



THE CORPORATION OF THE CITY OF MISSISSAUGA

BY-LAW NUMBER 0212-2018

A By-law to create a single application process to obtain Heritage Permits for heritage properties designated under Part IV, or located in Heritage Conservation Districts designated under Part V of the *Ontario Heritage Act*

WHEREAS subsection 11(3)5 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, (the "Municipal Act, 2001") provides that a municipality may pass By-laws regarding heritage;

AND WHEREAS approval or consent from the Council for the City of Mississauga is required for the alteration or demolition of properties designated under Part IV and located in heritage conservation districts designated under Part V of the Ontario Heritage Act, R.S.O. 1990, c. O.18, as amended;

AND WHEREAS subsection 27(5) of the Heritage Act authorizes Council to prescribe the plans and information required for providing adequate notice of an intention to demolish a registered property;

AND WHEREAS Council may delegate certain powers, including its authority to consent to alterations of properties designated under Part IV and located in a designated Heritage Conservation District under Part V of the Heritage Act;

AND WHEREAS sections 444 and 445 of the Municipal Act, 2001 provide that a municipality may make an order to require a person to discontinue contravening a by-law and to do the work required to correct the contravention;

AND WHEREAS the City of Mississauga wishes to: (1) prescribe the notice and application requirements for the demolition of registered properties, and requests to repeal designation by-laws, (2) create a permit system whereby landowners may obtain necessary consents and/or permits under Part IV and Part V of the Heritage Act, and (3) create corresponding offences and enforcement provisions governing the administration of this by-law;

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

#### SHORT TITLE

1. This By-law may be referred to as the "Heritage By-law".

#### DEFINITIONS

2. For the purposes of this By-law:
  - (1) "Act" or "Heritage Act" means the Ontario Heritage Act, R.S.O. 1990, c. O.18, as amended;
  - (2) "Alter" means to change in any manner and includes to restore, renovate, repair, erect or disturb; and "alteration" and "altering" have corresponding meanings;
  - (3) "City" means The Corporation of the City of Mississauga;
  - (4) "Clearance Certificate" means a certificate issued by the City in a form approved by the Director which states that alterations proposed by an Owner are not prohibited by the City;

- (5) "Council" means the elected Council of the City;
- (6) "Demolish" means to do anything in the removal of a building or any material part thereof as defined in section 1(1) of the Building Code Act, 1992 and demolition has a corresponding meaning;
- (7) "Designated Property" means a Property that is designated as a heritage property under Part IV of the Act;
- (8) "Director" means the City's Director, Culture Division, and includes his/her designate;
- (9) "Fence" means a railing, wall, hedge, line of posts, shrubs, trees, wire, gate, boards, pickets or other similar substances, used to enclose or divide in whole or in part a yard or other land, to establish a property boundary, or to provide privacy;
- (10) "Heritage Advisory Committee" or "HAC" means the municipal heritage committee established under the Act and by by-law to advise Council on proposed demolitions of or alterations to Registered and Designated Properties, and properties within Heritage Conservation Districts, and more generally on the identification, conservation and preservation of the City's cultural heritage properties;
- (11) "Heritage Conservation District" or "HCD" means a heritage conservation district designated under Part V of the Act;
- (12) "Heritage Conservation District Plan" means a plan adopted by Council to provide direction on the preservation of the heritage character defining elements of a Heritage Conservation District and identify non-substantial and/or minor alterations for which a Heritage Permit is not required;
- (13) "Heritage Consultant" means a person who prepares Heritage Impact Assessments with qualifications as set out in the Mississauga Heritage Impact Assessment Terms of Reference or as otherwise required by the City;
- (14) "Heritage Impact Assessment" means a report that identifies all known heritage resources, evaluates their significance, and makes recommendations toward mitigation measures that would minimize negative impacts to those resources, prepared in accordance with the Mississauga Heritage Impact Assessment Terms of Reference approved by the Manager.
- (15) "Heritage Permit" means a permit issued by the Director pursuant to this By-law allowing an Owner to take certain actions with regards to such Owner's Property as stated thereon;
- (16) "Heritage Register" means a register of Properties situated within the geographic borders of the City of Mississauga, Ontario that are of cultural heritage value or interest pursuant to Part IV of the Act;
- (17) "Inspect" includes to survey, photograph, measure and record;
- (18) "Municipal Law Enforcement Officer" means an individual employed by the City to enforce its municipal by-laws, including the Heritage By-law;
- (19) "Owner" means the person registered on title as owner of the property;
- (20) "Property" means real property and includes all buildings, structures and heritage landscapes thereon;
- (21) "Registered Property" means a Property that is listed on the Heritage Register.



