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Discouraging the Unauthorized Demolition of Designated Heritage Buildings Information Report to Council

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In accordance with the Procedure By-law, any member of Council may make a request to the Town Clerk that this Report be placed on an upcoming Committee of the Whole agenda for discussion.

Purpose

The unauthorized demolition of 184/186 Main Street South in October 2019 (“Simpson Building”) has prompted a review of options to discourage such occurrences from happening in the future.

The purpose of this Report is to inform Council of options to discourage the unauthorized demolition of designated heritage buildings and structures in the Heritage Register (individual properties and those within the Heritage Conservation District (HCD)) and to advise of a change in practice regarding the enforcement of the Property Standards By-law to better ensure compliance with its heritage provisions.

Background

At Committee of the Whole on February 3, 2020, Planning staff were directed to provide an update in the form of an information report on options to discourage unauthorized demolition of designated heritage buildings and indicate any that are advisable to be actioned.

Newmarket is a historic community with post-European contact settlement occurring over 200 years ago. The Town enjoys a significant stock of heritage properties, with

approximately 115 being included in the Town's list of designated properties. The importance of cultural heritage is reflected in the Town's Official Plan; one of the primary goals of which is to protect and enhance the Town's cultural heritage resources. Cultural heritage preservation is important to the Town as it provides insight to the Town's unique history, provides a sense of identity, and contributes to the Town's cultural and economic well-being.

The *Provincial Policy Statement* (PPS) states, "significant built heritage resources and significant cultural heritage landscapes shall be conserved". Under the *Ontario Heritage Act*, for properties designated under Part IV – Individual Property Designation and Part V – District Designation, no owner of a designated property shall demolish or remove a building or structure on the property unless the owner applies to Council and receives consent in writing to the demolition or removal. It is also important to protect heritage buildings against demolition by neglect. Demolition by neglect is the process by which the property owner, either intentionally or unintentionally, allows the buildings and/or structures on the designated property to deteriorate to the point that it is beyond reasonable repair and poses concerns of public safety.

Discussion

A review of options to discourage the unauthorized demolition of designated heritage buildings has been completed. The following provides a summary of each option followed by a statement on whether the practice would be advisable to be actioned or not.

Inclusion of Penalty Component within the HCD Plan

One possible option is to set out a penalty component within the Heritage Conservation District (HCD) Plan and to publicize such a penalty in order to discourage property owners from demolishing their buildings and/or structures without following the proper processes. This will underline the severity of such an action. The Town presently has one HCD – Lower Main Street South. The Town's HCD Plan for Lower Main Street South sets out policies regarding additions and new construction, and addresses the types of work that either require a heritage permit or are minor in nature and are exempt from heritage review. A penalty section is currently not present in the Town's HCD Plan nor in the HCD Plans of surrounding municipalities such as Markham and Aurora. Of interest, the general idea of a fine is mentioned within the City of Toronto's document, *Heritage Conservation Districts in Toronto: Procedures, Policies and Terms of Reference*, which states, "changes undertaken without a permit may be subject to fines and requirements to restore the property to its previous state", however this is a general reference and does not state a specific monetary amount. Under the Ontario Heritage Act (OHA), the maximum penalty for demolition of a designated property without approval is \$1,000,000, with the amount for the penalty determined at the discretion of the courts after litigation.

This option also introduces an element of risk. Revisions to the HCD Plan would require repealing the existing HCD By-law and adopting a new one. This is a public process that includes the opportunity for the entire HCD Plan to be appealed. It is the opinion of staff that any advantage gained by having a penalty stated in the HCD Plan is outweighed by the possibility of having the HCD Plan appealed. In addition, the potential maximum fines that are subject in the OHA are deemed sufficient.

Discouraging Demolition and Encouraging Adaptive Reuse

Another possible option that staff examined is to discourage property owners and developers from producing high volumes of waste by charging a fee for construction waste disposal within the building permit process, and implementing minimum reuse and recycling requirements with development proposals.

The Town does not currently charge a fee for construction waste disposal or have minimum reuse and recycling requirements. Other area municipalities such as Vaughan, Aurora, and East Gwillimbury also do not include waste disposal fee within their building permit process.

