

THE CORPORATION OF THE TOWNSHIP OF PUSLINCH

BY-LAW NUMBER 046-2024

Being a by-law to establish a Heritage Permit Process and a by-law to delegate the power to grant Heritage Permits for the alteration of designated heritage properties.

WHEREAS Sections 33(15) and 33(16) of the Ontario Heritage Act. R.S.O. 1990, c. 0.18, as amended (“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;

AND WHEREAS Section 23.2(1)(c) of the Municipal Act, 2001, S.O. 2001, c.25, as amended (“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 Township of Puslinch has consulted with the Heritage Advisory Committee;

NOW THEREFORE the Corporation of the Township of Puslinch hereby enacts as follows:

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1. GENERAL

1.1. Short Title

- (a) This By-law may be referred to as the “Heritage Permit By-law”

1.2. Administration

- (a) The Municipal Clerk or their designate shall be responsible for the administration of this By-law.
- (b) This By-law applies to all Property in the Corporation of the Township of Puslinch (the Township) in accordance with Ontario Heritage Act. R.S.O. 1990, c. 0.18, as amended

1.3. Delegated Authority

- (a) The Municipal Clerk or their designate is authorized and has the delegated authority to:
- (i) Consent to the alteration of properties designated under Part IV of the Act, through the granting of Heritage Permit Waiver;
 - (ii) Deem applications for Heritage Permits complete;
 - (iii) Extend the timeline in which alterations proposed in a previously approved Heritage Alteration Permit and Heritage Permit Waiver can be undertaken if the Owner is not able to complete the works within the required timeline.
 - (iv) Appoint a peer review consultant or other technical expert to fulfill the role or duties of an inspector for the purposes of this By-law;
 - (v) Permit alterations required for an emergency repair or to address health and safety or security issues with or without submission of an application. All emergency approvals shall be reported to the next Council and Committee meeting.
- (b) The delegated authority in Section 1.3.(a)(i) and (ii) is limited to the following alterations to properties designated under Section 29 of Part IV of the Act which do not impact Heritage Attributes identified in the “Statement of Cultural Heritage Value or Interest” adopted as part of the Heritage Designation By-law:
- (i) Exterior repainting of part or the whole of a building or structure;
 - (ii) Alterations to roofing material and colour;
 - (iii) 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;
 - (iv) Addition/removal/replacement of, or alteration to, signage;
 - (v) Addition/removal/replacement of, or alteration to, exterior lighting;
 - (vi) Addition/removal/replacement of, or alteration to, basement windows and window wells;
 - (vii) Addition/removal/replacement of, or alteration to non-heritage features, including but not limited to doors, trim, shutters, railings, stairs, porch flooring, columns, brackets, and decorative features;
 - (viii) Addition/removal/replacement of, or alteration to non-heritage features, including additions or outbuildings;
 - (ix) Construction of detached accessory structures, which do not impact the heritage attributes of the property; and,
 - (x) Temporary measures reasonably necessary to deal with an emergency which puts the security or integrity of a building or structure at risk of damage.
- (c) In exercising the delegated authority in Section 1.3.(a) the Municipal Clerk:
- (i) May grant a Heritage Permit Waiver to alter a Designated Heritage Property; or
 - (ii) May grant an extension or re-issuance of Heritage Permits previously considered by the Committee and approved by Council, where the proposal and relevant policy framework are substantially unchanged since the initial approval;
 - (iii) May refer a Heritage Permit Waiver application to alter a Designated Heritage Property to the Committee and Council;
 - (iv) Shall prescribe and supply the forms required to apply for a Heritage Permit Waiver, Heritage Alteration Permit and Heritage Demolition and Removal Permit;
 - (v) May issue, receive and process notices under any section of the Act;

