



**BEING A BY-LAW TO DELEGATE AUTHORITY FOR THE PROVISION OF POWERS UNDER THE ONTARIO HERITAGE ACT TO THE DIRECTOR OF PLANNING AND DEVELOPMENT OF THE CORPORATION OF THE TOWN OF COBOURG, AND TO REGULATE THE ALTERATION OF HERITAGE PROPERTY AND REPEAL BY-LAW 097-2009**

**WHEREAS** subsection 11(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the “*Municipal Act*”), provides the authority for the council of a municipality to pass by-laws respecting matters within the sphere of jurisdiction for culture, parks, recreation, and heritage; and

**WHEREAS** subsection 23.2(1)(c) of the *Municipal Act*, provides the authority for the council of a municipality to delegate certain legislative and quasi-judicial powers to an individual who is an officer, employee, or agent of the municipality; and

**WHEREAS** subsections 33(15) and 33(16) of the *Ontario Heritage Act, 1990*, R.S.O. 1990, c. O.18, as amended, (“*Heritage Act*”) provides that the council of a municipality may, by by-law, delegate the power to consent to alterations to property designated under Part IV to an employee or official of the municipality after having consulted with its municipal heritage committee; and

**WHEREAS** subsections 42(16) and 42(17) of the *Heritage Act* provides that the council of a municipality may, by by-law, delegate the power to grant permits for the alteration of property situated in a heritage conservation district designated under Part V to an employee or official of the municipality after having consulted with its municipal heritage committee; and

**WHEREAS** section 30.1 of the *Heritage Act* provides that the Council of a municipality may, by by-law, amend a by-law designating a property made under Section 29, and that Section 29 applies with prescribed modifications, to the amending by-law; and

**WHEREAS** the Council of the Corporation of the Town of Cobourg has consulted with the Cobourg Heritage Advisory Committee on November 11, 2024 and received a motion of support.

**NOW THEREFORE BE IT RESOLVED THAT THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWN OF COBOURG ENACTS AS FOLLOWS:**

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### 1.0 Short Title

This By-law may be referred to as the “Heritage Permit By-law”.

### 2.0 Definitions

In this By-law, words shall have the meaning set out in the *Heritage Act*, and, additionally:

“**Applicant**” means the owner of a building or property who applies for a permit or consent in writing, or any person authorized in writing by the owner to apply for a permit or consent in writing on the owner's behalf.

“**Alter**” means alter or alteration as defined in the *Ontario Heritage Act*, RSO 1990, c O.18, as amended.

“**Built Heritage Specialist**” means a person with specialized knowledge, supported by formal training and/or work experience, in the conservation and stewardship of built heritage, and who may be a member of the Canadian Association of Heritage Professionals.

“**Building**” means a building as defined in the *Building Code Act, 1992*, S.O. 1992, c. 23, as amended.

“**Building Code Act**” means the *Building Code Act, 1992*, S.O. 1992, c. 23, as amended, (“*Building Code Act*”) and any regulation passed under it.

**“Cobourg Heritage Advisory Committee”** or **“Committee”** means the Town of Cobourg Municipal Heritage Advisory Committee.

**“Compliant”** means conforming to the Town’s heritage policies, guidelines, and agreements, including any applicable Heritage Conservation District Plans, conservation easement agreements, designation by-laws, and Urban Design Guidelines, as well as accepted conservation standards and practices, including, but not limited to, Parks Canada's *Standards and Guidelines for the Conservation of Historic Places in Canada*, the *Ontario Ministry of Heritage, Sport, Tourism, and Culture Industries’ Eight Guiding Principles in the Conservation of Built Heritage Properties*, and the *Ontario Heritage Toolkit*.

**“Council”** means the Council for the Corporation of the Town of Cobourg.

**“Director”** means the Director of Planning and Development Services for the Town of Cobourg, or their Designate.

**“Demolish”** means to demolish as defined in the *Building Code Act, 1992*, S.O. 1992, c. 23, as amended.

**“Designated Heritage Property”** means property as defined under the *Ontario Heritage Act*, R.S.O. 1990, c.0.18 as amended.

