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Date December 16, 2024 **Report No.** 2024-196
To Chair and Members
Brantford Heritage Committee
From Patrick Vusir – Intermediate Planner, Long Range Planning
Planning and Development Services

1.0 Type of Report

Consent Item
Item For Consideration

2.0 Topic **Review of Heritage Procedures and Delegated Authority [Financial Impact - None]**

3.0 Recommendation

- A. THAT Report 2024-196, titled “Review of Heritage Procedures and Delegated Authority” BE RECEIVED; and,
- B. THAT the following comments of the Brantford Heritage Committee BE FORWARDED to Staff:
 - i. _____;
 - ii. _____; and
 - iii. _____.

4.0 Background

The *Ontario Heritage Act* provides the framework for recognizing properties or areas to be of cultural heritage value or interest. Where Council designates a property or a heritage conservation district under the *Ontario Heritage Act*, property owners follow a process to request approval to alter their designated

property (a “heritage permit”). By default, these heritage permit processes give authority to Council to approve, approve with conditions, or deny a request to alter the designated property. The *Ontario Heritage Act* also provide Council with the ability to delegate all or part of its authority related to heritage permits, such as certain classes of alteration, to an employee or official. This delegation of authority is in addition to the general authority to delegate found in the *Municipal Act, 2001*.

On December 20, 2016, Council adopted By-law 148-2016 to set out classes of heritage permit (major and minor) and delegate authority to approve heritage permits with or without conditions while retaining Council’s authority to deny heritage permits; Schedule A to the By-law sets out examples of work under each class (**Appendix A**). Given amendments to the *Ontario Heritage Act* in recent years, Staff proposed in Report 2023-634 (respecting updates to the Heritage Grant Program) that a review of delegated authority would be warranted. This Report builds on that above noted report by considering potential process improvements to the heritage permit review process, which would also potentially allow more time to be dedicated to other matters, such as researching and evaluating listed properties for designation.

5.0 Analysis

This Report discusses procedure updates and discussion of potential new policies or procedures. Section 5.1 examines existing delegated authority. Section 5.2 addresses submission materials specifically as they relate to heritage permit applications. Lastly, Section 5.3 addresses alternative notice. In addition to any amendments or new policies and procedures discussed in the subsections below, Staff would review language and terminology for clarity and consistency with legislation. Staff will draft updated policies and provide those to the Brantford Heritage Committee for review early in 2025 before recommending final policies and by-laws to Council for adoption.

5.1 Review of existing Delegated Authority

5.1.1 Classification of Alterations - Major and Minor Alterations

By-law 148-2016 set out two classes of alteration: Major Alterations require that a heritage permit application be approved while Minor Alterations do not require a “permit” from the City. Schedule A to By-law 148-2016 (**Appendix A**) sets out example

of Major and Minor Alterations. This approach was based on a review of other municipalities' procedures at the time the by-law was prepared.

This approach has been successful at streamlining approvals for heritage permits in Brantford and is routinely considered by other municipalities who are looking to streamline their processes. Staff therefore recommend the approach of classifying "Major" and "Minor" alterations not be changed.

5.1.2 Works within Major and Minor Alteration Categories

In the current by-law, Major Alterations generally include works that:

- Remove or replace heritage attributes (the things that contribute to the heritage value of a designated property).
- Require a permit to construct or demolish under the *Building Code Act, 1992*, including new signs.

In addition to the above, masonry repairs, painting masonry or other features that are previously unpainted, and the construction of fences are considered to be Major Alterations.

In contrast, Minor Alterations generally encompass works that:

- Are repairs or maintenance of existing features and heritage attributes (except for masonry repairs), or replacement with like materials (e.g. same cladding material, same roof material, replacement with a replica in the same or similar material for a heritage attribute).
- Painting doors, cladding and dormers.
- Gardening or removal/planting of minor vegetation (small shrubs, bushes, or trees).
- Construction of patios or decks in the rear yard or roof top that are not visible from the street.
- Installation of utility boxes, antennas, A/C units, and satellite dishes.