- (vi) May receive and issue notices of complete or incomplete application for Heritage Permits pursuant to Section 33 and Section 34 of the Act;
 - (vii) Will provide notice to the Puslinch Heritage Advisory Committee for approved Heritage Permit Waivers issued under this delegated authority.
 - (viii) Will bring an information report to the Puslinch Heritage Advisory Committee once quarterly during the calendar year, outlining Heritage Alteration Permits, Heritage Demolition and Removal Permits and Heritage Permit Waivers issued under this delegated authority;
- (d) In addition, the Municipal Clerk or Council may require:
- (i) A Heritage Conservation Plan or Heritage Impact Assessment, prepared by a qualified architect and/or engineer licensed to practice in the Province of Ontario or heritage consultant specializing in the subject heritage resource.
 - (ii) Any other information relating to the application may be required by the Municipal Clerk or Council.
- (e) Notwithstanding Section 1.3(a) of this by-law, Council shall retain all powers and authority under the Act, for the following matters:
- (i) Refusal of a Heritage Permit under 33(6)(a)(iii) of the Act;
 - (ii) Approval of applications to demolish or remove properties designated under Part IV of the Act.

1.4. Severability

- (a) If a court of competent jurisdiction declares any section, or any part of any section, of this By-law to be invalid, or to be of no force or effect, it is the intention of the Township that every other provision of this By-law be applied and enforced in accordance with its terms to the extent possible according to law.

1.5. Responsibility for Other Obligations

- (a) Compliance with this By-law does not relieve the Owner from any responsibility to obtain any other approvals as required from any other government or authority, or compliance with any other obligations.

2. DEFINITIONS

- (a) "Act" means the Ontario Heritage Act, R.S.O. 1990, C.O.18, as amended from time to time; and all definitions included therein;
- (b) "Alter" means to change in any manner and includes to restore, renovate, repair or disturb but does not include to demolish or remove a heritage attribute.
- (c) "Applicant" means the Owner of a Property and includes a Person authorized in writing to act on behalf of the Owner of the Property to apply for a Permit.
- (d) "Application" means a written submission to request or amend a permit, in a form prescribed by the Township.
- (e) "Building" means a permanent or temporary enclosed structure with exterior walls and a roof, and including all attached equipment and fixtures that cannot be removed without cutting into roof or ceiling, floors, or walls.;
- (f) "Municipal Clerk" means the "Municipal Clerk" for the Township of Puslinch.
- (g) "Committee" means the Township of Puslinch Heritage Advisory Committee.
- (h) "Council" means the Council of the Township.
- (i) "Designated Property" means real property in the Township, including all buildings, structures, and other features thereon, that has been designated under Part IV of the Act, or is subject to a

Notice of Intention to Designate under Section 29 of Part IV of the Act, for having cultural heritage value or interest.

- (j) "Heritage Attribute" means, in relation to real property, and to the buildings and structures on the real property, the attributes of the property, buildings and structures that contribute to their cultural heritage value or interest.
- (k) "Heritage Designation By-law" means a designation by-law adopted by Council in accordance with Section 29 of Part IV of the Act.
- (l) "Heritage Permit" means a Heritage Permit Waiver, Heritage Alteration Permit and Heritage Demolition and Removal Permit issued by the Township pursuant to the provisions of this by-law.
- (m) "Inspector" means any person designated by this or any other By-law(s) of the Township as an Inspector or agent of the Township or any persons appointed for the purposes of enforcing this By-law, and includes the Chief Building Official, Building Inspectors, and By-law Enforcement Officers.
- (n) "Maintenance" means the routine, cyclical, non-destructive actions, necessary to slow the deterioration of the Designated Property including the following:
 - a. gardening and repair of landscape features;
 - b. repainting where there is little or no change in colour;
 - c. caulking and weather proofing.
- (o) "Owner" means the registered Owner(s) of the Property.
- (p) "Permit" means a formal authorization issued by the Township under this By-law.
- (q) "Person" includes an individuals, firms, sole proprietorships, partnerships, associations, trusts, corporations, directors and officers of corporations, trustees, and agents, and the heirs, executors, assigns or other legal representatives of a person to whom the context can apply in law.

3. EXEMPTIONS

3.1. Exemptions in this By-law

- (a) An owner of a designated heritage property does not require a heritage permit for the following:
 - (i) All interior work, except where specifically designated by designation by-law or easement passed under the Act;
 - (ii) Typical backyard features that are not readily visible from the public realm such as a patio, garden and tool shed, gazebo, dog house and other small outbuildings less than 10 square metres in size;
 - (iii) Landscaping which does not require heavy machinery and which will not significantly change the appearance of the property; and
 - (iv) Maintenance as defined in this by-law.
- (b) Consultation with staff on the need for an application is recommended.