In the City of Vancouver, minimum reuse and recycling requirements apply to demolition waste when a homeowner wishes to demolish a house built before 1950. The minimum reuse and recycling rates are measured by weight as follows:

- Houses built before 1950: 75% of materials by weight, excluding hazardous waste
- Houses built before 1950 and deemed character houses by the City: 90% of materials weight, excluding hazardous materials

A Green demolition deposit of \$14,654 is also enacted when applying for a demolition permit with minimum recycling requirements. If requirements are met the deposit will be fully refunded, but if requirements are not met the deposit will not be returned.

With no construction waste disposal fee within the building permit process and minimal reuse and recycling requirements, demolition becomes a feasible option. If the disincentives were strong enough, the developer/property owner may consider adaptive reuse as it would be a more cost-efficient alternative, indirectly benefiting the cause of heritage conservation.

When done correctly, adapting older buildings for new uses can preserve its historic features and values while minimizing demolition waste. Adaptive reuse is an innovative method for breathing new life into old buildings. The Town already encourages the adaptive reuse of historic properties as demonstrated through recent RFP's: Old Fire Hall on Main Street, Denison Child Care at the Stickwood-Walker site, and the Mulock Preventing the Unauthorized Demolition of Designated Heritage Buildings

Estate. This is an option that should be further encouraged. However, the Town does not discourage demolition through financial means, as described. Staff do not intend to move forward with this approach at this time because it would require changes to the building permit application and a determination as to whether a building permit could be withheld; however, it has merit from both heritage and environmental perspectives and could be considered in the future as a sustainability initiative.

Property Standards By-law

The Town's Property Standards By-law (By-law No. 2017-62) sets out the minimum standards for the maintenance and occupancy of all properties within the Town of Newmarket, including regulating residential properties, non-residential properties, and designated heritage properties. The section that addresses Heritage Buildings is included as Attachment 1.

The existing property standards system is generally "complaint driven". Most enforcement action is taken as a result of information being provided through the by-law complaint process. In such cases, municipal enforcement officers inspect the site and may issue Orders to Comply with the property standards by-law, including a deadline and fines for all properties within the Town.

Staff intend to move forward with a change in practice regarding enforcement of the Property Standards By-law. This involves Planning Services (cultural heritage) staff accompanying the enforcement officer on inspections related to heritage buildings to help advise on the specific heritage attributes of each building. In addition, staff may use the Administrative Monetary Penalty System (AMPS) introduced by the Town's Regulatory Services staff (report and by-law amendment was approved by Council on April 27, 2020), to more directly encourage compliance by issuing fines. Implementing these changes would result in shorter timelines for action (30-60 days) rather than court charges that can take up to one year to resolve. Non-compliance to the heritage section of the property standards by-law will result in a fine of \$600 per occurrence, with fines eligible to be issued per day. More severe charges such as the unauthorized demolition of heritage buildings will be determined through the Provincial Offences Act (POA) system (fined under the OHA), if necessary. Enforcement officers and Planning Services (cultural heritage) staff would need to exercise judgement as to whether charging a property owner through AMPS and/or the OHA.

Pass a Heritage Property Standards of Maintenance By-law

For more detailed provisions and regulations with the sole intent to protect the condition of heritage properties, developing a Heritage Property Standards of Maintenance By-law could help to prevent demolition by neglect and provide high standards for the

maintenance of designated properties and their features. This would be separate, but complementary to the Property Standards By-law.

The City of Vancouver employs the use of a dedicated Heritage Property Standards of Maintenance By-law (By-law 11351 – Attachment 2) which has proven effective. Unlike a Property Standards By-law which deals with a range of property standards, the sole focus of the by-law would be designated heritage properties and their attributes. Such by-laws provide specific standards for the maintenance of the heritage attributes of heritage properties designated under Parts IV and V of the Ontario Heritage Act and address repair/maintenance, notices and orders, and offences and penalties. These minimum standards will provide a more focused standard of property maintenance for heritage properties and help to prevent demolition by neglect.