**“Designation By-law”** means a By-Law enacted by municipal Council pursuant to Section 29 or Section 41 of the *Ontario Heritage Act*, R.S.O. 1990, c.0.18 as amended that identifies property and or a defined area or areas to be of cultural heritage value or interest.

**“Emergency Repairs”** means an alteration to a heritage property required to avoid imminent structural, health, safety, and/or security issues. These types of alterations may include more significant interventions in terms of size, scope, or location than those identified as minor.

**“Heritage Attributes”** shall have the meaning set out in the *Ontario Heritage Act*, R.S.O. 1990, c.0.18 and Ontario Regulation 9/06, both as amended, and for greater certainty means:

- a) In relation to real property, and to the buildings and structures on the real property, the attributes of the property, buildings, and structures that contribute to their cultural heritage value or interest and that are defined, described, or that can be reasonably inferred:
  - i. In a By-law designating a property passed under Section 29 of the *Ontario Heritage Act*, R.S.O. 1990, c.0.18 as amended, and identified as heritage attributes, values, reasons for designation, or otherwise;
  - ii. In a Minister’s Order made under Section 34.5 of the *Ontario Heritage Act*, R.S.O. 1990, c.0.18 as amended and identified as heritage attributes, values, reasons for designation, or otherwise;
  - iii. In a By-law designating a Heritage Conservation district passed under Section 41 of the *Ontario Heritage Act*, R.S.O. 1990, c.0.18 as amended, and identified as heritage attributes, values, reasons for designation, or otherwise;
  - iv. In the supporting documentation required for a By-law designating a Heritage Conservation District, including but not limited to a Heritage Conservation District Plan, assessment, or inventory, and as identified as heritage attributes, values, reasons for designation, or otherwise;

- b) The elements, features, or building components that support or protect the heritage attributes, without which the heritage attributes may not be conserved, including but not limited to roofs, walls, floors, retaining walls, foundations, and structural systems.

**“Heritage Conservation District”** means a geographic district established under Part V of the *Ontario Heritage Act*, R.S.O. 1990, c.0.18, as amended.

**“Heritage Conservation District Plan”** means a plan adopted by Council under Part V of the *Ontario Heritage Act*, R.S.O. 1990, c.0.18, as amended to provide direction in the preservation of the heritage attributes of a Heritage Conservation District.

**“Heritage Permit”** means the authorization given in writing by the municipality to make alterations, including demolition, to a heritage property.

**“Information”** means any information requested by the Director, and includes plans, reports, or any other documentation requested by the Director.

**“Listed Property”** means a property included on the Town's Heritage Register as being of cultural heritage value or interest but that is not designated under Part IV or Part V of the *Ontario Heritage Act*, R.S.O. 1990, c.0.18, as amended.

**“Maintenance”** means routine, cyclical, non-destructive actions, necessary to slow the deterioration of a Designated Heritage Property, that do not significantly affect the appearance of the outside of the property and do not involve the permanent removal or loss of heritage attributes, including the following: periodical inspection, property clean-up, gardening and repair of landscape features, replacement of broken panes of glass, minor exterior repairs, including replacement of individual asphalt shingles where there is little or no change in colour or design, repainting where there is little or no change in colour, repointing areas of wall space under 1.5 square meters, caulking and weatherproofing, and any other work defined as maintenance in an individual designation by-law, a Minister's Order made under Section 34.5 of the *Ontario Heritage Act*, R.S.O. 1990, c.0.18, as amended, or in a Heritage Conservation District Plan.

**“Minor”** means of low potential impact because of its type, location, size, or scope.

**“Ontario Heritage Act” or the “Heritage Act”** means the *Ontario Heritage Act*, R.S.O. 1990, c. o.18, as amended or any successor thereof, and includes any Regulation passed under it, as applicable.

