on the lot;*
- *Asymmetrical main façade with three evenly spaced rectangular windows with spandrel panels below;*
- *Rectangular windows with slender frames;*
- *Entranceway with simple canopy;*
- *Exterior cladding materials including vertically laid cedar siding;*
- *Use of exposed concrete block as a construction material and design element;*
- *Wood-lined, three-season porch on the south side of the building;*

- *Open deck on the rear west façade; and,*
- *Attached and integrated open carport.*

Key interior elements that contribute to the heritage value as an excellent example of the Modern style in Ottawa include:

- *The floating staircase and railing; and,*
- *The large, centrally located open-concept living room with views of the escarpment.*

Key exterior attributes that contribute to the contextual heritage value are:

- *The well-treed lot;*
- *The escarpment and views towards it; and,*
- *The ratio of the house to the lot.*



Figure 15. Images courtesy of the Town of Caledon

SIDEBAR:

Example 2: a cultural heritage landscape

Description of property – Walker Farm, 89 Walker Road West, Town of Caledon

Statement of cultural heritage value or interest

The property known municipally as 89 Walker Road West was the Walker farm from possibly as early as 1844 to about 1901. Walker Road West began as Walker's Lane, an access road between the north edge of the village of Caledon East on the east and this Walker farm to the west. The property contains a Georgian style stone dwelling built in or about 1863 by James Walker. This was the second Walker dwelling on the property, the first being an 1840s log house that was abandoned when the stone house was completed. The rare split level "bank house" form of the stone house, combined with its quality stone craftsmanship and 19th century interior and exterior features, make it an important component of the built heritage of the Town of Caledon. The stone house and other heritage attributes are existing and archaeological evidence of the evolution of this property as the Walker farmstead.

Description of heritage attributes

The heritage attributes of this property are the estimated 1863 Georgian style, stone house (excluding the north addition and south verandah); the stone outbuilding at the north of the stone dwelling; the stone foundation wall ruin at the north of the dwelling; the stone retaining wall at the south side of the dwelling; the tree lined laneway from Walker Road West; and the viewshed south from the stone dwelling to Walker Road West. The following elements of these heritage attributes are important to the cultural heritage value or interest of this property:

1863 Georgian Revival Style, Stone Dwelling

This includes the main section of the 1863 stone house but excludes the north addition and the south verandah.

Exterior:

- *the 1.5 storey with basement, split level or bank form, massing, and scale of the main section of the house*
- *the 3-bay front façade*
- *the overall symmetry of the Georgian Revival styling*
- *the medium pitched gable roof with returned eaves (as original, not current boxed)*
- *all window openings*
- *all original window frames, 6x6 panes type sashes, trim, and lugsills*
- *all original basement window openings*
- *all original basement window 4-pane sash and wells*
- *all elements of the stone masonry and original tooled (incised) lime mix mortar type*
- *the stone lintels over each door and window opening, including the basement level*
- *all elements of the 1863 south doorcase (entranceway) including the diamond glazed transom, panelled embrasures (side recesses), moulded cornice, and sidelights (with*

lower wood and upper glazed panels, but not the existing glazing type), not including the door

- *all original builder's hardware (locks, hinges, fasteners, etc.)*
- *the existence of period brick chimneys in the east and west gables of the main roof*

Interior

- *all original builder's hardware (locks, hinges, knobs, hooks, etc.)*
- *all 1860s components of the main staircase*
- *all components of the original fireplace (pier, hearth, hardware, chimney, etc.)*
- *all 1860s woodwork including door and window trim, baseboards, original doors, panelling, and other ornamentation*
- *all 1860s flooring*
- *all elements of the 1863 south doorcase including the diamond glazed transom, panelled embrasures (side recesses), moulded cornice, and sidelights (with lower wood and upper glazed panels, but not the existing glazing), not including the door*
- *representative evidence of original construction technology, including the roof framing, use of handsplit lath, plasterwork, etc.*

Stone Outbuilding

The form, massing, and stone construction of the outbuilding at the north side of the 1863 house, but not including recent materials or changes to the original form and massing that can be proven.

Cultural Heritage Landscape Elements

The intent is to maintain a 19th century rural context for the cluster of buildings, ruins, and elements that form the dwelling site; and to retain any historic archaeological evidence that may contribute to the understanding of the evolution of the structures within this part of the property.