At this time, because of the overlap and duplication that this may have with the current provisions under the Town's Property Standards By-law, which would also need to be reviewed, staff are not intending to advance this separate bylaw. Again, it has merit; however, staff feel it best to move forward with the change in practice regarding the enforcement of the current Property Standards By-law, as the minimum standards for the maintenance and occupancy of heritage properties is already available.

Monitoring and Reporting

Implementation of a tool similar to Neighbourhood Watch to prevent or reduce suspicious activity through active participation of local residents may be useful. This method involves an "eyes on the street" approach, wherein members of the Lower Main Street Heritage Advisory Committee (LMSHAC) and Main Street District Business Improvement Area (BIA) to be vigilant, and to encourage others in the community to report any unusual activity within the HCD and other designated heritage properties.

This practice would promote community involvement in preventative activities and will create a greater sense of security on the street. Resources would be required associated with developing and publicizing a public monitoring program, creating a platform for staff to respond to any reports of unusual activity (e-mail or phone) and tools for enforcement and penalty. It would need to be considered during future program improvements and/or annual budget cycles.

Public Education

Public education regarding the value of heritage buildings can provide property owners and developers reliable information to better understand the importance of cultural heritage preservation and may clear up common myths about heritage designation (e.g. that heritage designation precludes alterations / expansions to a building or heritage designation adversely affects property values). Public education may be in the form of

workshops and/or creating material such as brochures and newsletters, which profile designated properties and focuses on their inherent cultural and economic value.

Certain education tools already exist, including the Town's heritage plaque program that helps increase the visibility of the Town's significant historical sites and increase public awareness of the built heritage and history. However, this practice could be expanded through educational tools that are provided through the Town's website such as information brochures and useful links. The City of Markham's Heritage Services website provides detailed information on heritage protection, brochure and publications, walking tours, historical cemeteries, and FAQ's. Other mediums for public education can be provided from time to time, such as workshops and presentations. Planning staff recently hosted a Planning & Heritage Conservation Session presented by Community Heritage Ontario, which was well received by staff and the public. Additional sessions could be held in the future to build public awareness and appreciation of heritage buildings. Workshops and guest speaker presentations would require additional funding to successfully implement.

Staff intend to move forward with this approach to the extent that the annual Cultural Heritage budget will allow. Development of a full public education campaign on the value of heritage resources would involve significant resources that would exceed the current budget. Nonetheless, staff will continue to plan free events (i.e. Planning & Heritage Conservation Sessions) and take every opportunity to increase awareness of the Town's cultural heritage resources.

Financial Assistance

It may be beneficial to expand the option of incentive programs to support the maintenance of heritage buildings. Specifically regarding heritage, the Town administers a Property Tax Rebate Program for designated properties subject to a heritage easement agreement. The rebate program provides an annual property tax refund to help offset the maintenance and restoration costs of the identified heritage attributes associated with the property. Properties eligible for the rebate include those designated under Part IV and Part V of the Ontario Heritage Act.

Other programs used by other municipalities include a Heritage Grant Program; the program provides funds of up to 50% of the estimated cost of eligible work (some maximum limits apply) or Heritage Loan Program; the intent of the program is to help property owners restore, upgrade or maintain designated heritage properties. Both the Heritage Grant Program and the Heritage Loan Program will require Council approval and will be administered by Town staff and members of the Heritage Newmarket Advisory Committee.

This approach will also require additional funding to be successfully implemented.

Preventing the Unauthorized Demolition of Designated Heritage Buildings

Conclusion

With the unauthorized demolition of 184/186 Main Street South (“Simpson Building”), it is crucial to explore the options to discourage a similar occurrence from happening in the future. This report described a number of options and identifies steps that staff will take to further protect the Town’s cultural heritage resources.

Business Plan and Strategic Plan Linkages

Cultural heritage preservation is important to the Town as it provides insight to the Town’s unique history and provides a sense of identity. Such policies are contained in the Town’s Official Plan.

Consultation

Legislative Services (By-law Enforcement) was consulted in the preparation of this report.

Human Resource Considerations

None.

Budget Impact

None.

