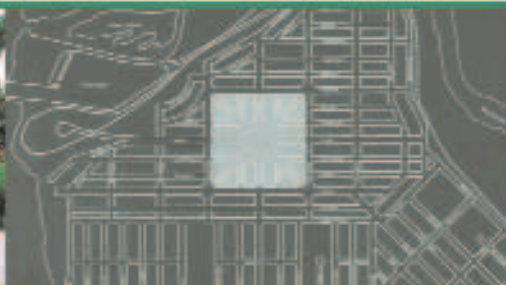


HERITAGE CONSERVATION DISTRICTS

*A Guide to District Designation Under
the Ontario Heritage Act*

Ontario Heritage Tool Kit





Franklin Carmichael (1890-1945)

Church and Houses at Bisset c.1931

oil on paperboard

25.2 x 30.4 cm

Gift of the Founders, Robert and Signe McMichael McMichael Canadian Art Collection

1966.16.11

This guide is one of several published by the Ministry of Culture as part of the Ontario Heritage Tool Kit. It is designed to help municipal Councils, municipal staff, Municipal Heritage Committees, land use planners, heritage professionals, heritage organizations, property owners, and others understand the heritage conservation process in Ontario.

ISBN 1-4249-0052-2

© Queen's Printer for Ontario, 2006



Travelling through the downtowns and the back roads of Ontario, you will find remarkable places rich in history and character – bustling market squares and commercial areas, picturesque villages in the heart of large cities, residential neighbourhoods that evoke a sense of the past, and landscapes that maintain a strong rural identity.

In many cases, these areas have maintained their uniqueness and sense of place because the local municipality has taken the opportunity to designate them as **Heritage Conservation Districts (HCDs)**.

Following the designation of the first HCD in 1980, over 75 areas have been designated in recognition of their cultural heritage value and special character.

In April 2005, the Ontario Heritage Act was strengthened to provide municipalities and the province with enhanced powers to preserve and promote Ontario's cultural heritage.

Following the recent changes to the Planning Act and Provincial Policy Statement and thanks to Ontario's participation in the Historic Places Initiative, there is opportunity for development of a more comprehensive approach to the identification, conservation and protection of the wide range of heritage resources encountered in Heritage Conservation Districts.

This guide is designed to assist municipal staff, heritage committee members and heritage community groups develop effective plans, policies and guidelines to ensure long-term protection and enhancement of Heritage Conservation Districts for the enjoyment of current and future generations.



What's in this guide?

1 Overview of Heritage Conservation District Designation	5
What is a Heritage Conservation District?	5
What are the benefits?	8
Characteristics of heritage districts	9
Identification of cultural heritage value in districts	10
2 Legislative Changes and New Opportunities	12
The Ontario Heritage Act – Part V	12
The Provincial Policy Statement	13
The Canadian Register of Historic Places	15
3 Designating a District	16
Step 1 – Request to designate	18
Step 2 – Consultation with the Municipal Heritage Committee	18
Step 3 – Official Plan provisions	18
Step 4 –The area study and interim control	18

Step 5 – Evaluation of cultural heritage resources and attributes	21
Step 6 – Delineation of the boundary of a HCD	24
Step 7 – Public consultation	27
4 The Heritage Conservation District Plan	28
Step 8 – Preparation of the HCD plan and guidelines	28
Step 9 – Passing the designation bylaw and adoption of the HCD plan	33
Step 10 – Registration of bylaw on title	33
Step 11 – Notification of passing of bylaw to the Ontario Heritage Trust	33
Step 12 – Proposed changes to bylaws and Official Plan provisions	34
Step 13 – Implementing the district plan	34
Adoption of HCD plans for previously designated districts	34
5 Management of the District	35
Review of alteration, new construction and demolition	35
Property maintenance standards	36
Easements and covenants	36
Acquisition and expropriation	37
Incentives and other support for heritage conservation	37
6 Resources and Further Information	39
Appendices	40
Appendix A Summary of key changes to Part V of the Ontario Heritage Act	41
Appendix B Provincial Policy Statement, 2005 – definitions	44
Appendix C Supporting tools	46

Note: The Ministry of Culture has published this Guide as an aid to municipalities. Municipalities are responsible for making local decisions including compliance with applicable statutes and regulations. Before acting on any of the information provided in this Guide, municipalities should refer to the actual wording of the legislation and consult their legal counsel for specific interpretations.



OVERVIEW OF HERITAGE CONSERVATION District Designation

1

What is a Heritage Conservation District?

Subsection 41. (1) in Part V of the Ontario Heritage Act enables the council of a municipality to designate the entire municipality or any defined area or areas of the municipality as a Heritage Conservation District (HCD).

District designation enables the council of a municipality to manage and guide future change in the district, through adoption of a district plan with policies and guidelines for conservation, protection and enhancement of the area's special character.

A HCD may comprise an area with a group or complex of buildings, or a larger area with many buildings and properties. It may also comprise an entire municipality with a concentration of heritage resources with special character or historical association that distinguishes it from its surroundings.

Potential districts can be found in urban and rural environments. They may include residential, commercial and industrial areas, rural landscapes or entire villages or hamlets

with features or land patterns that contribute to a cohesive sense of time or place.

Heritage Conservation Districts form an integral part of our cultural heritage. They contribute to an understanding and appreciation of the cultural identity of the local community, region, province or nation.

The significance of a HCD often extends beyond its built heritage, structures, streets, landscape and other physical and spatial elements, to include important vistas and views between and towards buildings and spaces within the district. The quality and interest of a district may also depend on the diversity of the lifestyle and the traditions of the people who live and work there. As the users and the ultimate guardians, the community forms a vital part of a district.

Following recent legislative changes, there is growing interest in the designation of heritage conservation districts in industrial, rural, waterfront, mining and other cultural heritage landscape settings that have not been fully considered before.

Apart from a small number of districts where the main use is institutional, the majority of Ontario's designated HCDs comprise residential or commercial "main streets" districts.

The following examples help to illustrate the range and diversity of Ontario's HCDs:

- Galt downtown, a late 19th century commercial block in the City of Cambridge;



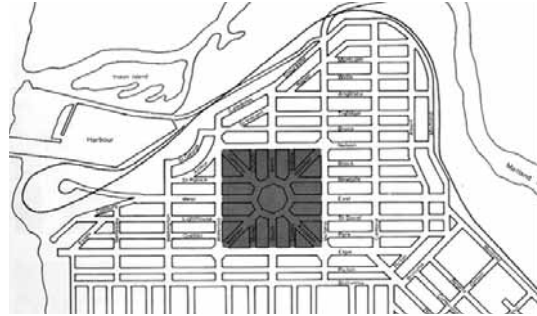
The Galt Downtown Heritage Conservation District – now part of the City of Cambridge, comprises a prominent commercial block of stone clad buildings that subtly vary in detail and style. (Photo: Ministry of Culture)

- Fort York in Toronto which includes over 40 acres, original earthen fortifications, blockhouses, a cemetery, magazines and garrison buildings;



Established in 1793 with the founding of York (Toronto), Fort York Heritage Conservation District is a cultural heritage landscape of historic significance and importance. (Photo courtesy of David Spittal (photographer) from the "Fort York Collection, 2005")

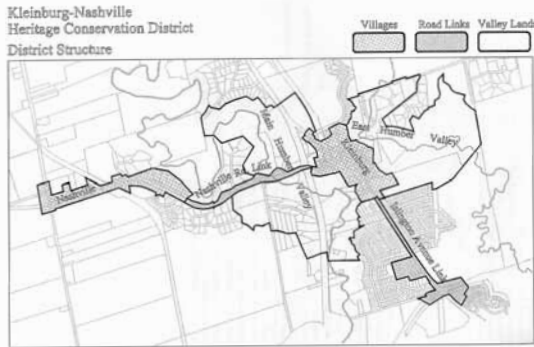
- The Square in Goderich, a 19th century urban square with a unique layout based on classical design principles;



"The Square" Heritage Conservation District, located at the heart of the Town of Goderich's downtown is renowned for the uniqueness and integrity of its design and layout. (Graphic: The Square Heritage Conservation District Plan (1976), prepared by Nicholas Hill)

- The former Village of Rockcliffe Park, now part of the City of Ottawa, where the whole municipality was designated, in large part, because of its character as a cultural heritage landscape;

- Kleinburg-Nashville in the City of Vaughan, a discontinuous district which links two scattered former mill villages within their natural setting;



Kleinburg-Nashville HCD comprises two discontinuous historic mill villages which were founded in the 1840's, their connecting road link and valley lands. (Plan prepared by Philip Carter & Associates)

- The HCDs in Cabbagetown and North and South Rosedale in the City of Toronto, Ontario's largest residential districts, with over two thousand properties in total;



The "Victorian" character of the Cabbagetown Metcalfe HCD is visible in the relatively unchanged streetscapes, many surviving examples of row housing and single family residences displaying late nineteenth century architectural styles and an integrity of form. (Photo courtesy of Unterman McPhail Associates)



Kleinburg-Nashville HCD – The district includes many buildings that retain their original vernacular design and detailing as well as more recent infill building of sympathetic design. (Photo: Ministry of Culture)

- Waverley Park in Thunder Bay, which includes a mix of residential, institutional and park uses.



The Waverley Park Heritage Conservation District in Thunder Bay includes the historic park which retains many original features including its walkways, cenotaph, fountain and bandshell which is the focal point for the surrounding area. The park provides a rich setting for a number of schools, churches and prominent residential and commercial buildings that are an integral part of the district and provides a strong edge to the district. (Photo courtesy of City of Thunder Bay)

- St. Mary's in the City of Kitchener, a post World War II veteran housing project comprising small scale homes of relatively simple design in a landscape setting;



The St. Mary's Heritage Conservation District comprises unique architecture and suburban landscapes characteristic of post-Second World War veteran housing. (Photo courtesy of Kitchener-Waterloo Record Photo Collection, The Library, University of Waterloo)

The list of Ontario's HCDs can be viewed at: www.culture.gov.on.ca

What are the benefits of district designation?

A unique planning framework

The immediate benefit of HCD designation is a planning process that respects a community's history and identity. District designation is one of the best ways to ensure that this identity is conserved. The adoption of a HCD plan as part of the designation process ensures that the community's heritage conservation objectives and stewardship will be respected during the decision-making process.

Enhanced quality of life and sense of place

Designation allows a community to recognize and commemorate what it values within an area, that contributes to its sense of place. It provides a process for sustaining these elements into the future.