### GENERAL PROHIBITION

3. No Owner of a Designated Property or Property located within a Heritage Conservation District shall do any of the following without obtaining a Heritage Permit or a Clearance Certificate as the case may be:
  - (1) Alter or permit the Alteration of a Designated Property or Property located within an HCD;
  - (2) Demolish or remove a building or structure or permit the Demolition or removal of a building or structure on a Designated Property; or
  - (3) Erect, Demolish or remove any building or structure or permit the erection, Demolition or removal of a building or structure on a Property within an HCD.
4. No Owner of a Designated Property or Property located within a Heritage Conservation District shall do any of the activities provided in section 3 not in accordance with conditions on a Heritage Permit or Clearance Certificate as the case may be.

### DELEGATION OF AUTHORITY

5. Council delegates to the Director authority to do the following:
  - (1) **Approve Alterations:** consent to, approve and impose terms and conditions on Heritage Permits for
    - (a) Designated Properties after consulting with the HAC, and
    - (b) Properties located in an HCD;
  - (2) **Issue Permits, and Establish Practices and Procedures:** issue and administer Heritage Permits and Clearance Certificates in accordance with this By-law and the Heritage Act, including establishing any practices and procedures necessary to administer this By-law;
  - (3) **Notice of Receipt:** upon receipt of a completed application for Alteration or Demolitions of Designated Properties or Properties located in an HCD, serve a notice of receipt of application on the Owner;
  - (4) **Extensions of Time:** agree to the extension of any time limit within which Council must make a decision on an application under Part IV of the Act, provided that the Owner agrees to the extension; and
  - (5) **Issue Clearance Certificates:** issue and administer Clearance Certificates for non-substantive alterations in the Meadowvale Village HCD.
6. **Decisions Required to be Referred to Council:** The Director shall, after consulting with the HAC, refer the following to Council:
  - (1) **Recommendation to Refuse Proposed Alterations under Part IV or Part V of the Act:** if the Director is of the opinion that an application under subsection 11(1) should be refused, the Director shall report to Council with reasons for the recommendation and Council will either consent to or refuse the proposed alterations;
  - (2) **Recommendation to Issue Notice of Intention to Designate a Registered Property:** within 60 days of receiving notice of intention to demolish a Registered Property in accordance with this By-law, where the Director is of the opinion that a Registered Property should be designated, the Director shall report to Council with reasons for a recommendation to designate the Registered Property, and Council will decide whether to issue a notice of intention to designate the Property.
  - (3) **Decision regarding Demolitions under Part IV of the Act:** Council will either consent to or refuse an application to demolish or remove a building or structure on a Designated Property;

- (4) **Decision regarding Erection or Demolition of Property under Part V of the Act:** Council will either consent to or refuse an application to erect, demolish or remove a building or structure on Property located in a Heritage Conservation District.
  - (5) **Decision to Repeal Designation By-law:** Council will either consent to or refuse an application to repeal all or a portion of a designating By-law for a Designated Property.
7. **Conditions for Permits:** Heritage Permits issued under this By-law shall be subject to the following conditions:
- (1) All applications, documents, reports and plans and other information form part of the Heritage Permit;
  - (2) All work shall be carried out in accordance with the plans, specifications, reports, documents and any other information that form the basis upon which a permit is issued;
  - (3) Any material change to the plans, specifications, report, documents or other information that form the basis upon which a Heritage Permit is issued shall require a further application;
  - (4) The permit holder shall advise the City's Heritage Planning staff upon completion of the work that is subject to the Heritage Permit;
  - (5) The permit holder shall allow City staff and such other authorized persons to inspect the work done under the Heritage Permit;
  - (6) Such other terms and conditions as the Director deems necessary to maintain the heritage character of the Property;
  - (7) Such other terms and conditions as may be required by Council and/or the Local Planning Appeal Tribunal; and
  - (8) Heritage Permits issued pursuant to this By-law shall expire five years from the date of issuance of the Heritage Permit.
8. The Director shall issue a Heritage Permit to an Owner of a Property whose application meets all of the requirements of this By-law and has been approved, subject to the conditions that will include but are not limited to those required by section 7.