Attachments

Attachment 1: Excerpt from Town of Newmarket Property Standards By-law regarding Heritage Properties.

Attachment 2: City of Vancouver’s Heritage Property Standards of Maintenance By-law No. 11351.

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46.3 Ventilation shall be provided for every room in which **Plumbing Fixtures** are installed, every locker room and clothes drying room either by means of natural ventilation through openings directly to the outside air or by means of mechanical ventilation, which will ensure a complete change of air within the room at least once per hour.

46.4 Where a system of mechanical ventilation exhausting noxious fumes, gases, dust or sawdust from a building is installed, the discharge from such a system shall terminate above the roof line of the building and not less than 3.05 metres (10 feet) clear of any skylight, window, ventilation or other opening into a building and shall be operated in such a way as not to constitute a **Nuisance**.

47.0 **MEANS OF EGRESS**

47.1 All **Means of Egress** within a non-residential building shall be:

- 1) maintained free from all obstructions or impediments;
- 2) provided with adequate lighting.
- 3) provided with clean, clear, unobstructed and readily visible exit **Signs**, for every required exit.

47.2 In a **Mixed-use Building**, no **Means of Egress** from the non-residential portion of the building shall pass through any part of any **Dwelling Unit** unless the **Occupant** thereof is also the **Occupant** of the non-residential portion.

48.0 **WINDOW GUARDS**

48.1 Every window in a non-residential building located above the first **Storey** in corridors, stairways and other public areas that extends to less than 1070 mm (42") above the floor or landing shall be protected by a **Guard** at least 1070 mm (42") in height and having no openings large enough to permit the passage of a spherical object with a diameter of 200 mm (8") and be non-climbable.

49.0 **ELEVATING DEVICES**

49.1 Elevating devices in a non-residential building, including all parts, lighting fixtures, lamps, elevator buttons, floor indicators and ventilation fans shall be maintained in good **repair** and operational.

HERRITAGE BUILDINGS

50.0 **HERITAGE ATTRIBUTES**

50.1 In addition to the minimum **Standards** for the **Maintenance** and occupancy of **Property** set out elsewhere in this by-law, the **Owner** or **Occupant** of a Part IV or Part V **Heritage Property** shall:

- 1) maintain, preserve and protect the **Heritage Attributes** of the Part IV or Part V **Heritage Property** so as to maintain its **heritage** character as well as its visual and structural **heritage** integrity;
- 2) maintain the Part IV or Part V **Heritage Property** in a manner that will ensure the protection and preservation of its **heritage** values and attributes; and,
- 3) obtain a **Heritage Permit** from Council prior to performing work or causing any work to be performed under this section of this by-law.

51.0 **REPAIR OF HERITAGE ATTRIBUTES**

51.1 Despite any other provision of this By-law, where a **Heritage Attribute** of a Part IV or Part V **Heritage Property** can be repaired the **Heritage Attribute** shall not be replaced and shall be **repaired**:

- 1) in a manner that minimizes damage to the **heritage** values and attributes;
- 2) in a manner that maintains the design, colour, texture, grain or distinctive features of the **Heritage Attributes**; and
- 3) Using the same types of materials as the original and in keeping with the design, colour, texture, grain and any other distinctive features of the original.

51.2 Where the same types of material as the original are no longer available, using alternative materials that replicate the design, colour, texture, grain or other distinctive features and appearance of the original materials.

52.0 REPLACEMENT OF HERITAGE ATTRIBUTES

52.1 Despite any other provision of this By-law, where a **Heritage Attribute** of a Part IV or Part V **Heritage Property** cannot be repaired, the **heritage Attribute** shall be replaced:

- 1) using the same types of materials as the original;
- 2) Where the same types of material as the original are no longer available, using alternative materials that replicate the design, colour, texture, grain or other distinctive features and appearance of the original materials.
- 3) in such a manner as to replicate the design, colour, texture, grain and other distinctive features and appearance of the **Heritage Attribute**; and
- 4) in a manner that minimizes damage to the **Heritage Attributes** of the **Property**.

