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Date February 11, 2025 **Report No.** 2025-48

To Chair and Members
Combined Committee of the Whole – Operations & Planning and Administration

From Nicole Wilmot
Commissioner of Community Development

1.0 Type of Report

Consent Item
Item For Consideration

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

3.0 Recommendation

- A. THAT Report 2025-48, titled “Review and Update to Heritage Procedures and Delegated Authority”, BE RECEIVED; and
- B. THAT the necessary by-laws to implement the updates to heritage procedures and delegated authority BE PRESENTED to Council.

4.0 Executive Summary

The *Ontario Heritage Act* allows municipal councils to recognize property for its cultural heritage value and contribution to a community’s character and history. When a property is designated under the *Ontario Heritage Act*, a municipality is given review and approval authority to determine through a heritage permit process if certain alterations are appropriate or would negatively impact the value that was being recognized.

By default, the authority to make these decisions rests with a municipal council, but the Act allows a council to delegate its authority. 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 of By-law 148-2016 sets out the work that is considered "major" or "minor" and is attached to this Report as **Appendix A**. Given changes to the *Ontario Heritage Act* as well as ongoing experience processing heritage permit applications, Staff is recommending that procedures be updated as a formal review has not occurred since adoption of By-law 148-2016.

Staff recommends that the following features of delegated authority be continued:

- Alterations be classified as "major" or "minor" works based on scope. Major works generally have greater potential for impact on the heritage integrity of the property while minor tend to be maintenance works or works with little to no potential impact.
- That approval authority for "major" alterations remains delegated to Staff in consultation with the Brantford Heritage Committee while approval authority for "minor" alterations remains delegated to Staff without the requirement for Brantford Heritage Committee consultation.
- That authority to deny applications remain undelegated by Council. In this instance where Staff and/or the Brantford Heritage Committee recommend denial, Council has the authority to approve, conditionally approve, or deny the heritage applications brought forward for their consideration.

The classification strategy of "major" and "minor" alterations and associated delegation was based on a review of delegation practices in other municipalities in 2016 and this approach remains in frequent use to-date.

Staff are proposing the following updates to delegated authority, based on a review of application types:

- Certain matters that were "major" alterations be reclassified as "minor", namely:
 - Routine masonry repairs;

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- The construction or removal of fences that have no heritage value and comply with the Fence By-law;
 - The construction or removal of accessory structures which do not have heritage value and comply with applicable by-laws; and
 - The construction of signs which fully comply with the Sign By-law's guidelines and regulations for signs on a designated heritage property.
- That Staff be delegated authority to establish submission requirements for heritage permits for designated properties as well as notices of intention to demolish non-designated properties listed on the heritage register, based on recent amendments to the *Ontario Heritage Act*.

Staff consulted the Brantford Heritage Committee with respect to this procedure review in December 2024, and addressed a number of comments with the Committee at its meeting on January 27, 2025. The Committee was supportive of Staff's proposed amendments. Staff will also prepare informational material to assist property owners with submitting applications (e.g. questions to ask their contractor; materials to submit for a given type of application).

5.0 Purpose and Overview

The purpose of this Report is to review and recommend changes to the procedures for reviewing applications under the *Ontario Heritage Act* and associated delegated authority.

6.0 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 provides 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 Report 2023-634 by considering potential process improvements to the heritage permit review process.

7.0 Corporate Policy Context

This Report aligns with **Strategic Theme 5, Priority Action Area: Heritage Designations** of the 2023-2026 Council Priorities. Reduced application processing time further assists in the City achieving its customer service goals and makes owning a designated heritage property easier.

8.0 Input From Other Sources

8.1 Staff in Other Departments

Staff in Planning and Development Services consulted with Staff in Legal Services when preparing the proposed amending by-laws.

8.2 Brantford Heritage Committee

On December 16, 2024, the Brantford Heritage Committee considered [Report 2024-196](#) "Review of Heritage Procedures and Delegated Authority". After reviewing the report, the Committee passed the following resolution:

- 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. *The Brantford Heritage Committee encourages the creation of a process for salvaging materials from major renovations or demolition projects, to reduce environmental impacts and minimize landfill waste.*

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- ii. *The Brantford Heritage Committee suggests establishing clear thresholds between major and minor repairs or projects while considering the types of materials or supplies used in these projects.*
 - iii. *The Brantford Heritage Committee requests that proposed changes be reviewed and presented to the Committee for evaluation in three (3) years to evaluate the effectiveness of the proposed changes.*
 - iv. *The Brantford Heritage Committee requests that guidelines and lists of materials from the Canadian Association of Heritage Professionals be considered when preparing the proposed by-law amendment.*

