

10. DELEGATED AUTHORITY FOR APPLICATIONS UNDER THE *ONTARIO HERITAGE ACT*

DÉLÉGATION DE POUVOIR POUR LES DEMANDES ADRESSÉES AUX TERMES DE LA *LOI SUR LE PATRIMOINE DE L'ONTARIO*

COMMITTEE RECOMMENDATION

That Council delegate authority under the *Ontario Heritage Act* for the classes of alterations detailed in Document 1 to the General Manager, Planning and Growth Management Department

RECOMMANDATION DU COMITÉ

Que le Conseil délègue au directeur d'Urbanisme et Gestion de la croissance, en vertu de la *Loi sur le patrimoine de l'Ontario*, le pouvoir d'autoriser les catégories de demande de modification exposées en détail dans le document 1.

DOCUMENTATION / DOCUMENTATION

1. Acting Deputy City Manager's Report, Planning and Infrastructure, dated 20 May 2015 (ACS2015-PAI-PGM-0094).

Rapport du Directeur municipal adjoint par intérim, Urbanisme et infrastructure, daté le 20 May 2015 (ACS2015-PAI-PGM-0094).

**Report to
Rapport au:**

**Built Heritage Sub-Committee / Sous-comité du patrimoine bâti
June 11, 2015 / 11 juin 2015**

and / et

**Planning Committee / Comité de l'urbanisme
June 23, 2015 / 23 juin 2015**

**and Council / et au Conseil
July 8, 2015 / 8 juillet 2015**

**Submitted on May 20, 2015
Soumis le 20 mai 2015**

**Submitted by
Soumis par:
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Ward: CITY WIDE / À L'ÉCHELLE DE
LA VILLE

File Number: ACS2015-PAI-PGM-0094

SUBJECT: Delegated Authority for Applications under the *Ontario Heritage Act*

**OBJET: Délégation de pouvoir pour les demandes adressées aux termes de
la *Loi sur le patrimoine de l'Ontario***

REPORT RECOMMENDATION

That the Built Heritage Sub-Committee recommend that Planning Committee recommend that Council delegate authority under the *Ontario Heritage Act* for the classes of alterations detailed in Document 1 to the General Manager, Planning and Growth Management Department.

RECOMMANDATION DU RAPPORT

Que le Sous-Comité du patrimoine bâti recommande au Comité de l'urbanisme de recommander à son tour au Conseil de déléguer au directeur d'Urbanisme et Gestion de la croissance, en vertu de la *Loi sur le patrimoine de l'Ontario*, le pouvoir d'autoriser les catégories de demande de modification exposées en détail dans le document 1.

BACKGROUND

In Ottawa, there are 327 properties designated under Part IV of the *Ontario Heritage Act* and 18 heritage conservation districts designated under Part V of the *Ontario Heritage Act* made up of approximately 3500 buildings.

The *Ontario Heritage Act* has provisions under both Part IV and Part V regarding the alteration of designated properties that require a municipality's consent. Section 33(1) of Part IV of the *Act* states:

No owner of property designated under Section 29 shall alter the property or permit the alteration of the property if the alteration is likely to affect the property's heritage attributes, as set out in the description of the property's heritage attributes that was required to be served and registered under Subsection 29(6) or (14), as the case may be, unless the owner applies to the

council of the municipality in which the property is situate and receives consent in writing to the alteration.

Section 42 (1) of Part V of the *Ontario Heritage Act* states:

No owner of a property situated in a heritage conservation district that has been designated by a municipality under this Part shall do any of the following, unless the owner obtains a permit from the municipality to:

1. Alter, or permit the alteration of, any part of the property, other than the interior of any structure or building on the property.
2. Erect, demolish or remove any building or structure on the property or permit the erection, demolition or removal of such a building or structure.

The purpose of this report is to recommend the delegation of some of City Council's authority under the *Ontario Heritage Act* to staff in the Planning and Growth Management Department.

