



**City of Kingston
Information Report to Kingston Heritage Properties Committee
Report Number HP-24-015**

To: Chair and Members of the Kingston Heritage Properties Committee

From: Jennifer Campbell, Commissioner, Community Services

Resource Staff: Kevin Gibbs, Director, Heritage Services

Date of Meeting: March 20, 2024

Subject: Update on Response to Bill 23 Changes to the *Ontario Heritage Act*

Council Strategic Plan Alignment:

Theme: Corporate business

Goal: 5.7 Foster culture, history, education, arts and recreation (CHEAR).

Executive Summary:

On May 17, 2023, staff provided a report to the Heritage Properties Committee which addressed recent changes to several pieces of provincial legislation, including the *Ontario Heritage Act* (OHA), as a result of Bill 23, the *More Homes Built Faster Act, 2022*. That report ([HP-23-018](#)) outlined details on changes to the OHA as a result of the *More Homes Built Faster Act* and provided a workplan to designate or de-list the 312 non-designated properties then listed on the City of Kingston's Heritage Register.

This report provides an update on the progress of this designation project and the results of the City of Kingston's Heritage Register update. This report is for informational purposes only and does not recommend alternative or additional activities or approaches.

Recommendation:

This report is for information only.

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Authorizing Signatures:

ORIGINAL SIGNED BY COMMISSIONER

Jennifer Campbell,
Commissioner, Community
Services

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

Lanie Hurdle, Chief
Administrative Officer

Consultation with the following Members of the Corporate Management Team:

Paige Agnew, Commissioner, Growth & Development Services	Not required
Neil Carbone, Commissioner, Corporate Services	Not required
David Fell, President & CEO, Utilities Kingston	Not required
Peter Huigenbos, Commissioner, Major Projects & Strategic Initiatives	Not required
Brad Joyce, Commissioner, Infrastructure, Transportation & Emergency Services	Not required
Desirée Kennedy, Chief Financial Officer & City Treasurer	Not required

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Options/Discussion:

The City of Kingston has played a significant role in heritage conservation in the province for over 50 years and is a leader in heritage conservation within the province and nationally. As noted in Section 7 of the City's *Official Plan*, cultural heritage resources "play a key role in the City's identity, and contribute to its economic prosperity as well as the cultural enrichment of its residents and visitors." The OHA ensures that municipalities like the City of Kingston can protect heritage resources that are valuable to the community.

Background

Section 29 of the OHA authorizes the Council of a Municipality to enact by-laws to designate real property of cultural heritage value or interest. Known as Part IV designations, these protections ensure that the heritage value of a single property, expressed through its physical heritage attributes, are conserved.

Several recent legislative changes have been made to the process through which municipalities in Ontario enact Part IV designations. In 2020, changes to the OHA created a two-tier appeal process for new designations. In 2022, additional changes were made to the OHA that require properties evaluated for Part IV designation to meet two 'Criteria for Determining Cultural Heritage Value or Interest' of Ontario Regulation (O. Reg.) 9/06, where previously these properties were only required to meet one.

On January 1, 2023, the *More Homes Built Faster Act* resulted in further changes to the OHA. These included an update to the position of non-designated properties identified on the City of Kingston's Municipal Heritage Register (the Register). Prior to this change, municipalities could place properties on the Register if those properties were believed to have potential cultural heritage value or interest. Non-designated properties placed on the Register could remain in perpetuity, offering some protection through lengthened review periods for demolition proposals and impact considerations in response to a prescribed event (such as an Official Plan Amendment, Zoning By-law Amendment or Subdivision Application). The recent changes now require a term limit of two years for Listed (non-designated) properties on the Register. Once this two-year period has elapsed, non-designated properties cannot be included on the Register for a period of five years. As such, any non-designated properties remaining on the Register as of December 31, 2024 cannot be relisted until January 1, 2030.

New requirements were also enacted regarding the information presented in Municipal Heritage Registers. Under section 27(2) of the OHA, a Register now "shall contain, with respect to each [municipally designated] property (a) a legal description of the property; (b) the name and address of the owner; and (c) a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property." These updates to the Register were required by July 1, 2023.

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In response to these recent changes in provincial policy, the City of Kingston's Heritage Planning staff have commenced a program ('Designation Project') to designate properties currently listed on the Register that meet the requirements for designation under Part IV of the OHA and to update the Register with the required information. This report provides an update on the status of the Designation Project and Municipal Heritage Register updates.

Designation Project

City of Kingston Heritage Planning staff continue to advance the work plan set out in [Report Number HP-23-018](#). Examples of work associated with the Designation Project include reviewing all non-designated properties currently listed on the City's Heritage Register; evaluating properties using O. Reg. 9/06; writing designation by-laws as applicable; communicating with homeowners (through mailings of information and draft by-laws, holding open house meetings, and answering queries and addressing concerns via in-person, telephone and email communication) to provide information on the designation process and its implications; and preparing and presenting batch designation reports to the Heritage Properties Committee and Council. Some tasks, including property evaluations and preparing by-laws, have benefited from the additional support of the private consulting firm Heritage Studio.