**“Owner”** means the person registered on title in the proper land registry office as owner.

**“Permit”** means a permit issued under the *Ontario Heritage Act*, R.S.O. 1990, c. o.18, as amended.

**“Property”** means real property and includes all buildings and structures thereon.

**“Scope of Work”** means a form that summarizes the parameters of the heritage permit.

**“Town”** means the Corporation of the Town of Cobourg.

### **3.0 General Prohibition**

1. No person shall do any of the following on any property situated in a Heritage Conservation District unless the person has a permit issued pursuant to the provisions of this By-law to do so:
  - i. Alter or permit the alteration of any part of the Property other than the interior of any structure or building on the Property; or
  - ii. Erect, demolish or remove any building or structure on the Property or permit the erection, demolition or removal of such a building or structure.
2. No person shall do any of the following on any Designated Property unless a person has the consent in writing of Council or its designate pursuant to the provisions of this By-law to do so:
  - i. Alter the Property or permit the alteration of the Property if the alteration is likely to affect the Property's heritage attributes, as set out in the description of the Designated Property's Heritage attributes that was required to be served and registered under subsection 29 (6) or (14) of the Heritage Act as the case may be; or
  - ii. Demolish or remove a building or structure on a Designated Property or permit the demolition or removal of a building or structure on a Designated Property.
3. Where a permit has been issued pursuant to Section 3 (1) above or consent in writing has been given pursuant to Section 3 (2) of this By-law, no person shall do any work on the building or property for which the permit was issued or the consent in writing given other than the work that has been permitted or authorized in writing.

### **4.0 No Application Required**

1. An owner of a designated heritage property does not require a permit for the following:
  - i. All interior work, except where specifically designated by designation by-law or easement passed under the *Heritage Act*;
  - ii. Alterations as may be described in individual Heritage Conservation District Plans as required by Section 41.1 (5) of the *Heritage Act*; and,
  - iii. Maintenance as defined in this By-law.

### **5.0 Authority for Delegation**

#### **5.1 Delegated Authority for Heritage Permits**

1. Council delegates to the Director the following powers of Council related to the process of granting or refusing permits for minor alterations to designated heritage properties without consultation with the Committee unless consultation is deemed appropriate by the Director. This delegation of authority includes the power to grant approval for the following alterations that are minor in nature, which include but are not limited to:
  - i. Changes that are determined by the Director to have no significant impact on the property's heritage attributes;

- ii. Repainting part of, or the entire exterior of a building, in the same or a historically appropriate colour;
  - iii. Installation of exterior signage;
  - iv. Installation or replacement of eavestroughs or downspouts;
  - v. Installation or replacement of removable storm windows and storm doors with same or historically appropriate materials;
  - vi. Replacement of exterior lights with a similar style and brightness;
  - vii. Replacement of roofing where there is little or no change in colour, materials, or design;
  - viii. Repair of existing features, including wall cladding or siding, awnings, shutters, dormers, cresting, cupolas, cornices, chimneys, brackets, columns, balustrades, soffits and fascia, porches, entrances, foundations, and decorative wood, metal, stone or brick, provided that the same or historically appropriate types of materials are used with details replicating the originals;
  - ix. Repair, restoration, or replication of period doors and windows and their surrounds, with historically appropriate materials;
  - x. Masonry repairs and repointing areas of wall space over 1.5 square meters (or 16 square feet);
  - xi. The erection of standalone accessory buildings and structures, if the entire footprint of the accessory building or structure, including all open porches and spaces is no larger than 10 square metres (or 108 square feet), and is located in the rear yard;
  - xii. The erection and repair of fences;
  - xiii. Repair and replacement of steps, sidewalks, and driveways;
  - xiv. Installation of mechanical and electrical equipment, and vent stacks and exhaust pipes which penetrate the building envelope, as long as they are not visible from the street and are carried out in a manner that does not alter the property's heritage attributes;
  - xv. Revisions or amendments to previously approved permits, only if proposed alterations involve work for items included in the delegated authority; and,
  - xvi. When the interior designation of the Town Hall is affected, including only the permission of temporary exhibitions and for interpretive material, way-finding, signage, civic collection management, and for minor reversible renovations that are not significant in nature.
2. In addition to the delegated authority granted under Section 5.1.1 of this by-law, Council delegates to the Director the following powers of Council related to the process of granting or refusing permits for emergency repairs to designated heritage properties. This delegation of authority includes the power to grant approval for the following emergency repairs, which include but are not limited to:
- i. Temporary measures to stabilize or secure a designated heritage property;

