

## Heritage Conservation - Interim Policy

<b>Date</b>	March 17, 2021
<b>To</b>	Executive Committee
<b>From</b>	City Planning & Community Development
<b>Service Area</b>	Office of Executive Director (City Planning & Community Development)
<b>Item No.</b>	EX21-24

### RECOMMENDATION

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The Executive Committee recommends that City Council:

1. Approve the introduction of a third-party review process for heritage evaluations and heritage impact assessments by qualified heritage consultants or architects.
2. Approve the process to conduct a condition assessment and opinion of cost when considering heritage designation of a property or considering an application for major alterations or demolition of a designated heritage property.
3. Approve the process to conduct annual visual inspections of the exterior of all designated heritage properties.
4. Approve changes to the building and development permit process to flag demolition applications for properties built prior to 1940 for a high-level screening for heritage value.
5. Approve an amendment to Appendix A of *The Development Application Fee Bylaw, 2008* to include a cost recovery fee for third-party reviews of heritage evaluations and heritage impact assessments.
6. Instruct the City Solicitor to prepare an amendment to *The Development Application Fee Bylaw, 2008*, to give effect to recommendation 5, to be brought forward to the meeting of City Council following approval of these recommendations by City Council.
7. Approve these recommendations at its meeting on March 24, 2021.

### ISSUE

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Administration is currently working with a Consultant to review its Heritage Building Rehabilitation Program (HBRP). Administration will bring forward a report on

recommendations to improve the HBRP in Q4 2021. In the interim, Administration is proposing several changes to address gaps within existing processes in order to build trust in the evaluation process and ensure properties with significant heritage value are identified and protected.

## IMPACTS

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### Financial Impact

The recommendations within this report will require additional resources. The impacts will be absorbed in 2021 and a budget request will be prepared for the 2022 budget. In all cases, where the property owner has requested an additional evaluation or third-party review, they shall be responsible for the costs.

The projected financial impact of these recommendations includes:

- Staff resources to support the annual inspections of designated heritage properties
- Third party review of heritage evaluations - \$1,500 - \$3,000 per review
- Third party heritage impact assessment - \$5,000 - \$10,000 per review
- Home and Commercial Property Inspections - \$500 - \$1,000 per inspection
- Condition or Engineering Assessments - \$2,500 - \$10,000 per assessment

The proposal to flag demolition permits for properties built prior to 1940 will not have a financial impact because the process will be conducted with existing resources.

Administration will have more information on costs once pre-qualification processes are complete. Implementation of these policies and associated costs will be closely tracked through the remainder of 2021 and the results will inform a 2022 budget proposal.

### Policy/Strategic Impact

#### Official Community Plan

Implementing regulatory measures to protect properties regarded as important for heritage value or architectural design is supported by *Design Regina: The Official Community Plan Bylaw No. 2013-48* (OCP). The OCP provides high-level, long-term policy direction, across the city, for such matters as: growth and development; the provision of infrastructure and community services; social, cultural and environmental matters, et cetera. Regarding heritage and architectural design, there are several key policies:

- Section D5 – Policy 7.7.5 requires the City to collaborate with stakeholders to enhance City Centre by supporting historic places, cultural and civic resources and events.
- Section D5 – Policy 7.38 requires the City to consider impacts of alterations, development, and/or public realm improvements on or adjacent to an historic place to ensure heritage value is conserved.
- Section D8 – Policy 10.1 requires the City to build partnerships and work

collaboratively with community groups, other levels of government, and the private and voluntary sectors to encourage cultural development opportunities and conserve historic places.

- Section D8 – Policy 10.2 requires the City to consider cultural development, cultural resources and the impact on historic places in all areas of municipal planning and decision-making.
- Section D8 – Policy 10.3 requires the City to identify, evaluate, conserve and protect cultural heritage, historic places, and cultural resources, including but not limited to public art identified on Map 8 - Cultural Resources, to reinforce a sense of place.
- Section D8 – Policy 10.4 requires the City to protect, conserve and maintain historic places in accordance with the Standards and Guidelines for Historic Places in Canada and any other guidelines adopted by Council.
- Section D8 – Policy 10.5 encourages owners to protect historic places through good stewardship and voluntarily designating their property for listing on the Heritage Property Register.
- Section D8 – Policy 10.6 requires the City to develop a set of cultural heritage themes that reflect Regina’s identity and the diverse values of residents and ensure that the list of historic places recognized within the Heritage Property Register and the Heritage Holding Bylaw adequately represent these themes.

