

Bill No. 156
2015

By-law No. C.P.-_____

A by-law to delegate certain authority of Municipal Council to consent to or grant permits for alterations to heritage designated properties.

WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, c.25, (the "*Municipal Act, 2001*") as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under that or any other Act;

AND WHEREAS section 8(1) of the *Municipal Act, 2001* provides that the powers of a municipality under any Act shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues;

AND WHEREAS subsection 10(1) of the *Municipal Act, 2001* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 10(2) of the *Municipal Act, 2001* permits a municipality to pass by-laws respecting the protection of persons and property and respecting structures including fences and signs;

AND WHEREAS section 23.1 of the *Municipal Act, 2001* provides that section 9 and 11 of the *Municipal Act, 2001* authorizes a council to delegate its powers or duties to a person or body, subject to certain limitations;

AND WHEREAS subsection 33(1) of the *Ontario Heritage Act*, R.S.O. 1990, c. O.18, as amended ("the *Ontario Heritage Act*"), the Municipal Council may make decisions in respect to the consent of alterations of property designated under Part IV of the *Ontario Heritage Act*;

AND WHEREAS under subsections 33(15) and 33(16) of the *Ontario Heritage Act*, Municipal Council may, by by-law, delegate its power to consent to all alterations or with respect to such classes of alterations as are described in the by-law by the council of a municipality, to an employee or official of the municipality if the council has established a municipal heritage committee and has consulted with the committee prior to delegating the power;

AND WHEREAS pursuant to subsection 42(4) of the *Ontario Heritage Act*, Municipal Council may grant permits for the alteration of property located in a Heritage Conservation District designated under Part V of the *Ontario Heritage Act*;

AND WHEREAS under subsections 42(16) and 42(17) of the *Ontario Heritage Act*, Municipal Council may, by-law, delegate its power to grant a permit for specific alterations or classes of alterations for a property situated in a Heritage Conservation District if the council has established a municipal heritage committee and consulted with it before the delegation;

AND WHEREAS Municipal Council has consulted with the London Advisory Committee on Heritage, its established municipal heritage committee, respecting the delegation contained within this by-law;

AND WHEREAS Municipal Council has determined that it is necessary and desirable for the public and in the public interest that it delegate to the City Planner of the City of London some or all of the power to consent to alteration of designated heritage properties and to grant permits for the alteration of property situated in a Heritage Conservation District;

NOW THEREFORE the Municipal Council of The Corporation of the City of London ENACTS as follows:

PART I – DEFINITIONS

1. For the purposes of this By-law, words shall have the meaning set out in the Act and, additionally:

“Act” means the *Ontario Heritage Act*, R.S.O. 1990, c.O.18, as amended;

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

“City of London” means The Corporation of the City of London;

“City Planner” means the person who holds the position of City Planner for The Corporation of the City of London.

“Consent” means a Consent issued pursuant to Section 33 of the Act;

“Heritage Alteration Permit” means a Permit issued pursuant to Section 42 of the Act.

“Heritage Designated Property” means properties protected under Part IV and/or Part V of the Act.

“Heritage Planner” means a person who holds the position of Heritage Planner for The Corporation of the City of London.

“Heritage Conservation District” means a Heritage Conservation District designated under Part V of the Act;

“Information” means any information requested by the City Planner and includes plans, reports or any other documentation requested.

“London Advisory Committee on Heritage” (LACH) means the City’s municipal heritage committee established as pursuant to the Act;

“Municipal Council” means the municipal council of the Corporation of the City of London;

“Owner” means the person registered on title in the proper Land Registry Office as owner of the heritage designated property.

“PEC” means the Planning and Environment Committee, or equivalent.

PART II – DELEGATION OF AUTHORITY TO CONSENT TO OR GRANT PERMITS FOR ALTERATIONS TO HERITAGE DESIGNATED PROPERTIES

2. Municipal Council delegates to the City Planner all of the powers that Municipal Council has regarding the granting of a Consent or a Heritage Alteration Permit or approvals which were assigned to Municipal Council under subsections 33 and 42 of the Act.

3. The delegated authority in Section 2 includes the power to include terms and conditions to the grant of a Consent or a Heritage Alteration Permit.

4. The delegated authority in Section 2 does not include the power:

- a. To refuse an application for a Consent or a Heritage Alteration Permit; or,
- b. To permit the demolition of a structure or building located on a heritage designated property.

5. In the situations noted in Section 4 (a-b), Municipal Council retains the authority prescribed in the Act and shall follow the process described in the Act.