The categories established, and the works contained in each category, are generally sufficient but Staff propose the following updates:

- Masonry repairs be reclassified as a Minor Alteration.
- Fence construction be partially reclassified, or split, as follows:
 - Be classified as a Minor Alteration where:
 - An existing fence that is a heritage attribute is being maintained or repaired.
 - A new fence is constructed in a rear yard, or interior side yard behind the front wall.
 - A new fence is constructed in a front or exterior side yard to a maximum height of 1 metre.
 - Remain a Major Alteration if:
 - An existing fence is a heritage attribute (e.g. a wrought or cast iron fence) and it is being removed and/or replaced. This would apply regardless of which yard the work is in.
 - A new fence is proposed to be constructed in the front yard or exterior side yard, and the fence is proposed to exceed 1 metre in height.
- Signs fully in compliance and conformity with the Sign By-law (which includes appended guidelines for signs on heritage properties) be reclassified as a Minor Alteration.
- Construction of pools or detached accessory structures in a rear yard, where the same comply with the Zoning By-law and do not have a major presence towards the street, be classified as a Minor Alteration.

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- Demolition or removal of pools or detached accessory structures on the property where said structures do not possess any cultural heritage value or interest be classified as a Minor Alteration. (Any demolition or removal of heritage attributes would need a Heritage Permit).

5.1.3 Delegation of Authority

In accordance with the *Ontario Heritage Act*, Council has delegated its authority to approve heritage permits (with or without conditions) to the Director of Planning and Development Services as follows:

- For Major Alterations, the Brantford Heritage Committee must be consulted and support the alteration.
- For Minor Alterations, the Director of Planning and Development Services does not need to consult the Brantford Heritage Committee.

Authority to deny a heritage permit is not delegated. If either Staff or the Brantford Heritage Committee would recommend denial then Council retains all decision making authority. The delegation of authority has reduced application processing time from two to three months for all heritage permit applications to approximately one month for Major Alterations and as little as a few days for Minor Alterations.

From 2019 to the present, the City has received approximately 12 Major Alteration applications per year. In that time, only one application has been referred to Council with a recommendation to deny. As the process is working, Staff do not recommend any changes to the delegation of authority, other than reviewing language for clarity in a new by-law.

5.2 Supporting Materials

Where the *Ontario Heritage Act* provides property owners with the ability to apply for heritage permits, it also allows municipal councils to require supporting materials to appropriately review the application. This authority is provided with respect to:

- Applications to alter an individually designated property (subsection 33(3)).
- Applications to demolish a building or structure on, or remove heritage attributes from, an individually designated property (subsection 34(3)).
- Applications to alter properties or buildings; erect, demolish or remove buildings; or remove heritage attributes from a property within a heritage conservation district (42(2.2)).

In addition, Ontario Regulation 385/21 under the *Ontario Heritage Act* provides a list of statutory requirements for applications under sections 33 (alteration) and 34 (demolition or removal) and provides municipal councils with an ability to require information to support the application, provided the requirement is made in the form of a municipal by-law, resolution, or official plan.

To date, the City has relied on a heritage permit application form that specified a “full written description of proposed works” be provided, together with “construction drawings / scale drawings / sketch plan”. The two documents would together, be expected to address:

- *“Overall site dimensions*
- *Specific sizes of building elements (signs, windows, awnings, etc.)*
- *Material and colours to be used (these should be indicated in the written description, but should also be noted on the drawings)*
- *Construction methods and means of attachments (these must also be included in the written description).”*

Staff have made recommendations to applicants on submission material and generally have been successful in receiving material that is needed.

In other instances, some of the materials specified on the application form are not necessary to review the proposal.

