



**CITY OF KINGSTON**  
**REPORT TO COUNCIL**

Report No.: 12-178

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**TO:** Mayor and Members of Council

**FROM:** Cynthia Beach  
Commissioner, Sustainability and Growth

**RESOURCE STAFF:** Grant C. Bain  
Director, Planning and Development Department

**DATE OF MEETING:** May 15, 2012

**SUBJECT:** Authority to Undertake Site Visits under the Ontario Heritage Act - By-Law Update

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**EXECUTIVE SUMMARY:**

As approved by Council via *Report to Council No. 05-299* and expressly stated in *By-Law 2005-230*, Council has authorized specific members of staff to undertake site visits for the purposes of the Ontario Heritage Act.

There have recently been staffing changes in both the Planning and Development Department and the Building and Licensing Department, and to the membership of Kingston Municipal Heritage Committee (KMHC). Building Officials within the Building and Licensing Department should also be included in their ability to conduct site visits.

Therefore it is recommended that By-Law 2005-230 be amended to authorize specified staff of the Building and Licensing and Planning and Development Departments, and members of the Kingston Municipal Heritage Committee to undertake site visits under the Ontario Heritage Act. New members of the Kingston Heritage Municipal Committee should be added: John Coleman (KMHC member); Mac Gervan (KMHC member); and Don Taylor (KMHC member).

In addition, several names can be removed from this by-law, including George Wallace, Director, Planning and Development; Marcus Létourneau, Heritage Planner; Katrina Guy, Planner; David Ariss (KMHC); Anthony Barlow (KMHC), and Craig Sims (KMHC).

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**RECOMMENDATION:**

**WHEREAS** Sections 38(1) and 45 on the Ontario Heritage Act, R.S.O. 1990, c. O.18, enable the Council of a municipality to grant authority to any person for the purposes of inspecting property designated or property proposed to be designated; and

**WHEREAS** there have been several staffing changes; and the membership of the Kingston Municipal Heritage Committee has changed;

**THEREFORE**, the Council of The Corporation of the City of Kingston hereby enacts as follows:

**THAT** By-Law No. 2005-230, "A By-Law to Authorize Specific Individuals To Undertake Site Visits or Site Inspections of Property Designated or Property Proposed to be Designated Pursuant to the Ontario Heritage Act, R.S.O. 1990, c.O.18" be amended as follows:

1. The following persons are hereby removed from the list of persons designated for the purposes of carrying out site visits or site inspections pursuant to the provisions of Section 38(1) and Section 45 of the Ontario Heritage Act, R.S.O. 1990, c. O.18:
  - Katrina Guy, Planner;
  - Marcus Létourneau, Heritage Planner;
  - Lindsay Lambert, Planner, Culture and Heritage Division;
  - Marnie Venditti, Manager of Development Approvals; and
  - George Wallace, Director, Planning & Development.
  
2. The following persons are hereby added to the list of persons designated for the purposes of carrying out site visits or site inspections pursuant to the provisions of Section 38(1) and Section 45 of the Ontario Heritage Act, R.S.O. 1990, c. O.18:
  - Shirley Bailey, Manager, Heritage and Urban Design, Planning & Development Department;
  - Ryan Leary, Senior Planner, Heritage; Planning & Development Department;
  - Lindsay Lambert, Planner, Heritage, Planning & Development Department;
  - Ashley Henderson, Heritage Building & Plumbing Official, Building and Licensing Department;
  - Steve Murphy, Manager, Building Section, Building and Licensing Department; and
  - Del Stowe, Permit Supervisor, Building and Licensing Department.

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3. The following persons are hereby removed from the list of persons designated for the purposes of carrying out site visits or site inspections pursuant to the provisions of Section 38(1) and Section 45 of the Ontario Heritage Act, R.S.O. 1990, c. O.18:
- David Ariss;
  - Anthony Barlow; and
  - Craig Sims.
4. The following persons are hereby added to the list of persons designated for the purposes of carrying out site visits or site inspections pursuant to the provisions of Section 38(1) and Section 45 of the Ontario Heritage Act, R.S.O. 1990, c. O.18:
- John Coleman;
  - Mac Gervan; and,
  - Don Taylor;

**AND THAT** the amending By-Law, attached as Exhibit 'A' be presented to Council for all three readings in order to avoid further delays.