DISCUSSION

In general, Sections 33(15) and 42(16) of the *Ontario Heritage Act* permit a council to delegate its authority under Parts IV and V of the *Ontario Heritage Act* after consultation with its municipal heritage committee. The recommendation of this report is to delegate authority for the issuance of heritage permits for minor alterations, restoration, and emergency applications to the General Manager, Planning and Growth Management Department or his/her delegate.

Sections 33(1) and 42(1) of the *Ontario Heritage Act* require owners of designated properties to apply to the City of Ottawa for approval prior to altering a designated property. Section 1 of the *Ontario Heritage Act* has the following definition for "alter" and "alteration":

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

A complete list of classes of alterations is detailed in Document 1; however, the types of applications recommended for delegation include:

- heritage applications related to restoration or preservation projects including those covered by the Heritage Grant Program for building restoration;
- additions to designated buildings that are less than 30 per cent of the gross floor area of the existing building and do not affect the property or district's heritage attributes;
- minor exterior alterations including re-roofing, cleaning and repointing of masonry, erection of small accessory buildings and replacement of windows and doors; and
- applications that meet the definition of emergency application as defined in Document 1.

The Planning and Growth Management Department submits an average of 25 reports related to applications under the *Ontario Heritage Act* to the Built Heritage Sub-Committee, Planning Committee or Agriculture and Rural Affairs Committee and Council annually. These applications include additions to designated properties, construction of new buildings in heritage conservation districts and demolition of designated properties.

In addition, the Heritage Services Section reviews and approves an estimated 100 applications for minor alterations and restorations each year. This includes approximately 30 applications for restoration that are funded through the Heritage Grant Program for Building Restoration. The primary reasons for the recommendation in this report is to formalize the existing practice which has continued for several years and to avoid adding approximately 100 reports of a minor nature to the committees and Council legislative schedule.

While this has been the practice of the Heritage Services Section for over 20 years with roughly 2,000 applications for minor alterations and restorations processed by the Heritage Services staff, this does not expressly comply with the requirements of the *Ontario Heritage Act* as this authority has never been formally delegated by City Council to the Planning and Growth Management Department. During this time, no complaints or concerns about the process have been expressed by applicants, the public, community associations or heritage organizations. The delegation of authority under Parts IV and V of the *Act* as detailed in Document 1 will formalize the existing practice

which will provide transparency, improve client service by reducing wait times for applicants and make more efficient use of staff resources. The procedure for issuing heritage permits through delegated authority is outlined in Document 2.

The recommendation of this report will result in a small reduction in the number of applications that are heard by the Built Heritage Sub-Committee each year. For instance, in 2013 and 2014 there were a total of 42 applications for alterations and new construction considered by the Built Heritage Sub-Committee, Agriculture and Rural Affairs Committee or Planning Committee and Council. Based on the criteria, outlined in Document 1, 34 of these applications would have still been presented to the Built Heritage Sub-Committee, Planning Committee or Agriculture and Rural Affairs Committee and Council.

The recommendation does not include authority to refuse applications, approve applications with conditions or to approve applications for demolition. All applications where staff would recommend refusal will be forwarded to the Built Heritage Sub-Committee, Agriculture and Rural Affairs Committee or Planning Committee and City Council for consideration.

In addition, the ward councillor will be notified of all applications under the *Ontario Heritage Act* and, as with site plans, would have the right to withdraw delegated authority. If delegated authority is withdrawn, the heritage permit application will be forwarded to the Built Heritage Sub-Committee, Planning Committee or Agriculture and Rural Affairs Committee and Council for decision according to the usual process.

To ensure accountability and transparency, the Planning and Growth Management Department will bring forward an annual information report of heritage permits issued under delegated authority in accordance with the City of Ottawa Delegation of Powers Policy.

Many municipal councils in Ontario have implemented delegated authority under Parts IV and V of the *Ontario Heritage Act* to the staff level. The proposed delegation of authority, outlined in Document 2, is consistent with the authority delegated to staff in Mississauga, Hamilton, Toronto, Vaughan, Peterborough, Oakville, Kitchener and others for these types of applications.

If the proposed recommendation is approved by City Council, it will be incorporated into the Delegated Authority By-law at the Mid-Term Governance Review.