Advancement of the heritage designation project has been possible through the organization of properties into discrete 'blocks' using several criteria such as heritage value, available data, and risk of loss or alteration. Generally, the block organization noted in [Report Number HP-23-018](#) has been carried forward to include the following broad categories:

Block 1: Properties in this group have been assessed and found to meet the O. Reg. 9/06 criteria for designation.

Block 2: Properties in this group have some research completed but have not been evaluated using O. Reg. 9/06 and, therefore, require additional work to determine if they meet the current criteria for designation.

Block 3: Properties in this group have limited research completed but have a high degree of public interest due to their perceived heritage value. Properties in this block may also be located in an area where development or intensification is anticipated.

Block 4: Properties in this group have been determined not to meet two criteria outlined in O. Reg. 9/06. As such, these properties will not be brought forward for designation, though they will remain on the Register until January 1, 2025.

Of the 311 non-designated properties listed on the City of Kingston's Heritage Register in May 2023, 35 are either designated/owned by the federal or provincial governments or are owned by the City of Kingston or Queens University. As a result of this existing protection, these properties were not prioritized for designation as part of this project. Of the 276 non-designated properties remaining on the City of Kingston's Heritage Register, 103 properties are classified within

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Blocks 1, 2 and 3 have now been either designated under Part IV of the OHA or are currently in the process of designation; the 55 properties in Block 4 do not meet the criteria outlined in O. Reg. 9/06; 37 properties remain in Block 1; and 81 properties remain in Block 2 requiring further evaluation to determine if they meet the criteria for designation.

As further research and evaluations are advanced, it is possible for a property to move from one Block to another depending on its priority level and value established through meeting or exceeding the O. Reg. 9/06 criteria. It is anticipated that all properties in Block 1 will be brought to the Heritage Properties Committee by the end of 2024. Block 2 properties will be evaluated using O. Reg. 9/06 and, if they meet the minimum threshold for designation, these properties will be moved forward to the Heritage Properties Committee as soon as possible. It is possible that some properties in Block 2 will not meet the minimum threshold and will be moved to Block 4. Heritage Planning staff have also been working with members of the community to research and evaluate those properties within the City that should be included in Block 3, and it is anticipated that those properties that meet the provincial criteria will be brought to committee for designation by the end of 2024. Properties in Batch 4 will not be designated as they either do not meet the minimum threshold for designation under the OHA or they have not been prioritized as part of the Designation Project.

A process for objections to the designation of a property is set out in the OHA through Section 29 of the Act. Any notice of objection that is received by the Clerk’s Office is sent to City Council for consideration. Council then has 90 days to decide either to withdraw the Notice of Intention to Designate or to pass a by-law designating the property. If a designation by-law is passed, changes to the OHA in 2020 have resulted in the public having a second opportunity to object to the designation by appealing to the Ontario Land Tribunal. This appeal must be within 30 days of the publication of the notice of passing in a newspaper of record. The Tribunal’s role is to review the appeal, hold a hearing and render a binding decision on the designation. As of February 15, 2024, five objections have been received by the Clerk’s Office from owners of properties proposed for designation as part of the City of Kingston’s Designation Project. Two of those objections have been resolved, with Council deciding to proceed with passing by-laws to designate the properties; one objection is scheduled to be considered by Council on April 2, 2024; and two are scheduled to go to Council on May 7, 2024.

The table below outlines the status of the 276 properties in Blocks 1 - 4 as of February 15, 2024:

Block	Total Properties	Properties Designated/ In the Process of Designation	Remaining Properties to be Designated or Evaluated Using O. Reg. 9/06
Block 1	83	46	37

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Block 2	129	48	81
Block 3	9	9	0
Block 4	55	NA	NA
Total	276	103	118

Changes to the Municipal Heritage Register

Changes to the OHA through the *More Homes Built Faster Act* required several alterations to the City of Kingston’s Heritage Properties Register. New stipulations regarding public accessibility requires all municipalities to provide a legal description, name and address of owner, and statement of cultural heritage value or interest with a list of attributes for each municipally designated property.

The Heritage Planning Team, with the support of Legal Services and the Planning Services department’s Geographic Information Systems (GIS) team, completed a comprehensive update of the Register to ensure it was compliant with updated requirements. This work included:

- Update of existing register to include all listed and designated properties;
- Inclusion of Statement of Cultural Heritage Value or Interest for each property designated under Part IV of the OHA;
- Inclusion of List of Attributes for each property designated under Part IV of the OHA;
- Inclusion of updated legal description of each property;
- Inclusion of name and address of owner; and
- Change of format used for Municipal Heritage Register from PDF document to interactive GIS Mapping.

The updated Register GIS map is available to the public on the City of Kingston’s website: <https://www.cityofkingston.ca/residents/heritage-conservation/properties-register>

Existing Policy/By-Law:

More Homes Built Faster Act, 2022 (Province of Ontario)

More Homes, More Choice Act, 2019 (Province of Ontario)

Ontario Heritage Act, R.S.O. 1990, C.O. 18 (Province of Ontario)

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Ontario Regulation 9/06 – Criteria for Determining Cultural Heritage Value or Interest (Ontario)

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