#### **INTENTION TO DEMOLISH REGISTERED PROPERTIES**

9. **Demolition:** An Owner shall not Demolish or remove, or permit the Demolition or removal of, a building or structure on a Registered Property unless the Owner gives at least 60 days' notice of their intention to do so. Notice shall be provided through submission of the prescribed form and shall supply the following information to the satisfaction of the Director:
- (1) The name, address, telephone number and e-mail address of the Owner or the Owner's authorized representative;
  - (2) A site plan drawing or survey showing the location of the proposed Demolition or removal;
  - (3) Photographs showing the existing building condition including all elevations; and
  - (4) A Heritage Impact Assessment prepared by qualified architect licensed to practice in the Province of Ontario or a Heritage Consultant.
10. **Time:** The 60 day notice period shall commence upon submission of the information required in section 9, to the satisfaction of the Director.



## HERITAGE PERMITS FOR DESIGNATED PROPERTIES

11. **Alteration:** An Owner wishing to Alter a Designated Property shall apply for a Heritage Permit in a form prescribed by the Director and shall supply the following information to the satisfaction of the Director upon request:
  - (1) The name, address, telephone number and e-mail address of the Owner or the Owner's authorized representative;
  - (2) A site plan drawing and survey showing the location of the proposed work on the Designated Property;
  - (3) A statement of the proposed scope of work;
  - (4) Architectural, engineering and landscape design drawings of the proposed work showing materials, dimensions and extent of the work;
  - (5) Written specifications for the proposed work;
  - (6) Materials, samples and specifications of the proposed work;
  - (7) Photographs showing the existing building or landscape condition;
  - (8) Documentation pertaining to the proposal, including archival photographs, pictures or plans of similarly styled buildings in the community;
  - (9) A signed statement by the Owner authorizing the application;
  - (10) A Heritage Impact Assessment prepared by qualified architect licensed to practice in the Province of Ontario or a Heritage Consultant;
  - (11) A heritage conservation plan 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; and
  - (12) Any other information relating to the application as may be required by the Director.
12. **Demolition/Removal:** An Owner wishing to demolish or remove a building or structure on Designated Property shall apply for a Heritage Permit in a form prescribed by the Director and shall supply the following information to the satisfaction of the Director upon request:
  - (1) The name, address, telephone number and e-mail address of the Owner or the Owner's authorized representative;
  - (2) A site plan drawing or survey showing the location of the proposed Demolition or removal;
  - (3) Photographs showing the existing building or structure condition including all elevations;
  - (4) A building condition assessment of the building or structure proposed to be demolished or removed;
  - (5) A signed statement by the Owner authorizing the application;
  - (6) A Heritage Impact Assessment prepared by qualified architect licensed to practice in the Province of Ontario or a Heritage Consultant; and
  - (7) Any other information relating to the application as may be required by the Director.

## HERITAGE PERMITS FOR CONSERVATION DISTRICTS

### OLD PORT CREDIT HERITAGE CONSERVATION DISTRICT

13. **Minor Alterations Exempt:** Notwithstanding sections 14 and 15, a Heritage Permit is not required for such minor Alterations to the external portions of a building or structure of a Property as may be identified in the Old Port Credit Heritage Conservation District Plan.
14. **Alteration:** An Owner wishing to alter a Property located in the Old Port Credit HCD shall submit an application in accordance with the requirements of section 11 of this By-law.
15. **Demolition:** An Owner wishing to erect, demolish, or remove a building or structure on a Property located in the Old Port Credit HCD shall submit an application in accordance with the requirements of section 12 of this By-law.
16. For greater clarity, Designated Properties located within the Old Port Credit HCD are governed by sections 13-15, except where interior alterations are proposed, section 11 governs.