Conclusion

The Planning and Growth Management Department recommends approval of the delegated authority as outlined in Document 1. If approved, the delegated authority could be incorporated into the Delegated Authority By-law during its next review and amendment.

The delegation of authority under the *Ontario Heritage Act* will formalize an existing practice, improve accountability by ensuring that the requirements of the *Ontario Heritage Act* are followed and formal heritage permits are issued for all alterations and improve client service by having clear definitions for the type of application that is required.

RURAL IMPLICATIONS

The proposed delegated authority would be in place for all designated properties, including those in the rural area.

CONSULTATION

No consultation was undertaken as part of this project given this report is administrative in nature.

COMMENTS BY THE WARD COUNCILLORS

This is a city-wide report – not applicable.

LEGAL IMPLICATIONS

This matter was identified during staff's review of proposed changes to the Delegation of Authority By-law, however due to the fall election and the subsequent new membership of the Built Heritage Sub-Committee, it was determined that the appropriate time to address this matter would be following the Terms of Reference review with the new committee.

Approving the recommendation contained within this report will rectify a non-compliance issue on a go-forward basis without adding the burden of these minor applications,

which address situations that are improvements or restorations for the most part, to the legislative agenda.

There are no legal implications with respect to implementing the recommendation contained within this report.

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications.

FINANCIAL IMPLICATIONS

There are no direct financial implications.

ACCESSIBILITY IMPACTS

There are no accessibility impacts.

TERM OF COUNCIL PRIORITIES

This project addresses the following Term of Council Priorities:

HC4 – Improve Arts and Heritage.

SE2 – Improve operational performance.

SE1 – Ensure a positive experience for every client interaction.

SUPPORTING DOCUMENTATION

Document 1 Proposed Delegated Authority

Document 2 Procedure for issuing heritage permits under delegated authority

DISPOSITION

City Clerk and Solicitor Department, to incorporate the changes into the Delegated Authority By-Law at Mid-Term Governance Review.

Document 1 – Proposed Delegated Authority

1. Definitions

“Act” means the *Ontario Heritage Act* R.S.O 1990, Chapter O.18.

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

“City” means the City of Ottawa.

“Council” means the Council of the City of Ottawa.

“Designated Property” means any property designated under Part IV or Part V of the *Ontario Heritage Act*.

“Emergency application” means an application that has been prompted by a catastrophic event such as fire, flood or earthquake, that has damaged a designated heritage property and the property requires immediate attention or risk further damage or if there is an immediate health and safety concern. Emergency applications do not include properties that are in poor condition as a result of neglect.

“Heritage attributes” means those attributes of a designated heritage property that express the cultural heritage value of the property.

“Heritage Conservation District” means a heritage conservation district established under Part V of the *Ontario Heritage Act*.

“Heritage Permit” means a permit issued for alterations to a designation property under Sections 33(15) or Section 42(16) of the *Ontario Heritage Act*.

“Restoration” shall mean the action or process of accurately revealing, recovering or representing the state of a historic place or of an individual component, while protecting its heritage value.

“Property” shall mean real property and includes all buildings and structures thereon and includes a cultural heritage landscape.

“Preservation” shall mean the action or process of protecting, maintaining, and/or stabilizing the existing materials, form and integrity of a historic place or of an individual component.

2. Delegated Authority under Part IV of the *Ontario Heritage Act*

The General Manager, Planning and Growth Management Department or his/her designate is delegated the following authority with respect to properties that are designated under Part IV of the *Act*:

- a. to receive and issue notices of receipt for heritage permit applications to the City pursuant to Section 33 of the *Act*;
- b. to approve heritage permit applications that meet the definition of an emergency application; and
- c. to approve heritage permit applications relating to minor alterations which include the following classes of alterations:
 - Restoration or preservation projects including projects funded through the Heritage Grant Program for Building Restoration.
 - Changes or renovations to additions or outbuildings such as changes to barns, garages, or modern additions not identified in the Statement of Reason for Designation or the Statement of Cultural Heritage Value.
 - Landscaping, where the landscape is not a heritage attribute of the designated property.
 - Minor exterior alterations and regular maintenance that do not impact the heritage attributes of the property including:
 - Re-roofing,
 - installation of eavestroughs,
 - cleaning and repointing of masonry,
 - painting of non-masonry surfaces,
 - painting of previously painted masonry surfaces,
 - erection of small accessory buildings under 10 metres squared,
 - erection of fences,
 - installation of skylights and solar panels on a flat roof or the rear slope of a roof,
 - replacement of windows or doors,

