

**THE CORPORATION OF THE TOWNSHIP OF CENTRE WELLINGTON**

**BY-LAW 2008-083**

**Being a by-law to delegate authority to approve minor Heritage Permits  
to the Chief Building Official and Heritage Centre Wellington  
pursuant to Parts IV and V of the Ontario Heritage Act**

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

**AND WHEREAS** section 11 (3) 5 of the Municipal Act, 2001 provides that a municipality may pass by-laws within the following sphere of jurisdiction: Culture, parks, recreation and heritage;

**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** section 23.1 of the Municipal Act, 2001 provides that sections 9 and 11 of the Municipal Act, 2001 authorize a municipality to delegate its powers under the Municipal Act, 2001 or any Act, subject to certain limitations;

**AND WHEREAS** section 227 of the Municipal Act, 2001 provides that it is the role of officers and employees of the municipality to implement Council decisions and establish practices and procedures to implement those decisions;

**AND WHEREAS** approval from the Council of The Corporation of the Township of Centre Wellington is required for the alteration or demolition of properties designated under Part IV of the Ontario Heritage Act, R.S.O. 1990, c. O.18, as amended, or for properties located in heritage conservation districts designated under Part V of the Ontario Heritage Act;

**AND WHEREAS** approval from the Council of The Corporation of the Township of Centre Wellington is required for repealing in whole, or in part, any designating by-law that was passed under Part IV of the Ontario Heritage Act;

**AND WHEREAS** sections 33 and 42 of the Ontario Heritage Act provides that Council may delegate its authority to consent to alterations of properties designated under Part IV of the Ontario Heritage Act and to alterations of properties located in a Heritage Conservation District designated under Part V of the Ontario Heritage Act;

**AND WHEREAS** the Council of The Corporation of the Township of Centre Wellington wishes to create a single permit system whereby landowners can obtain necessary approvals for the alteration, erection, demolition, or removal of properties designated under Part IV of the Ontario Heritage Act or found in Heritage Conservation Districts designated under Part V of the Act and for requests for the repealing of designating by-laws made under Part IV of the Act;

**AND WHEREAS** pursuant to sections 33(15) and 42(16) of the Ontario Heritage Act the Council of the Township of Centre Wellington consulted with its Heritage Advisory Committee;

**NOW THEREFORE** the Council of The Corporation of the Township of Centre Wellington enacts as follows:

**PART I - SHORT TITLE**

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

**PART II - DEFINITIONS**

2. For the purposes of this By-law:

**Act** shall mean the Ontario Heritage Act, R.S.O. 1990, c. O.18, as amended from time to time;

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

**Township** shall mean The Corporation of the Township of Centre Wellington;

**Council** shall mean the elected Council of the Corporation of the Township of Centre Wellington;

**Director** shall mean the Township's Chief Building Official,

**Heritage Conservation District** means a heritage conservation district established under Part V of the Ontario Heritage Act, R.S.O. 1990, c. 18, as amended from time to time;

**Heritage Conservation District Plan** means a plan adopted by Council to provide direction in the preservation of the heritage defining character elements of a Heritage Conservation District;

**Heritage Permit** means a permit issued by the Director under this By-law;

**Information** means any information requested by the Director, and includes, plans, reports or any other documentation requested by the Director;

**Owner** means the person registered on title in the proper land registry office as owner of the property; and

**Property** means real property and includes all buildings and structures thereon and includes a heritage landscape;

### **PART III- DELEGATION OF CONSENT FOR ALTERATIONS**

3. The Council of the Township of Centre Wellington delegates to the Director all of the power that Council has respecting the granting of consents and approvals for alterations to properties designated under Part IV of the Ontario Heritage Act and for alterations to properties located in Heritage Conservation Districts designated under Part V of the Ontario Heritage Act.
4. The delegated authority in section 3, includes the power to grant an application for an alteration with terms and conditions.
5. The delegated authority in section 3, does not include the right to refuse an application for an alteration. Where the Director would refuse an application for an alteration, if he or she had the authority to do so, he or she shall so advise Council who retains all decision making power in relation to that application.
6. When the Director is absent through illness or vacation or his/her office is vacant, then the Director's delegate shall act in the place and stead of the Director. While so acting, the Director's delegate has all the rights, powers and authority of the Director as delegated by this By-law.
7. The Council of the Township of Centre Wellington delegates to the Director all of the authority under the Ontario Heritage Act, to request plans, information, reports and any other documents that Council may request from an Owner when an application is made to Council to:
  - (1) alter, erect, demolish or remove any building, structure or property under Parts IV and V of the Ontario Heritage Act,
  - (2) to repeal or amend a by-law, or portion thereof, under Part IV of the Ontario Heritage Act, and
  - (3) to demolish a building or structure located on a property that is listed in the Township's Heritage Register.
8. Despite Section 7, Council retains the authority to request plans, information, reports and any other document that it considers necessary that were not requested by the Director.
9. The Director shall prescribe all forms necessary to implement this By-law, and may amend such forms from time to time as the Director deems necessary.
10. The Director is authorized to undertake all acts necessary to carry out the authority vested in the Director under this By-law, including affixing his or her signature to documents.
11. Council delegates to the Director all of the powers that Council has to administer Heritage Permits in accordance with the terms of this By-law and to establish any practices and

procedures necessary to implement the Heritage Permits in accordance with the terms of this By-law and any decisions made by Council pursuant to this By-law.