During the study and research phase there is opportunity for the community to develop an understanding and appreciation of the community's heritage resources and the strong relationship between patterns of activity,

memory, and imagination and physical patterns of buildings, structures, streetscapes, land forms and natural features. Heritage district designation allows these resources and relationships to be identified and protected.

Cultural and economic vitality

Home owners, entrepreneurs, local government and property developers all appreciate the benefits of culturally vibrant and established urban and rural communities.

District designation contributes towards the development of a rich physical and cultural environment and the promise of continuity and stability into the future. Such places are able to embrace a wide variety of lifestyle options and economic activities while still maintaining physical continuity and social cohesion. These are often attractive areas for commercial, residential and mixed-use investment.

In areas where there are heritage incentive programs, district designation offers specific economic benefits to property owners by making them eligible to apply for a grant, loan or tax relief to carry out restoration or conservation work.

Situated near the north shore of Lake Ontario, a few minutes drive from the busy Highway 401, the Walton Street HCD in Port Hope is one of the best preserved of Ontario's mid-19th century main streets. (Photo: Ministry of Culture)



Healthy cultural tourism

There is a strong relationship between HCD designation and cultural tourism. Designation can be used both to encourage and manage tourism activity in rural and urban areas.



(Photo courtesy of Town of Niagara-on-the-Lake)



The long-term conservation and preservation of the historic business section of Niagara-on-the-Lake has been secured through its designation as a Heritage Conservation District. (Photo courtesy of the Niagara-on-the-Lake Historical Society Museum, Francis Petrie Collection)

Heritage district designation based on careful historical research and evaluation, promotes understanding and appreciation of an area's heritage values and attributes.

The development and adoption of a district plan provides the community with an important tool for ensuring the integrity and sustainability of the area's unique cultural resources and for managing the impacts of cultural tourism on the environment.

Characteristics of heritage districts

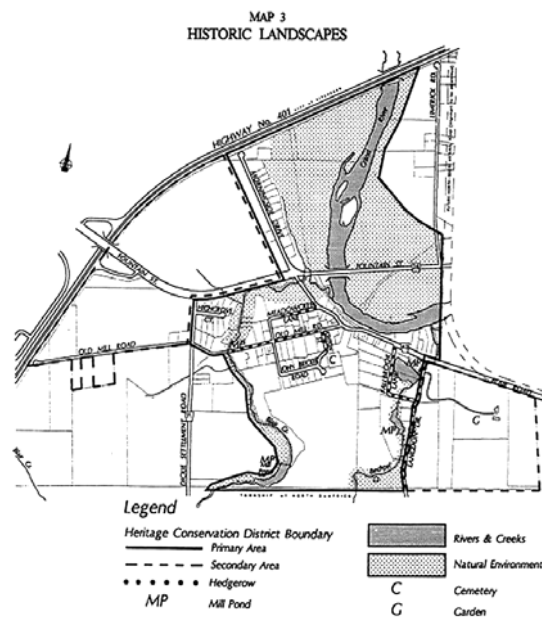
Although each district is unique, many share a common set of characteristics. These may include:

- **A concentration** of heritage buildings, sites, structures; designed landscapes, natural landscapes that are linked by aesthetic, historical and socio-cultural contexts or use.



- **A framework of structured elements** including major natural features such as topography, land form, landscapes, water courses and built form such as pathways and street patterns, landmarks, nodes or intersections, approaches and edges.

The distinctive gable front design and uniform building height of this group of residential properties provides a strong sense of visual cohesion to this tree-lined street in Bishop Hellmuth Heritage Conservation District in London (Photo: Ministry of Culture)



Blair, a village located just outside Galt on the Grand River, was designated as a Heritage Conservation District to protect its distinctive rural character. (Graphic: Blair Heritage Conservation District Plan prepared by Nicholas Hill)

- **A sense of visual coherence** through the use of such elements as building scale, mass, height, material, proportion, colour, etc. that convey a distinct sense of time or place.
- **A distinctiveness** which enables districts to be recognised and distinguishable from their surroundings or from neighbouring areas.

Identification of cultural heritage value in districts

Municipalities and communities choose to designate HCDs to conserve their heritage character. The cultural heritage value of individual sites can be expressed in terms of their **design or physical, historical or associative or contextual** values. The values that contribute to the character of heritage conservation districts may be expressed more

broadly as **natural, historic, aesthetic, architectural, scenic, scientific, cultural, social or spiritual values**.

How the varying and changing combinations of values come together and the contexts they create give heritage districts their depth, richness and sense of time and or place. In the identification of these **values** and **attributes** that contribute to the district's overall character, it is important to understand that the value of the district as a whole is always greater than the sum of its parts.

Heritage districts can also be evaluated as places that have been **designed**, have **evolved** or have **associative cultural** value. This is especially useful when undertaking a study of a large or more complex district and can assist in developing objectives for designation and a clear vision for its future management.



Blair, a village located just outside Galt on the Grand River, was designated as a Heritage Conservation District to protect its distinctive rural character. (Photo: Ministry of Culture)



Following this approach, heritage districts can be classified as:

- **Designed** districts that are purposely planned and laid out by a single person or a group and whose original or early messages remain discernible. These districts are valued for the integrity and intactness of their original design;



Aerial view of “The Square” in Goderich which forms the centrepiece of a “designed” Heritage Conservation District renowned for the uniqueness and integrity of its design and layout. (Photo courtesy of Gord Strathdee, Town of St. Marys)

- **Evolved** districts that have grown over a period of time and their elements (component features) document the process of its evolution, which can be further classified as follows:
 - **Static (relict)** districts where the evolutionary process has ended and its significant component features still reveal its mature material form. They are appreciated for their aesthetic value, or for their significance in commemorating persons and events important in the history of the community, province/territory or the nation.
 - **Dynamic (continuing to evolve)** districts, which include those that have evolved over a long period of time and where the process of evolution is ongoing. The physical form and attributes of such districts exhibit the process of past development and maintain a continuum with the past to meet the needs of the present (and future) community.

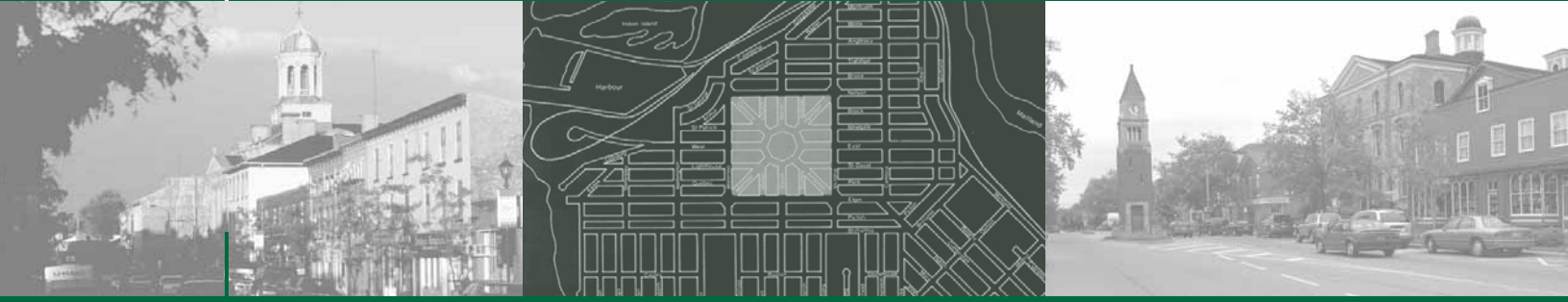
- **Associative** districts, which comprise areas of mainly natural landscape that have a strong association with an historic event or person, where remaining cultural heritage features may be insignificant or even absent.



Aerial view of a rural church and cemetery in Southwestern Ontario. Example of potential heritage district that incorporates both designed and associative values (Photo Copyright 2006 Ontario Tourism)

These classifications recognize that heritage districts are all different. They may have similar physical properties but dramatically different social and functional linkages. The development of effective policies and guidelines for the conservation, protection and evolution of individual heritage districts, requires a sensitive approach based on a thorough understanding of evaluated or assigned values.

The determination of the evaluated or assigned values of a potential HCD, may be assisted through the preparation of a “Statement of Significance”, as is used when listing a site on the Canadian Register of Historic Places, developed under the Historic Places Initiative. The resulting statement can help municipalities clearly identify the area’s heritage values and the character-defining elements or heritage attributes that contribute to these values and also serve as a basis for future decision making, if it is decided that the area is worthy of designation as a HCD. (See Section 2.3 for further information on the Canadian Register).



2

LEGISLATIVE CHANGES AND New Opportunities

The 2005 Ontario Heritage Act amendments and related amendments to the Planning Act and Provincial Policy Statement provide a clear framework for identification, conservation and protection of cultural heritage resources in a Heritage Conservation District.

The Ontario Heritage Act – Part V

The following is a summary of the key changes to Part V of the Act that affect the designation of HCDs:

District plans and guidelines

Municipalities are required to adopt a district plan for every HCD designated after April 2005. The plan must include a statement of objectives and policies and guidelines for achieving the stated objectives and for managing change in the district.

Interim controls

Municipalities have the option to put in place interim controls for up to one year, to protect an area that is being studied for designation, similar to the protection for individual properties.

Public Consultation

Municipalities must consult with their heritage committee (where established) and the public in the development of the plan.

Municipal compliance

Municipal review of development applications and undertaking of public work within a HCD must be consistent with the district plan.

Control of alterations

In addition to buildings and structures, municipalities have been provided with additional power to control alterations to

other property features. Where provided for in the district plan, municipalities may exempt defined minor alterations from approval requirements.

Part IV properties in a HCD

In HCDs where a district plan has been adopted under the amended act, municipalities must consider the district plan's guidelines when reviewing applications to demolish or alter the exterior of individual properties designated under Part IV of the act. Part IV controls will continue to apply to HCDs where there is no district plan or if the plan has not been adopted under the amended Ontario Heritage Act.

(See **APPENDIX** – Table A for details of key changes to Part V and benefits).

The Provincial Policy Statement

The Provincial Policy Statement, 2005 (PPS, 2005) is the current policy statement on municipal land use and planning matters of provincial interest. This policy statement is made pursuant to section 3 of the Planning Act. The PPS promotes the wise use and management of cultural heritage resources.

The key policy that supports the implementation of heritage districts is:

POLICY 2.6.1:

Significant built heritage resources and significant cultural heritage landscapes shall be conserved.



