



# Heritage Designation Process

in the City of Hamilton

## Introduction

The *Ontario Heritage Act*, in effect since 1975, enables local municipalities to protect and manage Ontario's cultural heritage resources. Part IV of the Act, entitled *Conservation of Property of Cultural Heritage Value or Interest*, provides for municipal designation of individual properties identified as having cultural heritage value. Properties are designated by a municipal by-law, which contains the location of the property and defines its cultural heritage value or significance through a list of heritage attributes. Heritage attributes are those features of the land, building(s), and/or structures that contribute to the property's cultural heritage value or interest, and must be retained to conserve that value.

## What is the purpose of the *Ontario Heritage Act* and how does it help protect heritage properties?

The Act provides for the management of alterations to properties of cultural heritage value that affect, or are likely to affect, those features or heritage attributes described in the Reasons for Designation or the Description of Heritage Attributes. The Act also enables the control of demolition of buildings or structures on designated property.

The goal of these management provisions is to protect the designated features of the property from displacement effects (those changes that result in the damage, loss, or removal of valued heritage features) or disruption effects (those actions that result in detrimental changes to the setting or character of the heritage feature).

## Heritage property designation serves to:

- Recognize the importance of a property to the community;
- Identify and protect the property's cultural heritage value;
- Encourage good stewardship and conservation; and,
- Promote knowledge and understanding about the property and the development of the community.

## What are some examples of heritage attributes?

### Examples of heritage attributes include:

- Building style, massing, scale, or composition;
- Features of a property related to its function or design;
- Features related to a property's historical associations;
- Materials and craftsmanship; and/or
- The relationship between a property and its broader setting.

Once a property is designated, these attributes are listed in the "Reasons for Designation" (properties designated between 1975 and 2005) or the "Description of Heritage Attributes" (properties designated after 2005).

## How many heritage designated properties are in Hamilton?

Within the City of Hamilton, there are approximately 241 individual properties designated under Part IV of the Act (statistics from 2009).

The City also has 7 Heritage Conservation Districts, which include another 360 properties, designated under Part V of the Act.

## Part IV Designations

Community (Ward)	No. of Properties
Ancaster (12)	22
Dundas (13)	44
Flamborough (14,15)	36
Glanbrook (11)	2
Hamilton (1 to 8)	118
Stoney Creek (9,10)	19

## What are the criteria for evaluating the heritage value or significance of a property?

A property may be designated under Part IV, Section 29 of the Act if it meets one or more criteria defined by the Province in *Ontario Regulation 9/06*, which determines whether the property is of cultural heritage value or interest. The criteria are as follows:

1. The property has design value or physical value because it:
  - is a rare, unique, representative, or early example of a style, type, expression, material, or construction method;
  - displays a high degree of craftsmanship or artistic merit; or,
  - demonstrates a high degree of technical or scientific achievement.
2. The property has historical value or associative value because it:
  - has direct associations with a theme, event, belief, person, activity, organization, or institution that is significant to a community;
  - yields, or has the 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.



3. The property has contextual value because it:
  - is important in defining, maintaining, or supporting the character of an area;
  - is physically, functionally, visually, or historically linked to its surroundings; or,
  - is a landmark.

## How are requests for designation initiated and processed?

Designation may be initiated by: City Council, the Hamilton Municipal Heritage Committee, City staff, the owner of the property or a third party (e.g. community member or organization). A request by a property owner or a third party must be initiated in writing and submitted to Heritage staff. Each request must include the address of the subject property and the contact information of the initiating party. A request may include research or documentation that could aid in staff's preliminary assessment and the initial processing of the request. There is no fee for a designation request.

On receipt of a designation request, staff will conduct a preliminary evaluation of the property using the criteria outlined in *Ontario Regulation 9/06*, and prepare a staff report. The staff report is forwarded to the Planning Committee and Council for further direction to staff regarding the priority for further research and evaluation, through the preparation of a Cultural Heritage Assessment. Council will usually put in place interim protection from demolition for the property (for up to 60 days) by inclusion in the City's *Register of Property of Cultural Heritage Value or Interest* as allowed under the *Ontario Heritage Act*.

Once staff has undertaken research and evaluation, the Cultural Heritage Assessment, a draft designating by-law, and a staff report are reviewed by the Hamilton Municipal Heritage

Committee (HMHC). These documents are then forwarded, with advice from staff and the HMHC, to the Planning Committee (PC) and Council for consideration and approval. If a property owner objects to a prospective designation, the owner will have the opportunity to make a representation to the PC. The owner may wish to bring forward new information to present with their advice on the matter. If Council concurs that the property should be designated, a Notice of Intent to Designate is published in the local newspaper and on the City's website, as required by the Act.