- replacement of cladding with the same material,
- repair of porches and verandas, and
- changes that are not visible from the street such as new window or door openings on the rear façade.
- Additions that meet both of the following criteria:
 - The size is less than 30 per cent of the gross floor area of the existing building and,
 - The proposal does not impact the heritage attributes of the property as defined in the Statement of Cultural Heritage Value or Statement of Reason for Designation.

3. Delegated Authority under Part V of *the Ontario Heritage Act*

The General Manager, Planning and Growth Management Department or his/her designate is delegated the following authority with respect to properties that are designated under Part V of the *Act*:

- a. Receive and issue notices of receipt for heritage permit applications that are received by the City pursuant to Section 42 of the *Ontario Heritage Act*;
- b. approve heritage permit applications that meet the definition of an emergency application; and,
- c. approve heritage permit applications which include the following classes of alterations:
 - Restoration or preservation projects including projects funded through the Heritage Grant Program for Building Restoration.
 - Changes or renovations to additions or outbuildings such as changes to barns, garages, or modern additions not identified in the Statement of Reason for Designation or the Statement of Cultural Heritage Value.
 - Landscaping, where the landscape is not a heritage attribute of the designated property.
 - Minor exterior alterations and regular maintenance that do not impact the heritage attributes of the property including:
 - Re-roofing,
 - installation of eavestroughs,
 - cleaning and repointing of masonry,

- painting of non-masonry surfaces,
- painting of previously painted masonry surfaces,
- erection of small accessory buildings under 10 metres squared,
- erection of fences,
- installation of skylights and solar panels on the rear slope of a roof,
- replacement of windows or doors,
- replacement of cladding with the same material,
- repair of porches and verandas, and
- changes that are not visible from the street such as new window or door openings on the rear façade.
- Additions that meet both of the following criteria:
 - The size is less than 30% of the gross floor area of the existing building; and
 - the proposal meets the heritage conservation district guidelines or heritage conservation district plan.

4. Other

1. The delegated authority powers in Sections 2 and 3 do not include the power to refuse an application.
2. All applications that do not meet the criteria in Sections 2 or 3 will be forwarded to the municipal heritage committee and City Council for approval. Other applications that may meet the criteria in Sections 2 and 3 may be forwarded to the municipal heritage committee and City Council for approval at the discretion of the Planning and Growth Management Department.
3. The Ward Councillor may at any time withdraw the authority delegated in Sections 2 or 3. If the delegated authority is withdrawn, the heritage permit application will be forwarded to the municipal heritage committee and City Council.
4. The Planning and Growth Management Department will bring forward an annual information report of heritage permits issued under delegated authority in accordance with the City of Ottawa Delegation of Powers Policy.

Document 2 – Procedure for Issuing Heritage Permits under Delegated Authority

- Step 1: Applicant pre-consults with heritage planner prior to submission of a formal application. Heritage planner identifies potential issues and required documents for application.
- Step 2: Applicant submits completed application form and required accompanying documents.
- Step 3: Heritage planner receives application and documents.
- Step 4: Once application is deemed complete, the heritage planner issues the statutory acknowledgement letter under Sections 33 and 42 of the *Ontario Heritage Act* and the 90 day timeline begins.
- Step 5: Ward Councillor is notified of the application and given five business days to provide comments.
- Step 6: Heritage planner reviews application and consults with applicant regarding any outstanding issues. Once issues are resolved, heritage planner completes an application summary.
- Step 7: Application summary is submitted to General Manager, Planning and Growth Management Department or his/her delegate for approval.
- Step 8: Heritage planner issues heritage permit according to the *Ontario Heritage Act*.
- Step 9: Applicant receives heritage permit and may proceed with project, conditional upon receipt of all other required approvals and permits.