The Corporation of the City of Kawartha Lakes

By-Law 2019-XXX

A By-law to Delegate Authority for the Alteration of Heritage Property in the City of Kawartha Lakes

Recitals

1. Subsections 33(15) and 33(16) of the Ontario Heritage Act, R.S.O. 1990, c. o.18, as amended, provides that a Council of a municipality may pass a 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 its municipal heritage committee.

2. Subsections 42(16) and 42(17) of the Ontario Heritage Act, R.S.O. 1990, c. o.18, as amended, provides that a Council of a municipality may pass a by-law to delegate the power to grant permits for the alteration of a property designated under Part V of the Act to an employee or official of the municipality after having consulted with its municipal heritage committee.

3. Council has deemed it advisable to delegate certain powers to an appointed officer of the City of Kawartha Lakes by position occupied.

4. The delegation is required to be adopted by by-law.

5. Council has consulted with its Municipal Heritage Committee.

Accordingly, the Council of The Corporation of the City of Kawartha Lakes enacts this By-law 2019-XXX.

Section 1.00: Definitions and Interpretation

1.01 **Definitions**: In this by-law,

“alter” means to change in any manner and includes to restore, renovate, repair, erect, and disturb; and “alteration” and “altering” have corresponding meanings;

“City”, “City of Kawartha Lakes” or “Kawartha Lakes” means The Corporation of the City of Kawartha Lakes and includes its entire geographic area;

"City Clerk" means the person appointed by Council to carry out the duties of the clerk described in section 228 of the Municipal Act, 2001;

“Council” or “City Council” means the municipal council for the City;

"designated property" means any property that is designated individually under Part IV of the Ontario Heritage Act or under Part V of the Act as part of a heritage conservation district or is subject to a notice of intention to designate as per subsection 30(2) of the Act and includes buildings, structures, landscape features, and subject lands;

"Director of Development Services" means the person who holds that position and his or her delegate(s) or, in the event of organizational changes, another person designated by Council;

"heritage conservation district" means a heritage conservation district designated under Part V of the Ontario Heritage Act;

"heritage conservation district plan" means a plan adopted by Council to provide direction on the preservation of heritage character and defining elements of a heritage conservation district;

"information" means any information requested by the Director of Development Services, or designate, with regard to an application to alter a designated property including, but not limited to plans, reports, historical documentation and photographs;

"Municipal Heritage Committee" means the Kawartha Lakes Municipal Heritage Committee which makes recommendations to Council and is established under Section 28 of the Ontario Heritage Act;

"Ontario Heritage Act" or **"the Act"** means the Ontario Heritage Act, R.S.O. 1990, c. o.18, as amended or any successor thereof;

"owner(s)" means the owner of a property and includes a corporation or partnership, the heirs, executors, administrators, and other legal representatives of a person to whom the context can apply according to the law including a designated agent making application for approval for the alteration of a property.

1.02 **Interpretation Rules:**

(a) The words "include" and "including" are not to be read as limiting the meaning of a word or term to the phrases or descriptions that follow.

1.03 **Statutes:** References to laws in this by-law are meant to refer to the statutes, as amended from time to time, that are applicable within the Province of Ontario.

1.04 **Severability:** If a court or tribunal of competent jurisdiction declares any portion of this by-law to be illegal or unenforceable, that portion of this by-law shall be considered to be severed from the balance of the by-law, which shall continue to operate in full force and effect.

Section 2.00: Delegated Authority

2.01 **Delegation of Authority:** Council grants the Director of Development Services, or designate, the power to:

(a) request additional information from an owner as may be required to complete an application for alterations to a designated property under the by-law and the power to determine when said application in complete;

(b) consent to the alteration of properties designated under Part IV of the Act, in consultation with the Municipal Heritage Committee, through the granting of heritage permits;

(c) grant heritage permits for the alteration of property situated in a heritage conservation district designated under Part V of the Act;

(d) extend the timeline in which alterations proposed in a previously approved heritage permit can be undertaken if the owner is not able to complete the work in the specified timeframe.

