

# MUNICIPALITY OF THE DISTRICT OF WEST HANTS

## HERITAGE PROPERTY BY-LAW

### Consolidated Copy with Ministerial Amendments

1. In this By-law:
  - (1) “Act” means the Heritage Property Act;
  - (2) “Area” includes such visibly physical features as cemeteries, historical gardens, statues and monuments, where they are of architectural, historical or cultural value;
  - (3) “Council” means the Municipal Council of the Municipality of the District of West Hants;
  - (4) “Clerk; means the Municipal Clerk of the Municipality of the District of West Hants;
  - (5) “Committee” means the Heritage Advisory Committee, established pursuant to this By-law;
  - (6) “Municipality” means the Municipality of the District of West Hants;
  - (7) “Municipal Heritage Property” means a building, streetscape or area registered in a Municipal Registry of Heritage Property;
  - (8) “Registered Owner” means an owner of land whose interest in the land is defined and whose name is specified in an instrument in the Registry of Deeds, and includes a person assessed with respect to the occupancy of the land;
  - (9) “Registry” means the Municipal Registry of Heritage Property of the Municipality;
2. There shall be established for the Municipality of the District of West Hants, a Municipal Registry of Heritage Property, where all prescribed documents relating to the registration of heritage property under this By-law shall be filed.
3. The maintenance of the Registry shall be the responsibility of the Municipal Clerk.

4. The Heritage Advisory Committee of the Municipality be and is hereby established.
5. The Planning Advisory Committee of the Municipality shall be the Heritage Advisory Committee for the Municipality.
6. The Heritage Advisory Committee shall be governed by the general rules of procedure applicable to Committees in the Municipality for the purposes of this By-law.
7. The Committee may advise the Municipal Council respecting:
  - (1) the inclusion of buildings, streetscape and areas in the in the Municipal Registry of Heritage Property;
  - (2) an application for permission to substantially alter or demolish a Municipal Heritage Property;
  - (3) building or other regulations that affect the attainment of the intent and purposes of this By-law;
  - (4) any other matters conducive to the effective carrying out of the intent and purpose of the By-law.
8. The Committee may recommend to the Municipality that a building, streetscape or area be registered as a Municipal Heritage Property in the Registry.
9.
  - (1) The Municipality shall cause notice of the recommendation of the Committee, in the format of Form "A" appended hereto, to be served upon each registered owner, of the building, streetscape or area that is the subject of the recommendation at least thirty (30) days prior to registration of the building, streetscape or area in the Municipal Registry of Heritage Properties.
  - (2) The notice shall contain:
    - (a) a statement that the building, streetscape, or area described in the notice has been recommended for registration in the Municipal Registry of Heritage Property;
    - (b) a brief statement of the reasons for the recommendation;
    - (c) a summary of the consequences of registration;

- (d) a statement that no person shall substantially alter the exterior appearance of or demolish the building, streetscape or area for one hundred and twenty (120) days after the notice is served unless the Municipality sooner refuses to register the property; and
    - (e) notification of the right of the owner to be heard and of the date, time and place of the hearing.
  - (3) No person shall substantially alter the exterior appearance of or demolish a building, streetscape or area for one hundred and twenty (120) days after notice respecting the building, streetscape or area has been served pursuant to Subsection (1) except in those cases where, prior to the expiration of one hundred and twenty (120) days, the Municipality refuses to register the property.
  - (4) A copy of the notice served pursuant to Subsection (1) shall be deposited at the Registry of Deeds at Windsor, Nova Scotia.
10. (1) The Municipality may register, in the format of the notice in Form “B” appended hereto, the building, streetscape or area as a Municipal Heritage Property in the Municipal Registry of Heritage Property at any time not less than thirty (30) days nor more than one hundred and twenty (120) days after the service of the notice pursuant to Section 9 hereto and on the advice of the Heritage Advisory Committee.
- (2) No registration pursuant to Subsection (1) shall take place until the Council has given the owner of the property an opportunity to be heard and such opportunity shall be given not earlier than three (3) weeks after the service of the notice pursuant to Subsection (1) of Section 9.
  - (3) Notice of the registration shall be sent to each registered owner of the building, streetscape or area and a copy thereof shall be deposited at the Registry of Deeds at Windsor, Nova Scotia.
11. (1) The owner of a Municipal Heritage Property may apply to, or the Municipality on its own motion may, deregister a Municipal Heritage Property where
- (a) the property has been destroyed or damaged by any cause; or
  - (b) the continued registration of the property appears to the Council to be inappropriate;
- after holding a public hearing to consider the proposed deregistration.