- *the private, tree lined laneway from Walker Road West to the south side of the stone dwelling and north to the stone outbuilding*
- *the south viewshed from the stone dwelling to Walker Road West*
- *the stone retaining wall along the south side of the 1863 dwelling*
- *the stone retaining wall on the east side of the 1863 dwelling, north of the main house*
- *all elements of the stone foundation wall ruin abutting the stone outbuilding on the east, (north of the dwelling) for building archaeology information purposes*

Archaeological Resources

- registered archaeological site AIGw-73



Figure 16. Images courtesy of the Town of Caledon

SIDE BAR:

Example 3: a complex of buildings on a single property

Description of property – Alton Mill, 1402 Queen Street, Alton

The Alton Mill is a late 19th-century industrial stone complex located on the bank of Shaw's Creek in the heart of the village of Alton. The 3.4 hectare property comprises the main two-storey stone mill building and three-storey water tower, a brick chimney stack, a stone livery, the remains of the stone wool warehouse and the adjacent mill pond and dam.

Statement of cultural heritage value or interest

The Alton Mill is one of only two late 19th-century industrial stone complexes remaining in the once-thriving industrial village of Alton. Established in 1881 as the Beaver Knitting Mill by industrialist and 'free thinker' William Algie, it was renowned nation-wide for the production of fleece-lined long underwear. The mill, often referred to as the 'Lower Mill', was subsequently owned by two other leading local industrialists, John Dods of the Dods Knitting Company and Frederick N. Stubbs of the Western Rubber Company. Stubbs purchased and converted the mill for the manufacture of rubber products in the mid-1930s.

The mill complex represents the longest-running, water-powered mill on the upper Credit River system, remaining in operation until 1982. Built between 1881 and 1913, the existing mill buildings are typical of industrial stone construction of the late 19th century, and reflect alterations, changes in use and the effects of flood and fire over a century of industrial operation.

Situated in the heart of the village amidst residential buildings of a similar age, the Alton Mill complex is a well-known local landmark that has defined the industrial character and history of the village of Alton since its construction.

Description of heritage attributes

Key attributes that express the value of the mill complex as an example of late 19th-century industrial style that reflects alterations, changes in use and the effects of flood and fire throughout a century of operation include its:

- plain but imposing design of rectangular buildings of coursed stone construction;*
- varied ashlar renderings and symmetrical fenestration patterns associated with different period additions;*
- interior features of the main mill building including steel fire doors and hardware, plank flooring, interior wood columns and steel tie-rod support systems, office paneling and glazing and remnant industrial machinery; and*
- ancillary features including a square stone water tower with brick quoins and a hipped roof, a brick chimney stack, a remnant stone wool warehouse; a stone livery; the mill pond and associated dam and mill race.*

Key attributes that express the value of the mill complex as a landmark that continues to define the industrial character and history of the village include:

- its location in the village core, adjacent to the mill pond and creek in the heart of the village, which forms significant vistas from Queen Street, a principal road running parallel to the creek and mill pond, and the 'Pinnacle', a prominent landform directly*

north of the mill.



Figure 17. Heritage buildings can be adapted to wide range of new uses, as can be seen in Kenora where a firehall was adapted for use as a brewery (Image Courtesy of the City of Kenora).

5. Conserving the heritage value of a designated property

Property owners and municipalities share a mutual interest in the cultural heritage value of the heritage property. They understand that caring for the property's heritage attributes protects its heritage value.

If a property is important for its architectural design or original details, and that design is irreparably changed, it loses its heritage value and its integrity. Imagine the difference between a Georgian house built at the beginning of the 19th-century that has its original floors, windows and details, compared with a house of a similar vintage, that has been covered with aluminium siding and has been “updated” with unsympathetic windows and modern finishes.

If a property is designated for its association with a significant person or event, but the physical evidence from that period has disappeared, the property's cultural heritage value is diminished. What a difference it makes to see the symbols and hideaway places associated with the Underground Railroad in a building, compared with only the ability to say "this happened here."

The same consideration applies to properties that are designated for their contextual qualities – trees that have stood for a hundred years, a view that was seen by generations before us, a complex of industrial buildings that tell the story of the work that went on there. A building, structure or other feature that has lost its context, has lost an important part of its heritage value.

Designation of heritage properties provides a process for ensuring that their cultural heritage value is considered when change is proposed. The following section focuses on how alterations to designated properties are managed, and the kinds of support that can be provided to assist with conservation.

5.1. Making alterations to designated properties

The alteration process under section 33 of the Ontario Heritage Act helps to ensure that the heritage attributes of a designated property, and therefore its heritage value, are conserved. If the owner of a designated property wishes to make alterations to the property that affect the property's heritage attributes, the owner must obtain written consent from council.

This applies not only to alterations of buildings or structures but also to alterations of other aspects of a designated property, such as landscape features or natural features, which have been identified as heritage attributes.

Designation under section 29 of the act does not guarantee the continuing existence or preservation of all elements of a property. Alterations to the property or the passage of time could affect the property and the elements that contribute to its heritage value. For example, natural degradation can take its toll. Maintenance of unoccupied lands can be costly. Well-meaning maintenance interventions may turn out to have negative impacts on the fabric of a property.