- ii. External structural repairs to porches, balconies, or fire escapes;
  - iii. Internal structural repairs that will affect the exterior façade; and,
  - iv. Significant masonry repairs to load-bearing exterior walls.
3. Where the delegation of authority is granted under Section 5.1.2 of this by-law, Heritage Planning staff shall report to the Committee at the next Committee meeting.
4. In addition to the delegated authority granted under Sections 5.1.1 and 5.1.2 of this by-law in relation to minor alterations and emergency repairs, Council delegates all of the power that Council has respecting the granting of permits to the Director to approve applications for non-minor alterations where consultation with the Committee is aligned. This delegation of authority includes the power to grant approval for any alteration that the Director does not consider to be minor in nature, but which both the Director and the Committee have determined to be Compliant.
5. Where the delegation of authority is granted under Section 5.1.4 of this by-law, Heritage Planning staff shall first consult on these permit applications with the Committee through the process outlined in Section 6.10 of this by-law.
6. In exercising the delegated authority in Sections 5.0 of this by-law, the Director may:
  - i. Consent to alter a designated heritage property under Part IV of the *Heritage Act* or issue a permit to alter a designated heritage property situated within a Heritage Conservation District designated under Part V of the *Heritage Act*;
  - ii. Grant a Part IV consent or issue a Part V permit to alter a designated heritage property subject to written terms and/or conditions; or,
  - iii. Refer an application for a Part IV consent or a Part V permit to alter a designated heritage property to the Committee and Council.
7. Notwithstanding Sections 5.1.1, 5.1.2, and 5.1.4 of this by-law, applications can also be advanced to Council for a decision at the discretion of the Director.
8. Notwithstanding Sections 5.1.1, 5.1.2, and 5.1.4 of this by-law, final approval authority by Council is retained for the following applications for a permit:
  - i. When consent to approve an application for alteration is not recommended by the Director;
  - ii. To remove heritage attributes included in the designation by-law or Heritage Conservation District Plan, or those identified by Heritage Planning staff as being of cultural heritage value;
  - iii. To remove a structure or portion of a structure if the entire footprint of the structure or portion thereof, including all open porches and spaces, is over 10 square metres (or 108 square feet);

- iv. Alterations to a property that would have a significant impact on the cultural heritage value of the property or relevant Heritage Conservation District, if applicable.
  - v. To repeal all, or a portion of a designating by-law under the *Heritage Act* for a designated heritage property.
9. Notwithstanding Sections 5.1.1, 5.1.2, and 5.1.4 of this by-law, Council shall retain all powers and authority under the *Heritage Act* where the Director refers an application to the Committee and Council.
10. Council delegates to the Director the following powers of Council related to the process of amending a designating by-law under Section 30.1 of the *Heritage Act*:
- i. Issue a notice of intention to amend a designation by-law to clarify or correct the statement explaining the property's cultural heritage value or interest or the description of the property's heritage attributes, if the clarification or correction is the result of an approved heritage permit under Sections 33 or 34 of the *Heritage Act* which resulted in a change to either or both portions of the designation by-law; and,
  - ii. Issue a notice of intention to amend a designation by-law to correct the legal description of the property.

## **5.2 Delegation of Authority for Administrative Functions**

1. Council delegates to the Director the following powers of Council related to the process of granting or refusing its consent under Section 33 of the *Heritage Act* or issuing or refusing to issue a permit under Section 42 of the *Heritage Act*:
- i. Request, receive, review, and accept or reject applications, plans, reports, documents, and any other information received from an applicant seeking consent under Subsection 33(2) or a permit under Subsection 42(2.2); and,
  - ii. Upon receipt of an application together with such information and documentation as may be required under Subsection (c), causing a notice of receipt to be served on the applicant under Subsections 33(3) and 42(3) of the *Heritage Act*.
2. Notwithstanding Section 5.2.1 of this by-law, the Committee and Council retains the authority to request additional plans, information, reports, and any other information that is considered necessary that was not required by the Director.
3. Council delegates to the Director the powers of Council to, at any point of time, agree in writing with the property owner to the extension of any time limit under the *Heritage Act*, or agree that any time limit does not apply within which Council must make a decision under the *Heritage Act* for any of the following:
- i. The exception to prescribed event in Subsection 29(1.2) of the *Heritage Act*,
  - ii. The prescribed circumstances to Subsection 29(8)1 of the *Heritage Act*,
  - iii. An application made under Section 32 of the *Heritage Act*,



