

APPENDIX A

Approved By the Minister
of Service NS-Feb. 15/01

TOWN OF WINDSOR

Effective March 7/01

HERITAGE PROPERTY BY-LAW

Printed: 12 March 2001

- 25.01 This by-law shall be known and may be cited as the *Heritage Property By-law*.
- 25.02 In this By-law:
- (a) "Act" means the Heritage Property Act;
 - (b) "Applicant" means the person, persons or organization, requesting registration of a property for municipal heritage status under this By-law;
 - (c) "Area" includes such visibly physical features as cemeteries, historical gardens, statues and monuments, where they are of architectural, historical or cultural value;
 - (d) "Council" means the Town Council of the Town of Windsor;
 - (e) "Clerk" means the Clerk of the Town of Windsor
 - (f) "Committee" means the Heritage Advisory Committee, established pursuant to this By-law;
 - (g) "Town" means the Town of Windsor;
 - (h) "Municipal Heritage Property" means a building, streetscape or area registered in a Municipal Registry of Heritage Property;
 - (i) "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;
 - (j) "Registry" means the Municipal Registry of Heritage Property, within the meaning of the Act;
- 25.03 There shall be established for the Town of Windsor, a Municipal Registry of Heritage Property, where all prescribed documents relating to the registration of heritage property under this By-law shall be filed.
- 25.04 The maintenance of the Registry shall be the responsibility of the Town Clerk.
- 25.05 The Heritage Advisory Committee shall be appointed by Council, in accordance with the following criteria:
- (a) all members of the Windsor Planning Advisory Committee shall be members, and two other members shall be selected from residents of the Town who are not Council members and have a demonstrated interest in heritage properties;
 - (b) following the coming into force of this By-law, Council shall appoint the members of the Committee as follows:
 - (i) the members of the Planning Advisory Committee shall serve for the same period as they are members of the Planning Advisory Committee.
 - (ii) on the initial appointment of the two additional members, one shall serve a term of approximately two years, such term to expire in the November following one full year of appointment, and one shall serve a term of approximately three years, such term to expire in the November following

two full years of appointment; thereafter each member shall serve for two years;

and Council shall on or before the last day of November of each and every succeeding year make appointments in accordance with this paragraph to fill vacancies created by the termination of any term of office.

- (c) Council may at any time upon determining that a vacancy or vacancies exist on the Committee appoint one or more individuals to fill said vacancies. Such individual or individuals shall serve the remainder of the term of the individual or individuals to be replaced;
- (d) a member of the Committee may be reappointed upon the expiry of the member's term of office.
- (e) all members of the Committee including those that are members of Council shall be appointed with no remuneration by the Town for attendance at Committee meetings, except for the position of secretary.
- (f) all members appointed shall remain members only during such time as they continue to be residents of Windsor.

25.06 The Heritage Advisory Committee shall operate under the following rules of procedure:

- (a) the committee shall appoint a chair and vice-chair from amongst its members at the first meeting of the committee;
- (b) a secretary shall be appointed to the committee who shall be responsible for the recording and keeping of minutes of committee meetings
- (c) if a committee member is absent for three successive meetings that member shall cease to be a member;
- (d) the committee shall meet monthly, when required, to discuss applications for registration of properties, applications to substantially alter or demolish a Municipal Heritage property, or discuss the criteria for evaluation of a heritage property, or other matters necessary for the effective carrying out of the intent of the By-law; such meetings generally to be held on the same evening as the Planning Advisory Committee meeting; special meetings may be held as and when determined by the committee chair or on request of the majority of committee members.
- (e) quorum shall be five committee members;
- (f) a member of the Town's Planning Staff shall serve as advisor to the committee.

25.07 The Committee may advise the Town Council respecting:

- (a) the inclusion of buildings, streetscapes and areas in the Registry of Heritage Property;
- (b) an application for permission to substantially alter or demolish a Municipal Heritage Property;
- (c) building or other regulations that affect the attainment of the intent and purposes of this By-law;
- (d) any other matters conducive to the effective carrying out of the intent and purpose of this By-law.