**AUTHORIZING SIGNATURES:**

ORIGINAL SIGNED BY COMMISSIONER _____ Cynthia Beach, P.Eng., MCIP, RPP, Commissioner, Sustainability and Growth
ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER Gerard Hunt, Chief Administrative Officer

**CONSULTATION WITH THE FOLLOWING COMMISSIONERS:**

Lanie Hurdle, <i>Community Services</i>	N/R
Denis Leger, <i>Transportation, Properties &amp; Emergency Services</i>	N/R
Jim Keech, <i>President and CEO, Utilities Kingston</i>	N/R

***(N/R indicates consultation not required)***

*K:\Heritage\C11-Reports to Council, Boards and Committees\2012 Reports\12-178 Council Report\_Authority to Undertake Site Visits under the Ontario Heritage Act - By-Law Update\12-178 - Authority to Undertake Site Visits under the OHA - By-law Update (2).doc*

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**OPTIONS/DISCUSSION:**

Under the Ontario Heritage Act, R.S.O. 1990, c. O.18, there are provisions for the examination of designated properties or properties in the process of being designated. Section 38 states the following concerning site visits or site inspections:

*38 (1) For the purpose of carrying out this Part, any person authorized by the council of a municipality in writing, may, upon producing proper identification, inspect at any reasonable time property designated, or proposed to be designated under this Part where notice of intention to designate has been served and published under subsection 29 (3).*

This is reinforced by Section 45 which states properties designated under Part V of the Ontario Heritage Act are subject to Section 38 and the requirements therein. It should also be noted that the current mandate for the Municipal Heritage Committee also provides for site inspections to be made by the Committee members.

Site visits or inspections are an integral part of the approvals process; in order to ensure the accuracy of applications, site visits allow staff to view firsthand what property owners are proposing. This is a necessary part of making a diligent and informed recommendation to Council. Follow-up visits or inspections ensure that the work is completed based on Council's approval and/or with regards to the requirements of the Ontario Heritage Act. These visits or inspections also provide a means of giving advice and developing working relationships with the owners of designated properties.

In 2005, Council approved Report No. 05-299 which included By-Law No. 2005-230, authorizing specific staff and Kingston Municipal Heritage Committee (KMHC) members to undertake site visits for the purposes of the Ontario Heritage Act. This by-law has been updated as required (amending By-Laws 2007-70, 2008-107 and 2009-130). With changes in City staffing and the appointment of new KMHC members, the list of individuals authorized to undertake site inspection needs to be updated. For the Kingston Municipal Heritage Committee, therefore, there are in total nine members of the public, including Peter Gower who is Chair, Bruce Downey who is Vice Chair, Robert Cardwell, John Coleman, John Duerkop, Michael Gemmell, Mac Gervan, Christine Sypnowich, and Don Taylor. Councillor Bill Glover represents Council on the committee.

The legislation is clear that "persons" must be referenced in the by-law. Therefore, the following persons should be added under Clause 1 (a) of By-Law No. 2005-230:

- Shirley Bailey, Manager, Heritage and Urban Design, Planning & Development Department;
- Ryan Leary, Senior Planner, Heritage; Planning & Development Department;
- Lindsay Lambert, Planner, Heritage, Planning & Development Department;

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- Ashley Henderson, Heritage Building & Plumbing Official, Building and Licensing Department;
  - Steve Murphy, Manager, Building Section, Building Department; and
  - Del Stowe, Permit Supervisor, Building and Licensing Department.

The following individuals should be added under Clause 1 (b) of By-Law No. 2005-230:

- John Coleman;
- Mac Gervan; and,
- Don Taylor.

In addition, several people need to be removed from the authorized list. The following individuals should be removed from Clause 1 (a) of By-Law No. 2005-230:

- Katrina Guy, Planner;
- Lindsay Lambert, Planner, Culture and Heritage Division;
- Marcus Létourneau, Heritage Planner;
- Marnie Venditti, Manager of Development Approvals; and,
- George Wallace, Director, Planning & Development.

The following persons should be removed from Clause 1 (b):

- David Ariss;
- Anthony Barlow; and,
- Craig Sims.