Designation is not intended to prohibit any future site alteration or development on the property. Provisions of the act enable change within the context of a review and consent process.

Good outcomes can result from continued care using established conservation principles and careful consideration through proper decision-making frameworks. Not all designated

properties are best as static museums or historic sites. Often, their ongoing stability, viability, and historic integrity are the result of innovative alteration, development, and use.

In general, the alteration review should be a cooperative process, where a property owner submits an application for the proposed work, and receives advice and guidance from the Municipal Heritage Committee and/or municipal staff. Council makes the final decision on consenting to applications unless this power has been delegated to municipal staff under Section 33(15) of the Ontario Heritage Act.

SIDEBAR: Insurance and designated properties

Designation itself does not place additional requirements on the insurer and therefore should not affect premiums. For more information, refer to the ministry's advice in Insurance and Heritage Properties.

The process for alterations is described below and outlined in a flowchart (hyperlink) provided in the appendix of this guide.



Figure 18. Cold Water Mill - A two-storey addition was added to the back of the Mill with barrier free entrance and washrooms. A cultural centre and Indigenous Gallery is planned for the second floor (Image courtesy of Coldwater Mill Heritage Foundation).

1. Application to council

The owner applies to council to alter the property. Municipalities can set up an online system for receiving electronic applications. Relevant information, including any plans and other information the council requires, should be included. When all the information required by council has been received, notice of receipt of the complete application is sent to the owner.

Council may, at any time, notify the owner that information from the application has not been provided.

The minimum information and material required by council is listed in Ontario Regulation XXX/21.

The minimum application requirements are:

1. The name, address, telephone number and, if applicable, the email address of the applicant.
2. The name of the municipality from which consent is being requested.

3. A description of the property that is the subject of the application, including such information as the concession and lot numbers, reference plan and part numbers, and street names and numbers.
4. Photographs that depict the existing buildings, structures and heritage attributes that are affected by the application and their condition and context.
5. A site plan or sketch that illustrates the location of the proposed alteration
6. Drawings and written specifications of the proposed alteration
7. The reasons for the proposed alteration, demolition or removal and the potential impacts to the heritage attributes of the property.
8. All technical cultural heritage studies that are relevant to the proposed alteration,
9. An affidavit or a sworn declaration by the applicant certifying that the information required under this section and provided by the applicant is accurate

Council can build on these provincial minimum application requirements. This must be done by bylaw, council resolution or official plan policy. These application requirements could be part of an overall heritage conservation bylaw, with other administrative requirements (e.g., register extract fee, municipal heritage committee terms of reference, alteration consent delegation, building standards, purchase/lease, expropriations, easements/covenants, grants or loans, inspectors or heritage property tax relief).

2. Review of application

Council or its delegate has a decision period of 90 days from the date the notice of complete application is served on the owner to review the application and seek the advice of its municipal heritage committee, where one has been established. In some municipalities, applications for alterations are sent directly to the committee or to municipal staff.

There may be some cases where council has not provided either a notice of complete application or of incomplete application within 60 days of the application being served on the municipality. If this is the case, the decision period is 90 days from the end of the 60-day period from the time the application was served on the municipality to review the application and seek advice of its municipal heritage committee, where one has been established. In other words, 150 days from the day the application started. Note, the decision period can be extended through mutual agreement between the property owner and council.

3. Decision

Within the 90-day decision period referred to above, council or its delegate decides whether to consent to the alteration, to consent with terms and conditions, or to refuse the application

altogether. Council notifies the applicant and the Ontario Heritage Trust of its decision.

4. Appeals

If the property owner objects to council's decision to refuse an application, or to consent to it with terms and conditions, the owner may appeal to the Ontario Land Tribunal.

An appeal must be made within 30 days of receipt of council's decision. The appeal must set out the objection to the decision and the reasons in support of the objection. The appeal must also be accompanied by the fee prescribed under the Ontario Land Tribunal Act.

Following receipt of the notice of appeal, the tribunal gives notice of the hearing date and then holds the hearing.

Council must ensure that the tribunal receives a record of its decision within 15 days after receiving the notice of appeal. Ontario Regulation XXX/21 outlines what material and information that a municipality must forward to the tribunal as part of the record of decision.

5. Tribunal's decision

After holding the hearing, the tribunal decides whether to dismiss the appeal or order that the municipality consent to the application without any terms and conditions, or with terms and conditions that the tribunal specifies. The municipality must provide notice of the tribunal's decision on the Trust.





Figure 19. Quaker Meeting House – Recently upgraded with a new front entrance and rear addition, and interior accessibility modifications (Images courtesy of the City of Ajax).