- iv. An application made under Section 33 of the *Heritage Act*,
  - v. An application made under Section 34 of the *Heritage Act*,
  - vi. An application made under Section 42 of the *Heritage Act*, or,
  - vii. As may be otherwise permitted or prescribed under the *Heritage Act*.
4. On a monthly basis, the Director shall present to the Committee a written list of all decisions made on matters delegated under this By-law.

## **6.0 Processing and Issuance of Permits**

1. An owner wishing to alter a designated heritage property shall submit an application for a permit in writing to the Director, on a form prescribed by the Director, and shall supply the information prescribed in Schedule A of this By-Law that is requested by the Director in order to assess the application. An application shall be deemed complete upon the receipt of all information as requested by the Director, and a notice to this effect shall be provided to the applicant.
2. An owner wishing to demolish or remove a building or structure on a designated heritage property shall submit an application for a permit in writing to the to the Director, on a form prescribed by the Director, and shall supply the information prescribed in Schedule B of this By-law that is requested by the Director in order to assess the application. An application shall be deemed complete upon the receipt of all information as requested by the Director, and a notice to this effect shall be provided to the applicant.
3. Any owner wishing to repeal all, or a portion of, a designation by-law for a designated heritage property, shall submit an application for a permit in writing to the Director, on a form prescribed by the Director, and shall supply the information prescribed in Schedule B of this By-law that is requested by the Director in order to assess the application. An application shall be deemed complete upon the receipt of all information as requested by the Director, and a notice to this effect shall be provided to the applicant.
4. Proposed alterations required for an emergency repair or to address health and safety issues may be authorized by the Director. All emergency approvals shall be reported at the next Committee meeting.
5. For Sections 6.1, 6.2, 6.3, and 6.4 of this by-law, an application shall be deemed complete upon the receipt of all information as requested by the Director, and a notice to this effect shall be provided to the applicant.
6. In evaluating an application for a permit to alter a designated heritage property, Heritage Planning staff may obtain advice from external Built Heritage Specialists with respect to the application, and, at the discretion of the Director, may include a pre-consultation with the Committee on complex development proposals.
7. For all other applications for alterations to designated heritage properties other than those listed in Sections 5.1.1, 5.1.2, and 5.1.4 of this by-law, and where the proposed alteration is likely to affect the property's heritage attributes, the Director will prepare a report summarizing comments, background information, and recommendations for consideration by the Committee.
8. The following processes shall apply to applications brought under this By-Law and where approval is delegated to the Director:

- i. Permit applications shall be completed and submitted to the Director;
  - ii. An application may include plans, photographs, and written information as required under Schedule A;
  - iii. Mandatory pre-consultation shall be undertaken with Heritage Planning staff for major applications (for example, those which require a Draft Plan of Subdivision or Condominium, an Official Plan Amendment, a Zoning By-law Amendment, or a Site Plan application). Pre-consultation may be undertaken with the Committee at the discretion of the Director and/or at the request of the applicant;
  - iv. When an application for a permit is deemed complete pursuant to Section 6.5, a notice of receipt shall be issued to the applicant as provided for under the *Heritage Act*;
  - v. A technical circulation to those internal departments which have an interest in the matter(s) affected is undertaken for all applications, and a site visit is carried out; and,
  - vi. The Director shall issue a permit which includes a scope of work outlining the parameters of the permit, including any conditions of approval.
9. Decisions on delegated matters are presented to the Committee on a quarterly basis for information and to Council on an annual basis for information.
10. For applications brought under this By-law and where approval is delegated to the Director but consultation with the Committee is required:
- i. If the application is supported by the Director and a majority vote of the Committee, then the Director will grant the permit under the authority afforded through Section 5.1.4 of this by-law.
  - ii. The Committee may recommend to the Director that amendments be made to a report's recommendations.
  - iii. Permit approvals issued in this manner will be reported on at the next meeting of the Committee.
11. The following processes shall apply to applications brought under this By-law and where approval is not delegated to the Director:
- i. Following a technical circulation, if necessary, and site visit, the Director shall prepare a report with recommendations which are added to the agenda for the Committee;
  - ii. The Committee shall review the application and any supporting documentation submitted; and,
  - iii. In response to each report brought forward to the Committee, a recommendation of the Committee will be forwarded to Council for consideration. In response:
    - i. The Committee will recommend or not recommend approval of the staff report recommendation;
    - ii. The Committee may recommend to Council that amendments be made to a report's recommendations. Where the Committee