### MEADOWVALE VILLAGE HERITAGE CONSERVATION DISTRICT

17. **Clearance Certificate:** an Owner of Property in the Meadowvale Village HCD shall notify the Director and obtain a Clearance Certificate for non-substantive Alterations which do not significantly Alter the appearance of the Property.
18. **Non-Substantive Alterations:** for the purposes of interpreting section 17, the term "non-substantive Alteration" shall have the same meaning as in the Meadowvale Village HCD Plan, including installing, renovating, repairing and/or replacing the following:
  - (1) Roofing Materials
  - (2) Chimneys
  - (3) Exterior Cladding
  - (4) Skylights
  - (5) Solar Panels
  - (6) Windows and Storm Windows
  - (7) Shutters
  - (8) Doors
  - (9) Architectural Details
  - (10) Existing Porches and Verandahs
  - (11) Existing Outbuildings
  - (12) Driveways
  - (13) Fences and Privacy Screens
  - (14) Landscaping and Planting
  - (15) Wheelchair ramps
  - (16) Mechanical and Utilities
  - (17) Public works within the Village, including but not limited to:
    - (a) Public roads and right of ways
    - (b) Parkland
    - (c) Signage
    - (d) Structures
19. **Alterations:** An Owner wishing to perform Substantive Alterations to a Property located in the Meadowvale Village HCD shall submit an application in accordance with the requirements of section 11 of this By-law.
20. **Substantive Alterations:** For the purposes of section 19, the term "Substantive Alterations" shall have the same meaning as in the Meadowvale Village HCD Plan, which shall include, but is not limited to the following:
  - (1) increases to Gross Floor Area of the primary residence;
  - (2) increases to the primary residence's building height, width and depth;
  - (3) changes to primary residence's foundation structure;



- (4) changes to the primary residence's roof structure;
  - (5) additions of a sunroom, solarium, porch and/or verandah to a primary residence;
  - (6) new windows, dormers, or doors where they did not originally exist on the primary residence;
  - (7) enlarged window or door openings of the primary residence;
  - (8) removal of an existing and/or replacement of a new primary residence;
  - (9) addition of/to an accessory building, including pre-fabricated buildings, occupying an area greater than 10 square metres (108 square feet)
  - (10) reconfigured lot boundary;
  - (11) changes to lot grade, excavation and the placement of fill which alter a property's landform and natural vegetative characteristics;
  - (12) increases to driveway width, new and/or relocation of the property's access and egress;
  - (13) installation of pools and water features; and
  - (14) any other alteration which a Heritage Permit is required under the Meadowvale Village HCD Plan.
21. **Demolitions:** An Owner wishing to erect, demolish, or remove a building or structure on a Property located in the Meadowvale Village HCD shall submit an application in accordance with the requirements of section 12 of this By-law.
22. For greater clarity, Designated Properties located within the Meadowvale Village HCD are governed by sections 17-21, except where interior alterations are proposed, section 11 governs.

#### **REPEAL OF DESIGNATION BY-LAW BY OWNER**

23. An Owner wishing to repeal all or a portion of a designating By-law under Part IV of the Act shall apply in a form prescribed by the Director and shall supply the following information to the satisfaction of the Director upon request:
- (1) The name, address, telephone number and e-mail address of the Owner or the Owner's authorized representative;
  - (2) A site plan drawing or survey showing the location of the Property;
  - (3) Photographs showing the existing buildings' condition including all elevations;
  - (4) A building condition assessment of the buildings or structures;
  - (5) A signed statement by the Owner authorizing the application;
  - (6) A Heritage Impact Assessment prepared by qualified architect licensed to practice in the Province of Ontario or a Heritage Consultant; and
  - (7) Any other information relating to the application as may be required by the Director.
24. The Director, on receipt of an application and together with any information it may require, shall serve a notice of receipt on the Owner.
25. Within 90 days after the notice of receipt is served on the Owner, or within such longer period as is agreed upon by the Owner and the Director, the Director shall make a recommendation to Council, following consultation with the HAC, and Council may consent to the application with or without conditions, or refuse the application.