5.2.Maintenance

General maintenance work, such as repainting exterior trim or replacement or repairs to an existing asphalt roof, and alterations and repairs to property features that are not listed as heritage attributes in the designation bylaw do not usually require heritage approvals. However, property owners may still need a building permit, and should be encouraged to check with their local building department.

Unless an extension is agreed upon, failure of council to notify the owner within 90 days (after the applicant is notified that their application is complete, or if there has been no notice, 150 days after the application is received by the municipality) shall be deemed consent.

Owners of designated properties, like all other property owners, must maintain their properties to the basic standards set out in municipal maintenance and occupancy bylaws. The Ontario Heritage Act allows municipal councils to stipulate special minimum maintenance standards for the heritage attributes of designated properties. Councils can pass a bylaw under section 35.3 if the municipality has an existing property standards bylaw under the Building Code Act. The Ontario Heritage Act bylaw can set out minimum standards for maintaining heritage attributes of designated properties. In this way, council can require a property owner to maintain their property to clear and objective standards.

Setting out maintenance expectations for owners of designated property in a transparent way can help council to encourage heritage conservation in the community. A heritage property standards bylaw can also rely on established conservation principles to ensure that any changes to a heritage property adhere to best practices.

International charters and agreements have established guiding principles for the conservation of heritage properties around the world. Conservation guidelines based on these principles have been developed at all levels of government. For more information on making sensitive alterations to heritage properties, you may wish to refer to:

- The eight guiding principles for heritage conservation on the Ministry of Heritage, Sport, Tourism and Culture Industries website at www.mtc.gov.on.ca/en/publications/InfoSheet_8%20Guiding_Principles.pdf [OR www.mtc.gov.on.ca/en/heritage/tools.shtml];
- “Well Preserved” – the Ontario Heritage Trust’s Manual of Principles and Practice for Architectural Conservation; and
- Parks Canada’s Standards and Guidelines for the Conservation of Historic Places in Canada at www.historicplaces.ca can be a useful reference document.

SIDEBAR:

Alterations to cemeteries

The operation and management of cemeteries in Ontario falls under the Funeral, Burial and Cremation Services Act, administered by the Ministry of Government and Consumer Services and the Bereavement Authority of Ontario. Many municipalities have taken an increasing interest in designation as a way of recognizing and protecting cemeteries – either through individual designation under Part IV of the Ontario Heritage Act, or as part of Heritage Conservation Districts under Part V.

If a cemetery is designated under the Ontario Heritage Act, most day-to-day activities, including new burials, would not require council’s written consent. As with other kinds of designated properties, a permit would be required if an activity or alteration is to be made that would affect the heritage attributes outlined in the designation. These might include the relocation of original markers, the removal of trees or other important landscape features, etc.

The Funeral, Burial and Cremation Services Act contains specific procedures for the closure (i.e., removal) of cemeteries if the Registrar of cemeteries determines that the closure is “in the public interest.” These provisions apply to all cemeteries in Ontario including those that have been designated under the Ontario Heritage Act. For more information on closing designated cemeteries, refer to the Ministry of Government and Consumer Services.

Fortunately, many of Ontario’s older cemeteries remain substantially intact, but they deserve thoughtful, long-term conservation planning. The Ministry of Heritage, Sport, Tourism and Culture Industries’ Landscapes of Memories – A Guide for Conserving Historic Cemeteries:

Repairing Tombstones, contains information and technical advice intended to encourage the conservation of Ontario’s heritage cemeteries in a way that recognizes their value as an irreplaceable heritage resource.

Heritage organizations in Ontario with a special interest in cemeteries, such as the Ontario Historical Society and the Ontario Genealogical Society, may also provide useful information.



Figure 20. These stones mark the final resting place of many Irish immigrants who died at Chaffey’s Lock during the construction of the Rideau Canal (MHSTCI).

PLACEHOLDER – MHSTCI is interested in obtaining imagery from an individual property’s heritage conservation plan. Please send suggested materials to joseph.harvey@ontario.ca

5.3. Providing support for conservation of designated properties

Municipal heritage committees and municipal staff can work with property owners to create conservation plans for heritage properties.

Many municipalities have also established financial incentive programs to assist property owners with the conservation of their designated heritage properties.

These include heritage property tax relief programs to support ongoing maintenance and conservation of designated properties. The province shares in the cost of these programs by funding the education portion of the property tax relief. For more information, refer to the Ministry of Heritage, Sport, Tourism and Culture Industries' publication entitled, Getting Started: Heritage Property Tax Relief – A Guide for Municipalities at www.ontario.ca/mhstci.