Please review the Designation Process chart.

## What appeal process is available to a property owner who does not agree with designation?

The published Notice of Intention to Designate includes a description of the property and a Statement of Cultural Heritage Value or Interest. The owner, or a third party, then has 30 days after the date of publication to appeal the designation to the municipality. The municipality, on receipt of an appeal, then refers any objections to the Conservation Review Board (CRB) for a hearing. The CRB is a regulatory tribunal, established under the Act that hears disputes on matters relating to the protection of properties considered to be of cultural heritage value or interest. As an independent and quasi-judicial body, the CRB objectively evaluates objections to heritage designation.

The CRB is mandated by the Act to evaluate the appeal based on the evidence it hears relating to cultural heritage matters, not on external planning matters, financial issues, or demolition issues. The CRB then issues a report with recommendations to Council as to whether the appeal is warranted or to proceed with designation. Ultimately, the decision to designate rests with Council.

## Are there funding programs available for the conservation and restoration of heritage properties?

City grant and loan programs are available to assist with the conservation, rehabilitation, and/or restoration of the heritage features of properties designated under the Act. Examples of projects that may be eligible for funding include: structural repairs; restoration of original materials; the repair or reconstruction of original elements, such as doors, windows and decorative trim; and, masonry repairs.

Each program has specific terms that guide the type of work that is eligible for funding on a designated property. The following funding programs are available for designated properties:

- Hamilton Community Heritage Fund (HCHF): an interest-free loan for up to \$50,000 and repayable over 10 years for eligible conservation work on any designated property.
- Commercial Heritage Improvement and Restoration Program (CHIRP): a grant program for designated commercial or industrial properties that pays for up to 50% of total cost of eligible conservation work up to a maximum of \$20,000; and,
- Hamilton Heritage Property Grant Program (HHPGP): a grant program for designated properties located in Community Improvement Project Areas (CIPAs) that pays for 25% of total cost of an eligible conservation project up to a maximum of \$150,000 or an eligible study of up to \$20,000. (e.g. structural assessments, adaptive reuse study).

More information on each of these financial incentive programs can be found online at:

[www.hamilton.ca/downtowncommunityrenewal](http://www.hamilton.ca/downtowncommunityrenewal)

[www.hamilton.ca/heritageplanning](http://www.hamilton.ca/heritageplanning)

The application forms for each of these programs are located at:

[www.hamilton.ca/pedapplications](http://www.hamilton.ca/pedapplications)

## What are the responsibilities of the property owner?

Once a property is designated under the Act, the owner of the property cannot alter the property or permit the alteration of the property if the alteration affects or is likely to affect the property's heritage attributes without first obtaining consent from the City. Similarly, the owner cannot demolish or remove a building or structure on a designated property, or permit the demolition or removal of a building or structure on a designated property, without Council approval.