#### **INSPECTIONS**

26. The following persons are authorized for the purposes of section 38 of the Ontario Heritage Act to Inspect Designated Properties and Properties for which an notice of intention to designate has been issued:
- (1) Director, Culture Division;

- (2) Manager, Culture and Heritage Planning;
  - (3) Supervisor, Heritage Planning;
  - (4) Heritage Planner;
  - (5) Heritage Analyst;
  - (6) A person who in the opinion of the Director has special or expert knowledge in relation to the property; and
  - (7) Municipal Law Enforcement Officers.
27. Authorized persons under section 26 may also, at any reasonable time, enter and inspect any Property subject to this By-law to determine whether there is compliance with this By-law, including a Heritage Permit and any associated conditions, and any order issued under this By-law, which powers shall be exercised in the manner provided for in section 437 of the Municipal Act, 2001.
28. Notwithstanding section 27, for the purposes of carrying out inspections on Properties located in an HCD but not Designated, no entry shall be made to buildings and structures.
29. No person shall hinder or obstruct, or attempt to hinder or obstruct, any authorized person who is exercising a power or performing a duty under this By-law.

#### **NOTICES & ORDERS**

30. The Director may issue or cause to be issued notices and warnings under this By-law.
31. **Order to Discontinue:** If an authorized person is satisfied that a contravention of this By-law has occurred, they may make an order requiring the Owner or occupier of the land on which the contravention occurred to discontinue the contravening activity and every Owner or occupier shall comply with the Order to Discontinue.
32. **Work Order:** If an authorized person is satisfied that a contravention of this By-law has occurred, they may make an order requiring the Owner or occupier of the land on which the contravention occurred to do work to correct the contravention and every Owner or occupier shall comply with the Work Order.
33. An order under section 31 or 32 shall set out
- (1) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and
  - (2) the date by which there must be compliance with the order.
34. Orders shall be served upon the Property Owner by personal service or by mailing a copy of the Order by prepaid first class mail or registered mail to the last known address noted on the tax assessment roll.
35. Service by prepaid first class mail or registered mail shall be deemed to be effective on the fourth day after the Order is mailed.
36. If there is evidence that the person in possession of the Property is not the registered property owner then the Order shall be served on both the registered property owner and the person in possession of the Property.
37. Where a time frame is set out in an Order or other document for carrying out any action, an Officer may extend the time for compliance beyond the established time frame provided such extension is required and is acceptable to the Officer.

#### **PENALTY**

38. Every Person who contravenes any provision of this By-law or fails to comply with an order made under this By-law, and every director or officer of a corporation who concurs in such contravention or failure by the corporation, is guilty of an offence and is liable to a fine, and such other penalties, as provided for in the Provincial Offences Act, R.S.O. 1990, c.P.33, and the Municipal Act, 2001, as both may be amended from time to time.



39. Where a person has been convicted of an offence, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty imposed by this By-law, make an order prohibiting the continuation or repetition of the offence by the person convicted.
40. In addition to any other remedies provided for by this By-law or by statute, and in accordance with section 69 of the Heritage Act, Council may direct that the Property be restored and authorize persons to enter on the Property at any reasonable time to carry out the restorations, at the Owner's expense.

#### VALIDITY

41. In the event of a conflict between any provision of this By-law and the Heritage Act, the Heritage Act prevails.
42. If a court of competent jurisdiction declares any provision, or any part of a provision, of the By-law to be invalid, or to be of no force and effect, it is the intention of the Council in enacting this By-law, that each and every other provision of this By-law authorized by law, be applied and enforced in accordance with its terms to the extent possible according to law.

#### GENERAL

43. In this By-law, unless the context otherwise requires, words imparting the singular number shall include the plural, and words imparting the masculine gender shall include the feminine, and further, the converse of the foregoing also applies where the context so requires.
44. Nothing in this By-law shall exempt any person from complying with the requirements of any By-law in force within the City, or from obtaining any license, permission, permit, authority or approval required by this or any other By-law of the City or by any other law in force at the time.
45. Nothing in this By-law, or any action taken under this By-law, is intended to prevent or restrain the City from pursuing any other remedies available in law, including under the Heritage Act.

#### TRANSITION AND ENACTMENT

46. By-law No. 109-16 is repealed.
47. Any reference to By-law No. 109-16 shall be deemed to be a reference to this By-law.
48. This By-law comes into force on the date it is passed.

ENACTED AND PASSED this 12th day of December, 2018.

APPROVED AS TO FORM City Solicitor MISSISSAUGA			
			
Date	2018	12	05



MAYOR



DEPUTY CLERK