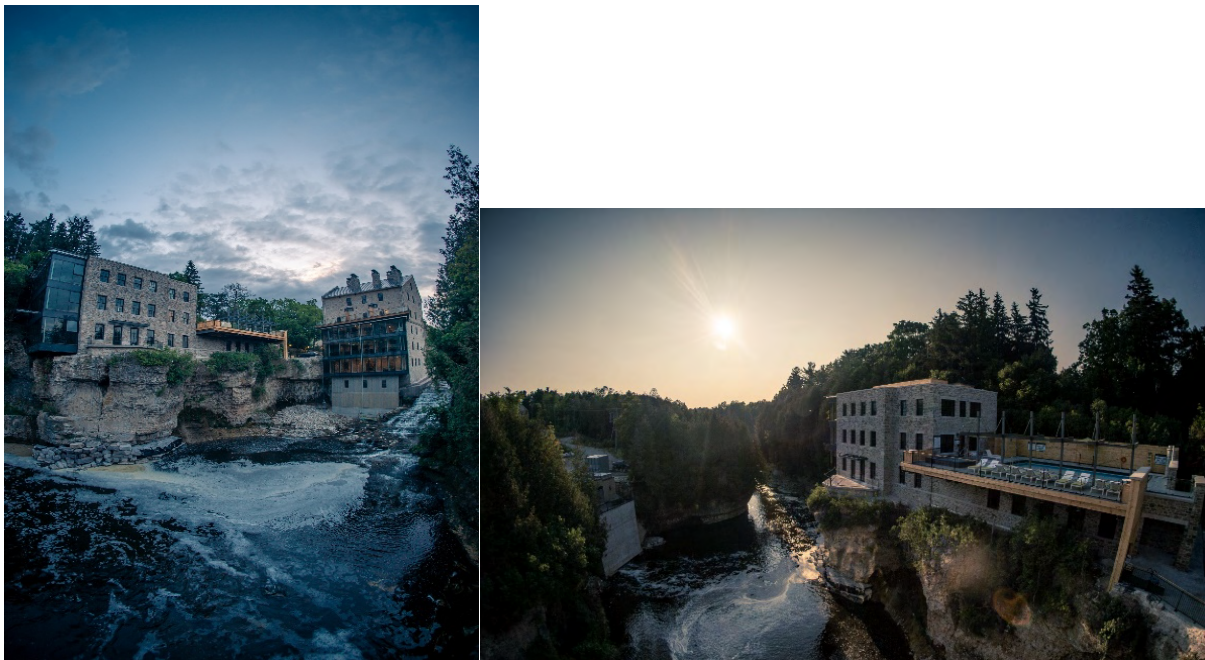


Figure 22. The former mill in Elora is now operated as an inn and restaurant – a very successful adaptive reuse of a heritage property (Images courtesy of Image Ontario).

6. Demolition control

Designation of a heritage property under the Ontario Heritage Act gives council the power to refuse an application for the demolition or removal of a building, structure or heritage attribute on a heritage property. If the owner of a designated property wishes to demolish or remove a building, structure or a heritage attribute, the owner must obtain written consent from council.

6.1. Buildings and structures

Any building or structure on the designated property is subject to the demolition control provisions of the Ontario Heritage Act. As outlined in chapter 6, the legal description of the property in the designation bylaw specifies what is subject to designation, which could be an area smaller than the parcel of land. If a building or structure falls outside the legal description of the property, it would not be subject to the demolition control provisions of the Ontario Heritage Act.

PLACE HOLDER – MHSTCI is interested in obtaining images illustrating the temporary removal or alteration of heritage attributes to support the overall conservation of a heritage property. Please send suggested materials to joseph.harvey@ontario.ca

6.2. Heritage attributes

Demolishing or removing heritage attributes can have a significant impact on the cultural heritage value or interest of a property. Thorough evaluation and designation documentation supports a clear and defensible description of heritage attributes. This information assists council's decision whether to allow a property owner to alter, demolish or remove heritage attributes.

A temporary removal can be beneficial for a heritage attribute. For example, many property owners find that repairing or restoring wooden elements such as windows, doors, or decorative features on the ground or in a workshop setting provides better control, improves the quality of the repair, or is more viable than work in place. Extending the service life of heritage attributes through continuing, smaller-scale maintenance has proven more economical over the life of an asset than full replacement with systems that are incompatible with a property's cultural heritage value or interest.

In limited circumstances a permanent removal and replacement may be the only viable option.

For example, removal of components may be required to conserve a heritage attribute properly, such as in:

- A project to repair a brick wall where some bricks have deteriorated,
- Work to remedy earlier incompatible repairs, or
- A long-term restoration where an attribute needs to be stored for later work.

A heritage attribute may come to the end of its service life. Consider a cedar shingle roof on a Loyalist cottage or a picture window in a mid-century modern house. Building systems can fail and often the only option is a full removal and replacement with like materials. Landscape features such as pathways or grading may require renewal following changes in ground conditions. Maintaining shrubs and other living plants involves careful pruning (removal) of branches. Preserving significant views may require removal of whole plants.

