

APPENDIX B



THE CORPORATION OF THE TOWN OF OAKVILLE

BY-LAW NUMBER 2018-020

A by-law to delegate Council's power under Parts IV and V of the *Ontario Heritage Act* to address proposed alterations of protected heritage properties and to repeal By-law 2011-115, as amended

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

AND 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;

AND 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;

AND 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;

AND 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:

“**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;

“**Built heritage resource**” means a building, structure, monument, installation or any manufactured remnant that contributes to a property’s cultural heritage value or interest as identified by a community, including an Aboriginal community. Built heritage resources are generally located on property that has been designated or otherwise protected under Parts IV or V of the *Ontario Heritage Act*, or included on local, provincial and/or federal registers;

“**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-XXX;

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

“**Feature**” means, in relation to a cultural heritage landscape, a built heritage resource, a circulation system, a spatial organization, a visible sign of past or continuing land use or pattern of land use, an archaeological site, a space, a natural element, a visual relationship, a view or a vista that has cultural heritage value or interest or contributes to the cultural heritage value or interest or heritage attributes of the landscape;

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

“**Natural element**” means soil, rock, water and vegetation, and includes a landform, hill, mound, berm, watercourse, water body, ditch, spring, wetland or forest, whether designed or otherwise;

“**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*;

“Town” means the Corporation of the Town of Oakville;

2. Subject to Sections 3, 4, 6 and 8, the Council hereby delegates to the Director, or his or her designate, the following powers of Council related to the process of granting or refusing its consent under section 33 of the *Ontario Heritage Act* or issuing or refusing to issue a permit under section 42 of the *Ontario Heritage Act*:
- (a) consent to the alteration of a Protected Heritage Property under section 33 of the *Ontario Heritage Act*;
 - (b) granting a permit to alter a Protected Heritage Property situated in a heritage conservation district designated under Part V of the *Ontario Heritage 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 *Ontario Heritage Act*;
 - (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; and
 - (f) with the agreement of the applicant and in accordance with subsections 33(5) and 42(4) of the *Ontario Heritage Act*, extending the 90-day timeline in which Council must make a decision on requested alterations to a Protected Heritage Property under Parts IV and V of the *Ontario Heritage Act*.
3. Notwithstanding Section 2, the authority delegated by Council to the Director under paragraphs 2(a) and 2(b) of this By-law is limited to the following alterations to a Protected Heritage Property that is not subject to a CHL conservation plan:
- (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 entire footprint of the accessory building or wing, including all open porches and spaces, is under 15 square metres (or 161 square feet);
 - (i) minor revisions to previously approved consents or issued permits for alterations that are included in this By-law;
 - (j) temporary measures reasonably necessary to deal with an emergency which puts the security or integrity of a building or structure at risk of damage; and
 - (k) severance of property made through an application for consent under the *Planning Act*, provided that the application does not result in the creation of a new lot or development.
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 *Ontario Heritage Act* or issue a permit to alter a Protected Heritage Property situated within a heritage conservation district designated under Part V of the *Ontario Heritage 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 *Ontario Heritage 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. 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.
9. On a quarterly basis, the Director shall present to Heritage Oakville and Council a written list of all decisions made on matters delegated under this by-law.
10. 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.
11. By-law 2011-115 is hereby repealed and replaced by this By-law.

PASSED this 30th day of January, 2018

Rob Burton Mayor

Kathy Patrick Acting Town Clerk