6. In reviewing an application for a Consent or a Heritage Alteration Permit, the City Planner may:

- a. Grant a Consent or a Heritage Alteration Permit;

- b. Grant a Consent or a Heritage Alteration Permit with terms and conditions; or,
 - c. Refer the application for a Consent or a Heritage Alteration Permit to the LACH.
7. The City Planner shall consult with the LACH in situations where an application for a Consent or a Heritage Alteration Permit satisfies one or more of the Conditions for Referral.
8. Conditions for Referral, as noted in Section 7, include:
- a. A complex application for a Heritage Alteration Permit;
 - b. Considerable sensitivity or contention regarding an application for a Consent or a Heritage Alteration Permit;
 - c. An application for a Consent or a Heritage Alteration Permit which fails to achieve acceptable heritage planning process or practice;
 - d. An application for a Consent or a Heritage Alteration Permit which fails to achieve policies or guidelines of a Heritage Conservation District Plan and Guidelines (if applicable);
 - e. Where refusal of an application for a Consent or a Heritage Alteration Permit is recommended by the City Planner; and/or,
 - f. Where an Owner requests consideration of an application for a Heritage Alteration Permit by the LACH.
9. The LACH, upon receiving an application for a Consent or a Heritage Alteration Permit from the City Planner, may make a recommendation regarding the grant of a Consent or a Heritage Alteration Permit to the City Planner. This may:
- a. Recommend the grant of a Consent or a Heritage Alteration Permit;
 - b. Recommend the grant of a Heritage Alteration Permit with terms and conditions; or,
 - c. Make a recommendation regarding an application for a Consent or a Heritage Alteration Permit to Municipal Council, via PEC. In this circumstance, Municipal Council shall retain the decision-making authority regarding the application for a Consent or a Heritage Alteration Permit.
- Thereafter, the City Planner will make a decision with consideration of the recommendation of the LACH, unless LACH makes a recommendation as in (c) above.
10. The City Planner is authorized to undertake all acts necessary to carry out the authority vested in the City Planner pursuant to this By-law, including affixing their signature as required to all Consents and Heritage Alteration Permits.
11. The City Planner will prepare a regular report which outlines the applications for a Consents and Heritage Alteration Permits that were granted, as well as the terms and conditions attached (as applicable). The report will be submitted to the LACH, PEC, and Municipal Council.

PART III – DESIGNATE

12. Should the City Planner be absent through illness or vacation or the position is vacant, then the Manager of the Heritage Planner shall act in their place and stead. Should the City Planner and Manager of the Heritage Planner be absent through illness or vacation or position vacancy, the Heritage Planner shall act in their place and stead. While so acting, the designate may exercise all of the rights, powers and authority of the City Planner as delegated by this By-law.

PART IV – CONSENTS AND HERITAGE ALTERATION PERMITS

13. An Owner desiring to alter their heritage designated property shall submit an application for a Consent or a Heritage Alteration Permit to the City Planner which outlines the proposed work. Information outlined in the application for a Consent or a Heritage Alteration Permit shall be provided in order to assess the proposed work. Supplementary information may be requested by the City Planner. Any information contained within the application for a Consent

or a Heritage Alteration Permit, plans, specification, and/or documents, shall form the basis upon which a Consent or a Heritage Alteration Permit is considered.

14. Upon receipt of an application for a Consent or a Heritage Alteration Permit and all information requested by the City Planner is received, a letter or notification to this effect shall be provided to the Owner.

15. In the review of an application for a Consent or a Heritage Alteration Permit, the City Planner may obtain advice or input from the LACH and/or heritage experts.

16. The City Planner may undertake a site visit to review the subject heritage designated property in consideration of the application for a Consent or a Heritage Alteration Permit.

17. The City Planner shall issue documentation outlining the parameters of the a Consent or Heritage Alteration Permit to the Owner of the heritage designated property in the following instances:

- a. Where the City Planner consents to or grants a Consent or a Heritage Alteration Permit for the alteration of a heritage designated property;
- b. Where the City Planner consents to or grants a Consent or a Heritage Alteration Permit for the alteration of a heritage designated property with terms and conditions; or,
- c. Where Municipal Council refuses an application for a Consent or a Heritage Alteration Permit.

18. All work must be carried out in accordance with the Consent or Heritage Alteration Permit considered and any conditions thereof.

PART VIII – RECOGNITION OF DELEGATED AUTHORITY

19. Irrespective of any authority delegated to the City Planner under this By-law, Municipal Council may, after notifying the City Planner, exercise any authority that is delegated to the City Planner.

20. Despite any other provisions of this By-law, the City Planner may refer any application for a Consent or a Heritage Alteration Permit to Municipal Council at any time.

21. Despite any other provision of this By-law, the City Planner may consult with the LACH regarding any application for a Consent or a Heritage Alteration Permit at any time.

22. This by-law shall come into force and effect on the date that it is passed.

PASSED in Open Council on April 14, 2015.

Matt Brown
Mayor

Catharine Saunders
City Clerk