Meadowvale Village, Ontario first Heritage Conservation District was designated in 1980. The original settlement dates back to the early 1830s. The vernacular design and character of this district has been the inspiration for the sympathetic design, detailing and layout of surrounding new residential development. (Photo: Ministry of Culture)

Policy 2.6.1 for the conservation of significant cultural heritage landscapes is not new, but it is strengthened by the stronger implementation standard issued under the Planning Act which requires that planning decisions by municipalities and other approval authorities “shall be consistent with” the PPS, 2005.

The PPS also includes a new policy that will provide additional support for protection of HCDs and their setting:

■ **POLICY 2.6.3:**

Development and site alteration may be permitted on adjacent lands to protected heritage property where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved.

Mitigative measures and/or alternative development approaches may be required in order to conserve the heritage attributes of the protected heritage property affected by the adjacent development or site alteration.

In other words, lands adjacent to protected heritage properties (which includes designated HCDs) can be developed or altered only if the heritage attributes of the protected property are conserved.

To put these policies in place, municipalities and approval authorities should integrate heritage conservation objectives and policies into their land use planning documents and approval procedures.

Municipalities and planning authorities can incorporate more detailed cultural heritage landscape conservation objectives and policies reflecting local heritage resources into its official plans, land use documents, and their related development approval processes.

Conserving built heritage resources and cultural heritage landscapes means identifying, protecting, using and managing them in such a way that their heritage values and attributes are retained. This can be done through a secondary plan, HCD plan or a heritage impact assessment.

(See **APPENDIX** for definitions of *cultural heritage landscape* and other italicized terms in the above policies)

The Canadian Register of Historic Places

The Canadian Register of Historic Places, developed under the Historic Places Initiative, a federal-provincial-territorial partnership, is an online searchable register of locally, provincially and federally recognized heritage properties across Canada.

Individual heritage properties and HCDs designated under the Ontario Heritage Act are eligible for listing on the Canadian Register, together with properties protected by a heritage conservation easement and properties held in trust by the Ontario Heritage Trust.

The listing of a historic place on the Canadian Register is honorific and does not place additional controls on the property or district that is listed. It provides communities with the opportunity to build awareness, understanding and support of their cultural heritage resources by making information on these resources available in an accessible format.

A **Statement of Significance** is required as part of necessary documentation for listing on the Canadian Register. The **Statement** reflects a “values-based” approach to identification of the **heritage values** and **character-defining elements** of the historic place, and can help in the development of the statement of cultural heritage value or interest required for the designation of a HCD under the Ontario Heritage Act.



Hurontario Street in the Collingwood Heritage Conservation District, is one the best preserved Ontario's early main streets. Flanked by commercial and public buildings, many constructed in 1880-1910 period, the spacious character of the main street, reflects the need to accommodate the automobile and provides a pleasant contrast to the more dense historic grid of surrounding streets, pedestrian laneways, and pathways. It is also Ontario's first district to be nominated in the Canadian Register of Historic Places. (Photo: Ministry of Culture)

Listing a historic place on the Canadian Register presents opportunities for the promotion of local cultural heritage tourism. Heritage properties within a listed HCD may also be eligible for federal financial incentives.

(See www.historicplaces.ca for further information on the Canadian Register and the Historic Places Initiative).



3

Designating a District

The key ingredients for a successful HCD are:

- A sound examination of the rationale for district designation, especially for the delineation of district boundaries;
- Active public participation in the designation process;
- A clear and complete designation bylaw; and,
- A clear and well-publicized HCD plan and policies to manage change in the district to protect and enhance its unique character.

The following are the key steps to designate a HCD (see chart on next page):

The Study Phase

- Step 1 – Request to designate
- Step 2 – Consultation with the Municipal Heritage Committee
- Step 3 – Official Plan provisions
- Step 4 – The Area Study and Interim Control

Step 5 – Evaluation of cultural heritage resources and attributes

Step 6 – Delineation of boundary of the study area & potential HCD

Step 7 – Public consultation on draft HCD plan

The Implementation Phase

Step 8 – Preparation of the HCD plan and guidelines

Step 9 – Passing the designation bylaw & adoption of the HCD plan

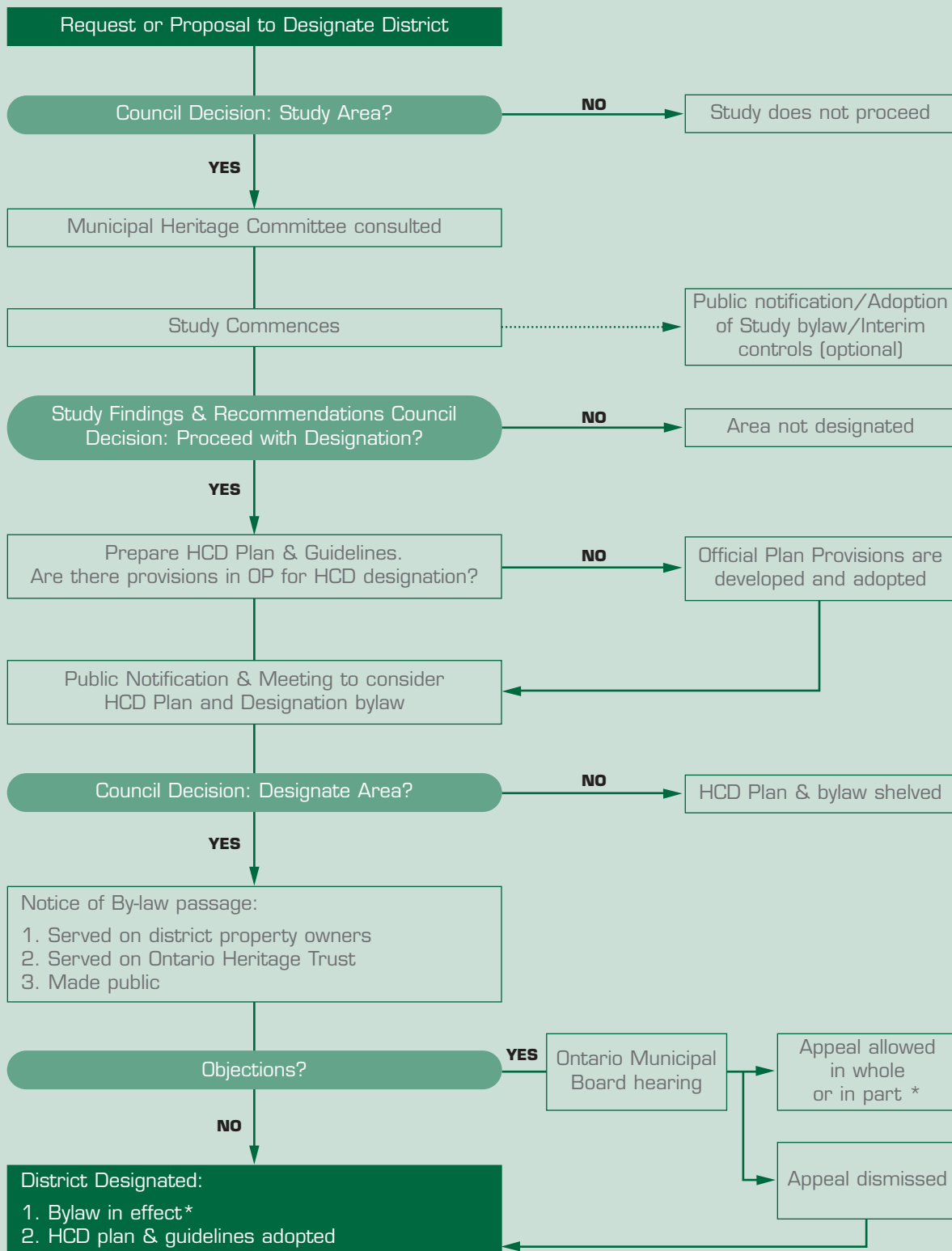
Step 10 – Registration of bylaw on title

Step 11 – Notification of passing of bylaw to the Ontario Heritage Trust

Step 12 – Proposed changes to existing bylaws and Official Plan provisions

Step 13 – Implementing the HCD plan

HERITAGE CONSERVATION DISTRICT DESIGNATION PROCESS



*NB. Bylaw may need to be amended for an appeal allowed “in part”

Step 1 – Request to designate

There is no formal process for requesting the designation of a HCD. The initial request usually comes from the Municipal Heritage Committee or a local residents' or heritage organization. Any individual resident, business or property owner can, however, request that their area be considered for designation. Requests can be made through the municipal clerk, local councillor, municipal planner or municipal heritage committee member. Following consultation with the Municipal Heritage Committee (where appointed), it is up to council to decide whether to proceed with the designation of the area as a HCD.

While the act does not require that a study be carried out before the passing of the bylaw to designate any area as a HCD, a study is essential for the preparation of a HCD plan required for every HCD designated following the 2005 Ontario Heritage Act.

Step 2 – Consultation with the Municipal Heritage Committee

A municipality does not need a Municipal Heritage Committee (MHC), to designate a HCD. There are, however, advantages in having a MHC or local steering committee in place, to help with the identification of heritage objectives for a district study and to guide the designation and implementation process. Where a MHC exists, the act requires that council consult with the committee about any area being considered as a heritage conservation study area.

In areas where there is no appointed MHC or municipal heritage planner, council should seek advice from a local heritage or community organization or a heritage

consultant on the suitability of the area being considered, and on boundaries for the study area.

Step 3 – Official Plans provisions

The Ontario Heritage Act requires that the municipal Official Plan have provisions relating to the establishment of a HCD. While not required before the initiation of a section 40.1 HCD study, this would a good time to check if the Official Plan policies are clear and contain the necessary provisions to allow for district designation. If there is a need to amend the Official Plan, drafting the amendment and its adoption should be carried out as early as possible to minimize any delay on the designation of the district, should council decide to proceed.

(See **APPENDIX** for content of Official Plan and secondary plan policy statements relating to establishment of a HCD)

Step 4 – The area study and interim control

Scope of Study

Subsection 40.(2) of the act sets out the scope of a HCD study.

The study shall:

- Examine character and appearance of the area including buildings, structures and other property features.
- Examine and recommend area boundaries.
- Consider and recommend objectives of designation and content of HCD plan.
- Recommend changes to Official Plan and municipal bylaws including zoning bylaws.

Given the differences among municipalities and types of districts, municipalities will need to develop their own criteria for identification of potential districts in their jurisdiction. As a starting point, the criteria that have been developed for designation of individual properties under Part IV of the act may be helpful.