- (2) Such public hearing shall be held not less than thirty (30) days after notice of the hearing is served on the registered owner of the Municipal Heritage Property and published in a newspaper circulating in the area.
  - (3) Where a Municipal Heritage Property is deregistered, the Council shall cause notice of the deregistration to be sent to the registered owner of the property and a copy thereof to be deposited at the Registry of Deeds at Windsor, Nova Scotia.
12.
  - (1) Municipal Heritage Property shall not be substantially altered in exterior appearance or demolished without the approval of the Municipality.
  - (2) An application for permission to substantially alter the exterior appearance of or demolish Municipal Heritage Property shall be made in writing to the Municipality.
  - (3) Upon receipt of the application, the Municipality shall refer the application to the Heritage Advisory Committee for its recommendations.
  - (4) Within thirty (30) days after the application referred by the Municipality, the Heritage Advisory Committee shall submit a written report and recommendation to the Municipality respecting the Municipal Heritage Property.
  - (5) The Municipality may grant the application either with or without conditions or may refuse it.
  - (6) The Municipality shall advise the applicant of its determination.
13. Notwithstanding Section 12, where the owner of Municipal Heritage Property has made an application for permission to alter the exterior appearance of or demolish the property and the application is not approved, the owner may make the alteration or carry out the demolition at any time after one (1) year from the date of the application, provided that the alteration or demolition shall not be undertaken more than two (2) years after the date of the application.
14. The Municipality may cause a sign, plaque or other marker to be placed on a Municipal Heritage Property indicating the significance of that property.
15.
  - (1) The Municipality may enter into an agreement with the owner of Municipal Heritage Property whereby the owner grants to the Municipality a right or

incurs an obligation respecting the use, preservation or protection of the heritage property.

- (2) An agreement entered into pursuant to Subsection (1) shall be deposited at the Registry of Deeds at Windsor, Nova Scotia.
  - (3) Where an agreement is deposited at the Registry of Deeds, the right or obligation given by the owner becomes an encumbrance upon and runs with the property, and the Municipality, in respect of Municipal Heritage Property, may enforce the right or obligation against the property and against the owner or any subsequent owners of the property.
  - (4) The right or obligation created by an agreement made pursuant to Subsection (1) may be waived or discharged by the Municipality in respect to Municipal Heritage Property.
  - (5) The Municipality may acquire Municipal Heritage Property or any right therein.
- 16.
- (1) Service of any notice required to be made by this By-law shall be sufficient if served upon the person by registered mail at his last known address.
  - (2) Where a person upon whom service should be made cannot be identified or his address is not known, service shall be sufficient if notice is affixed in a conspicuous place on the building, streetscape or area and a copy is delivered to any occupant of the property.
- 17.
- (1) A person who contravenes the provisions of this By-law is guilty of an offense and is liable on summary conviction to a penalty of not more than Ten Thousand Dollars (\$10,000.00) and in default of payment thereof, to imprisonment for a term not exceeding six (6) months.
  - (2) Where a corporation is convicted of an offense against this By-law, the maximum penalty that may be imposed upon the corporation is One Hundred Thousand Dollars (\$100,000.00) and not as provided in Subsection (1).
  - (3) Where there is a contravention or failure to comply with the terms of this By-law or any agreement made hereunder, the Municipality may bring action in the Trial Division of the Supreme Court and the Court may, in addition to any other remedy or relief,
    - (a) make an Order restraining the continuance or repetition of any such contravention or failure;

- (b) make an Order directing the restoration of the property as nearly as may be to its condition prior to the contravention or failure to comply, and directing that upon failure to comply with the Order, the Council may restore the property or may cause it to be restored at the expense of the owner thereof;
- (c) make such other Order as is required to enforce the provisions of this By-law and as to costs and as to the recovery of the expenses of any such restoration as the Court deems just.