When heritage properties suffer severe damage due to fire, inclement weather, or other unforeseeable events, a property owner may need to remove a heritage attribute to facilitate saving as much of a property as possible. In such cases, the removal of a heritage attribute may be considered beneficial.

The process for considering the demolition or removal of a building, structure or heritage attribute on a heritage property, under section 34, 34.1 & 34.3 of the Ontario Heritage Act, is as follows:

1. Application to council

The owner applies to council for consent to demolish or remove. The application process and requirements are the same as those outlined for applications for alteration to a designated heritage property. These include provincially established minimum application requirements, which municipalities can build on, and the ability to request additional information as part of an application, where necessary. The same rules regarding notification of complete applications also apply to requests for demolition and removal. For further details, see flowchart in the appendix of this guide.

2. Review of application

Council has a decision period of 90 days from the date the notice of complete application is served on the owner to review the application and seek the advice of its municipal heritage committee, where one has been established.

There may be some cases where council has not provided either a notice of complete application or of incomplete application within 60 days of the application being served on the municipality. If this is the case, the decision period is 90 days from the end of the 60-day period to review the application and seek advice of its municipal heritage committee, where one has been established. In other words, the municipality has 150 days from the day the application started to issue a decision.

In many cases, an alternative to demolition can be negotiated with the owner and agreed to at this stage. Council, with the aid of its municipal heritage committee and concerned citizens, has an opportunity to work with the property owner toward a means to conserve the threatened property.

Depending on the circumstances, there are several approaches:

- Sharing information with the owner about the property's heritage value and the benefits of heritage conservation;
- Exploring ideas about how the building or structure might contribute to a proposed development or future use of the site;
- Suggesting alternative uses for the building or the property;
- Relocation of a building or structure to a new property;
- Providing an opportunity for the owner to sell the heritage property to the municipality or a purchaser who will conserve it; or
- Expropriating the property.

3. Decision

Within the 90-day decision period referred to above, and after considering the advice of the municipal heritage committee, council must decide whether to refuse the application, consent to it, or consent with terms and conditions.

If council does choose to allow the demolition, it is advisable to include terms and conditions. For example, council can require that the owner obtain a building permit for a replacement building on the property. This helps to prevent valuable heritage structures from being replaced by vacant lots. The owner would need to apply for the building permit through the normal municipal process, and will only receive such a permit for a new building that meets applicable zoning and other requirements.

At minimum, council should require full documentation of a heritage attribute, or a heritage building or structure prior to its removal or demolition, as well as documentation of any other cultural heritage resources on the property that may be affected.

Recording the property helps to provide an understanding of the past for future generations and to help conserve similar resources that remain. Thorough documentation of any heritage attribute that would be completely removed as a result of council's consent may help a future property owner reproduce that heritage attribute should they choose to do so.

Council notifies the applicant and the Ontario Heritage Trust of its decision. Council also publishes its decision in a newspaper of general circulation in the municipality.

Failure of council to notify the owner of a decision within the decision period shall be deemed consent.

SIDEBAR:

Where there is a potential impact on archaeological resources, an archeological assessment should be undertaken in accordance with the Ontario Heritage Act.

4. Appeal process

If the owner objects to council's decision to refuse an application, or consent to it with terms and conditions, the owner may appeal to the Ontario Land Tribunal.

An appeal must be made within 30 days of receipt of council's decision. The appeal must set out the reasons for the objection to the decision. The appeal must also be accompanied by the fee prescribed under the Ontario Land Tribunal Act.

Following receipt of the notice of appeal, the tribunal gives notice of the hearing date and then holds the hearing.

Council must ensure that the tribunal receives certain records within 15 days after receiving the notice of appeal. Ontario Regulation XXX/21 outlines what materials a municipality must forward to the tribunal as part of the record of decision.

5. Tribunal decision

After holding the hearing, the tribunal decides whether to dismiss the appeal, to order the municipality to consent to the demolition, or to consent with such terms and conditions as the tribunal specifies. The municipality must provide notice of the tribunal's decision to the Ontario Heritage Trust.

A detailed flowchart outlining the demolition application process is provided in the appendix to this guide.

6. Prescribed steps following Council consent to demolition

When the council-approved demolition or removal is complete, council must consult with its municipal heritage committee to determine what actions, if any, must be taken in respect of the designation bylaw. In some instances, the demolition or removal may result in a change to the property's cultural heritage value or its heritage attributes.

No Change to a property's cultural heritage value or interest or heritage attributes

It is possible that a demolition or removal of a building or structure or heritage attribute would not impact the property's cultural heritage value or interest. Where there is no change required to either the statement of cultural heritage value or interest or the list of heritage attributes, the clerk of the municipality must serve notice of council's determination on the owner of the property and the Trust and keep a copy of the determination on file.