#### **PART IV - HERITAGE PERMITS FOR DESIGNATED PROPERTIES**

12. An Owner wishing to alter a property designated under Part IV of the Act shall submit an application for a Heritage Permit in writing to the Director on a form prescribed by the Director and shall supply any of the following information that is requested by the Director:
  - (1) The name, address, telephone number, fax number and e-mail address of the Owner or the Owner's authorized representative;
  - (2) A site plan or sketch showing the location of the proposed work on the property;
  - (3) A statement of the proposed scope of work;
  - (4) Drawings of the proposed work showing materials, dimensions and extent of the work;
  - (5) Written specifications for the proposed work;
  - (6) Photographs showing the existing building or landscape condition;
  - (7) Documentation pertaining to the proposal, including archival photographs, pictures or plans of similarly styled buildings in the community;
  - (8) A signed statement by the Owner authorizing the application;
  - (9) A heritage impact statement prepared by qualified architect licensed to practice in the Province of Ontario or a qualified heritage consultant; and
  - (10) Any other information relating to the application as required by the Director.
13. An Owner wishing to demolish or remove a building or structure on a property that is designated under Part IV of the Act shall submit an application for a Heritage Permit in writing to the Director on a form prescribed by the Director and shall supply any of the following information that is requested by the Director:
  - (1) The name, address, telephone number, fax number and e-mail address of the Owner or the Owner's authorized representative;
  - (2) A site plan or sketch showing the location of the proposed demolition or removal;
  - (3) Photographs showing the existing building condition including front and side 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 statement prepared by qualified architect licensed to practice in the Province of Ontario or a qualified heritage consultant; and
  - (7) Any other information relating to the application as required by the Director.
14. Any Owner wishing a repeal of all, or a portion of a designating by-law, for a property designated under Part IV of the Act shall submit an application for a Heritage Permit in writing to the Director and shall supply any information as required by the Director.
15. Approval by the Director is required for an application for a Heritage Permit to alter a building, structure or heritage landscape on property designated under Part IV of the Act.
16. The Director shall, before approving an application for a Heritage Permit to alter a property designated under Part IV of the Act, consult with the Township's Heritage Advisory Committee with respect to the application.
17. Approval by Council is required for an application for a Heritage Permit:
  - (1) To demolish or remove a building or structure on property designated under Part IV of the Act.

- (2) To construct an addition to a designated building that is visible from the street or public space.
- (4) To undertake major alterations to the heritage attributes of a designated building visible from the street or public space.
- (5) To repeal all, or a portion of a designating by-law for a property under Part IV of the Act.
- (6) Where a request for an alteration is not approved by the Director.

## **PART V – HERITAGE PERMITS IN CONSERVATION DISTRICTS**

18. An Owner wishing to alter a property located in a Heritage Conservation District, designated under Part V of the Act shall submit an application for a Heritage Permit in writing to the Director on a form prescribed by the Director and shall supply any of the following information that is requested by the Director:

- (1) The name, address, telephone number, fax number and e-mail address of the Owner or the Owner's authorized representative;
- (2) A site plan or sketch showing the location of the proposed work on the property;
- (3) A statement of the proposed scope of work;
- (4) Drawings of the proposed work showing materials, dimensions and extent of the work;
- (5) Written specifications for the proposed work;
- (6) Photographs showing the existing building or landscape condition;
- (7) Documentation pertaining to the proposal, including archival photographs, pictures or plans of similarly styled buildings in the community;
- (8) A signed statement by the Owner authorizing the application;
- (9) A heritage impact statement prepared by qualified architect licensed to practice in the Province of Ontario or a qualified heritage consultant; and
- (10) Any other information relating to the application as required by the Director.

19. An Owner wishing to erect, demolish, or remove a building or structure on a property located in a Heritage Conservation District, designated under Part V of the Act shall submit an application for a Heritage Permit in writing to the Director on a form prescribed by the Director and shall supply any of the following information that is requested by the Director:

- (1) The name, address, telephone number, fax number and e-mail address of the Owner or the Owner's authorized representative;
- (2) A site plan or sketch showing the location of the proposed demolition or removal;
- (3) Photographs showing the existing building condition including front and side 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 statement prepared by qualified architect licensed to practice in the Province of Ontario or a qualified heritage consultant; and
- (7) Any other information relating to the application as required by the Director.