**FORM "A"**

**MUNICIPALITY OF THE DISTRICT OF WEST HANTS**

**NOTICE OF RECOMMENDATION  
TO REGISTER AS A  
MUNICIPAL HERITAGE PROPERTY**

1. Under the Heritage Property By-law, the Municipality of the District of West Hants hereby gives notice that the property of (insert name of owner) located at (insert brief description and address) has been recommended for registration in the Municipal Registry of Heritage Property for the Municipality of the District of West Hants.
2. The property has been recommended for registration for the following reasons:  
(describe reasons for recommendation)
3. The Heritage Property Act provides that no person shall substantially alter the exterior appearance of or demolish a building, streetscape or area for 120 days from the date of service of this notice upon you, unless the Municipal Council sooner refuses to register the property.
4. Take notice that you have the right to be heard concerning the recommended registration, and this hearing shall take place at the Sanford Council Chambers, 76 Municipal Building, 76 Morison Drive, Windsor, Nova Scotia on (insert date) at the hour of (insert time). You may make submissions orally or in writing and a written submission by you may be presented at any time prior to the hearing.
5. The Heritage Property By-law provides that if a property is registered as a Municipal Heritage Property:
  - (a) the property shall not be substantially altered in exterior appearance or be demolished without the approval of the Municipality;
  - (b) an application for permission to substantially alter the exterior appearance or to demolish a property may be made to the Municipality;
  - (c) the Heritage Advisory Committee shall be given an opportunity to comment on any application;

- (d) the Municipality may grant or refuse permission or attach conditions;
- (e) if the application is not approved, the alteration or demolition may take place at least one (1) year but not more than two (2) years after the date of the application;
- (f) penalties for violation of the By-laws are a maximum fine of \$10,000.00 for individuals and \$100,000.00 for corporations;
- (g) the Municipality has the further right to apply for a Supreme Court Order restraining the continuance or repetition of any contravention of the By-law, or for an Order directing the restoration of the property or for any other Order to enforce the provisions of this By-law and as to costs and the recovery of expenses;
- (h) a copy of this notice has been recorded at the Registry of Deeds at Windsor, Nova Scotia.

**FORM "B"**

**MUNICIPALITY OF THE DISTRICT OF WEST HANTS**

**NOTICE OF REGISTRATION  
OF  
MUNICIPAL HERITAGE PROPERTY**

1. Under Section 10 of the Heritage Property By-law, the Municipality of the District of West Hants hereby gives notice that the property of (insert name of owner), located at (insert brief description and address), has been registered in the Municipal Registry of Heritage Property for the Municipality of the District of West Hants.
  
2. The Heritage Property By-law provides that where a property is registered as a Municipal Heritage Property:
  - (a) the property shall not be substantially altered in exterior appearance or be demolished without the approval of the Municipality;
  - (b) an application for permission to substantially alter the exterior appearance or to demolish the property may be made to the Municipality;
  - (c) the Heritage Advisory Committee shall be given an opportunity to comment on any application;
  - (d) the Municipality may grant or refuse permission or attach conditions;
  - (e) if the application is not approved, the alteration or demolition may take place at least one (1) year but not more than two (2) years after the date of the application;
  - (f) penalties for violation of the By-law are a maximum fine of \$10,000.00 for individuals and \$100,000.00 for corporations;
  - (g) the Municipality has the further right to apply for a Supreme Court Order restraining the continuance or repetition of any contravention of the By-law, or for an Order directing the restoration of the property or for any other Order to enforce the provisions of this by-law and as to costs and the recovery of expenses.
  
3. A copy of this notice has been registered at the Registry of Deeds at Windsor, Nova Scotia.