53.0 ALTERATION OF HERITAGE ATTRIBUTES

53.1 Despite any other provision of this By-law or the **Building Code Act, 1992**, as amended, or as substituted from time to time, no building or structure of a Part IV and Part V **Heritage Property** may be altered or cleared, including but not limited to removed, demolished or relocated except in accordance with the **Ontario Heritage Act**.

54.0 VACANT AND DAMAGED DESIGNATED HERITAGE PROPERTIES

54.1 Where a Part IV or Part V **Heritage Property** remains vacant for a period of 90 days or more, the **Owner** shall ensure that appropriate utilities serving the building are connected as required in order to provide, maintain and monitor proper heating and ventilation to prevent damage to the **Heritage Attributes** caused by environmental conditions.

54.2 The **Owner** of the vacant Part IV or Part V **Heritage Property** shall protect the building and **Property** against the risk of fire, storm, neglect, intentional damage and damage by other causes by effectively preventing the entrance to it all animals and unauthorized **Persons** and by closing and securing openings to the building with boarding:

- 1) that completely covers the opening and is properly fitted in a watertight manner within the side jambs, the head jamb and the exterior bottom sill of the door or window opening so the exterior trim and cladding remains uncovered and undamaged by the boarding;
- 2) that is fastened securely in a manner that minimizes damage to the **Heritage Attributes** and the historic fabric and is reversible, and
- 3) in a manner that minimizes visual impact.

- 54.3 Despite any of the provisions above, no window, door or other opening on a Part IV or Part V **Heritage Property** shall be secured by brick or masonry units held in place by mortar unless required.
- 54.4 Where utilities are available for the safety and security of the building, an exterior lighting fixture shall be installed and maintained in front porch, veranda or an area adjacent to the front entrance of the building or structure and must be left on a timer.
- 54.5 The **Owner** of vacant Part IV or Part V **Heritage Property** shall post **Signs** prohibiting trespassing onto the **Property** and prohibiting removal of materials.

55.0 UNSAFE HERITAGE PROPERTY

- 55.1 Where a building or structure on a Part IV or Part V **Heritage Property** has been deemed unsafe and the necessary remedial measures to address the unsafe condition of the building or structure are being undertaken, the **Owner** shall ensure that all necessary measures are taken to protect **Heritage Attributes** and prevent damage or further damage to the Part IV or Part V **Heritage Property**.
- 55.2 If, in the opinion of the **Property Standards Officer**, there is doubt as to the structural condition and adequacy of a building or structure or parts thereof, the **Officer** may order that such building or structure or parts thereof be examined by a professional engineer, licensed to practice in Ontario and a member of the Canadian Association of **Heritage** Professionals and employed by the **Owner** or authorized agent, and that a written report be submitted to the **Officer**, which report will include drawings for any recommended remedial work designed by an engineer, and details of the findings of such examination.

56.0 DEMOLITION OF HERITAGE PROPERTY

- 56.1 Despite any other provision of this By-law or the **Building Code Act**, 1992, no building or structure located on Part IV and Part V **Heritage Property** that has been designated under Section 29, 34.5 or 41. of the Ontario **Heritage Act** may be altered or cleared including but not limited to remove, demolition or relocation except in accordance with the Ontario **Heritage Act**,
- 56.2 Upon completion of demolitions and removals of structures, the affected site shall be cleared and cleaned of **Debris**, graded, left free from holes or excavations and provided and maintained with suitable **Ground Cover**.

57.0 CONFLICT

- 57.1 If there is a conflict between the **Heritage Act** and the **Building Code** the Act which has the highest standards shall prevail.
- 57.2 If there is a conflict between this section and any other provision in this By-law or any other **Town** By-law, the provision that establishes the highest standard for the protection of **Heritage Attributes** shall prevail.

ENFORCEMENT

58.0 POWER OF ENTRY

- 58.1 A **Officer** may, upon producing proper identification, enter upon any **Property**, at any reasonable time without a warrant for the purpose of inspecting the **Property** to determine:
- 1) whether the **Property** conforms with the **Standards** prescribed in this by-law, or
 - 2) whether an Order made under the **Act** has been complied with.
- 58.2 In accordance with section 16 of the Building Code, an Officer requires the permission of the Occupant to enter inside a Dwelling.