### Regina Cultural Plan

The Cultural Plan, approved in 2016, establishes high-level, long-term policy respecting the City’s cultural objectives, which includes the arts, heritage, cultural diversity, community identity and sense-of-place (architectural design factors into this category). One of three overarching goals of the Cultural Plan is to commemorate and celebrate Regina’s Cultural Heritage, including objectives to demonstrate leadership through the management of the Heritage Conservation Program; conserve cultural heritage resources and ensure new development contributes to sense-of-place.

### **Environmental Impact**

None with respect to this report.

### **OTHER OPTIONS**

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1. Approve the proposed heritage conservation processes with specific amendments.
2. Refer the report back to Administration. If Executive Committee has specific concerns with the proposed processes it may refer it back to Administration to consider further recommendations and direct that the report be reconsidered by Executive Committee or brought back directly to City Council to follow such further review.
3. Refer these recommendations to the full review process coming forward in Q3 2021.
4. Deny the proposed process changes.

## COMMUNICATIONS

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Stakeholders will receive a copy of the report and notification of the meeting to appear as a delegation. Stakeholders were identified as heritage interest groups, property owners and realtors. Should the recommendations in this report be accepted, the Building & Demolition and Heritage Properties & Conservation pages on Regina.ca will updated to inform residents of changes to City processes.

## DISCUSSION

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### The Heritage Property Act

*The Heritage Property Act (Act)* enables a council to designate a property as a Municipal Heritage Property and authorizes council to make rules with respect to the criteria and procedures for such designations. The Act also enables a council, by general bylaw or resolution, to deny any permit for alteration or demolition of property, for not more than 60 days, where the council wishes to consider heritage designation for the property or inclusion in a Municipal Heritage Conservation District.

### Heritage Inventory Policy

In 2018, the City engaged the services of an experienced heritage consultant, Donald Luxton and Associates (Consultant) to review the Heritage Holding Bylaw. Based on this review, City Council approved the repeal of the Heritage Holding Bylaw, to be replaced with the Heritage Inventory Policy. The Heritage Inventory Policy is intended to ensure that properties that may have heritage value and potential for designation are identified on an inventory. Administration can add properties to the Heritage Inventory to ensure that significant historic places are identified and that all themes are represented. Only City Council has the authority to remove a property from the Inventory.

Inclusion on the Heritage Inventory does not grant a property legal protection. However, it does signal that a heritage evaluation should be conducted, and heritage designation considered before a demolition or alteration permit is approved. Under the current policy, when the City receives an application for major alteration or demolition of a property on the Heritage Inventory, Administration evaluates the property's heritage value, using the Heritage Inventory Evaluation Form. Based on the evaluation, Administration provides a recommendation to Council to either remove the property from the Heritage Inventory, therefore allowing the alteration or demolition, or to designate the property.

Inventory properties are evaluated as having either Grade 1, Grade 2, or insufficient heritage value. Grade 1 means the property demonstrates exceptional, rare qualities in the evaluation criteria and therefore has city-wide significance and is a high priority for conservation. Administration recommends designation of Grade 1 properties. Grade 2 represents neighbourhood-wide significance and Administration would recommend designation of these properties if the owner requests designation. If a property is found to have insufficient significance to warrant designation or is so altered it no longer conveys its

heritage significance, Administration recommends it be removed from the Inventory.

When the Heritage Inventory Policy was approved, over 200 properties were transferred from the Heritage Holding Bylaw to the Heritage Inventory. Through the Heritage Inventory Policy, all properties on the Inventory require evaluation. Administration is working with Donald Luxton & Associates to evaluate all properties on the Inventory, a process that is anticipated to take until 2024. As of February 2021, 176 properties remain to be evaluated.

### Third-Party Review

Recent applications for demolition or alteration to properties on the Heritage Inventory have been contentious within the community. Administration has identified the need for a third-party review process to improve confidence in heritage evaluations and heritage impact assessments including an independent, professional and expert opinion in the application process. This process will allow property owners or the City to request a third-party review in two instances:

- For properties on the Heritage Inventory or flagged by Administration as having potential heritage value during the building and development permit process, property owners or the City may request a third-party to complete an evaluation of the property's heritage value, as per the Heritage Inventory Policy. This evaluation is used to make a recommendation to Council to either designate a property or remove it from the Inventory.
- For designated heritage properties, property owners or the City may request a third-party heritage impact assessment of a proposed alteration.