Initially the following areas may be examined as potential heritage districts:

- Areas that have changed little since first developed and contain buildings, structures and spaces with linkages and settings as originally planned still substantially intact, for example – a group of civic and institutional buildings located around a public square, or a waterfront area with its marine-related structures;
- Areas that have cohesive, harmonious streetscapes that have a definite sense of place and/or
- Areas that have acquired a definite sense of time through historical associations with important activities, events and individuals.

A district study can start informally, through volunteer research and discussion. In some communities, these have been initiated by students in local university or college heritage programs or by local heritage organizations. In municipalities with a Municipal Heritage Committee, where there are no heritage planners or other heritage staff, the committee may play an important role by, for example, doing some of the historical research or assisting in hiring heritage professionals to undertake the study. As the local community's voice for heritage conservation, the committee can also play an important part in the development of grass-roots support for the district study.

Designation of heritage conservation study area (optional)

Once a decision has been made to initiate a study, council needs to decide whether it wants to formalize the process by adoption of a bylaw under subsection 40.1 (1) of the Ontario Heritage Act to designate a Heritage Conservation Study Area. The advantage of this approach is that alerts all property owners in the study area about the commencement of a study.

The study area bylaw is optional. Since the bylaw is only effective for a one-year period, municipalities may prefer to proceed without this bylaw until initial research phase has been completed. When there is a better sense of community interest, and the heritage attributes and potential boundaries for the district are more clear, the study area bylaw can be adopted, but is not required for the designation of a district.

Interim control (Optional)

Subsection 40.1(2) of the OHA provides council with the option to put in place interim control measures within the study area when it designates an area as a Heritage Conservation Study Area. The interim control measures prohibit or set limitations with respect to alterations of property, and new construction, demolition or removal of buildings or structures.

The purpose of interim controls is to protect the integrity of the area while a study is underway. Interim control measures are in effect for a maximum period of one year.

The municipality will not be able to extend study area interim controls beyond the one-year period. The controls are also subject to appeal which can delay the completion of the study.

Also, the municipality cannot pass another bylaw to designate another study area which includes a previously designated study area for a three-year period, if an appeal is upheld.

Interim control measures should, therefore, only be considered where there is a clear and immediate threat to the integrity of the area.

The municipality must publish notice of the bylaw in a local newspaper and notify every property owner in the area individually. If there are objections to the bylaw, it can be appealed to the Ontario Municipal Board, by filing a notice with the municipal clerk. The Board will hold a public hearing to hear the objections and will decide on the acceptability of the study area bylaw or any interim controls adopted under the bylaw.

Organizing the study

Depending on the size and type of area, it may be convenient to divide the study into several stages.

Typical stages of an area study include:

- **Historical and documentary research** should be used to draw a picture of environmental conditions and human activities that have shaped the area over

time. Attention should be paid to design intentions as well as design results, and to the technological, economic, and cultural conditions that have affected the character of the area. Modest vernacular buildings may represent as much of a triumph over circumstance as high-style structures. Gardens and landscape features and agricultural practices may reveal as much about a community as its buildings. Public investments in an area may reflect cultural attitudes and biases as much as private property developments. The role of institutions in providing a special sense of place may be important.

- **Field studies** should be carried out to document and evaluate the larger environment and identify key visual and functional elements. Field studies can document the existing physical environment and related patterns of social activity. These observations can then be tested against the findings of the documentary research. The historical record is thus brought forward into the present.
- **Public participation** is critical to the designation and implementation of a HCD. People who live in the study area need to express and communicate the value of the area. As residents, they are



The Rideau Canal Corridor is a unique cultural heritage landscape where there is opportunity for HCD designation as part of a co-ordinated strategy to preserve the overall character of this corridor and surrounding landscape. (Photo Copyright 2006 Ontario Tourism)

often best able to identify important landmarks, nodes, boundaries and other elements that define the existing character of a place. They need to be fully involved in the examination of future options for their area.

The historical and documentary research together with field studies present a composite view of an area. The community's perspectives add value and meaning to the various elements. As these come together, a district's potential boundaries and its heritage attributes becomes clearer.

Step 5 – Evaluation of cultural heritage resources and attributes

Thorough evaluation of a district's heritage significance is key to its protection and is critical for an understanding of the distinction of a place within its larger context. In general, properties of heritage value should reveal broad architectural, cultural, social, political, economic or military patterns of our history, or should have some association with specific events or people that have shaped details of that history.

Evaluation of Heritage Attributes

The evaluation of heritage attributes for an urban HCD will usually involve an aggregate of buildings, streets and open spaces that, as a group, is a collective asset to the community. With a rural HCD, the focus will more likely to be on the concentration or continuity of landscape components and how these are united and/or modified by human use and past events. Depending on the size of district and number of properties involved, the examination of an area may require evaluation of each part, or individual property based on:

- **Historical association.** A building, structure, or property may have been associated with the life of a historic person or group, or have played some role in an important historical event or episode.
- **Architecture.** A building or structure may contribute to the study of the architecture or construction of a specific period or area, or the work of an important builder, designer, or architect.
- **Vernacular design.** A modest well-crafted building or structure that makes use of local forms and materials may be as important to the community's heritage as a high-style mansion or public building.

Designed by the prominent Victorian architect, Kivas Tully, Victoria Hall is the focal point of Cobourg's downtown Heritage Conservation District. (Photo Copyright 2006 Ontario Tourism)



- **Integrity.** A building, or structure, together with its site, should retain a large part of its integrity – its relation to its earlier state(s) – in the maintenance of its original or early materials and craftsmanship.
- **Architectural details.** Specific architectural considerations should include style, use of materials and details, colours, textures, lighting, windows, doors, signs, ornaments, and so on; and the relationships of all these to neighbouring buildings.
- **Landmark status or group value.** Where a building or structure is an integral part of a distinctive area of a community, or is considered to be a landmark, its contribution to the neighbourhood character may be of special value.



Market Square HCD in the City of Kingston – view from the cupola of the Kingston City Hall. (Photo: Ministry of Culture)



HCD designation can be an important tool for ensuring broad-based protection for important natural and cultural heritage features that underpin the heritage character of many river side communities. (Photos: Ministry of Culture)

- **Landscapes and public open spaces.** Examination of a potential district should also include public spaces such as sidewalks, roads and streets, and public parks or gardens. These features often play roles as conspicuous as those of buildings in the environment. Open spaces provide settings for buildings as well as places to view them and the landscapes in which they sit. These spaces are often features of the original plan or survey of a settled community and have intrinsic value in ordering and organizing the location of buildings and structures.
- **Overall spatial pattern.** This refers to the size and extent of major landscape components, predominant landforms and natural features e.g. cliffs, escarpments, ridges, watercourses and lakes and their general spatial relationship to farmsteads, settlements or clusters of buildings and other cultural features, which contribute to the overall sense of scale in a rural HCD.
- **Land-use.** Different type of land-use e.g. farming, mining, lumbering, fishing or other small-scale economic activity will tend to leave their distinctive mark or “texture” on individual landscape components of a rural HCD.
- **Circulation network and pattern.** The movement pattern or network within a HCD and its connection(s) to the surrounding area contributes to its general accessibility. Depending on the viewer’s location, mode of travel, age or social group, there may be a different experience and appreciation of the district and its attributes.
- **Boundary and other linear features.** These include roads, pathways, fences or walls, treelines, hedgerows which help to define and delineate different properties and uses.
- **Site arrangements.** The physical arrangement or clustering of major built elements such as farmsteads, farmhouses and their relationship to ancillary buildings and other property features such as barns, gristmills, archaeological and burial sites often reveal important information on the area’s history and social development.
- **Vegetation patterns.** The placement, arrangement and extent of vegetation which has been planted for functional or aesthetic purposes or natural growing vegetation such as woodlots, meadow areas and other natural elements contribute to the areas visual quality as well as its sense of place.
- **Historic views.** Views represent a significant visual linkage between the component parts of an individual HCD, or between the district and the surrounding area. Visual interest may be enhanced by vistas defined and enclosed by buildings and other structures, land-forms, vegetation patterns or structures. Panoramic views, where available, provide a “visual mosaic” of the district, and the rich textural patterns created by past or existing land-use and other supporting activity.

Step 6 – Delineation of the boundary of a HCD

Boundary delineation is critical task during the study and implementation phases of the district designation process. Some study areas have an obvious character and a clear set of boundaries. Others are more difficult to define. They may include both cultural

and natural features. They may cross political boundaries. They may have evolved over time. The initial research phase can be used to decide the possible boundaries of a district.

The final definition of boundaries should come from the findings of the research and the community consultation process.

The boundary of a district could be determined using the following criteria:

Historic factors such as the boundary of an original settlement or an early planned community, concentrations of early buildings and sites;

Visual factors determined by an architectural survey or changes in the visual character or topography of an area;