Change to the statement of cultural heritage value or interest or list of heritage attributes

The demolition or removal of a building, structure or heritage attribute may not result in the complete loss of a property's cultural heritage value or interest. For example, a property that includes a complex of buildings, all of which contribute to the property's cultural heritage value or interest, but where only one was demolished. Where this is the case, the municipality must pass an amending bylaw that updates the statement of cultural heritage value or interest and the description of the property's heritage attributes to reflect the changes resulting from the demolition or removal.

This is an administrative step to clean up the bylaw registered against the property. Therefore, passing the amending bylaw does not require notice of council's intention and there is no opportunity for objection or appeal. Once council passes the amending bylaw and ensures that the amending bylaw complies with the requirements set out in the regulation and includes a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property, the clerk of the municipality is responsible for the following steps:

- Ensure that a copy of the amending by-law is served on the owner of the property,
- Publish notice of the amending by-law in a newspaper having general circulation in the municipality, and
- Ensure that a copy of the amending by-law is registered against the property affected by the amending by-law in the appropriate land registry office and that a copy of the registered amending by-law is served on the Trust.

Complete loss of cultural heritage value or interest

Sometimes, the demolition or removal of a building, structure or heritage attribute will result in the complete loss of all physical elements that reflected the cultural heritage value or interest of a property. Where this is the case, the designation must be repealed.

This is an administrative step to clean up the property's title. Therefore, passing the repealing bylaw does not require notice of council's intention and there is no opportunity for objection or appeal. Once council passes the repealing bylaw, the clerk of the municipality is responsible for the following steps:

- ensuring a copy of the repealing by-law is served on the owner of the property and the Trust,
- publishing notice of the repealing by-law in a newspaper having general circulation in the municipality,
- ensuring a copy of the repealing by-law is registered against the property affected by the repealing by-law in the appropriate land registry office, and
- ensuring that any reference to the property is deleted from the municipal register of heritage properties

Relocation of a building or structure to a new property

In some instances, the only means of preventing the complete loss of a building or structure is to relocate it to a new property. The relocation of a building or structure is a significant undertaking which requires agreement from all parties. Those willing to undertake such a relocation often see the value in saving the building or structure because of its cultural heritage value or interest. Council, in consultation with its municipal heritage committee, may determine that the receiving property to which the building or structure has been relocated has cultural heritage value or interest. Council may then rely on the abbreviated process enabled through Ontario Regulation XXX/21 for designating the new property. For further details, see flowchart in chapter 7 of this guide.

This process does not require notice of council's intent to designate the property and does not include an objection or appeals process. Therefore, the option should be discussed with the property owner in advance of passing the designation bylaw. Where council has used the abbreviated process to pass the designation bylaw, the clerk is responsible for completing the following steps once passed:

- ensuring a copy of the designating by-law and a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property is served on the owner of the property and the Trust,
- publishing notice of the designating by-law in a newspaper having general circulation in the municipality, and
- ensuring a copy of the designating by-law is registered against the property affected by the designating by-law in the appropriate land registry office.

PLACE HOLDER – MHSTCI would like to obtain images of heritage properties where the designation bylaw has been amended. Please send suggested materials to joseph.harvey@ontario.ca

7. Amending a designation bylaw

Over time, municipal councils may need to update different parts of an existing designation bylaw. Generally, a bylaw may need to be amended because:

- Changes affecting the statement of cultural heritage value or interest or the description of heritage attributes have been made to the property or new information has emerged about the property's significance;
- the legal description has changed or must be corrected; or
- the information provided in the original bylaw does not provide sufficient information to guide and manage alterations to the property.

There are two processes for amendments: one for substantial amendments and one for minor amendments. Any amendments to a designation bylaw, whether they are substantial or minor, must ensure that the amended bylaw meets the requirements discussed in chapter 6.

A municipality should seek the advice of its solicitor when considering the options for amending a bylaw.

7.1.Minor amendments

For minor amendments to a designation bylaw, municipalities can follow an abbreviated process. Subsections 30.1(2) to (16) of the Ontario Heritage Act provide a process for amending designation bylaws that does not require the public notice of the proposed amendment, and where only the property owner can object to the notice of proposed amendment and/or appeal the final amending bylaw.

Bylaws can be amended under subsections 30.1(2) to (16) to:

- clarify or correct the statement of cultural heritage value or interest or the description of heritage attributes;
- correct the legal description of the property; or
- revise the language of the bylaw to make it consistent with the current requirements of the act or its regulations, including changes that would make a bylaw consistent with the requirements of the Act as per the mandatory standards for designation bylaws included in Ontario Regulation XXX/21 and outlined above.

