



## THE CORPORATION OF THE TOWN OF ERIN

### By-Law # 23 – 17

#### Being a By-law to prescribe application requirements and delegate Council's power under the Ontario Heritage Act

**Whereas**, subsection 27(11) of the Ontario Heritage Act (the "Act") authorizes the council of a municipality to require plans and information to accompany a property owner's notice of their intention to demolish or remove a building or structure on property that is included on the Municipal Heritage Register as non-designated property;

**And Whereas**, pursuant to subsections 33(15) and 33(16) of the Act, the council of a municipality may by by-law delegate the power to consent to alterations to property designated under Part IV of the Act, to an employee or official of the municipality after having consulted with the municipal heritage committee on the delegation of such power;

**And Whereas**, pursuant to subsection 42(16) and 42(17) of the Act, 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 of the Act to an employee or official of the municipality after having consulted with its municipal heritage committee on the delegation of such power;

**And Whereas**, pursuant to section 23.1 of the Municipal Act, 2001 the council of a municipality has a general power to delegate administrative powers to municipal staff members;

**And Whereas**, pursuant to subsection 30.1 of the Heritage Act, the council of a municipality may, by by-law, amend a by-law designating a property made under section 29 and section 29 applies, with prescribed modifications, to an amending bylaw;

**And Whereas**, the Council of the Town of Erin has consulted with its municipal heritage committee on the delegation of alteration approval powers under Parts IV and V of the Act;

**And Whereas**, the decision timeline may be extended for decisions made under Parts IV and V of the Act, if agreed upon by the applicant;

**And Whereas**, it is desired to provide for consents and permits for alteration of property designated under the Act where Council's schedule of regular meetings during the summer and during municipal elections may prevent a decision being given within the 90 day period, in emergency circumstances, and for certain classes of minor alterations;

**And Whereas**, it is desired to prescribe the notice and application requirements for alteration, demolition and removal of designated property, for demolition or removal of registered/non-designated property, and for requests to repeal designation by-laws;

**Now Therefore, the Council of the Corporation of the Town of Erin hereby enacts as follows:**

#### **Definitions:**

1. The following definitions apply in this By-law:
  - a. **"Alter"** means to change in any manner and includes to restore, renovate, repair or disturb but does not include to demolish or to remove a heritage attribute.
  - b. **"Committee"** means the Town of Erin Heritage Committee (TEHC), and any person(s) or entity designated to act on its behalf.

- c. **“Council”** means the Council of the Town of Erin.
- d. **“Designated Property”** means real property in the Town, including all buildings, structures, and other features thereon, that has been designated under Part IV or Part V of the Act, or is subject to a notice of intention to designate under Section 29 of Part IV of the Ontario Heritage Act for having cultural heritage value or interest.
- e. **“Director”** means the Director of Planning & Development, and includes any person(s) designated to act in that capacity with respect to this By-law.
- f. **“Non-Designated Property”** means real property in the Town, including all buildings, structures, and other features thereon, that has been included in the register under Section 27 of the Act.
- g. **“Town”** means the Corporation of the Town of Erin or the land within the geographic limit of the Corporation of the Town of Erin as the context requires.
- h. **“Town Clerk”** means the Clerk for the Town of Erin.

**Delegation of Authority:**

2. Council delegates to the Director, the following powers under the Act:

- (a) Consent to the alteration of Designated Property under Part IV, of the Act, or Designated Property located in a heritage conservation district designated under Part V, of the Act;
- (b) Requesting, receiving, reviewing, and accepting or rejecting applications, plans, reports, documents, and any other information received from an Applicant seeking consent under Section 33(2) or a permit under Subsection 42(2);
- (c) Upon receipt of an application together with such information and documentation as may be required under paragraph 2.b of this By-law, causing a notice of complete application to be served on the Applicant under Section 33(4) and a notice of receipt to be served on the Applicant under Section 42(3) of the Act;
- (d) Extending the timeline, if any, in which alterations set out in Part IV consents or Part V permits can be undertaken if the Applicant is not able to complete the works within the required timelines;
- (e) With the agreement of the Applicant and in accordance with Section 33(7) or 42(4) of the Act, extending for a specific period the required 90-day timeline for Council decisions on applications to alter Designated Property;
- (f) Requirements for plans and information to accompany a property owner's notice of their intention to demolish or remove a building or structure on property that is included on the Municipal Heritage Register as non-designated property, in accordance with Section 27(11) of the Act; and
- (g) To issue a notice of intention to amend a by-law under Part IV to clarify or correct the statement explaining the property's cultural heritage value or interest or description of heritage attributes or to correct legal description of property.