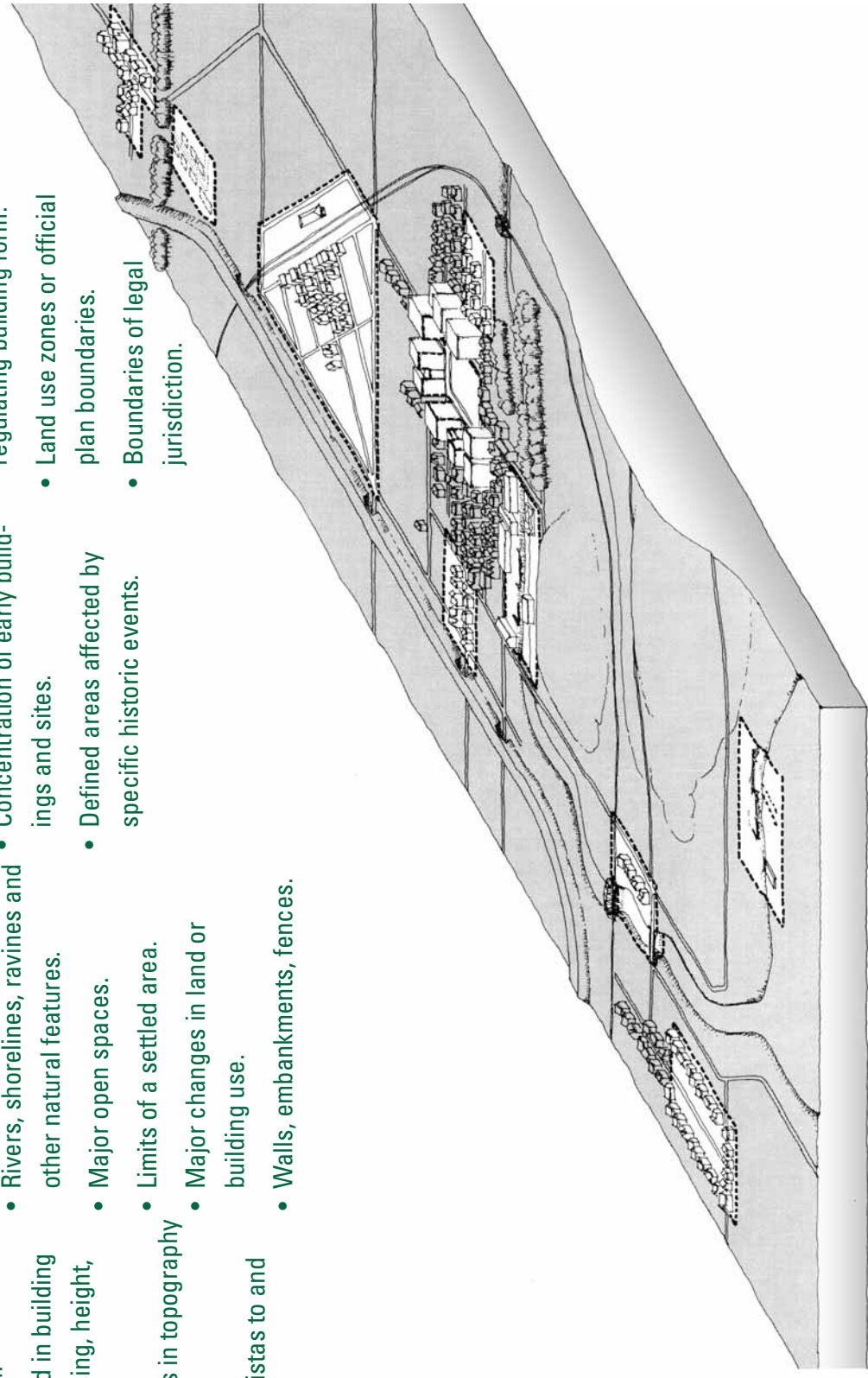
Physical features such as man-made transportation corridors (railways and roadways), major open spaces, natural features (rivers, treelines and marsh-land), existing boundaries (walls, fences, and embankments), gateways, entrances and vistas to and from a potential district;

Legal or planning factors which include less visible elements such as property or lot lines, land use designations in Official Plans or boundaries for particular uses or densities in the zoning bylaw, may also influence the delineation of the boundary, especially as they may affect its eventual legal description in the bylaw.



*Boundary Delineation – the inclusion of newer buildings and vacant properties is often crucial for a potential heritage conservation district to ensure that new development will blend in with and respect the character of the district.
(Photo: Ministry of Culture)*

VISUAL PERCEPTIONS	PHYSICAL SITUATION	HISTORICAL EVOLUTION	“PAPER” LINES AND OTHER FACTORS
<ul style="list-style-type: none"> • Distinctive architecture, design, scale, style, layout, setting, materials, workmanship, association. • Marked changes in building character (massing, height, setback, etc.). • Distinct changes in topography or landform. • Gateways and vistas to and from an area. 	<ul style="list-style-type: none"> • Railroads and major highways. • Streets, public utilities and rights-of-way. • Rivers, shorelines, ravines and other natural features. • Major open spaces. • Limits of a settled area. • Major changes in land or building use. • Walls, embankments, fences. 	<ul style="list-style-type: none"> • Boundaries of an original settlement, or early planned settlement. • Concentration of early buildings and sites. • Defined areas affected by specific historic events. 	<ul style="list-style-type: none"> • Property lines. • Setbacks of other zoning lines regulating building form. • Land use zones or official plan boundaries. • Boundaries of legal jurisdiction.



Establishing the boundary that will encompass the proposed district is a crucial task. The principal objective is to ensure that the special character identified through study of the proposed district will be adequately protected by the measures available in Part V of the Act. (Graphic: Ministry of Culture)

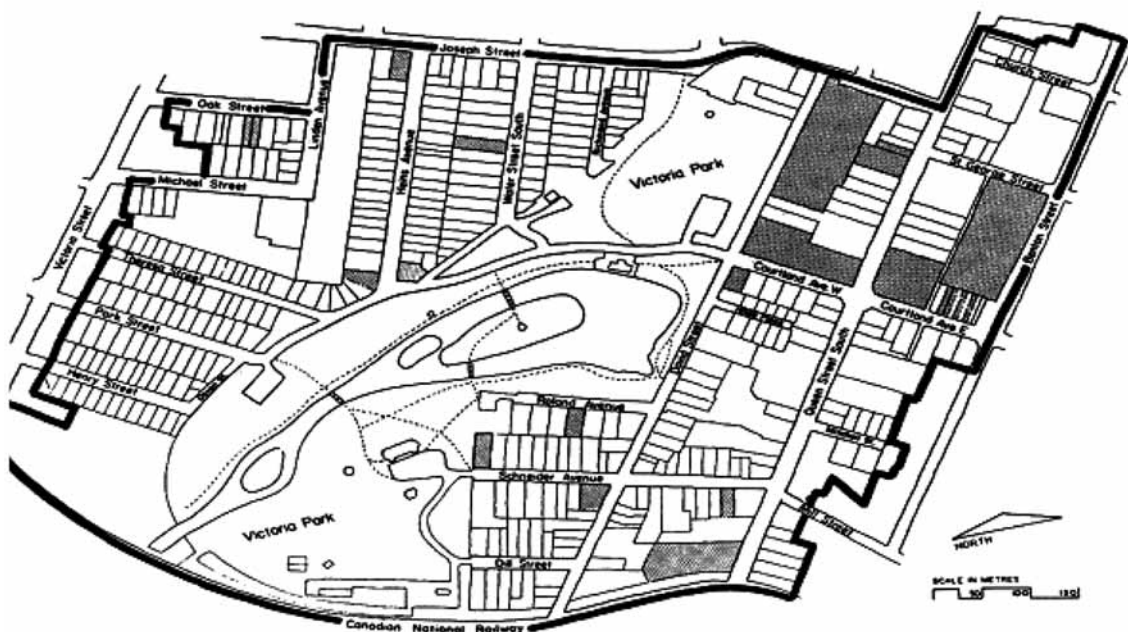


The Victoria Park Area in Kitchener was designated a Heritage Conservation District in 1997 to conserve its significant Victorian architecture and unique romantic style landscapes. (Photo: Ministry of Culture)

Boundaries should be drawn to include not only buildings or structures of interest but also the whole property on which they are located. Vacant land, infill sites, public open space and contemporary buildings may also be included within the district to ensure

that their future development is in keeping with the character of the area. Buildings and structures of less obvious historical or architectural merit, but that contribute to the scale or scenic amenity of the area, may also be included.

Many criteria will overlap or produce similar lines on a map, but as general caution, when setting the edges of a district – in drawing the lines of an edge on the two-dimensional map, always consider how that line will be perceived in the district itself by residents and different user groups, in three dimensions, and over time, when walking or driving, entering and exiting the district. Though a district’s legal and financial implementation depends on the two-dimensional lines, its ultimate effect will be judged by how well it protects and conserves the real, visible, three-dimensional character of the district embraced by those lines.



The Victoria Park Area Heritage Conservation District - the historic park designed in the romantic landscape style forms the centrepiece for a large and complex district with diverse uses that includes significant residential and commercial buildings. (Graphic: Victoria Park Area Heritage Conservation District Plan, prepared by Nicholas Hill)

Step 7 – Public consultation

Successful implementation of a district will ultimately depend on wide-spread public support for district designation based on a clear understanding of the objectives for designation and appreciation of the proposed HCD plan, policies and guidelines.

Decisions about policies and guidelines need to be made in an open forum, where the benefits of designation and the responsibilities that come with it can be clearly communicated. This is especially important to overcome the initial perception encountered amongst many property owners that designation will result in “loss of property rights” or reduction in property value. There should be a clear agenda and timetable for proceeding with the district study and well-publicized public meetings at important stages, to allow for comprehensive discussion of the issues with area residents and property owners.

The Ontario Heritage Act only requires one public meeting before passing of bylaw to designate the district. It is recommended that there be three or more well-advertised public meetings before the draft district plan and bylaw is submitted for public comment at the statutory public meeting.

Meetings can be conducted as follows:

- The initial public meeting allows municipal staff and Municipal Heritage Committee members to explain the process for district designation and its potential benefits, and to receive initial comments and views.
- The second meeting allows for consultation and discussion of the proposed boundary and other results of the study.
- The third public meeting provides opportunity for review of the draft plan and guidelines.

Depending on the outcome of the third meeting, further meetings may be required, possibly with smaller groups, to resolve any outstanding issues before the draft district plan is finalized.

It may be advantageous to appoint a local steering or advisory committee with representation from local residents, businesses and other property owners and stakeholders, to oversee the study and to work with the Municipal Heritage Committee (where appointed) in advising Council on future heritage permit applications after the district is designated.



4

THE HERITAGE

Conservation District Plan

Step 8 – Preparation of the HCD plan and guidelines

The recent amendments to the Ontario Heritage Act require municipalities to adopt a HCD plan when they pass the bylaw to designate an area as a HCD.

Statement of objectives

The overall objective of a HCD plan is to provide policies and guidelines that will assist in the protection and enhancement of the cultural heritage values of the district. The district and its current condition should be briefly described, as should the community's goals and aspirations for its future. Once the district plan is adopted, its policies and objectives will take precedence in the event of a conflict with existing municipal zoning and other bylaws that were in place before the designation of the district.

SUMMARY – CONTENTS OF THE HCD PLAN REQUIRED BY THE ONTARIO HERITAGE ACT

- Statement of objectives to be achieved in designation of area as a HCD
- Statement of district's cultural heritage value or interest
- Description of district's heritage attributes and those of properties within the district
- Policy statements, guidelines and procedures for achieving stated objectives and managing future changes
- Description of external alterations or classes of external alterations that are of a minor nature that an owner can carry out without obtaining a permit

Statement of district's cultural heritage value or interest

The statement of cultural heritage value describes the heritage values that contribute to the special identity and character of the district that should be protected. A clear statement will help to promote understanding of the values and attributes and will assist decision-makers in ensuring that future changes and interventions contribute to, rather than detract from, the character of the area. Statements should be brief and succinct and should relate specifically to the identified values and attributes of the district.

Description of heritage attributes

Summary of heritage attributes

The description of heritage attributes should include a summary of those components (e.g. buildings, landscape, archaeological and other property features, etc.), that ranked highest in the evaluation phase. There should be an emphasis on common characteristics plus unusual features or landmarks.