Notice of the proposed amendment is sent to the owner of the property, who is given the opportunity to object. If the owner chooses to object, council must consider the objection in a process similar to the objection process for designation. As with designations, council must consider the objection before deciding to go ahead with the amendment or to withdraw its intention to amend the designation.

If there is no objection, or council decides not to withdraw the notice of proposed amendment, council may then pass an amending bylaw, providing notice to the owner and the Ontario Heritage Trust.

A flowchart outlining this process is provided in the appendix.

7.2.Substantial amendments

Substantial amendments to an existing bylaw are subject to the procedure set out in Ontario Regulation XXX/21.

Substantial amendments may include circumstances where:

- Changes to statement of cultural heritage value or interest or the description of heritage attributes go beyond clarification or correction
- A new lot is created out of a designated property following a severance process
- Amendments are required to facilitate a development application

Notice of the proposed amendment is sent to the owner of the property and to the Ontario Heritage Trust, and published in a newspaper.

The notice of proposed amendment must include the following:

- The adequate description of property so that it can be readily ascertained;
- An explanation of the purpose and effect of the proposed amendment;
- A statement explaining the amendments, if any, to the cultural heritage value or interest of the property and/or to the description of the heritage attributes of the property;
- The statement of cultural heritage value or interest and the description of heritage attributes, as amended; and
- A statement that notice of objection to the notice of intention to amend the bylaw must be filed with the municipality within 30 days after the date of publication of the newspaper notice.

The public notice must also include a statement that further information respecting the proposed amendment is available from the municipality.

If anyone objects to the proposed amendment, council must consider the objection in a process similar to the objection process for designation. As with designations, council must consider the objection before deciding to go ahead with the amendment or to withdraw its proposed amendment.

If there is no objection, or council decides not to withdraw the notice of proposed amendment, council may then pass an amending bylaw within 365 days (or any time if mutually agreed on between council and owner) of the date of publication of the newspaper notice. The municipality provides notice of the bylaw to the owner and the Ontario Heritage Trust and anyone who objected to the proposed amendment.

A flowchart outlining this process is provided in the appendix.

7.3.Appeals

For substantial amendments, anyone can appeal the amending bylaw to the Ontario Land Tribunal within 30 days of the publication of the notice. For minor amendments, the property owner may appeal the amending bylaw to the Ontario Land Tribunal within 30 days of receiving notice.

The appeal must set out the reasons for the objection to the decision. The appeal must also be accompanied by the fee as prescribed under the Ontario Land Tribunal Act.

Following receipt of the notice of appeal, the tribunal gives notice of the hearing date and then holds the hearing.

Council must ensure that the tribunal receives certain records within 15 days after receiving the notice of appeal. Ontario Regulation XXX/21 outlines what materials a municipality must forward to the tribunal as part of the record of decision.

After holding the hearing, the tribunal decides whether to dismiss the appeal, to repeal or amend the amending bylaw, or to order the municipality to repeal or amend the amending bylaw.

7.4. Coming into force

The amending bylaw comes into force on the day after the 30-day notice period ends, if there were no appeals.

If there were appeals, the bylaw comes into force if and when the appeals are withdrawn or dismissed. If the tribunal allows the appeal in full, the amending bylaw is repealed and does not come into force, and the designation stays as it was before the amendment process started. If the tribunal allows the appeal in part, the amending bylaw may be changed, either by the tribunal itself or by the municipality as directed by the Tribunal. The final amending bylaw would come into force the day it is changed.

The final bylaw is registered on the title of the property with Land Registry Ontario and sent to the Ontario Heritage Trust.

A flowchart outlining this process is provided in the appendix to this guide.

7.5. Repeal of designation bylaws

There are rare instances where a designation bylaw may need to be repealed. As with the amending process, flowcharts outlining the repeal process are provided in the appendix to this guide.

In a case where an owner requests a repeal of the bylaw designating the owner's property, it is important to determine the nature of the owner's concerns. It is advisable for the municipality, through the municipal heritage committee or municipal staff, to discuss the matter with the owner. Because properties are designated to protect and conserve them for all generations, the repeal of a designation bylaw is a serious matter that should be given careful consideration. If

the property owner decides to proceed with a repeal request, and the request is unsuccessful, the property owner cannot reapply for a repeal until 12 months have passed since the decision.

8. Resources and further information

Heritage designation is an important way for communities to recognize and protect places of cultural heritage value. The efforts made today to conserve community heritage will ensure a lasting legacy for future generations.

For more information on the Ontario Heritage Act and conserving your community heritage, contact the Ministry of Heritage, Sport, Tourism and Culture Industries or the Ontario Heritage Trust at:

Ministry of Heritage, Sport, Tourism and Culture Industries

www.ontario.ca/page/ministry-heritage-sport-tourism-culture-industries

Ontario Heritage Trust

www.heritagetrust.on.ca