Heritage Property Standards of Maintenance

By-law No. 11351

[Consolidated for convenience only]

A By-law prescribing minimum standards and regulations for the repair and maintenance of heritage property.

WHEREAS Section 596 of the *Vancouver Charter* authorizes the Council of the City of Vancouver (hereinafter “the Council”) to establish minimum standards for the maintenance of protected heritage property and property that is within a heritage conservation area;

AND WHEREAS the Council wishes to ensure that protected heritage property and property that is within a heritage conservation area is preserved for future generations and does not deteriorate due to lack of repair, maintenance and conservation;

AND WHEREAS protected heritage property and property that is within a heritage conservation area requires reasonable repair and maintenance by owners or occupiers in order to be protected and conserved;

AND WHEREAS Council wishes to supplement the general maintenance standards that are already in effect in the City of Vancouver, with specific maintenance standards intended to apply to protected heritage property and property that is within a heritage conservation area;

NOW THEREFORE, THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

1 Application and Interpretation

1.1 Name of By-law

The name of this by-law, for citation, is the “Heritage Property Standards of Maintenance By-law”.

1.2 Application

This by-law applies to protected heritage property and property that is within a heritage conservation area.

1.3 Definitions

In this By-law:

“**Accessory Building**” means an improvement on a site where the use or intended use is ancillary to that of the principal building located on the same site;

“**Architectural Features**” means siding, wall facings, corner boards, brackets, columns, pilasters, windows, doors, window and door surrounds or architraves, projections, cornices, pediments and balustrades and their paints, finishes and colours, architectural hardware and all other similar exterior or interior features;

“**Chief Building Official**” means the city official appointed as such by Council and includes the authorized representatives of the Chief Building Official;

“**Director of Planning**” means the city official appointed as such by Council and includes the authorized representatives of the Director of Planning;

“**Features**” includes architectural and landscape features;

“**Heritage Alteration Permit**” means a permit authorized under Part XXVIII, Division (5) of the *Vancouver Charter*, the Heritage By-law, or the Heritage Procedure By-law;

“**Heritage Conservation Area**” means an area designated as a heritage conservation area under sections 561(2)(c) (iv) and 596A of the *Vancouver Charter* by an official development plan;

“**Landscape Features**” means any fence, retaining wall, fountain, patio, terrace, statuary or similar feature that is located on a site and outside the exterior walls of a building;

“**Occupier**” means the person who occupies or lives in a building or premises and includes a tenant;

“**ODP**” means an official development plan that designates a heritage conservation area;

“**Owner**” means a registered owner of real property or a person in possession of real property and includes the agent or representative of a person owning or in possession of real property or in receipt of the rents or profits therefrom whether on his own account or as agent or trustee for any other person.

“**Protected Heritage Property**” means, for the purposes of this by-law, buildings, structures, land and features that are specifically listed as protected heritage property in a schedule included in an ODP;

“**Routine Building Maintenance**” means ordinary maintenance or repair and does not include removal or replacement, or a change in design, materials, or appearance; and

“**Routine Garden Maintenance**” means ordinary maintenance and includes weeding, mowing lawns, planting, and pruning shrubs and trees in compliance with the Protection of Trees By-law.

1.4 Severability

A decision by a court that any part of this by-law is illegal, void, or unenforceable severs that part from this by-law, and is not to affect the balance of this by-law.

2 Standards of Maintenance for Protected Heritage Property and Property within a Heritage Conservation Area

2.1 Maintaining Property

An owner or occupier of protected heritage property or property within a heritage conservation area must:

- (a) maintain all buildings, structures, architectural features and landscape features in good repair; and
- (b) maintain all buildings, structures, architectural features and landscape features in accordance with this by-law and all other applicable by-laws.

2.2 Heritage Alteration Permits

An owner or occupier of a protected heritage property or property within a heritage conservation area must not cause, permit or allow work on the property for which a Heritage Alteration Permit is required without having first obtained a Heritage Alteration Permit.