Detailed description of heritage attributes

There should also be a more detailed listing and description of the heritage attributes of the district and of the properties within it. It should emphasize the attributes that contribute to the identified value(s). For example, in some districts the architectural detail of building façades is an important contributor; in other areas, it may be a more general massing and setback that is important, or a relationship between buildings and landscape. In other areas, it may be the mixed use pattern of the area or inclusion of important community facilities.

A detailed description and photographs of the important heritage attributes should be provided. Their location should be indicated on a map wherever possible.

In large districts with many properties, it may not be practical to provide a detailed description for every property. A summary description of heritage attributes of individual properties or groups of similar properties may be provided in an appendix to the plan.

Policy statements and guidelines

Statement of policies

The Ontario Heritage Act requires that a district plan include a statement of policies and guidelines. This is an expression of a municipality's commitment to consistent decision-making in the review of development proposals and heritage permit applications. They should also reflect the municipality's proposed program of public works and other work to maintain or enhance the area character.

The policies and guidelines in the district plan should not just focus on individual heritage buildings or areas. Impact from new development, traffic access, parking, signage and outdoor advertisements, and required mitigation measures all need to be considered. The district plan may also need to deal with traffic management schemes or incentives for the use of upper floors in older commercial blocks. In larger districts, some of these issues may be too complex for a HCD study and may need to be investigated more fully, as measures to be implemented at a later date, separately from the district plan.

Heritage and design guidelines

Guidelines for conservation of heritage property and identified heritage resources should be compatible with standards and guidelines that have been adopted by the Ontario government (see Ministry of Culture website at *www.culture.gov.on.ca*); and/or the Standards and Guidelines for the Conservation of Historic Places in Canada, developed under the Historic Places Initiative (see *www.historicplaces.ca*).

Since guidelines will be used by property owners, as well as municipal planners, councillors and heritage committees, they should be written clearly and simply and should include graphics and visual material that will explain what changes or alterations are appropriate and likely to be approved by council or staff.

Guidelines may take the form of a written and/or graphic description of the type of work or development that council would find acceptable and will satisfy the policy objectives

for the enhancing district. In some cases, (e.g., new infill development), there may be alternative ways to comply with the policy objective. The guidelines should indicate clearly what options are available and include recommended development standards, type of materials and quality of detailing required, for development of infill and vacant land.

For a small district where the character is determined by the architectural details of individual buildings, the guidelines may include detailed recommendations on acceptable alterations, changes or development to be encouraged or discouraged for each property in the district. This would also apply to individual properties of cultural value or interest that have been designated under Part IV of the act, where the guidelines may indicate property features that ought to be restored, materials to be used in constructing new additions, or simply the building features or other attributes of the property that deserve special attention in ongoing maintenance.

INNS

BUILDING STYLE & CONSERVATION GUIDELINE

Blair Heritage Plan



Shown above is Lamb's Inn at 1679 Blair Road, built by John Lamb c1849. It is a good example of an old inn located in a prominent position in the centre of the village and having been added to and extended over its 150-year history. Of distinction is the full length 2-storey verandah that ties the different building phases and window/door placements together. When a building has evolved and grown over time, conservation should subtly show these changes, even if some elevations appear unbalanced. Changes are part of its history. Lamb's Inn is being beautifully restored inside and out, but in a way that conserves its rural charm, character and eccentricities. It sets an excellent example for the eventual restoration of the former Farmer's Inn, a little to the east on Blair Road and now an apartment building. The conservation approach is to preserve the historic and rural character of the building.

CONSERVATION GUIDELINES

The Guidelines are voluntary, but they provide assistance for historic conservation.

- Conserve and restore the original appearance of the inn.
- Retain the original and historic exterior wall materials such as brick, stucco or wood siding.
- Conserve and maintain the original wood detailing. If replacing, duplicate the original.
- When reshingling the roof, consider cedar shingles. They are an authentic and historic material.
- Use historic paint colours. The original colours may be found by peeling away the paint layers to the first layer. This may have faded over time.
- For large work, consult the Additions and Alterations Policies. Approval from LACAC is required.

Examples of clear conservation guidelines for significant buildings in heritage districts. (Graphic: Blair Heritage Conservation District Plan prepared by Nicholas Hill)

PORCHES

BUILDING CONSERVATION GUIDELINE

Nicholas Hill Architect - Planner



BALCONY
The balcony has raised wood and concrete posts, balustrade and windows. From the posts are four decorative iron brackets. The design is simple and well detailed.

COLUMNS
The columns have vertical fluting and have a decorative capital. They support the large balcony above. They are round in cross-section. The handrails are turned.

RAZOR FEET
The porch has a wooden railing in the middle and the brick side walls are made of the same material as the rest of the building.

HANDRAIL
The handrail is made of wood and is turned. It is a decorative feature in the porch. The handrail is made of wood and is turned. It is a decorative feature in the porch.

ABOVE
The balcony above should be restored for maintenance, and approved by the council to provide a good view of the building.

CONSERVATION PRINCIPLES

- Conserve original porches. They are an integral part of the overall architectural appearance of the building.
- When repairing, duplicate the original sizes of column, handrail, skirting and decorative features.
- Avoid closing-in porches. They lose their social value as outside rooms on the street.

Examples of clear conservation guidelines for significant buildings in heritage districts. (Graphic: Bishop Hellmuth Heritage Conservation District Plan prepared by Nicholas Hill)

9.3 Additions to Heritage Buildings

9.3.3. design - scale

The overall design of an addition encompasses scale, proportion, articulation, composition, and detail. Only a balance of these elements results in a successful and compatible design. Drawing from the design of the existing building will make a complementary addition more easily achievable.

Although in some cases large additions are necessary, it is encouraged that additions be modest in scale compared to the existing buildings. It is often possible for large additions to be reconfigured into smaller structures and create a significant improvement to the overall presence.

Guidelines

1. The design of additions should reflect the scale of the existing heritage buildings.
2. An addition should not be greater in scale than the existing building.



Existing building before addition



Encouraged: modest rear addition of compatible design and scale



Appropriate: rear addition of compatible design, although scale is large



Not Appropriate: scale of addition overwhelms original house

Unionville Heritage District Plan

109



Good example of clear design guidelines for additions to existing buildings in the district. (Graphic: Unionville Heritage Conservation District Plan)

The 18th century legacy of Unionville's first settlers provides a rich setting for thriving commercial and other supportive uses. Unionville Heritage Conservation District attracts over 1 million visitors per year. (Photo: Ministry of Culture)

For larger districts, a detailed approach to each property may be too cumbersome and impractical. It may be more practical to have more general guidelines that indicate the types of change that will be considered appropriate for existing groups of buildings as well as generic design types for new construction.

On vacant and other potential development sites, the preferred siting, scale, maximum allowable height, setback of new building or additions may need to be specified, as well as the preferred colour, texture and type of materials to be used. Guidelines can also be a useful source of information for general advice on landscape conservation and restoration techniques, tree planting and garden design.



This is a good example of the use of simple graphic to demonstrate acceptable and unacceptable infill design. (Graphic: Ministry of Culture)

Description of minor alterations

The heritage conservation plan must include a description of external minor alterations or classes of minor alterations that an owner can carry out without obtaining a permit. This will help to reduce delay in approval of heritage permit applications and allow property owners to carry out maintenance type work, (e.g., painting and repairs of windows, renewal of a roof, using exact material and colours).

There should be extensive community input before deciding on the type of “minor alterations” that can be carried out without permit approval.

Government-owned property in a HCD

Property owned by Ontario government ministries or other prescribed public bodies

While these properties can be included in a HCD, they are generally protected under Part III.1 of the act, or may be subject to other specific legislative authority that may exempt them from municipal HCD controls.

Part III.1 of the act provides for the preparation of heritage standards and guidelines that government ministries and other public bodies have to comply with in the identification, protection, maintenance, use and disposal of their heritage property.

Status of property owned by the federal government and its agencies

The application of municipal zoning and other land use controls to lands owned by the federal government or its agencies or undertakings within the exclusive regulatory

jurisdiction of the federal government is complex. It is, therefore, not possible to make a general statement in this regard. Where a municipality is considering inclusion of federal government facilities or federally regulated activities in an HCD, it would be best to discuss this first with the applicable federal department, agency or federally regulated undertaking.

Properties designated under Part IV of the act

(Ontario Heritage Act: s.41(2)-(2.4))

A HCD may include individual properties that are designated municipally or provincially under Part IV of the act. The 2005 amendments to the act provide a clear process for administering HCDs when there are individual Part IV designated properties in the district.

Alterations, demolition and other changes to properties designated by the Minister of Culture under section 34.5 of the act included in a HCD are subject to the provisions of section 34.5 in Part IV and not the provisions of Part V.

If there is a HCD plan in effect for the district, then all external work alteration, demolition or removal of structures within the district will be governed by Part V and the approved HCD plan, including properties designated municipally. However, Part V only applies to exterior alterations – the provisions of Part IV respecting the alteration of properties designated under section 29 and the individual designation will continue to govern interior alterations to individually designated properties.

Properties in a HCD designated individually under section 29, will continue to be governed by the Part IV provisions respecting alterations, demolition or removal of structures, if the HCD was designated before the 2005 amendments to the act and if the municipality has not adopted a HCD plan in accordance with the requirements of section 41.1 of the act.

Step 9 – Passing the designation bylaw and adoption of the HCD Plan

Subsection 41.1(6) of the Ontario Heritage Act sets out the minimum requirements for public consultation before council passes the bylaw to designate the district and to adopt the district plan.

The act does not require council to obtain the approval of a majority of property owners or residents or to demonstrate that there is support before proceeding to pass a bylaw to designate an area as a HCD.

Before passing the designation bylaw and adopting the HCD plan, council is required to notify the public about the proposed HCD plan and hold at least one public meeting to discuss the plan. Following passage of the bylaw, any person who objects to the bylaw can appeal the bylaw to the Ontario Municipal Board.

Comments and/or objections to the proposed district plan can be made through oral representations at the municipal public meeting or by written submissions to council. Persons who did not make representations at the meeting or written submissions on the plan may be later denied the opportunity to appeal the passing of the bylaw to the Ontario Municipal Board (OMB).

The OMB will usually hold a hearing to consider the objections and will decide whether the appeal should be dismissed or allowed in whole or part. Where the board allows an appeal, it may repeal the bylaw or amend the bylaw or direct council to do so. The board's decision to allow the appeal may apply either to the whole or any part of the area proposed for designation as a district.