3. Notwithstanding Section 2 of this By-law, the authority delegated to the Director under paragraphs 2(a) and 2(b) is limited to the following classes of alterations to Designated Property, and as any of the following activities may be applicable on a case by case in relation to the reasons for designation:

- (a) Exterior repainting of part or the whole of a building or structure;
- (b) Alterations to roofing material and colour;
- (c) Addition/removal/replacement of, or alterations to, permanent hard landscaping features, including but not limited to walkways, driveways, patios, planters, fences, gates, walls, trellises, arbours, and gazebos;
- (d) Addition/removal/replacement of, or alterations to, signage;
- (e) Addition/removal/replacement of, or alterations to, lighting;
- (f) Addition/removal/replacement of, or alterations to, basement windows and window wells;
- (g) Addition/removal/replacement of, or alteration, to, non-heritage features, including but not limited to doors, windows, trim, shutters, railings, stairs, porch flooring, columns, brackets, and decorative features;
- (h) Addition/removal/replacement of, or alterations to, detached single-storey accessory buildings or single-storey wings of structures provided that the work is deemed to be minor in nature, as determined by the Director;
- (i) Minor revisions to previously approved consents or issued permits for alterations that are included in this By-law; and
- (j) Temporary measures reasonably necessary to deal with an emergency situation where the security or integrity of a building or structure at risk of damage.

4. In exercising the delegated authority in Sections 2(a) and 3 of this By-law, the Director may:

- (a) Consent to the alteration of a Designated Property under Part IV of the Act or issue a permit to alter Designated Property situated within a Heritage Conservation District designated under Part V of the Act; or,
- (b) Consent to the alteration of Designated Property under Part IV of the Act or issue a permit to alter Designated Property situated within a Heritage Conservation District designated under Part V of the Act subject to written terms and/or conditions; or,
- (c) Refer an application for a Part IV consent or a Part V permit to alter Designated Property to Council; or,
- (d) Refuse an application, but only in circumstances where Council is unable to make a decision within the required 90-day timeline for applications to alter Designated Property under Part IV and V of the Act and the applicant is unwilling to agree to extend the 90-day timeline;
- (e) Where the Director recommends refusal of a Part IV consent or Part V permit, the application will be circulated to the Town of Erin Heritage Committee for comment and to Council to make a decision.

5. In accordance with Sections 33(6) and 42(4.1) of the Act, the Director, or their designate, in exercising their delegated authority under Section 4.0 of this by-law, will consult with the Town of Erin Heritage Committee.

6. Council shall retain exclusive powers and authority under the Act for the following matters:

- (a) Refusal of heritage permit applications under Sections 33(6)(a)(iii) and 42(4)(b) of the Act, except in the circumstances noted in Section 4(d) above.

- (b) Approval of a heritage permit application under Section 42(4) of the Act for properties situated within a Heritage Conservation District designated under Part V of the Act that are not in accordance with the applicable Heritage Conservation District Guidelines.
- (c) Approval or refusal of applications to demolish or remove properties designated under Part IV or Part V of the Act.

**Requirements Regarding Intention to Demolish Non-Designated Property:**

7. As provided in Section 27(9) of the Act, an owner of Non-Designated Property shall not demolish or remove, or permit the demolition or removal of, a building or structure on the Non-Designated Property unless the owner gives at least 60 days' notice of their intention to do so. For the purpose of Section 27(11) of the Act, notice shall be provided through submission of the form prescribed by the Director and shall supply the following information to the satisfaction of the Director:
  - (a) The name, address, telephone number and e-mail address of the owner or the owner's authorized representative;
  - (b) A site plan drawing or survey showing the location of the proposed demolition or removal;
  - (c) Photographs showing the existing building condition including all elevations; and
  - (d) A Heritage Impact Assessment and/or Cultural Heritage Evaluation Report prepared by a qualified architect licensed to practice in the Province of Ontario or an appropriately qualified heritage consultant who is a member in good standing with the Canadian Association of Heritage Professionals and with relevant and recent expertise preparing Heritage Impact Assessments.
8. The 60 day notice period shall commence upon submission of the information required in section 7, to the satisfaction of the Director.

**Requirements Regarding Heritage Consent/Permit for Part IV Designated Property:**

9. An owner wishing to alter, demolish or remove a building or structure on Part IV Designated Property, or demolish or remove any of its heritage attributes, shall apply for a Heritage Consent/Permit in a form prescribed by the Director and shall supply to the satisfaction of the Director, the following information prescribed in Section 6 of Ontario Regulation 385/21:
  - (a) The name, address, telephone number and, if applicable, the e-mail address of the applicant.
  - (b) The name of the municipality from which consent is being requested.
  - (c) A description of the property that is the subject of the application, including such information as the concession and lot numbers, reference plan and part numbers, and street names and numbers.
  - (d) Photographs that depict the existing buildings, structures and heritage attributes that are affected by the application and their condition and context.
  - (e) A site plan or sketch that illustrates the location of the proposed alteration, demolition or removal.
  - (f) Drawings and written specifications of the proposed alteration, demolition or removal.

- (g) The reasons for the proposed alteration, demolition or removal and the potential impacts to the heritage attributes of the property.
- (h) All technical cultural heritage studies that are relevant to the proposed alteration, demolition or removal.
- (i) An affidavit or a sworn declaration by the applicant certifying that the information required under this section and provided by the applicant is accurate.

In addition, the Director may also require:

- (j) A heritage conservation plan prepared by a qualified architect and/or engineer licensed to practice in the Province of Ontario or heritage consultant specializing in the subject heritage resource.
- (k) Any other information relating to the application as may be required by the Director.