If a review is requested by the property owner, the review will be conducted before the application is heard by Regina Planning Commission and City Council.

It is proposed that the City identify and pre-qualify a list of architects and heritage consultants available to conduct third-party reviews. This process will also provide more insight into the time requirement and cost for such reviews. It is proposed that the costs will be covered by the City when the City requests the review and covered by the property owner when the owner requests the review. This will require an amendment to *The Development Application Fee Bylaw*.

### Condition Assessment

Currently, the City does not typically assess condition when considering heritage designation. The feasibility of rehabilitating a designated heritage property or property on the Heritage Inventory, and the sufficiency of available incentives to address the needs of these properties, have been at the center of public debate on recent demolition and alteration applications.

### *Property Inspection at Time of Designation*

To understand the condition of a property, it is proposed that going forward the City commission a home or commercial property inspection prior to heritage designation. The property inspection is intended to provide all parties with a third-party perspective of high

priority actions to ensure the property is conserved, as well as information on the structural integrity of the property and if improvements can be made while maintaining the heritage characteristics of the property. A home or commercial property inspection can flag structural issues at a reasonable cost. If a property inspection flags serious concerns about the structural integrity of a property, Administration may commission an engineering assessment to gather more details about the severity of structural issues and how these issues may be addressed. Understanding the work required to rehabilitate a property is necessary to ensure the property can continue to convey its heritage value after work is completed.

#### *Assessments to Understand Financial Viability*

While best practices recommend that heritage value and the feasibility of rehabilitation be considered separately, it is important to consider if it is economically viable to rehabilitate a property while still retaining the heritage value. Conservation of a heritage property can require substantial financial investment from both private and public sources. The ability of the property owner to invest their share depends on a variety of factors including their personal financial position, the type of property and capacity to generate future income. Heritage designation represents a financial investment by the City, as these properties are eligible for heritage incentives such as tax exemptions and grants. Council has directed additional study of incentives that will support its heritage conservation objectives, and recommendations on additional tools will be brought forward for consideration in October 2021. The Standards and Guidelines for the Conservation of Historic Places in Canada advise that reconstruction of an historic place should not be considered conservation. A condition assessment helps the City to prioritize those properties where the level of heritage value, condition and resources available for conservation are in balance.

Administration proposes the introduction of a formal process to request and consider condition assessment and opinion of cost for property owners seeking major alteration or demolition of designated properties or properties on the Heritage Inventory. The assessment shall be provided based on a minimum acceptable level of conservation, as determined by the City. Administration will identify and pre-qualify a list of engineers available to conduct condition assessments. This process will also indicate expected costs of an assessment.

The cost of conducting a home or commercial property inspection at the time of designation is to be borne by the City, as this information is intended to provide a baseline for future inspections or applications. If a property owner applies to the City for major alterations or demolition of a designated property, the condition assessment and opinion of cost shall be paid for by the property owner and included in their application.

Administration will continue to evaluate how the City utilizes condition assessments for heritage conservation and bring forward more comprehensive recommendations in Q4 2021.

#### Maintenance of Heritage Properties

The Act requires property owners to maintain the integrity of a designated heritage property.

Council also has the authority to issue orders for maintenance and repair to designated heritage properties. If an owner chooses not to comply with a repair order, the City can perform the necessary work and register an interest based on the costs incurred against the property's title. The interest requires the City be repaid its costs in the event the property is sold.

It is not uncommon for Canadian municipalities to adopt a minimum maintenance standard for designated heritage properties. As part of the HBRP review, the Consultant is developing recommendations for a minimum maintenance standard for the City. The City does not have authority to compel maintenance of properties on the Heritage Inventory.

#### Routine Inspection of Heritage Properties

The Act grants a municipality the power to enter and inspect a designated heritage property or property proposed to be designated. This authority requires written authorization of Council and that reasonable notification be provided to the occupant. To enter and inspect a property that is a private dwelling, the municipality must also have either permission of the occupant or an order from the Court of Queen's Bench.