25.08 The Committee may recommend to the Town that a building, streetscape or area be registered as a Municipal Heritage Property in the Registry.

25.09 (a) The Town 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.

- (b) The notice shall contain:
 - (i) a statement that the building, streetscape, or area described in the notice has been recommended for registration in the Municipal Registry of Heritage Property;
 - (ii) a brief statement of the reasons for the recommendation;
 - (iii) a summary of the consequences of registration;
 - (iv) 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 Town sooner refuses to register the property; and
 - (v) notification of the right of the owner to be heard and of the date, time and place of the hearing.
 - (c) 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 (a) except in those cases where, prior to the expiration of one hundred and twenty (120) days, the Town refuses to register the property.
 - (d) A copy of the notice served pursuant to Subsection (a) shall be deposited at the Registry of Deeds at Windsor, Nova Scotia.
- 25.10 (a) The Town 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 anytime not less than thirty (30) days nor more than one hundred and twenty (120) days after service of the notice pursuant to Section 25.09 hereof and on the advice of the Heritage Advisory Committee.
- (b) No registration pursuant to Subsection (a) 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 service of the notice pursuant to Subsection (a).
 - (c) 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.
- 25.11 (a) On the application of an owner of a Municipal Heritage Property or on its own motion, the Town 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.
- (b) 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.

- (c) Where a Municipal Heritage Property is deregistered, 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.
- 25.12 Council shall require fees associated with:
- (a) the costs required by the Registry of Deeds for registration of documents prescribed by this by-law; and
 - (b) the costs of a public hearing for the registering and de-registering of municipal heritage property;
- be payable by the applicant.
- 25.13
- (a) A Municipal Heritage Property shall not be substantially altered in exterior appearance or demolished without the approval of the Town.
 - (b) An application for permission to substantially alter the exterior appearance of or demolish Municipal Heritage Property shall be made in writing to the Town.
 - (c) Upon receipt of the application, the Town shall refer the application to the Heritage Advisory Committee for its recommendations.
 - (d) Within thirty (30) days after the application has been referred by the Town, the Heritage Advisory Committee shall submit a written report and recommendation to the Town, respecting the Municipal Heritage Property.
 - (e) The Town may grant the application either with or without conditions or may refuse it.
 - (f) The Town shall advise the applicant of its determination.
- 25.14 Notwithstanding Section 25.13, 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 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.
- 25.15 The Town may cause a sign, plaque or other marker to be placed on a Municipal Heritage Property indicating the significance of that property, with the cost of the sign, plaque or other marker to be borne by the Town.
- 25.16
- (a) Service of any notice required to be made by this By-law shall be sufficient if served upon the person by registered mail at the person's last known address.
 - (b) Where a person upon whom service should be made cannot be identified or the 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.

FORM "A"

TOWN OF WINDSOR

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

1. Under the Heritage Property By-law, the Town of Windsor 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 Town of Windsor.
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 Town 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 Council Chambers, 100 King Street, 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 Town;
 - b. an application for permission to substantially alter the exterior appearance or to demolish a property may be made to the Town;
 - c. the Heritage Advisory Committee shall be given an opportunity to comment on any application;
 - d. the Town 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 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 Town 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"

TOWN OF WINDSOR

**NOTICE OF REGISTRATION
OF
MUNICIPAL HERITAGE PROPERTY**

1. Under Section 25.10 of the Heritage Property By-law, the Town of Windsor 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 Town of Windsor.
2. The Heritage By-law provides that where a property is registered as Municipal Heritage Property:
 - (a) the property shall not be substantially altered in exterior appearance or be demolished without the approval of the Town;
 - (b) an application for permission to substantially alter the exterior appearance or to demolish the property may be made to the Town;
 - (c) the Heritage Advisory Committee shall be given an opportunity to comment on any application
 - (d) the Town 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 Town 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.