4. APPLICATION REQUIREMENTS AND PROCESS

4.1. Heritage Permit Waiver

- (a) A Heritage Permit Waiver may be applied for where:
 - (i) For the alteration, construction and demolition of buildings and structures on properties designated under Section 29 of Part IV of the Act which do not impact Heritage Attributes identified in the "Statement of Cultural Heritage Value or Interest" adopted as part of the Heritage Designation By-law.
- (b) Application Requirements for a Heritage Permit Waiver:
 - (i) A complete application must be submitted using the prescribed form, as amended from time to time;
 - (ii) There shall be no application or administrative fee for a Heritage Permit Waiver;

- (iii) The Owner shall be responsible for any third-party cost and recoveries if an external review is required as determined by the Municipal Clerk;
 - (iv) A site plan or sketch showing the location of the proposed work on the property;
 - (v) A statement of the proposed work including an indication if the proposed alteration is likely to affect the property's heritage attributes;
 - (vi) Any drawings, specifications, photographs, paint chips, or additional notes as necessary to fully explain the work to be undertaken;
 - (vii) Approvals of authorities having jurisdiction (Conservation Authority, Source Water Protection); and,
 - (viii) An affidavit or a sworn declaration by the Owner/applicant certifying that the information required and provided is accurate.
- (c) Approval/Refusal Process for a Heritage Permit Waiver:
- (i) All Heritage Permit Waivers are subject to the Municipal Clerk's review.
 - (ii) The Municipal Clerk shall upon receiving all information and material required serve notice on the applicant informing them that the application is deemed complete.
 - (iii) The Municipal Clerk shall make a decision to approve or deny the waiver within 10 business days of deeming the application complete. If the Municipal Clerk denies the waiver, it will be automatically referred to the Heritage Advisory Committee for comment and Council for decision within 30 calendar days of the Municipal Clerks decision to deny the application.

4.2. Heritage Alteration Permit

- (a) A Heritage Alteration Permit must be applied for where:
- (i) For the construction or alteration of building or structures on properties designated under Section 29 of Part IV of the Act which impact Heritage Attributes identified in the "Statement of Cultural Heritage Value or Interest" adopted as part of the Heritage Designation By-law.
- (b) Application Requirements for a Heritage Alteration Permit:
- (i) A complete application must be submitted using the prescribed form, as amended from time to time;
 - (ii) There shall be no application or administrative fee for a Heritage Alteration Permit;
 - (iii) The Owner shall be responsible for any third-party cost and recoveries if an external review is required as determined by the Municipal Clerk;
 - (iv) A site plan or sketch showing the location of the proposed work on the property;
 - (v) A statement of the proposed work including an accompanying brief rationale which addresses alterations likely to affect the property's heritage attributes as described in the designation by-law;
 - (vi) Any drawings, specifications, photographs, paint chips, or additional notes as necessary to fully explain the work to be undertaken;
 - (vii) As may be required, a Heritage Conservation Plan by a Built Heritage Specialist;
 - (viii) As may be required, a Heritage Impact Statement prepared by a Built Heritage Specialist;
 - (ix) Approvals of authorities having jurisdiction (Conservation Authority, Source Water Protection);
 - (x) An affidavit or a sworn declaration by the Owner/applicant certifying that the information
 - (xi) required and provided is accurate; and,
 - (xii) Any other information related to the application as required by the Municipal Clerk or Council.
- (c) Approval/Refusal Process for a Heritage Permit:
- (i) Council approval is required for all Heritage Permit Applications.
 - (ii) The Municipal Clerk shall upon receiving all information and material required, serve notice on the applicant informing them that the application is deemed complete.
 - (iii) The Municipal Clerk shall provide the application and supporting materials once deemed complete to the Heritage Advisory Committee who shall provide their opinion to Council when it makes a decision.
 - (iv) Council shall make a decision in accordance with the legislated timelines under Section 33(7) of the Act and issue notice in accordance with Section 33(6).