#### **Requirements Regarding Heritage Permits for Heritage Conservation Districts:**

- 10. **Minor Alterations Exempt:** A Heritage Permit is not required for such alterations or classes of alterations that are minor in nature and which are identified as such in the Heritage Conservation District (HCD) Plan.
- 11. **Alteration:** An owner wishing to alter Part V Designated Property located in a HCD shall submit an application in accordance with the requirements of section 9 of this By-law.
- 12. **Demolition:** An owner wishing to erect, demolish, or remove a building or structure on Part V Designated Property located in a HCD, or demolish or remove any attribute of the property, shall submit an application in accordance with the requirements of section 9 of this By-law.

#### **Repeal of Designation By-law:**

- 13. An owner wishing to repeal all or a portion of a designating By-law under Part IV of the Act shall apply in a form prescribed by the Director and shall supply the following information to the satisfaction of the Director upon request:
  - (a) The name, address, telephone number and e-mail address of the owner or the owner's authorized representative;
  - (b) A site plan drawing or survey showing the location of the Designated Property;
  - (c) A Heritage Impact Assessment and/or Cultural Heritage Evaluation Report prepared by a qualified architect licensed to practice in the Province of Ontario or an appropriately qualified heritage consultant who is a member in good standing with the Canadian Association of Heritage Professionals and with relevant and recent expertise preparing Heritage Impact Assessments;
  - (d) Photographs showing the existing building condition including all elevations; and
  - (e) Any other information relevant to the application as may be required by the Director.
- 14. The Director on receipt of a request to repeal a by-law, shall cause notice of the application to be given to the Clerk of the municipality in accordance with Section 32(2) of the Act.

15. Within 90 days after the notice of receipt is served on the owner, or within such longer period as is agreed upon by the owner and the Director, the Director shall make a recommendation to Council, following consultation with the Committee, and Council may consent to the application with or without conditions, or refuse the application.

### **Inspections**

16. The following persons are authorized for the purposes of section 38 of the Act to inspect Designated Property:

(1) Director of Planning and Development, or their designate;

(2) Chief Building Official;

(3) Building Inspector or Plans Examiner;

(4) A person who in the opinion of the Director has special or expert knowledge in relation to the property; and

(5) Municipal Law Enforcement Officers.

17. Authorized persons under section 16 may also, at any reasonable time, enter and inspect any Property subject to this By-law to determine whether there is compliance with this By-law, including a Heritage Permit and any associated conditions, and any order issued under this By-law, which powers shall be exercised in the manner provided for in section 437 of the Municipal Act, 2001.

18. No person shall hinder or obstruct, or attempt to hinder or obstruct, any authorized person who is exercising a power or performing a duty under this By-law.

### **Notices and Orders:**

19. The Director may issue, or cause to be issued, notices and warnings under this By-law.

20. Order to Discontinue: If an authorized person is satisfied that a contravention of this By-law has occurred, they may make an order requiring the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity and every owner or occupier shall comply with the Order to Discontinue.

21. Work Order: If an authorized person is satisfied that a contravention of this By-law has occurred, they may make an order requiring the owner or occupier of the land on which the contravention occurred to do work to correct the contravention and every owner or occupier shall comply with the Work Order.

22. An order under section 21 or 22 shall set out:

(1) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and

(2) the date by which there must be compliance with the order.

23. Orders shall be served upon the owner by personal service or by mailing a copy of the Order by prepaid first class mail or registered mail to the last known address noted on the tax assessment roll.

24. Service by prepaid first class mail or registered mail shall be deemed to be effective on the fourth day after the Order is mailed.

25. If there is evidence that the person in possession of the Property is not the registered property owner then the Order shall be served on both the registered property owner and the person in possession of the Property.

26. Where a time frame is set out in an Order or other document for carrying out any action, an authorized person may extend the time for compliance beyond the established time frame provided such extension is required and is acceptable to the authorized person.

**Penalty:**

27. Every Person who contravenes any provision of this By-law or fails to comply with an order made under this By-law, and every director or officer of a corporation who concurs in such contravention or failure by the corporation, is guilty of an offence and is liable to a fine, and such other penalties, as may be provided for in the Provincial Offences Act, the Municipal Act, 2001, and the Ontario Heritage Act.

28. Where a person has been convicted of an offence, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty imposed by this By-law, make an order prohibiting the continuation or repetition of the offence by the person convicted.

29. In addition to any other remedies provided for by this By-law or by statute, and in accordance with section 69 of the Heritage Act, Council may direct that the Property be restored and authorize persons to enter on the Property at any reasonable time to carry out the restorations, at the Owner's expense.

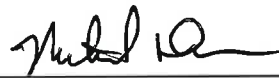
**General and Enactment:**

30. The Town Clerk may exercise all the rights, powers and authority of the Director as delegated in this By-law if the Director is absent or if the position is vacant.

31. In the event of a conflict between any provision of this By-law and the Act, the Act prevails.

32. The provisions of this By-law shall come into full force and effect on the date of final passage hereof.

**Passed in open Council on April 27, 2023.**



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**Mayor, Michael Dehn**



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**Clerk, Lisa Campion**