20. Notwithstanding Section 18 of this By-law, an Owner of property in a Heritage Conservation District, designated under Part V of the Act, does not need to obtain a Heritage Permit for the following alterations to the external portions of a building or structure located in a Heritage Conservation District:

- (1) The exterior painting of non-masonry surfaces, replacement of eaves troughs and downspouts, installation of exterior lights, including installation of removable storm windows and doors, caulking and weatherproofing;
  - (2) The repair of existing features, including roofs, wall cladding, dormers, cresting, cupolas, cornices, brackets, columns, balustrades, porches and steps, entrances, sidewalks, windows, foundations, and decorative wood, metal, stone or terra cotta, provided that the same type of materials are used;
  - (3) The erection of small accessory buildings under ten metres squared;
  - (4) The erection of fences;
  - (5) The installation of mechanical and/or electrical equipment not visible from the street;
  - (6) Replacement of steps and sidewalks;
  - (7) All interior work, except structural interventions.
  - (8) An alteration that is not visible from a street.
  - (9) Minor alterations as are described in a Heritage Conservation District Plan.
21. Section 20 of this By-law, does not apply to a property that is designated under Part IV of the Act and is located in a Heritage Conservation District.
  22. Approval by the Director is required for an application for a Heritage Permit to alter a property located in a Heritage Conservation District.
  23. The Director shall, before approving an application for a Heritage Permit to alter a property located in a Heritage Conservation District, consult with the local review committee, should one be established in a Heritage Conservation District, and with the Township's Heritage Advisory Committee with respect to the application.
  24. The Director shall approve an application for a Heritage Permit to alter a property located in a Heritage Conservation District where the work proposed in the application is compatible with the Heritage Conservation District Plan that applies in the Heritage Conservation District in which the work is proposed to be undertaken.
  25. If the alteration proposed to a property is not compatible with the Heritage Conservation District Plan that applies in the Heritage Conservation District in which the work is proposed to be undertaken, the Director shall submit the application for the Heritage Permit to the Township's Heritage Advisory Committee and to Council for consideration.
  26. Approval by the Council is required for an application for a Heritage Permit:
    - (1) To erect, demolish or remove a building or structure on property located in a Heritage Conservation District.
    - (2) Where a request for an alteration is not approved by the Director.
    - (3) Where the proposed work does not comply with the Heritage District Plan Guidelines

## **PART VI – ISSUANCE OF HERITAGE PERMITS**

27. The Director shall issue a Heritage Permit to an Owner of property that has made an application under this By-law in the following instances:
  - (1) Where Director approval has been provided for an alteration of property under Part IV and Part V of the Act.
  - (2) Where Council approval has been provided for the alteration of property, demolition or removal of a building or structure on property designated under Part IV or Part V of the Act.
  - (3) Where Council approval has been provided for the alteration of property, erection, demolition or removal of a building or structure on property located in a Heritage Conservation District designated under Part V of the Act.

- (4) Where Council or the Director is deemed to consent to an application made under Part IV and Part V of the Act.
- (5) Where the Ontario Municipal Board orders that the Township consent to a demolition or removal of a building or structure under Part IV of the Act.
- (6) Where the Ontario Municipal Board directs that a permit be issued under Part V of the Act.

**PART VII – CONDITIONS FOR PERMITS**

28. All Heritage Permits under this By-law shall be subject to the following conditions:

- (1) All applications, documents, reports and plans 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 permit is issued shall require a further application.
- (4) The permit holder shall advise the Township's Building Department upon completion of the work.
- (5) The permit holder shall allow Township staff 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 Council may require to provide consent to the application.

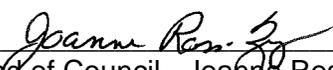
**PART VIII – COUNCIL MAY RETAIN ANY DELEGATED AUTHORITY**

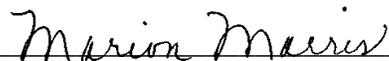
- 29. Regardless of any authority delegated to the Director under this By-law, Council may, after notifying the Director, exercise any authority that it delegated to the Director.
- 30. The decision by Council to exercise any authority that it delegated to the Director may be exercised with respect to the administration of this By-law, or with respect to a particular application or notice made under this By-law.
- 31. The Director may refer any application for an alteration to a property designated under Part IV of the Act or for a property located in a Heritage Conservation District, designated under Part V of the Act, to Council for Council approval.

**PART IX - VALIDITY**

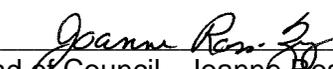
32. If a court of competent jurisdiction declares any provision, or any part of a provision, of the By-law to be invalid, or to be of no force and effect, it is the intention of the Council in enacting this By-law, that each and every other provision of this By-law authorized bylaw, be applied and enforced in accordance with its terms to the extent possible according to law.

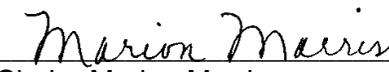
**READ A FIRST AND SECOND TIME** this 15<sup>th</sup> day of December, 2008.

  
 Head of Council - Joanne Ross-Zuj

  
 Clerk - Marion Morris

**READ A THIRD TIME AND FINALLY PASSED** this 15<sup>th</sup> day of December, 2008.

  
 Head of Council - Joanne Ross-Zuj

  
 Clerk - Marion Morris