Currently, the City does not have a standard process for conducting inspections of its 103 designated heritage properties. The City of Saskatoon conducts routine inspections of its 43 designated properties once per year. This process takes between one and two weeks. The inspection is limited to the character-defining elements of the property, as listed under each property's designation bylaw. During these inspections, Administration takes photos of the property's character-defining elements for record-keeping purposes. A formal report of the inspection is not required unless there has been significant change to the property. In most cases, the character defining elements of designated properties in Saskatoon are limited to the exterior of the building. If a portion of the interior is listed in the bylaw, the City requires the property owner's consent to enter the premises. All but one of Saskatoon's 43 municipally designated heritage properties have been designated with the owner's consent.

Administration will enact processes to conduct annual visual inspections of the exterior of all designated heritage properties. When assessing the need to further inspect a property, Administration will consider the following factors:

- Signs of deterioration identified in the visual inspection of the exterior of the property.
- The property is vacant or unoccupied.
- The property owner has not submitted a conservation plan to the City and/or accessed incentives within the previous three years.
- The property owner has submitted an application for alterations or demolition.

If one or more of these factors is applicable, Administration will request the property owner to allow for an inspection. If the property owner does not agree, Administration may seek written authorization from Council to further inspect the property. Administration cannot enter a private dwelling without the owner or occupier's consent or a court order.

Administration will inform property owners that annual exterior inspections will be conducted. Going forward, bylaws that accompany heritage designation will include reference to annual inspections.

If an inspection indicates issues with structural integrity, Council may commission an engineering study to assess the condition of the home. If the assessment indicates issues with the conservation of the property, the property owner will be required to submit a plan that addresses the immediate concerns in a timely manner. If the owner is not compliant, Administration may recommend that Council exercise its power under the Act to address the necessary repairs and register the costs to the title of the property.

#### Identification of Potential Heritage Properties

There are currently over 200 properties on the Heritage Inventory. The intention of the Inventory is to identify properties that require further research and evaluation to determine if heritage designation is warranted. To date, a number of properties on the Inventory have been evaluated by an external consultant. The Consultant is currently evaluating an additional 40 properties using a values-based methodology.

The Heritage Inventory Policy directs that properties be evaluated so that when a property owner is ready to take steps towards designation or alterations, the relevant information is available for Council to make a decision. This approach risks further deterioration of properties while they are listed on the Inventory, if the owner is not inclined towards designation. Administration is preparing a status report for Council on the properties evaluated to date, as well as options to ensure conservation objectives are met.

The Heritage Inventory is not comprehensive. The Consultant is currently developing a nomination process to direct how the City adds properties to the Inventory. In the interim, there is risk that properties not on the Inventory may be issued demolition permits without due consideration of heritage value. To mitigate this risk, Administration is proposing that the building and development permit process be updated to flag properties built before 1940. This does not mean applications for demolition cannot proceed. For these properties, it is proposed that Administration conduct a high-level screening for uniqueness and alignment with the Thematic Framework. This screening will be completed during the existing turnaround targets, currently 10 days for residential permits and 20 days for commercial permits. If a property is identified as having potential heritage value through this process, Administration can add the property to the Heritage Inventory, making the processes in the Heritage Inventory Policy applicable.

Flagging properties built before a specified date to investigate heritage value is a policy employed by other municipalities. The City of Vancouver recently instituted several residential 'retention' RT zones, and has a date built-in that flags properties for heritage review. For example, all houses built prior to 1940 in the First Shaughnessy neighbourhood are flagged. The date differs in the zoning for different neighbourhoods, based on the predominant heritage stock.



The City of New Westminster has two rolling date policies to assist in the identification and conservation of historical buildings which have not yet been recognized or listed in the local Heritage Inventory. When the City receives a demolition permit for a building older than 50 years, Administration initiates an internal review to identify any heritage value. The application may also be reviewed by the Community Heritage Commission and City Council. Because there are a limited number of buildings 100 years old or older in New Westminster, an application for a building of such age results in the automatic production of a heritage assessment to determine the building's history and potential heritage significance.

## **DECISION HISTORY**

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On March 25, 2019 City Council approved the adoption of the Heritage Inventory Policy and that the Executive Director, City Planning & Community Development, or designate, be authorized to establish and maintain an Inventory of Heritage Properties in accordance with the Heritage Inventory Policy (CR 19-20).

The recommendations in this report require City Council approval.

Respectfully Submitted,



Laurie Shalley, Director, Parks, Recreation & Cultural Services

Respectfully Submitted,



3/2/2021

Diana Hawryluk, Executive Director, City Planning & Community Dev.

3/11/2021

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## **ATTACHMENTS**

Appendix A - Third-Party Review Process