The board's decision is final and the bylaw comes into effect when all appeals have been dismissed or when the board or council amends the bylaw.

Step 10 – Registration of bylaw on title

The designation bylaw must be registered on the title of all properties in the district when it comes into force so that current and future property owners within the HCD are aware that their property is within a HCD.

The area that has been designated should be clearly defined on a map, or through an up-to-date legal description. Individual properties also need to be clearly identified and legally described to allow a designation bylaw to be registered on title.

Step 11 – Notification of passing of bylaw to the Ontario Heritage Trust

Following the passing of the bylaw to designate a HCD and to adopt a district plan, notice of the bylaw and particulars of the HCD must be provided to the Trust for inclusion on the Provincial Register.

Step 12 – Proposed changes to bylaws and Official Plan provisions

A final requirement of the study process is a list of proposed changes to municipal bylaws and Official Plan provisions.

Most heritage district designations require some adjustments to the existing planning framework in the municipality. There may be changes to provisions for building heights, setbacks, or uses under applicable zoning bylaws. There may be review and approval procedures that have an impact on other provisions such as environmental assessments. There may be changes to public works policies or tax policies or other municipal initiatives.

The proposed changes need not be exhaustive at the study phase. The study should highlight areas of immediate concern. If a district designation is approved, municipalities should proceed with any required amendments to zoning bylaws and Official Plan provisions to ensure consistency with the district plan.

Step 13 – Implementing the district plan

(Ontario Heritage Act: s.28, s.37(1), s.41.2, s.42(4.1), s.42(16)-(17))

The permit application process is the principal mechanism for implementing a district plan. This allows a municipality to exert control over development and other applications to ensure that they will have a beneficial rather than detrimental effect on the character and heritage attributes of the district. The adoption of a HCD plan with clear policies and guidelines ensures that municipal decision-making will be based on objective criteria.

Adoption of HCD plans for previously designated districts

The 2005 amendments to the Ontario Heritage Act require that municipalities prepare a HCD plan before designating a heritage conservation district. Previously, HCD plans were highly recommended, and most districts prepared a plan even though there was no requirement to do so. Some districts are only now preparing plans to assist them in the management of districts designated many years ago.

The Ontario Heritage Act now permits municipalities to adopt HCD plans for previously designated districts.

If a plan already exists, the municipality can pass a bylaw adopting the plan if the existing plan complies with the mandatory requirements for a HCD plan set out in subsection 41.1(5) of the act. If a plan does not exist, the municipality can prepare one. In both situations the municipality must follow the procedures set out in section 41.1 of the act for the adoption of a HCD plan.

The municipality must publish notice of the bylaw adopting the plan in a local newspaper and give notice to every property owner in the district and to the Ontario Heritage Trust. Anyone has a right to appeal the bylaw adopting the plan to the Ontario Municipal Board. If there is an appeal, the Board will hold a hearing and make a decision.



Management of the District

5

The management of a HCD will depend, to a large extent, on the resources available to municipal council. Municipalities with heritage experts on staff will be likely to have general policies and procedures in place for managing heritage districts. In these municipalities, council may choose to delegate the approval of applications for minor alteration to property to staff, after consulting with its municipal heritage committee, in which case the committee will play a more advisory role.

In municipalities where there is no heritage planning staff, the committee will likely be more directly involved with the review of permit applications, though ultimately it will be council that makes the final decision.

Review of alteration, new construction and demolition

(Ontario Heritage Act: s.42(1)- (5), s.42(16) – (17))

The Ontario Heritage Act gives municipalities the power to decide whether alteration, new construction or demolition can take place within a designated HCD. In making its decisions, the municipality should be guided by the provisions of the HCD district plan.

Property owners do not need a permit for carrying out “minor alterations” as described in the district plan or for interior alterations – except for property designated under Part IV of the act, where interior features are included in the bylaw.

Property owners wishing to demolish or remove buildings or structures on their property, or make alterations to the property that are not exempted in the HCD plan, must apply to the municipality for a permit. Property owners must also apply for a permit before they can erect any new building or structure on the property.

Under Part V of the act, ‘property’ means real property and any buildings and structures on it. Alterations to the property that come under review include restoration, rehabilitation or redevelopment of whatever heritage attributes are identified in the plan.

Each municipality can determine what information will be required in a permit application. Once it receives the complete permit application, the municipality acknowledges receipt to the property owner. The municipality then has 90 days to grant or refuse the permit.

The municipality must consult with its Municipal Heritage Committee, where one has been appointed, before making a decision on an application for the demolition or removal of a building or structure. In the making its decisions the municipality should be guided by the provisions of the HCD district plan.

A property owner can appeal municipal council’s decision to refuse a permit or to grant a permit subject to terms and conditions to the Ontario Municipal Board.

The permit application process allows municipalities to review proposed physical or functional changes within a HCD to ensure that they are in keeping with the objectives for district designation and will respect the heritage values identified in the HCD plan.

The scope of review can be broadened or narrowed depending on the nature of the proposed intervention and the importance of the heritage resource affected.

- Some communities develop a stewardship kit, which is given to all property owners in the district and to new owners when they move into the district. It outlines the key objectives of the designation and summarizes the design guidelines and the difference between major and minor alterations in that district. Such kits can be a useful tool for protecting heritage value by raising public awareness.

Property maintenance standards

(Ontario Heritage Act: S.38.1, S.45.1(1))

Where a municipality has passed a bylaw under Section 15.1 of the Building Code Act, setting out the standards for maintenance of property in the municipality, it can pass a bylaw that sets out additional minimum standards for the maintenance of heritage property within a HCD. The municipality can then require property owners to maintain their properties to these standards.

Easements and covenants

(Ontario Heritage Act: s.22, 37 and 45)

The Ontario Heritage Trust and municipalities may enter into easements or covenants with property owners to protect the heritage attributes of properties within a HCD.

Easements or covenants are agreements, often referred to as heritage conservation agreements or conservation easements, that are registered against the title to the property, run in perpetuity, and bind current and subsequent owners of that property.

A heritage conservation agreement is a voluntary agreement between the municipality or the Ontario Heritage Trust and an owner to protect the heritage attributes of the property, and to encourage good stewardship of the property.

Heritage conservation agreements allow for a higher level of protection of the heritage attributes of a property in a designated district than designation alone as they contractually commit current and future owners to protect the defined heritage attributes of the property in perpetuity.

The heritage conservation agreement also requires the owner to consult with and obtain the approval of the municipality or the Trust, about proposed work affecting the defined heritage attributes, before the work is carried out.

Heritage conservation agreements are often a required as a condition of a property owner receiving a grant (or tax relief) to protect the public investment in the property.

In other cases, property owners may enter into easements in return for other forms of compensation or consideration e.g. development approval, condition of sale; or requested by a property owner in estate planning.

Heritage conservation agreements are an important tool for ensuring the long term protection of an important landmark or cultural heritage landscape.

Acquisition and expropriation

(Ontario Heritage Act: s.45 and 36)

A municipality may decide to purchase or expropriate any property within a HCD to ensure that the property is protected. The municipality can keep the property indefinitely or it can lease or sell it.

This is a rarely used provision of the Ontario Heritage Act.

Decisions about what to do with a purchased or expropriated property must be consistent with the heritage conservation goals set out in the Official Plan and in the HCD plan. The purchase or sale of any property must be approved by a bylaw passed by municipal council.

Incentives and other support for heritage conservation

Normal upkeep and maintenance are the responsibilities of every property owner. Through regular inspection, continuous care and maintenance, major restoration and repair costs to heritage properties and important heritage attributes can often be avoided. Municipalities may consider giving financial assistance and/or tax incentives to encourage and support owners to be stewards of their heritage properties in recognition of the community's interest in maintaining its heritage.

Municipalities are authorized by subsection 39 (1) of the act to pass bylaws to provide grants or loans to owners of designated property, to assist with the cost of improvements on such terms and conditions as council may prescribe.

Many municipalities have established financial incentives programs to assist property owners with the conservation of their designated heritage properties. Grants and loan programs also exist at the provincial and federal levels to help with individual capital projects.

In several communities, there are long established heritage funds which provide assistance for eligible work in HCDs.

Municipalities can also establish Heritage Property Tax Relief programs to support ongoing maintenance and conservation of designated properties. The province shares in the cost of the program by funding the education portion of the property tax relief.

For more information, refer to the Ministry of Culture's publication *Getting Started: Heritage Property Tax Relief – A Guide for Municipalities* at www.culture.gov.on.ca.

Who to contact for information?

For latest information on incentives and other support for heritage conservation available in your area contact your local Municipal Clerk, Heritage Planner or Municipal Heritage Committee.

For information about other potential sources of province-wide funding assistance contact your nearest Ministry of Culture Regional Services Office (see www.gov.on.ca or local telephone directory for contact information)



RESOURCES AND

Further Information

6

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

Ministry of Culture

900 Bay Street
4th Floor, Mowat Block
Toronto, ON M7A 1C2
Tel: 416-212-0644
1-866-454-0049
TTY: 416-325-5170
www.culture.gov.on.ca

Ontario Heritage Trust

10 Adelaide Street East
Toronto, ON M5C 1J3
Tel: (416) 325-5000
www.heritagetrust.on.ca



Appendices

Appendix A

Summary of key changes to Part V of the Ontario Heritage Act

Pre-2005 Legislation	2005 Amendments	Benefit of Change
District Plans and Guidelines		
<p>Plans and guidelines are critical to manage change in designated heritage conservation districts. The act, before it was amended in 2005, did not require district plans and guidelines, nor indicate their relationship to the municipality's Official Plan.</p> <p>While most districts have developed plans and guidelines they were not carried out to a consistent standard and may not have received serious consideration.</p>	<ul style="list-style-type: none"> • Require that heritage conservation districts have a district plan, including guidelines for managing change in the district, and indicate the minimum content of the plan. • Require municipalities to act in accordance with the plan, e.g., in undertaking public works. • Require that municipalities consult with their heritage committee (where established) and the public in the development of the plan. 	<ul style="list-style-type: none"> • Provides formal recognition of current practice and ensures consistency. • Provides transparency and predictability of requirements for property owners and developers. • Ensures that municipal activities such as public works are consistent with the district plan. • Ensures public is consulted on the plan and discourages "late-day" appeals where concerns were not raised in the course of public consultations.
District Alteration Controls		
<p>Alteration controls in districts apply to exterior changes to buildings or structures but do not extend to property features (e.g., paths and gardens) that may be essential to a district's heritage interest or character.</p> <p>Alteration controls applied to all exterior alterations, no matter how minor.</p>	<ul style="list-style-type: none"> • Extend alteration controls to cover property features, in addition to buildings and structures. • Where provided for in their district plan, allow municipalities to exempt minor alterations from approval requirements. 	<ul style="list-style-type: none"> • Makes Part V (districts) consistent with Part IV (individual properties) of the act, which provides for the protection of property features that may contribute to cultural heritage value. • Enables municipalities to streamline approvals process by eliminating need to review minor changes. • Provides transparency and certainty for property owners by exemptions in the district plan.