2.02 **Classes of Alterations:** The delegated authority in Section 2.01 (b) and (c) is limited to the following alterations to properties designated either individually under Part IV of the Act or situated in a heritage conservation district designated under Part V of the Act and which do not have a significant negative impact on the heritage attributes of the property or district:

(a) Alterations to or replacement of exterior building elements including, but not limited to, windows, doors, roof finishes, skylights, cladding, cornices, decorative architectural features, porches, verandahs, and storefronts;

(b) Additions to residential buildings;

(c) Construction of accessory buildings;

(d) Construction or modification of agricultural buildings;

(e) New or increased parking areas;

(f) Installation or removal of, or alterations to, hard landscaping features including, but not limited to, walkways, driveways, patios, gazebos, fences, gates, ponds, and walls;

(g) Alterations to landscape features identified in a heritage conservation district plan or designating by-law;

(h) Removal or replacement of, or alteration to, non-heritage features;

(i) Installation or removal of, or alteration to, exterior lighting;

(j) Installation of solar panels;

(k) Installation of above ground and in-ground swimming pools;

(l) Installation of septic systems;

(m) Installation of utilities and associated fixtures;

(n) Installation of or alterations to signage;

(o) Installation of or alterations to accessibility features;

(p) Erection of temporary structures;

(q) Any alterations identified in a heritage conservation district plan as being delegated to staff;

(r) Alterations proposed as part of a municipal financial incentive program;

(s) Alterations necessary to comply with the Ontario Fire Code;

(t) Minor revisions to previously approved heritage permits;

(u) Temporary measures reasonably necessary to deal with an emergency which puts the security or integrity of a building at risk of damage or when the condition of a building or property is a risk to public safety.

2.03 **Part IV Interior Designated Features:** In addition to the alterations identified in Section 2.02 (a) to (u) inclusive, the delegated authority of Section 2.01 extends to designated interior features in applicable properties as designated under Part IV of the Act including:

a) Alteration to or replacement of interior elements including, but not limited to, windows, doors, ceilings, decorative architectural features, stairs, lighting and interior finishes as identified in the designating by-law;

b) Removal or replacement of non-heritage features which impact identified heritage attributes;

c) Installation, alteration or removal of signage and/or interpretive material which impacts identified heritage attributes.

2.04 **Financial Incentive Programs:** The Director of Development Services, or designate, may request the submission of a heritage permit application for any application made with regard to a designated property under a financial incentive program offered by the City and is authorized to review and request additional information as necessary to ensure that projects funded through City programs are consistent with City heritage policy.

2.05 **Reference to Council:** Notwithstanding Section 2.01 of this by-law, the Director of Development Services, or designate, may refer any application to the Municipal Heritage Committee and/or Council as appropriate. In such cases, the Director will prepare a report for Council and Council will retain all powers under the Act.

2.06 **Exercise of Authority:** In exercising the delegated authority in Section 2.01 of this by-law, the Director of Development Services, or designate, in consultation with the Municipal Heritage Committee as appropriate, may:

(a) Grant a heritage permit for an application to alter a designated property; or

(b) Grant a heritage permit for an application to alter a designated property with conditions.

2.07 **Council Retains Authority:** Notwithstanding any provision of this by-law to the contrary, Council may, after notifying the Director of Development Services and the Municipal Heritage Committee, exercise any authority that is delegated to either party.

Section 3.00: Administration and Effective Date

3.01 **Administration of the By-law:** The Director of Development Services is responsible for the administration of this by-law.

3.02 **Effective Date:** This By-law shall come into force on the date it is finally passed.

By-law read a first, second and third time, and finally passed, this XXX day of XXX, 2019.

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Andy Letham, Mayor Cathie Ritchie, City Clerk