- (v) If Council approves a permit with conditions or refuses a permit, the Owner, within 30 days after receipt of the notice may appeal Council's decision to the Tribunal by giving notice of the appeal to the Tribunal and the Municipal Clerk of the municipality setting out the objection to the decision and the reasons in support of the objection, accompanied by the fee charged by the Tribunal.

4.3. Heritage Demolition or Removal Permit

- (a) A Heritage Demolition or Removal Permit must be applied for where:
 - (i) For the demolition or removal of buildings or structures on properties designated under Section 29 of Part IV of the Act impact Heritage Attributes identified in the "Statement of Cultural Heritage Value or Interest" adopted as part of the Heritage Designation By-law.
- (b) Application Requirements for a Heritage Demolition or Removal Permit:
 - (i) A complete application must be submitted using the prescribed form, as amended from time to time;
 - (ii) There shall be no application or administrative fee for a Heritage Demolition or Removal Permit;
 - (iii) The Owner shall be responsible for any third-party cost and recoveries if an external review is required as determined by the Municipal Clerk;
 - (iv) A site plan or sketch showing the location of the proposed demolition or removal within the property;
 - (v) Photographs showing the existing building or structure including all elevations, as well as their condition and context;
 - (vi) Drawings and written specifications of the proposed demolition or removal. As may be required, a building condition assessment prepared by a qualified Engineer of the building or structure or material part thereof which is proposed to be demolished or removed;
 - (vii) The reasons for the proposed demolition or removal and the potential impacts to the heritage attributes of the property or the heritage conservation district. As may be required, a Heritage Impact Statement prepared by a Built Heritage Specialist;
 - (viii) Any technical cultural heritage studies that are relevant to the proposed demolition or removal; and
 - (ix) Any other information related to the application as required by the Municipal Clerk or Council.
- (c) Approval/Refusal Process for a Heritage Demolition or Removal Permit:
 - (i) Council approval is required for all Heritage Permit Applications.
 - (ii) The Municipal Clerk shall, following Council deeming the application complete, serve notice on the applicant informing them that the application is complete.
 - (iii) The Municipal Clerk shall provide the application and supporting materials once deemed complete to the Heritage Advisory Committee who shall provide their opinion to Council when it makes a decision.
 - (iv) Council shall make a decision in accordance with the legislated timelines under Section 34(4.3) of the Act and issue notice in accordance with Section 34(4.2).
 - (v) If Council approves the demolition or removal with conditions or refuses a demolition or removal, the Owner, within 30 days after receipt of the notice may appeal Council's decision to the Tribunal by giving notice of the appeal to the Tribunal and the Municipal Clerk of the municipality setting out the objection to the decision and the reasons in support of the objection, accompanied by the fee charged by the Tribunal.

5. ABANDONMENT, EXPIRY, RENEWAL, TRANSFER, REVOCATION, AMENDMENT AND CLOSURE OF PERMITS

5.1. Abandoned Application

- (a) An Application for a Heritage Permit Waiver or Heritage Alteration Permit will be deemed abandoned and the Application and respective file will be closed, where a period of twelve (12) months has elapsed during which all information, document or fees as required have not been provided to the Township or where the application has not seeing meaningful progress through submissions towards the issuance of a permit.

5.2. Expiry

- (a) A Heritage Permit Waiver, Heritage Alteration Permit and Heritage Removal or Demolition Permit will be issued for a period of two (2) years and expires on the date set-out in the permit, unless otherwise specified as a condition of the permit.

5.3. Transfer

- (a) If title to the Property for which a Heritage Permit has been issued is transferred while the Heritage Permit is in effect, the Heritage Permit shall be automatically revoked unless the new Owner, prior to the time of the transfer, provides the Township with an undertaking, to the satisfaction of the Municipal Clerk, to comply with all Conditions under which the Permit was issued.

5.4. Revocation

- (a) The Municipal Clerk may revoke a Permit for any of the following reasons:
 - (i) It was obtained based on mistaken, false or incorrect information;
 - (ii) It was issued in error;
 - (iii) The Owner and/or Permit holder requests in writing that it be revoked;
 - (iv) The Permit holder has failed to comply with any of the Conditions of the Permit; or
 - (v) The Permit holder is unwilling or unable to comply with the Conditions of the Permit.

