

**THE CORPORATION
OF THE
TOWN OF NIAGARA-ON-THE-LAKE
BY-LAW NO. 2024-022**

**A BY-LAW TO DELEGATE TO THE DIRECTOR OF COMMUNITY AND
DEVELOPMENT SERVICES CERTAIN ASSIGNED COUNCIL
AUTHORITY FOR PROPERTY DESIGNATED UNDER PARTS IV AND
V OF THE ONTARIO HERITAGE ACT**

WHEREAS pursuant to subsections 33(1) and 33(6) of the *Ontario Heritage Act* (the “Act”), the Council of the Corporation of the Town of Niagara-on-the-Lake (“Council”) is the decision-maker in respect to the consent for alterations to designated heritage property under Part IV of the Act;

AND WHEREAS pursuant to subsections 42(1) and 42(4) of the Act, Council is the decision-maker in respect to the granting of permits for the alteration of property within a heritage conservation district under Part V of the Act;

AND WHEREAS pursuant to subsections 33(15) and 33(16) of the Act Council may by by-law delegate the power to consent to alterations to property designated under Part IV of the Act to a municipal employee or official after having consulted with its Municipal Heritage Committee;

AND WHEREAS pursuant to subsections 42(16) and 42(17) of the Act Council 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 a municipal employee or official after having consulted with its Municipal Heritage Committee;

AND WHEREAS pursuant to section 23.1 of the *Municipal Act*, 2001 the council of a municipality has a general power to pass by-laws delegating administrative powers to municipal staff members;

AND WHEREAS pursuant to subsections 33(15) and 42(16) of the Act the Council consulted with its Municipal Heritage Committee on November 1, 2023 and December 6, 2023.

NOW THEREFORE the Council of the Corporation of the Town of Niagara-on-the-Lake enacts as follows:

Definitions

In this By-law:

“**Act**” means the *Ontario Heritage Act*, as amended;

“Alter” means to change in any manner and includes to restore, renovate, repair or disturb and “alteration” has a corresponding meaning;

“Consent” means a motion approved by the Council of the Corporation of the Town of Niagara-on-the-Lake;

“Council” means the Council of the Corporation of the Town of Niagara-on-the-Lake;

“Designation By-law” means the By-law designating a property under section 29 of the Act and which includes a Reason for Designation or a Statement of Cultural Heritage Value or Interest and description of Heritage Attributes;

“Director” means the Director of Community and Development Services or their designate;

“Emergency Work” means alterations in the nature of emergency repairs or removal related to a hazardous condition as confirmed by the Town’s Chief Building Official, in consultation with Town’s heritage staff and other municipal staff as required;

“Heritage Attributes” means the physical features of the property identified in the Reason for Designation or described as heritage attributes in the Designation By-law;

“Heritage Conservation District Plan” a defined area designated by by-law as a heritage conservation district under Part V of the Act with adopted plan including conservation policies and guidelines.

“Municipal Heritage Committee” means the committee appointed by Council under subsection 28(1) of the Act to advise Council on matters related to cultural heritage;

“Municipal Heritage Register” means the Niagara-on-the-Lake Municipal Register of Properties of Cultural Heritage Value or Interest, which contains designated and non-designated properties;

“Permit” means a permit issued under the Act;

“Property” means real property and includes all buildings and structures thereon;

“Town” means the Corporation of the Town of Niagara-on-the-Lake.