makes such recommendations, the Director may submit a concurrent supplemental response report to Council if the amendments are not supported; and,

- iii. The Committee may recommend the deferral of a report to Council but may not defer a report on its own accord.
  - i. Following a resolution of Council for approval, the Director shall issue a scope of work outlining the parameters of the permit, including any conditions of approval.
12. The Director shall issue documentation outlining the parameters of the permit to an owner of the designated heritage property that has made an application under this By-law in the following instances:
- i. Where the Director's approval has been provided for an alteration of a property;
  - ii. Where Council approval has been provided for the alteration of a property, demolition, or removal of a building or structure on a property;
  - iii. Where Council or the Director is deemed to consent to an application made for a designated heritage property;
  - iv. Where the Ontario Land Tribunal orders that the Town consent to a demolition or removal of a building or structure on a property designated under Parts IV or V of the *Heritage Act*; and,
  - v. Where the Ontario Land Tribunal directs that a permit is issued for a designated heritage property.

### **7.0 Conditions of Heritage Approvals**

1. The Director shall issue documentation outlining the parameters of the permit to an owner of the designated heritage property that has made an application under this By-law in the following instances:
- i. Applicants must permit a site inspection or inspections as part of the review being undertaken prior to the issuance of a permit;
  - ii. No work affecting a heritage attribute of the designated heritage property is to commence until a scope of work has been issued;
  - iii. All applications, plans, specifications, documents, and delegated authority approval or resolution of Council form part of the approved permit, and all work must be carried out in accordance with this documentation and any other information that forms the basis upon which the permit is granted;
  - iv. Any work that deviates from the approved permit is in violation of the permit and is subject to prosecution under the *Heritage Act* and the provisions of this By-law;
  - v. Any material changes to the plans, specifications, documents, reports, or other information that forms the basis upon which a permit is issued requires a further permit application or an amendment to the existing application;
  - vi. The permit holder allows Town staff to inspect the work done under the permit;

- vii. Such other terms and conditions as the Director deems necessary to maintain the heritage attributes of the property; and,
- viii. Such other terms and conditions as may be required in granting consent to the permit application and issuance of the scope of work.

## **8.0 Providing Input on Land Use Planning Applications and Proposals**

1. Where land development proposals are submitted to the Town which include property subject to the *Heritage Act*, they shall be reviewed by the Committee in a timely manner concurrently to the greatest extent possible with other municipal departments and Committees, subject to the following:
  - i. Development applications submitted to the Town under the Planning Act including, but not limited to, Official Plan Amendments, Zoning By-Law Amendments, Plans of Subdivision/Condominium, minor variance applications, consent applications, and site plan control applications, which involve a designated heritage property, a property within a Heritage Conservation District, or a listed property will be circulated to the Committee by the Planning Department for comment;
  - ii. The Committee shall respond to any request for comments received from the Planning Department for consideration in the report to Public Works, Planning, and Development Standing Committee or the Committee of Adjustment as appropriate; and,
  - iii. Where Site Plan Control requires a separate heritage permit application, final approval on the Site Plan Control Application will not be made until the heritage permit application receives consent from Council.