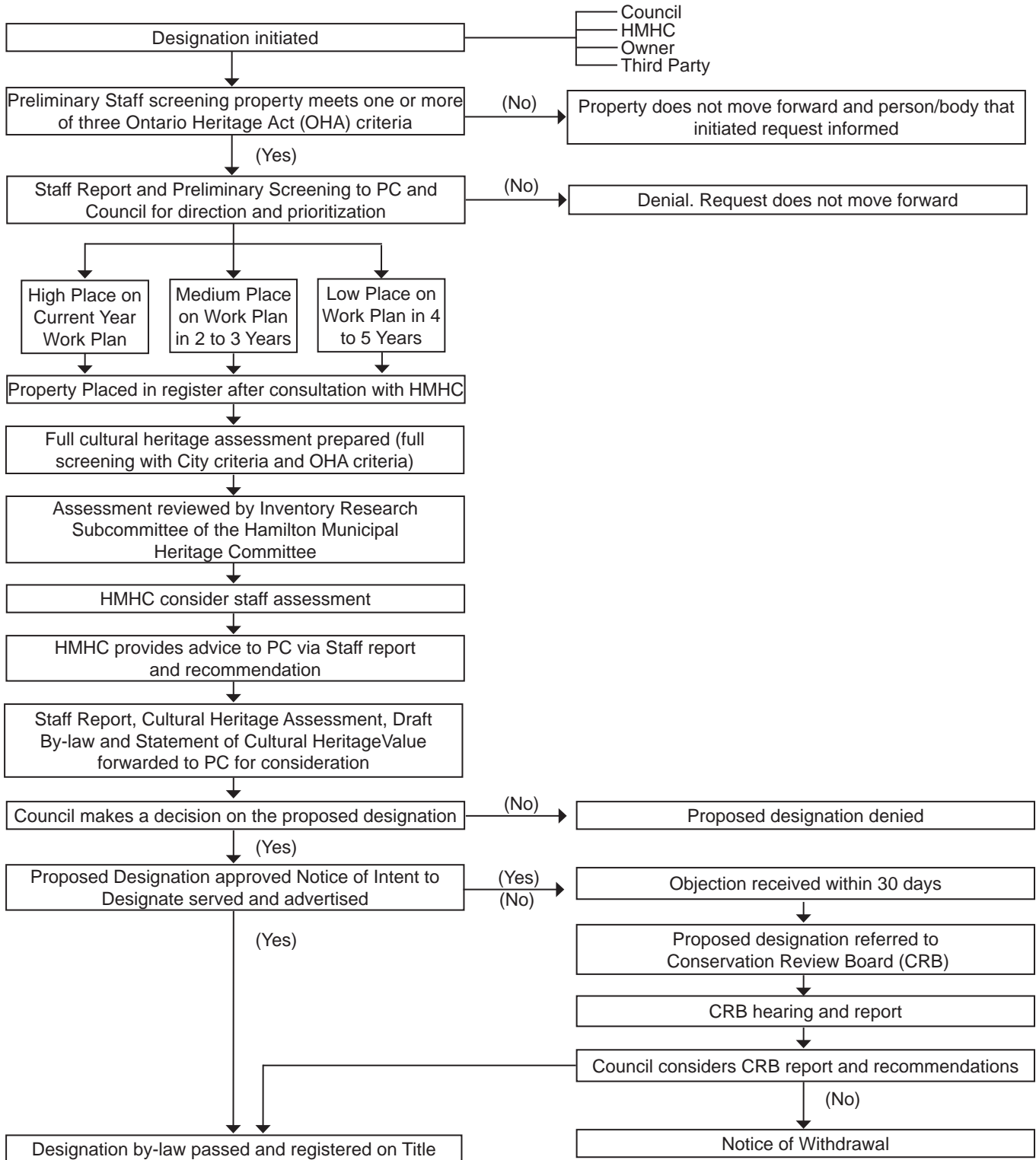
In Hamilton, this consent comes in the form of a Heritage Permit. For more information on the Heritage Permit application process, please refer to the City's "Guide to Heritage Permits" brochure, which can be found on the City's website at:

[www.hamilton.ca/heritageplanning](http://www.hamilton.ca/heritageplanning)

## Other responsibilities of the owner of a designated property include:

1. Any purchaser (new owner) of a designated property must give notice of the change of ownership to the municipal clerk within 30 days of transference of title, as outlined in Section 35(1) of the Act; and,
2. The owner of the property should maintain the property and its heritage features in a safe and secure condition. All municipal by-laws, including the Property Standards By-law apply to designated properties.

## DESIGNATION PROCESS



Council Approved October 29, 2008



Hamilton

PLANNING DIVISION  
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

## Where can I find some additional information?

Ontario Heritage Act:

[www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_90o18\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90o18_e.htm)

Ontario Heritage Trust:

[www.heritagefdn.on.ca/](http://www.heritagefdn.on.ca/)

Conservation Review Board:

[www.crb.gov.on.ca/english/home.html](http://www.crb.gov.on.ca/english/home.html)

Ontario Ministry of Culture:

[www.culture.gov.on.ca/english/culdiv/heritage/index.html](http://www.culture.gov.on.ca/english/culdiv/heritage/index.html)

[www.culture.gov.on.ca/english/heritage/Toolkit/toolkit.htm](http://www.culture.gov.on.ca/english/heritage/Toolkit/toolkit.htm)

Parks Canada:

[www.pc.gc.ca/eng/index.aspx](http://www.pc.gc.ca/eng/index.aspx)

[www.pc.gc.ca/progs/plp-hpp/plp-hpp1.aspx](http://www.pc.gc.ca/progs/plp-hpp/plp-hpp1.aspx)

This pamphlet is intended only as an aid to prospective requests for designation under Part IV of the *Ontario Heritage Act* in the City of Hamilton. It has been prepared for information purposes only and should not be relied upon as legal advice. The City does not warrant or certify the contents and accepts no liability on the part of itself, its elected officials and staff with respect to the provision of this information. In all cases, the provisions of the *Ontario Heritage Act* apply and applicants should consult a lawyer when required.

Information collected in an application related to the Heritage Permit process, including personal information, is collected under the authority of the *Ontario Heritage Act*, R.S.O. 1990, c. O.18, and is subject to the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56.

## For more information contact:

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