Staff propose to use this opportunity to codify requirements for submission of heritage permit applications and demolition applications. Staff also propose that authority will be delegated to allow the Manager of Long Range Planning to determine additional submission requirements that may be required, should that be necessary to understand the full scope of an application. Example submission requirements are:

- An application form, in the form specified by the Manager of Long Range Planning.
- Photographs, as applicable, showing: the property; the area where work is proposed; the condition of any heritage attributes.
- Written description of the proposed work, including if necessary the reasons for the application and/or project work plan.
- Quote or estimate for work.
- Product specifications and/or manufacturer's literature.
- A sketch of the property or proposed work and nature of work.
- Construction drawings (draft, final for submission, or as submitted).
- Building condition assessment or report.
- Engineer's report.
- Any study listed within the City of Brantford Official Plan which may be imposed as a requirement of a complete *Planning Act* application.
- Any additional documents, plans, or information which, in the opinion of the Manager of Long Range Planning, are necessary to understand the scope and implications of the application.

The above materials would be required on a case-by-case basis. For example, a building condition assessment or report may be requested if demolition is proposed and the applicant is claiming that the building is unsafe. For masonry repairs, the application form together with photos of

the existing masonry and a quote for work which specifies the mortar type to be used, could be sufficient. Staff would also prepare guides for property owners and applicants that detail some typical applications (e.g. masonry repair, wood maintenance) and provide a list of details they should submit.

5.3 Alternatives to Newspaper Notice

In several processes, the *Ontario Heritage Act* establishes a requirement that a notice be published in a newspaper having general circulation in a municipality. Given the reduction in newspapers in communities throughout the Province, the *Ontario Heritage Act* was amended to provide with municipalities the ability to create an alternative process for providing notice. Several municipalities (e.g. [Guelph](#), [Hamilton](#), [Markham](#), [Oakville](#)) publish notices on their website; Staff are proposing a similar approach whereby a section of the [Heritage Planning Webpage](#) could include notices as required and this could include companion posts via social media.

5.4 Next Steps

In the course of updating existing delegated authority, Staff anticipate that a number of by-laws may ultimately need to be reviewed and amended or new by-laws passed. The list of by-laws to be amended or adopted may include:

- By-law 148-2016 (heritage delegated authority): to replace the existing delegated authority.
- By-law 70-2010 (Corporate Policy Manual): to add, replace, or amend a policy.
- Chapter 15 of the Municipal Code (Procedure): amend if necessary to align with other by-laws or policies.
- Chapter 26 of the Municipal Code (Boards – Advisory Committees – Duties and Functions): amend if necessary to align with other by-laws or policies.
- Any other by-law or municipal code chapter identified by Legal Services and Clerk Services to ensure alignment with revised procedures.

Staff will work with Clerk Services and Legal Services, and if the Committee is supportive of the changes proposed, Staff will prepare a report for Council's consideration to address the updates discussed in this Report. Should the Committee like to see additional or fewer changes, Staff will report back in the future with draft documents and Committee will have a further chance to review matters and provide final comments before recommended updates are provided to Council for a decision.

6.0 Financial Implications

There are no financial implications to the City arising from this Report.

7.0 Conclusion

Long Range Planning Staff are proposing that existing delegated authority under the *Ontario Heritage Act* be reviewed and updated in light of changes to the Act. In addition, other authority under the *Ontario Heritage Act* could be delegated. The Brantford Heritage Committee is invited to provide comments to Staff for consideration as Staff begin drafting new by-laws and procedures, or amendments to existing by-laws, to implement this review and streamline processes for property owners and the City. If the Committee is supportive of the changes proposed, Staff will prepare a report for Council's consideration. Should the Committee like to see additional or fewer changes, Staff will report back in the future with draft documents and Committee will have a further chance to review matters and provide final comments before recommended updates are provided to Council for a decision.

Prepared by:



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Reviewed By:



Alan Waterfield, MCIP, RPP
Manager of Long Range Planning

Attachments:

Appendix A: Schedule A to By-law 148-2016

In adopting this report, is a by-law or agreement required? If so, it should be referenced in the recommendation section.

By-law required yes no

Agreement(s) or other documents to be signed by Mayor and/or City Clerk yes no

Is the necessary by-law or agreement being sent concurrently to Council? yes no