Therefore, it is recommended that the attached By-Law 2012- "A By-Law to Amend By-Law No. 2005-230", attached as Exhibit 'A,' be given three readings and approved by Council.

**EXISTING POLICY/BY LAW:**

Ontario Heritage Act, R.S.O.1990, c. O.18. (Ontario)

By-Law No. 2005-230, "A By-Law To Authorize Specific Individuals To Undertake Site Visits Or Site Inspections Of Property Designated Or Property Proposed To Be Designated Pursuant To The Ontario Heritage Act, R.S.O. 1990, c. O.18" (Kingston)

**NOTICE PROVISIONS:**

N/A

**ACCESSIBILITY CONSIDERATIONS:**

N/A

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**FINANCIAL CONSIDERATIONS:**

N/A

**CONTACTS:**

Grant Bain, Director, Planning and Development Department, Ext. 3252  
Shirley Bailey, Manager, Heritage and Urban Design, Ext. 3253

**OTHER CITY OF KINGSTON STAFF CONSULTED:**

Alan McLeod, Senior Legal Counsel, Legal Services, Ext. 1237  
Steve Murphy, Manager, Building Section, Building and Licensing Department, Ext. 3190

**EXHIBITS ATTACHED:**

Exhibit A - By-Law No. 2012-XXX, A By-Law to Amend By-Law No. 2005-230, as amended.

## BY-LAW NO. 2012-XXX

A BY-LAW TO AMEND BY-LAW NO. 2005-230, "A BY-LAW TO AUTHORIZE SPECIFIC INDIVIDUALS TO UNDERTAKE SITE VISITS OR SITE INSPECTIONS OF PROPERTY DESIGNATED OR PROPERTY PROPOSED TO BE DESIGNATED PURSUANT TO THE *ONTARIO HERITAGE ACT*, R.S.O. 1990, C. O.18"

PASSED:

**WHEREAS** Sections 38(1) and 45 of the *Ontario Heritage Act*, R.S.O. 1990, c. 0.18, enable the Council of a Municipality to grant authority to any person for the purposes of inspecting property designated or property proposed to be designated; and

**WHEREAS** there have been several staffing changes and the membership of the Kingston Municipal Heritage Committee has changed;

**THEREFORE**, the Council of The Corporation of the City of Kingston hereby enacts as follows:

1. The following persons are hereby added to the list of persons designated for the purposes of carrying out site visits or site inspections pursuant to the provision of Section 38(1) and Section 45 of the *Ontario Heritage Act*, R.S.O. 1990, c. O.18:
  - Shirley Bailey, Manager, Heritage and Urban Design, Planning & Development Department;
  - Ryan Leary, Senior Planner, Heritage; Planning & Development Department;
  - Lindsay Lambert, Planner, Heritage, Planning & Development Department;
  - Ashley Henderson, Heritage Building & Plumbing Official;
  - Steve Murphy, Manager, Building Section, Building Department; and,
  - Del Stowe, Permit Supervisor, Building Department.
  
2. The following persons are hereby added to the list of persons designated for the purposes of carrying out site visits or site inspections pursuant to the provision of Section 38(1) and Section 45 of the *Ontario Heritage Act*, R.S.O. 1990, c. O.18:
  - John Coleman;
  - Mac Gervan; and
  - Don Taylor
  
3. The following persons are hereby removed from the list of persons designated for the purposes of carrying out site visits or site inspections pursuant to the provision of Section 38(1) and Section 45 of the *Ontario Heritage Act*, R.S.O. 1990:
  - Katrina Guy, Planner;
  - Lindsay Lambert, Planner, Culture and Heritage Division;
  - Marcus Létourneau, Heritage Planner;
  - Marnie Venditti, Manager of Development Approvals; and
  - George Wallace, Director, Planning & Development



4. The following persons are hereby removed to the list of persons designated for the purposes of carrying out site visits or site inspections pursuant to the provision of Section 38(1) and Section 45 of the Ontario Heritage Act, R.S.O. 1990:
- David Ariss;
  - Anthony Barlow; and
  - Craig Sims.
5. This By-law shall come into force and take effect on the date of its passing.

**GIVEN ALL THREE READINGS AND PASSED**

**CITY CLERK  
JOHN BOLOGNONE**

**MAYOR  
MARK GERRETSEN**