Pre-2005 Legislation	2005 Amendments	Benefit of Change
District Interim Controls		
<p>Under Part IV of the act, properties proposed for individual designation are protected from the time the municipality gives notice of its intention to designate until the designation is final.</p> <p>Under Part V of the act, there was no such interim protection for districts.</p>	<ul style="list-style-type: none"> • Enable municipalities to place interim controls (e.g., no demolitions) for up to one year on changes to areas identified for study as heritage conservation districts (the one year would begin from the date council passes the bylaw to designate the area as a heritage conservation study area. • Allow property owners a right to appeal the interim control by-law to the Ontario Municipal Board. 	<ul style="list-style-type: none"> • Provides municipalities with the option to place interim protection for areas that are being studied for designation, similar to the protection for individual properties. • Consistent with interim control by-law powers under the Planning Act.
Demolition Controls – Consultation with Municipal Heritage Committees		
<p>In the case of properties designated individually under Part IV of the act, the council is required to consult with its municipal heritage committee, where one exists, in making decisions on demolition or removal applications.</p> <p>There was no requirement to consult with the committee in the case of applications to demolish/remove buildings in heritage districts.</p>	<ul style="list-style-type: none"> • Require that council consults with the municipal heritage committee (where established) on applications to demolish or remove a building or structure within a heritage conservation district. 	<ul style="list-style-type: none"> • Ensures that demolition decisions are made with benefit of advice from the municipal heritage committee, where one exists. • Consistent with Part IV of act.

Pre-2005 Legislation	2005 Amendments	Benefit of Change
Application to Part IV Properties		
<p>Under the act individually designated properties located in heritage conservation districts are subject to Part IV controls (which are more finely tuned and have a separate appeal process) and not to those of Part V. This led to confusion concerning application of the district plan and guidelines to these properties.</p>	<ul style="list-style-type: none"> • Require Part V controls and the HDC plan to apply to individually designated property where the plan has been adopted under the amended act; otherwise Part IV controls apply. 	<ul style="list-style-type: none"> • Ensures that the district plan and guidelines apply to changes affecting individually designated property in the district.
Registration of District By-laws on Title		
<p>In the case of properties designated individually under Part IV, the designation by-law is required to be registered against the title of the property affected. This provides all future owners of the property with notice that the property is designated and subject to controls.</p> <p>There was no such requirement before for a district designation bylaw to be registered against the title of properties in the designated district.</p>	<ul style="list-style-type: none"> • Require that notice of district designation by-laws be placed on the title of properties in the district. 	<ul style="list-style-type: none"> • Ensures that new owners of properties in designated districts have notice of the designation.

Appendix B

Provincial Policy Statement, 2005 – definitions

Policy 2.6 Cultural Heritage and Archaeology

Definitions applying to Policies 2.6.1 and 2.6.3

Adjacent Lands

Adjacent Lands means:

(b) for the purposes of policy 2.6.3, those lands contiguous to a protected heritage property or as otherwise defined in the municipal official plan.

Built Heritage Resources

Built heritage resources means one or more significant buildings, structures, monuments, installations or remains associated with architectural, cultural, social, political, economic or military history and identified as being important to a community. These resources may be identified through designation or heritage conservation easement under the Ontario Heritage Act, or listed by local, provincial or federal jurisdictions.

Conserved

Conserved means the identification, protection, use and/or management of cultural heritage and archaeological resources in such a way that their heritage values, attributes and integrity are retained. This may be addressed through a conservation plan or heritage impact assessment.

Cultural Heritage Landscape

Cultural heritage landscape means a defined geographical area of heritage significance which has been modified by human activities and is valued by a community. It involves a grouping(s) of individual heritage features such as structures, spaces, archaeological sites and natural elements, which together form a significant type of heritage form, distinctive from that of its constituent elements or parts. Examples may include, but are not limited to, heritage conservation districts designated under the Ontario Heritage Act; and villages, parks, gardens, battlefields, mainstreets and neighbourhoods, cemeteries, trailways and industrial complexes of cultural heritage value.

Development

Development means the creation of a new lot, a change in land use, or the construction of buildings and structures, requiring approval under the Planning Act, but does not include:

- (a) activities that create or maintain infrastructure authorized under an environmental assessment process;
- (b) works subject to the Drainage Act; or
- (c) for the purposes of policy 2.1.3(b), underground or surface mining of minerals or advanced exploration on mining lands in Ecoregion 5E, where advanced exploration has the same meaning as under the Mining Act. Instead, those matters shall be subject to policy 2.1.4(a).

Heritage Attributes

Heritage Attributes means the principal features, characteristics, context and appearance that contribute to the cultural heritage significance of a protected heritage property.

Protected Heritage Property

Protected Heritage Property means real property designated under Parts IV, V or VI of the Ontario Heritage Act; heritage conservation easement property under Parts II or IV of the Ontario Heritage Act; and property that is the subject of a covenant or agreement between the owner of a property and a conservation body or level of government, registered on title and executed with the primary purpose of preserving, conserving and maintaining a cultural heritage feature or resource, or preventing its destruction, demolition or loss.

Significant

Significant means (a-f not applicable) (g) in regard to cultural heritage and archaeology, resources that are valued for the important contribution they make to our understanding of the history of a place, an event, or a people.

Criteria for determining significance for the resources identified in sections (c)-(g) are recommended by the Province, but municipal approaches that achieve or exceed the same objective may also be used.

While some significant resources may already be identified and inventoried by official sources, the significance of others can only be determined after evaluation.

Site Alteration

Site Alteration means activities, such as grading, excavation and the placement of fill that would change the landform and natural vegetative characteristics of a site.

Appendix C

Supporting Tools

Official Plan heritage policies & secondary plans

Most municipalities have an Official Plan. Heritage policies can be included in Official Plans to encourage the conservation of cultural heritage resources. The more details in the Official Plan, the easier it will be for the municipality to deal with heritage issues as they arise. Heritage provisions can cover the following areas:

Why heritage?

The Official Plan can give a short, background history of the municipality. It can explain what a cultural heritage resource is. It should set out the municipality's broad goals and objectives in relation to heritage resources and outline policies concerning designation, heritage incentives and conservation.

Identifying heritage resources

The Official Plan can also provide working definitions of cultural heritage landscapes, establish procedures for their study, and criteria for their evaluation and designation. It can identify potential areas for future study as HCDs and define the role of the Municipal Heritage Committee.

The role of the municipality

The Official Plan should set out municipal policies to guide the construction and maintenance of public works in ways which are consistent with heritage conservation. It can provide for the acquisition of heritage properties or the operation of other heritage incentive programs.

Planning policy tools

The Official Plan can outline the tools the municipality is willing to use to protect cultural heritage resources. It can set out policy guidelines for the designation of cultural heritage landscapes as an HCD under Part V of the Ontario Heritage Act. It can set out other planning tools the municipality is willing to use to conserve heritage areas. These can include zoning regulations that establish special heritage zones and flexible zoning policies. It can establish areas of site plan control for both HCDs and non-heritage areas and apply design guidelines and height restrictions for these areas. It can also provide for downtown revitalization plans, community improvement plans, and even sign bylaws that respect heritage conservation.

The Role of the Public

The Official Plan should underline the importance of including the public in heritage conservation, through education, publicity and promotion of heritage tourism. Public input in the designation process can be solicited through workshops and charrettes which will help to stimulate public awareness and interest in heritage conservation.

Funding

The Official Plan can set out the processes and agencies through which property owners can get municipal funding for conservation.

Other supporting tools

- Heritage Overlays & Zoning bylaws
- Heritage Impact Assessment Studies
- Area Site Plan control
- Tree Preservation bylaws
- Subdivision Development Agreements
- Heritage Conservation Easements
- Stewardship Programs
- Park /Corridor Area Management Plans
- Community Improvement Area Programs
- Municipal Cultural Planning
- Cultural Heritage Master Plans
- Density Transfer
- Environmental Assessment
- Signage Control (Municipal Act 2005)

Acknowledgements

The Ministry of Culture would like to thank Julian Smith and Associates their valuable contributions to this guide.

Special thanks also to the following individuals and organizations for their thoughtful comments and contributions: the Ontario Tourism Marketing Partnership, the Ontario Heritage Trust, the Ministry of Municipal Affairs and Housing, Community Heritage Ontario, the Architectural Conservancy of Ontario, the Ontario Historical Society, Parks Canada, the Insurance Bureau of Canada, the Town of Aurora, the City of Hamilton, the City of Kingston, the Town of Markham, the City of Mississauga, the Town of Niagara-on-the-Lake, the City of Ottawa, the City of Thunder Bay, the City of Windsor, Michele Beckstead, Adrian Benvenuto, John Blumenson, Catherine Campbell, Frank Caplan, Natalie Champagne, Sally Coutts, Ginny Cunning, Shahan Deirmenjian, David Cuming, David Ellis, Sean Fraser, Brian Gallagher, Jean Haalboom, Dana Hall, Beth Hanna, Regan Hutcheson, Stefan Huzan, Wayne Kelly, Paul R. King, Stuart Lazear, Marcus Létourneau, Richard Lex, Bob Martindale, Michael McClelland, Bonnie McNulty, Richard Moorhouse, Nancy Morand, Rollo Myers, Catherine Nasmith, Patricia Neal, Gordon Nelson, Lou O'Hara, Don Purdy, Paul Ross, James Scott, Eva Salter, Robert Saunders, Michael Seaman, Therisa Singh, Manuel Stevens, Alida Stevenson, Richard Unterman, Leah Wallace, Marcia Wallace, Mark Warrack and Erica Weider.

Nicholas Hill's important contribution to district designation is acknowledged in the examples of guidelines used in this document to support good practice.

Thanks also to the many others in the heritage community who helped with the development of this guide and have provided ongoing assistance and advice to staff at the Ministry of Culture.

The Government of Ontario gratefully acknowledges the Government of Canada's contribution to this publication.

