



THE CORPORATION OF THE TOWN OF OAKVILLE

BY-LAW NUMBER 2022-021

A by-law to delegate Council's power under the Ontario Heritage Act and to repeal By-law 2016-121 and By-law 2018-020

WHEREAS pursuant to subsection 33(15) and 33(16) of the *Ontario Heritage Act* (the "Act"), 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;

WHEREAS pursuant to subsection 42(16) and 42(17) of the *Ontario Heritage 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 to an employee or official of the municipality after having consulted with its municipal heritage committee;

WHEREAS pursuant to subsection 30.1 of the *Ontario 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 by-law;

WHEREAS pursuant to section 37(1) of the *Ontario Heritage Act*, the council of a municipality may pass by-laws providing for the entering into of easements or covenants with owners of real property or interests in real property;

WHEREAS the Council of The Corporation of the Town of Oakville is authorized by subsection 11(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended ("*Municipal Act*"), to pass by-laws respecting matters within the sphere of jurisdiction for culture, parks, recreation and heritage;

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

WHEREAS the Council of the Corporation of the Town of Oakville has consulted with its municipal heritage committee;

COUNCIL ENACTS AS FOLLOWS:

DEFINITIONS

1. In this By-law:

“**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;

“**Building**” means a building as defined in the *Building Code Act*;

“**Building Code Act**” means the *Building Code Act, 1992*, S.O. 1992, c. 23, as amended;

“**Consent**” means a consent issued under Part IV of the *Ontario Heritage Act*;

“**Council**” means the Council for the Corporation of the Town of Oakville;

“**Cultural heritage landscape conservation plan**” or “**CHL conservation plan**” means, for a cultural heritage landscape that is located in whole or in part on a protected heritage property, a conservation plan approved by the Town pursuant to Town By-law 2018-019;

“**Director**” means the Director of Planning Services and the designate or designates of the Director;

“**Municipal Heritage Committee**” means the Heritage Oakville Advisory Committee, or “Heritage Oakville” which reviews heritage permits and other heritage-related matters, and is constituted under Section 28 of the *Ontario Heritage Act*;

“**Ontario Heritage Act**” means the Ontario Heritage Act, R.S.O. 1990, c. O.18, as amended;

“**Permit**” means a permit issued under Part V of the *Ontario Heritage Act*;

“**Protected Heritage Property**” means real property in the Town, including all buildings, structures and other features thereon, that:

- (a) has been designated under Part IV of the *Ontario Heritage Act*;
- (b) has been designated under Part V of the *Ontario Heritage Act*; or
- (c) 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.

“**Structure**” means a building or other manufactured thing erected on land by humans that is distinct in visual form and materials from the land itself and natural elements and includes any structure designated under the Building Code, as amended, a building permit for which has been issued under the authority of the *Building Code Act*; and

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

2. Subject to Sections 3, 4, 6 and 11, the Council hereby delegates to the Director, or their designate, the following powers of Council related to the process of granting or refusing its consent under section 33 of the Act or issuing or refusing to issue a permit under section 42 of the Act:
 - (a) consent to the alteration of a Protected Heritage Property under section 33 of the Act;
 - (b) granting a permit to alter a Protected Heritage Property situated in a heritage conservation district designated under Part V of the Act;
 - (c) requesting, receiving, reviewing and accepting or rejecting 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);
 - (d) 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 Act; and
 - (e) extending the timeline 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 timeline.

3. Notwithstanding Section 2, the authority delegated by Council to the Director under paragraphs 2(a) and 2(b) of this By-law includes any and all alterations to a Protected Heritage Property that is not subject to a CHL conservation plan, except for the following:
 - (a) removal of heritage attributes included in the designation by-law or heritage conservation district plan or identified by Heritage Planning staff as being of cultural heritage value;
 - (b) the construction of a new detached single-storey accessory building or a new single-storey wing of a structure, if the entire footprint of the accessory building or wing, including all open porches and spaces, is over 15 square metres (or 161 square feet);
 - (c) the removal of a detached accessory building or a wing of a structure if the entire footprint of the accessory building or wing, including all open porches and spaces, is over 15 square metres (or 161 square feet);
 - (d) the severance of property made through an application for consent under the *Planning Act*, if the application results in the creation of a new lot or development; and
 - (e) 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.

4. In exercising the delegated authority in sections 2 and 3, the Director may:
 - (a) consent to alter a Protected Heritage Property under Part IV of the Act or issue a permit to alter a Protected Heritage Property situated within a heritage conservation district designated under Part V of the Act; or
 - (b) grant a Part IV consent or issue a Part V permit to alter a protected heritage property subject to written terms and/or conditions; or

- (c) refer an application for a Part IV consent or a Part V permit to alter a Protected Heritage Property to Heritage Oakville and Council.
5. Notwithstanding Section 2 of this By-law, Council shall retain all powers and authority under the Act where the Director refers an application to Heritage Oakville and Council.
 6. With respect to any part of a Protected Heritage Property that is subject to a CHL conservation plan:
 - (a) no consent is required for an action that is listed as a Category A action in the CHL conservation plan; and
 - (b) the delegated authority in paragraphs 2(a) and (b) is limited to an alteration listed as a Category B alteration in the CHL conservation plan.
 7. In exercising the delegated authority in paragraph 6(b) for a property subject to a CHL conservation plan, the Director may:
 - (a) consent to alter a Protected Heritage Property;
 - (b) consent to alter a Protected Heritage Property, subject to written terms and/or conditions; or
 - (c) refer an application to alter a Protected Heritage Property to Heritage Oakville and Council.
 8. The Council hereby delegates to the Director, or their designate, the following powers of Council related to the process of amending a designating by-law under section 30.1 of the Act:
 - (a) issue a notice of intention to amend a designating 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 Act which resulted in a change to either or both of these portions of the designating by-law; and
 - (b) issue a notice of intention to amend a designating by-law to correct the legal description of the property.
 9. The Council hereby delegates to the Director, or their designate, the powers of Council to enter into and execute a heritage easement agreement or covenant in accordance with subsection 37(1) of the Act or to amend a heritage easement or covenant under subsection 37(1) of the Act.
 10. The Council hereby delegates to the Director, or their designate, 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 Act, or agree that any time limit does not apply within which Council must make a decision under the Act for any of the following:
 - (a) the exception to prescribed event in subsection 29(1.2) of the Act;

- (b) the prescribed circumstances to subsection 29(8)1 of the Act;
 - (c) an application made under section 32 of the Act;
 - (d) an application made under section 33 of the Act;
 - (e) an application made under section 34 of the Act;
 - (f) an application made under section 42 of the Act;
 - (g) as may be otherwise permitted or prescribed under the Act.
11. Regardless of any authority delegated to the Director under this By-law, Council may, after notifying the Director in writing, exercise any authority that is delegated to the Director as concerns any or all protected heritage properties or a specific protected heritage property.
12. On a quarterly basis, the Director, or their designate, shall present to Heritage Oakville and Council a written list of all decisions made on matters delegated under this by-law.
13. In the event any provisions of this By-law are deemed invalid or void, in whole or in part, by any court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.
14. By-law 2016-121 and By-law 2018-020 are hereby repealed and replaced by this By-law.

PASSED this 4th day of April, 2022

MAYOR

CLERK