## **9.0 Revocation of Permit**

1. Any permit that has been issued by Council or the Director under this By-law may be revoked by Council or the Director if:
  - i. The permit was issued based on mistaken, faulty, or incorrect information;
  - ii. If, after six months after its issuance, the alteration, construction or demolition in respect of which it was issued has not, in the opinion of Council or the Director been seriously commenced;
  - iii. The alteration, construction, or demolition of the building is, in the opinion of Council or the Director, substantially suspended or discontinued for a period of more than one (1) year;
  - iv. The permit was issued in error; or,
  - v. The holder of the permit requests in writing that the permit be revoked.

## **10.0 Time Limit of Approval**

1. Any permit that has been issued by Council or the Director under this By-law is valid for a period of two (2) years from the date of final approval. All work must be completed within two (2) years of final approval. Any work not completed in this allotted time frame will require the submission of a new application for alteration

2. Notwithstanding the provisions of Section 10.1 of this by-law, where the approved work has been steadily progressing in accordance with the issued scope of work or for any other reasonable cause deemed appropriate by the Director, the permit holder may request a time extension to complete the approved works. Such request must be submitted in writing to the Director at least 90 days prior to the expiration of the two (2) years and must include a timeline for completion of the approved works. In no case will the time extension exceed one (1) year.

## 11.0 Offences

1. Every person who knowingly furnishes false information in an application made pursuant to this By-law, or who fails to comply with any order, direction or requirement made pursuant to this By-law, or who contravenes any provision of this By-law or the *Heritage Act*, is guilty of an offence and on conviction is liable to a fine or to imprisonment as provided by Section 69 of the *Heritage Act*, R.S.O. 1990, c.0.18, as amended.
2. If this By-law is contravened and a conviction entered, the Court in which the conviction was entered or any Court of competent jurisdiction may, in addition to any other remedy, and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.
3. Where a designated heritage property is altered in contravention of this By-law, in addition to any other penalty imposed pursuant to the provisions of Section 69 of the *Heritage Act*, R.S.O. 1990, c.0.18, as amended or pursuant to the Town's Property Standards By-law, the Town, or the Minister, as the case may be, may restore the property as nearly as possible to its previous condition, if it is practicable to do so, and may recover the cost of the restoration from the owner of the property pursuant to the provisions of the *Heritage Act*.
4. Notwithstanding Section 36 above, and in accordance with the provisions of Section 69 of the *Heritage Act*, the municipality or the Minister shall not restore the property if, in the opinion of the municipality or the Minister, the property is in an unsafe condition or incapable of repair, or the alteration was carried out for reasons of public health or safety or for the preservation of the property.
5. Where the provisions of this By-law have been contravened, the process to address the contravention shall be as follows:
  - i. The Director shall conduct an investigation to determine the circumstances and nature of the contravention;
  - ii. Based on the results of the investigation pursuant to a. above and a determination that there has been a breach of the law, the Director shall review with the Prosecutor who may determine whether formal processes are warranted as follows:
  - iii. The Prosecutor may initiate a prosecution in accordance with the provisions of the *Heritage Act* and this By-law;
  - iv. A Property Standards Order may be issued pursuant to the provisions of the Town's Property Standards By-law, and the *Building Code Act*, 1992, S.O. 1992, c. 23, as amended;
  - v. Where warranted and it is practicable to do so, recommend that the property be restored as nearly as possible to its previous condition.

Any such recommendation for restoration shall be referred by the Director to Council for approval;

- vi. Where the investigation reveals that the property owner unknowingly contravened the By-law, the Director may exercise discretion in consultation with Legal Services to resolve the contravention by alternative means. The Director may meet with the owner to discuss the contravention, the penalties that could be imposed and to ensure that the owner is aware of the requirement to obtain a heritage permit for any future alterations. Where deemed appropriate, the Director may recommend that the property owner enter into a Heritage Conservation Easement Agreement with the Town, to be registered on title, to ensure that the current and future owners are aware of the requirements to obtain necessary approvals for alterations to a designated heritage property. Any Heritage Conservation Easement Agreement shall be referred by the Director to the Committee for review and recommendation to Council.