5.5. Amendment

- (a) A Owner may submit a request in writing to the Municipal Clerk for an amendment to a Heritage Permit Waiver. A Owner may submit in writing an application to for an amendment to a Heritage Alteration Permit and Heritage Removal or Demolition Permit for consideration by Council.

5.6. Renewal

- (a) A Owner may submit a request in writing to the Municipal Clerk for a renewal of a Heritage Permit Waiver and Heritage Alteration Permit if the only change from the initial Application and Permit is the expiry date. A Owner may make a request in writing to Council for extension for Heritage Removal or Demolition Permits if the only change from the initial Application and Permit is the expiry date.

5.7. Closure

- (a) A Heritage Permit is considered closed when all the Conditions related to the Heritage Permit have been fulfilled to the satisfaction of the Municipal Clerk.

6. ENFORCEMENT

6.1. Entry and Inspection

- (a) Inspectors and the Municipal Clerk may, at any reasonable time:
 - (i) Enter and inspect Property to determine compliance with the provisions of this By-law, or any Condition of a Permit, or Order issued under this By-law. This power of entry does not allow entry into any dwelling;
 - (ii) Require the production of documents for inspection or things relevant to the inspection, inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts.

7. OFFENCE AND RESTORATION PROVISIONS

- (a) Every person who knowingly furnishes false information in an application made pursuant to this By-law, or who fails to comply with any order, direction or requirement made pursuant to this By-law, or who contravenes any provision of this By-law or the Act, is guilty of an offence and on conviction is liable to a fine or to imprisonment as provided by Section 69 of the Ontario Heritage Act, R.S.O. 1990, c.0.18, as amended.
- (b) If this By-law is contravened and a conviction entered, the Court in which the conviction was entered or any Court of competent jurisdiction may, in addition to any other remedy, and to any penalty that is imposed, make an order prohibiting the continuation or

repetition of the offence by the person convicted.

- (c) Where a designated heritage property is altered in contravention of this By-law, in addition to any other penalty imposed pursuant to the provisions of Section 69 of the Act, or pursuant to the Township's other by-laws, as the case may be, the Township may restore the property as nearly as possible to its previous condition, if it is practicable to do so, and may recover the cost of the restoration from the Owner of the property pursuant to the Act.
- (d) Where an order to restore the property is issued, Council may authorize any person in writing to enter on the property to carry out the restorations.
- (e) Notwithstanding clause (d) above, and in accordance with the provisions of Section 69 of the Act, the Township shall not restore the property if, in the opinion of the Township, the property is in an unsafe condition or incapable of repair or the alteration was carried out for reasons of public health or safety or for the preservation of the property.
- (f) Where the provisions of this By-law have been contravened, the process to address the contravention shall be as follows:
 - (i) The Municipal Clerk shall conduct an investigation to determine the circumstances and nature of the contravention;
 - (ii) Based on the results of the investigation pursuant to (i) above and a determination that there has been a breach of the law, the Municipal Clerk shall review with Legal Counsel who may determine whether formal processes are warranted as follows:
 - a. A prosecution may be initiated in accordance with the provisions of the Act and this By-law;
 - b. A Property Standards Order may be issued pursuant to the provisions of the Township's Property Standards By-law, as amended, and the Building Code Act;
 - c. Where warranted and it is practicable to do so, recommend that the property be restored as nearly as possible to its previous condition. Any such recommendation for restoration shall be referred by the Municipal Clerk to Council for approval;
 - d. The Municipal Clerk may exercise discretion in consultation with Legal Counsel to resolve the contravention by alternative means. The Municipal Clerk may meet with the Owner to discuss the contravention, the penalties that could be imposed and to ensure that the Owner is aware of the requirement to obtain a heritage permit for any future alterations.

8. EFFECTIVE DATE

- (a) This by-law shall come into effect on July 10, 2024.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 10 OF JULY 2024.

James Seeley, Mayor

Justine Brotherston, Interim Municipal Clerk