

The Corporation of the Town of Niagara-on-the-Lake Information Report to Council

SUBJECT: Property Standards and Heritage
DATE: 2025-05-06
REPORT #: CDS-25-079
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DEPARTMENT: Community & Development Services

BACKGROUND INFORMATION

The report has been prepared in response to a request at Council to report back on property standards and heritage buildings. The request originated due to several articles in the local newspaper. The purpose of this report is for information purposes only.

In 2019, the Town's current Property Standards By-law was updated and passed to replace the previous version of the by-law. Generally, By-law 5192-19 covers minimum standards for building condition, exterior maintenance, and property upkeep for all properties, as well as specific direction for maintenance requirements for heritage designated properties. By-law 5192-19 is attached as **Appendix I**.

By-Law Enforcement Philosophy- Engage, Educate, Enforce

The By-law Enforcement Team utilizes an "engage, educate and enforce" philosophy. By-law enforcement is primarily initiated through a complaint-driven approach. The current process for investigating property standards and maintenance is through submitting a service request. Ensuring a complaint is recorded within the Town's Service Request System <https://www.notl.com/service-request-webform> is an important step in the process, in the event a by-law investigation leads to a court proceeding, the complainant may need to appear to provide testimony.

Once the service request is submitted, it is assigned to the By-law Enforcement supervisor, or a member of their team, for inspection. The Town's By-law Enforcement process starts with engaging and educating an owner where a potential by-law violation exists. This approach aids in providing awareness and the opportunity for the property owner to take responsibility in resolving the violation voluntarily without the need for enforcement. If voluntary compliance cannot be achieved, officers will move to enforce by issuing a Notice of Violation or an Order to Comply, and if necessary/applicable, issuing a fine through the Administrative Monetary Penalties System (AMPS). Charges may also be laid through the Provincial Offences Court,

after a Notice of Violation or Order has not been complied with. If the complaint is a health and/or public safety concern, the officer has the discretion to take immediate action by means of enforcement to try to eliminate the hazard. Engaging and educating may not be practical in circumstances of this nature.

Bylaw enforcement officers have the ability to lay AMPS fines for property standards contraventions as outlined within the AMPS bylaw; however, the Town must ensure the property owner is aware of the infractions through issuing an order to comply prior to assessing an AMPS fine.

If an appeal is filed, the Town cannot lay an AMPS fine during the appeal process. The appeal process must be completed first. AMPS fines are tied to timeline compliance which stops if an appeal happens. All fines are established through the bylaw, which only gives a specific amount and cannot be changed, unless the by-law is amended. If the matter proceeds to Court, higher fines may be established and are typically only issued when there is an egregious offence or a continuing offence. In Property Standards, compliance dates to complete the requirements of an order are established by the officer. If the order is appealed, the timeframe is then established by the *Building Code Act*.

Investigation process for Heritage Complaints

Properties that are designated under Part IV (Individual) or Part V (District) of the *Ontario Heritage Act* have certain protections for preservation and conservation of the identified heritage attributes within the designation by-law. As noted earlier in the report, the current Property Standards By-law contains general standards for heritage properties. This section of the by-law builds on the minimum standards for maintenance and occupancy of properties and provides specific direction to conserve heritage attributes.

In this regard, the process for enforcement follows a similar initiation process via a formal service request being assigned to a by-law enforcement officer. The officer will work closely with heritage planning staff to review the complaint and schedule a site visit to perform an inspection. The *Building Code Act* provides powers for inspection as well as provides that an officer may have a person who has expert knowledge assist the officer on site. During the site visit, the officer and heritage planner will gather evidence and take notes for the investigation.

Ideally, at this time, the Staff will seek to work with the property owner to gain compliance. If this is achievable, the enforcement may be paused while the property owner works through the process with staff.

If working with the property owner is not achievable or the heritage resource has deteriorated significantly, the planner would consult with the officer to follow through with enforcement. The officer can issue an Order to Comply, pursuant to the Town's Property Standards By-law. The Order will specify the details for necessary maintenance or repair, location of the violation, by-law section, the compliance date, the date to file an appeal and information on how to appeal, property information, property owner information and general information.

If the officer is unable to make a clear determination but concludes that a potential violation may exist, the officer has the power under the *Building Code Act* to issue a Directive which orders the property owner to provide a report from a certified expert to support the investigation. This is done at the owner's expense and is typically issued before an Order to Comply is issued.

If the Order is not appealed within the timeframe provided, the Order is deemed as final and binding. If compliance is not achieved before the compliance date, the officer can follow through with issuing AMPS fines or Part 3 information, which is filed with the Provincial Offences Court. It is at the discretion of the Officer to issue AMPS penalties or a Part 3, given the nature of the violation. Town practice is to usually issue AMPS penalties as a first step. It is also at the discretion of the officer to extend the compliance date if the property owner is working towards achieving compliance.

Property Standards Order Appeals

If the Order to Comply is appealed, the Property Standards Appeal Committee (comprised of members of the Committee of Adjustment) will hear the appeal and make a decision to confirm, modify or rescind the Order. At the appeal hearing, the Committee would receive a presentation from Staff and the property owner, ask questions and gather information prior to making a decision.

If the property owner or the Town does not agree with the decision of the Committee, they may choose to appeal further to the Superior Court of Justice. The decision of the Court is final and binding.

Supplementary Information

In February 2024, the Supervisor of By-law Enforcement was invited to the Municipal Heritage Committee to provide an overview of the property standards process and heritage properties, and answer questions from the members. As with all meetings, the presentation and Q&A was recorded.

The video of the presentation can be found with the MHC meeting (Item 5.1):

<https://pub-notl.escribemeetings.com/Meeting.aspx?Id=e5b71d7b-5a3e-455c-a9ef-d4205de0c26a&Agenda=Agenda&lang=English>

and the presentation information can be found on the Town's website:

<https://pub-notl.escribemeetings.com/filestream.ashx?DocumentId=29545>

As a helpful resource, Staff will post this information in an accessible location on the Town's website for future reference.

NEXT STEP / CONCLUSION

Through the Engage, Educate and Enforce approach, Town Staff work with owners to achieve compliance and strive to provide exceptional service. For the reasons outlined in this report, at this time, enforcement is initiated on a complaint basis. As with any process, Staff are continuously looking for ways to improve both service delivery and communication. The property standards enforcement process for protection of our designated heritage resources is an example of cross-departmental collaboration and dynamic teamwork.

This report has been shared for information to provide clarity and transparency on the process.

ATTACHMENTS

- Appendix I – Property Standards By-law 5192-19