## **12.0 Administrative Monetary Penalties**

1. Administrative Penalty Process By-law 079-2022 applies to each administrative penalty issued pursuant to this by-law.
2. No Person shall fail to comply with any provision or standard of this By-law.
3. Each Person who contravenes any provision of this By-law shall, upon issuance of a penalty notice in accordance with Administrative Penalty Process By-law 079-2022, be liable to pay to the Town an administrative penalty in the amount of:
  - a. \$175 for the remainder of the first day on which the contravention occurs; and
  - b. \$275 for each subsequent day on which the contravention continues.
4. Any notice or document respecting this By-law may be given in writing in any of the following ways and is effective:
  - a. on the date a copy is personally delivered to the Person to whom it is addressed;
  - b. on the third (3rd) day after a copy is sent by regular mail or by registered mail to the Person's last known address;
  - c. upon confirmation of the successful transmission of a copy by facsimile transmission to the Person's last known facsimile transmission number;
  - d. upon sending a copy by e-mail transmission to the Person's last known e-mail address;
  - e. upon a copy being posted on the door of any building or structure on the Person's last known Premises or, where no building or structure exists, on a stake erected by the Officer on the Person's last known Premises; or
  - f. on the date a copy is placed on or affixed in any manner to a Person's motor vehicle.

## **13.0 Council Retains Ultimate Authority Under Legislation**

1. Notwithstanding any provision of this By-law to the contrary, Council may, after notifying the Director, exercise any authority that is delegated to the Director.

### **13.0 Validity**

1. If a Court of competent jurisdiction declares any provision, or any part of a provision, of this By-law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this By-law that each and every provision of this By-law authorized by law be applied and enforced in accordance with its terms to the extent possible according to law.
2. Where a provision of this By-law conflicts with the provision of another By-law in force in the Town, the provisions that establish the higher standards to protect the Town's cultural heritage resources prevails.

### **14.0 Commencement**

1. That By-law 097-2009 be repealed in its entirety.
2. This By-law shall come into effect on the 18<sup>th</sup> day of December, 2024

READ and finally passed in Open Council this 18<sup>th</sup> day of December, 2024.

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Lucas Cleveland, Mayor

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Brent Larmer, Clerk

### **SCHEDULE 'A' Requirements for a Permit Application**

1. The name, address, telephone number, and e-mail address of the Owner or the Owner's authorized representative or agent, if applicable;
2. A signed statement by the owner authorizing the application, if submitted by an agent;
3. Legal description of the property;
4. A site plan or sketch, to scale, showing the location of the proposed work on the property;
5. A statement of the proposed work including a written indication if the proposed alteration is likely to affect the property's heritage attributes as described in the Designation By-law;
6. Drawings of the proposed work showing materials, colours, dimensions, massing and extent of the work;
7. Written specifications for the proposed work;
8. Photographs showing the existing building or landscape condition;
9. Documents pertaining to the proposal, including if relevant, archival photographs, pictures or plans of similarly styled buildings in the community;
10. As may be required by the Director, a Cultural Heritage Impact Assessment, a Conservation Management Plan, or similar, prepared by a Built Heritage Specialist; and;
11. Any other information related to the application as required by the Director.



**SCHEDULE 'B' Requirements for a Heritage Permit to Demolish a Building on A Protected Heritage Property or Remove a Designation By-law**

1. The name, address, telephone number, and e-mail address of the Owner or the Owner's authorized representative or agent, if applicable;
2. Legal description of the property;
3. A site plan or sketch, to scale, showing the location of the proposed demolition or removal;
4. Photographs showing the existing building or landscape condition including all elevations;
5. A Building Condition Assessment, of the building or structure or material part thereof which is proposed to be demolished or removed, prepared by a qualified Engineer;
6. A signed statement by the owner authorizing the application, if submitted by an agent;
7. As may be required by the Director, a Cultural Heritage Impact Assessment, a material salvage plan, or similar, prepared by a Built Heritage Specialist; and,
8. Any other information related to the application as required by the Director.