1. Delegation of Authority — Part IV of the Ontario Heritage Act

- 1.1 The Director is delegated the following authority with respect to properties that are designated under section 33 of the Act or for which Notice of Intention to Designate has been served under section 29 of the Act:
- 1.1.1 request, receive, review and accept applications and issue notices of complete or incomplete applications for heritage alterations under section 33 of the Act;
 - 1.1.2 set requirements for other information and material to be provided with an application under subsection 33(3), in addition to the prescribed information and material under subsection 33(2);
 - 1.1.3 issue notices of decision under subsection 33(6);
 - 1.1.4 approve heritage applications under section 33 of the Act that meet the definition of Emergency Work; and
 - 1.1.5 approve heritage applications that follow best practice guidance for alterations that belong to the following classes of alterations:
 - a) changes or renovations to additions or outbuildings, such as changes to barns, garages, or modern additions, that are not identified or listed as Heritage Attributes but which may affect Heritage Attributes;
 - b) the removal and planting of trees or plantings identified as a Heritage Attribute, where the trees are confirmed by a certified arborist to be dead, dying or hazardous to people or property (as defined in the Town's Private Tree By-law #5139-19, as amended) and after inspection by the Town's Urban Forestry Officer (or their designate) and in consultation with the Town's Heritage Staff and Chief Building Official;
 - c) minor alterations that are likely to affect the Heritage Attributes of the property:
 - d) repairs to porches and stairs with in-kind materials, dimensions and design;
 - e) repainting in colours from the Town's list of heritage-approved colours as found on the Town's heritage webpage;
 - f) construction of a seasonal patio that is uncovered and unenclosed.
- 1.2 In accordance with section 33 of the Act, the Director, in exercising their delegated authority, shall consult with the Municipal Heritage Committee before consenting to an alteration.
- 1.3 The Director is delegated the authority under subsection 27(11) of the Act to set requirements for plans and information to accompany a property owner's notice of their intention to demolish or remove a building or structure on property that is included on the Municipal Heritage Register as

a non-designated (listed) property.

2. Delegation of Authority — Part V of the Ontario Heritage Act

2.1. The Director is delegated the following authority with respect to properties that are designated under Part V of the Act:

- 2.1.1 request, receive, review and accept applications, and issue notices of receipt for heritage permit applications that are received by the Town under section 42 of the Act;
- 2.1.2 establish the required information for an application under subsection 42(2.2);
- 2.1.3 issue notice of decision under section 42(4);
- 2.1.4 approve heritage permit applications that meet the definition of Emergency Work;
- 2.1.5 approve heritage permit applications that belong to the following classes of alterations:
 - a) changes or renovations to additions or outbuildings such as changes to barns, garages, or modern additions that meet the requirements of the applicable heritage conservation district plan and guidelines;
 - b) landscape alterations including but not limited to tree removal, new hard or soft landscaping, new driveways and fences where the proposed alterations meet the requirements of the applicable heritage conservation district plan or guidelines;
 - c) minor exterior alterations that meet the requirements of the applicable heritage conservation district plan or guidelines;
 - d) Installation of rooftop mechanicals and venting systems or other mechanical equipment, including solar panels not visible from the street that meet the requirements of the applicable heritage conservation district plan or guidelines;
 - e) repainting in colours from the in the Town's list of heritage-approved colours as found on the Town's heritage webpage;
 - f) building additions that do not impact the cultural heritage value of the property or district and meets the requirements of the applicable heritage conservation district plan or guidelines;

- g) demolition of detached accessory structures including barns, outbuildings, and garages where the demolition does not impact the cultural heritage value of the property or district and meets the applicable heritage conservation district plan or guidelines; and
 - h) construction or removal of a seasonal patio that is uncovered and unenclosed and which does not impact the cultural heritage value of the property or district and meets the requirements of the applicable heritage conservation district plan or guidelines.
- 2.1.6 In accordance with subsection 42(4.1) of the Act, the Director, in exercising their delegated authority under subsection 4 of this by-law, shall consult with the Municipal Heritage Committee before consenting to an application.

3. Delegation of Authority — Timelines

- 3.1 The Director is delegated the authority to work with property owners to agree in writing to the extension of any time limit under the Act, or agree that any time limit does not apply within which Council must make a decision under the Act, for any of the following:
- a) the exception to a prescribed event in subsection 29(1.2);
 - b) the prescribed circumstances to subsection 29(8) par. 1;
 - c) an application made under section 32;
 - d) an application made under section 33;
 - e) an application made under section 34;
 - f) an application made under section 42;
 - g) as may be otherwise permitted or prescribed under the Act.

4. Extent of Delegated Authority

- 4.1 This delegated authority includes the authority to approve applications with conditions.
- 4.2 This delegated authority does not include the power to refuse an application.

- 4.3 Applications for alterations that do not belong to the classes of alterations outlined in this by-law will be forwarded to the Municipal Heritage Committee for consultation and Council for decision.
- 4.4 Applications that belong to the classes of alterations outlined in this by-law may be brought to Council for final decision at the discretion of the Director of Community and Development Services.

5. Repeal

- 5.1 This By-law repeals Town by-law 4126-07.

Enacted and passed this 27th day of February, 2024.

LORD MAYOR GARY ZELPA

TOWN CLERK GRANT BIVOL