Staff considered the Committee's comments and conducted further research with respect to certain recommendations. On January 27, 2025, Staff presented an addendum report (Report 2025-88) to the Brantford Heritage Committee to address the Committee's comments:

Comment B.i.: (creation of a process for salvaging materials)

Staff notes there are opportunities to request applicants salvage materials when an application includes a designated heritage property (e.g. as part of a conservation plan), and similarly, comments encouraging salvage could be made when a *Planning Act* application is submitted for a historic property (e.g. at the pre-consultation stage).

While this is possible, Staff notes that it would be a challenge to ensure salvaging has occurred. Also, while salvaged material will not go to the landfill immediately, the material will ultimately lose much of its associative cultural heritage value.

Comment B.ii.: (thresholds for major alterations)

Long Range Planning Staff have spoken with Staff in Building Services who note that the dismantling or reconstruction of load-bearing building components (e.g. a double-brick wall, or framing in wood-frame construction) will typically require a permit; however, if permits are issued for other work, then the dismantling/reconstruction is typically part of the full scope of work. Work requiring a building permit will remain a major alteration.

Staff will create a category for “dismantling or reconstruction of masonry walls” as a major alteration. Staff will also have authority through another category (i.e. “works, which in the opinion of Staff, are more appropriate to review as a Major Heritage Alteration”), in order to direct large scale projects through Brantford Heritage Committee for review and comment.

With respect to regard for specific materials, certain projects are also classified by material type (e.g. re-cladding or re-roofing in the same or similar material is a minor alteration; re-cladding in a different material is a major alteration).

Comment B.iii.: (three-year review)

Staff have no concerns with a three-year review of delegated authority and the classification of alterations and can schedule a review in 2028.

Comment B.iv.: (review of Canadian Association of Heritage Professionals information and materials)

Staff have investigated and note that the Canadian Association of Heritage Professionals website does not provide technical information for products and services on its website.

Staff will continue to review other sources of technical information and, where appropriate, can consider making brochure- or flyer-style guidance for prospective applicants (e.g. questions to ask a mason) and information needed to make applications.

The Heritage Committee voted to receive Report 2025-88 for information and did not have any further comments on the update of delegated authority.

9.0 Analysis

This Report proposes new and updated policies or procedures. Section 9.1 examines existing delegated authority. Section 9.2 addresses submission materials specifically as they relate to heritage permit applications. In addition to amendments to policies and procedures discussed in the subsections below, Staff reviewed language and terminology for clarity and consistency with legislation.

One item discussed in previously with the Brantford Heritage Committee concurrently with the procedural changes below was the possibility of creating

alternative notice procedures, to allow Ontario Heritage Act notices on the City's website rather than the Civic News. This matter was advanced and approved by Council separately, via [Report 2025-2 in January 2025](#).

9.1 Review of existing Delegated Authority

9.1.1 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.

9.1.2 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, except for reconstruction work as detailed in subsection 8.2.
- 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.
- 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).

9.1.3 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

9.2 Supporting Materials

Where the *Ontario Heritage Act* provides property owners with the ability to submit a notice of intention to demolish a non-designated property on the City's Heritage Register, or 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:

- Notices of intention to demolish a non-designated property listed on the City's Heritage Register (subsection 27(11)).
- 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 to evaluate proposed alterations. 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.

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- 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, is often 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.

10.0 Financial Implications

There are no direct financial implications to the City arising from this Report, but the continued delegation of approval authority to Staff will result in savings related to overtime costs for additional agenda items at Heritage Committee. Continued delegated authority will also generally maintain reasonable timeframes for review and decisions on applications.

11.0 Climate and Environmental Implications

There are no climate and environmental implications associated with this Report.

12.0 Conclusion

When a property is designated under the *Ontario Heritage Act* to recognize its heritage value and contribution to a community's history and character, the municipal council is afforded a review of alterations to the property to consider if work will negatively impact the properties unique heritage value. When a non-designated property is listed on the City's Heritage Register, Council has the right to be notified of demolition plans and to consider if designation is warranted. In Brantford, Council has delegated its authority via By-law 148-2016. Given amendments to the *Ontario Heritage Act* in recent years and that

the delegation of authority is almost ten years old, Staff have completed a review with Brantford Heritage Committee input and recommend updates which will improve the application process for property owners and the City.



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Commissioner of Community Development

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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