2.3 Repair and Maintenance Standards

An owner or occupier of protected heritage property or property within a heritage conservation area must carry out all repairs and maintenance in accordance with an ODP.

2.4 Routine maintenance

An owner or occupier of protected heritage property or property within a heritage conservation area may carry out routine garden maintenance and routine building maintenance without a Heritage Alteration Permit.

2.5 Weather and Infestation

An owner or occupier of protected heritage property or property within a heritage conservation area must repair and maintain all buildings, structures and features so as to reasonably prevent or retard damage caused by weather, wind, sun, moisture, infestation, rot, decay or similar causes, including but not limited to:

- (a) preventing water penetration;
- (b) preventing or repairing damage resulting from such causes; and
- (c) preventing entry or infestation of lands or buildings by rodents, pests or vermin.

2.6 Exterior Finishes and Painting

An owner or occupier of protected heritage property or property within a heritage conservation area must:

- (a) protect exterior finishes from damage caused by weather, wind, sun, moisture, infestation, rot, decay or similar causes; and
- (b) paint, clean, maintain and repair buildings and landscape features as necessary to protect exterior finishings and architectural features.

2.7 Structural Integrity

An owner or occupier of protected heritage property or property within a heritage conservation area must maintain the structure and all structural supports of all buildings and structures in good repair and condition.

2.8 Storm Water Drainage

An owner or occupier of protected heritage property or property within a heritage conservation area must drain storm water from land by an approved method so as to prevent ponding or the entry of water into buildings.

2.9 Fences, Retaining Walls, and Approved Enclosures

An owner or occupier of protected heritage property or property within a heritage conservation area must keep fences, retaining walls, and enclosures:

- (a) in good repair;
- (b) free from accident hazards including hazards posed by glass, razor wire, barbed wire, or nails; and

- (c) free from posters, signs, advertising materials, words, pictures, drawings, graffiti, except that this does not apply to notices or orders posted in accordance with municipal, provincial or federal legislation.

2.10 Accessory Buildings and Landscape Features

An owner or occupier of protected heritage property or property within a heritage conservation area must keep accessory buildings and landscape features in good repair.

2.11 Foundation Walls

An owner or occupier of protected heritage property or property within a heritage conservation area must maintain the foundation walls of a building:

- (a) in good condition and repair;
- (b) weather tight;
- (c) free from cracks, leaks and decay; and
- (d) in a state of maintenance and repair sufficient to prevent the entry of moisture into the building.

2.12 Exterior and Parapet Walls

An owner or occupier of protected heritage property or property within a heritage conservation area must maintain the exterior walls and parapet walls of a building and their components:

- (a) in good condition and repair;
- (b) weather tight;
- (c) free from cracks, leaks or decay;
- (d) free from loose or unsecured objects and materials;
- (e) in a state of maintenance and repair sufficient to prevent or retard deterioration due to weather or infestation;
- (f) clean and free from soot, grime, mildew, mould, and peeling paint; and
- (g) free from posters, signs, notices, advertising materials, words, pictures, drawings, or graffiti.

2.13 Attachments

An owner or occupier of protected heritage property or property within a heritage conservation area must maintain fixtures and attachments to a building including but not limited to signs, lighting, canopies, marquees, awnings, screens, grills, pipes, ducts, air conditioners, and all other similar equipment, attachments, and extensions, and their supporting members:

- (a) in good condition and repair;
- (b) properly and safely anchored; and
- (c) protected against deterioration and decay by periodic application of a weather coating material such as paint or other protective treatment, unless constructed of materials inherently resistant to deterioration.

2.14 Architectural Features

An owner or occupier of protected heritage property or property within a heritage conservation area must maintain the exterior architectural features of a building in good condition and properly and safely secured or anchored.

2.15 Exterior Doors and Windows

An owner or occupier of protected heritage property or property within a heritage conservation area must maintain exterior doors, windows, skylights, and hatchways of a building, and their components, in good condition and repair.

2.16 Roofs

An owner or occupier of protected heritage property or property within a heritage conservation area must keep the roof of a building, including the flashing:

- (a) in good repair;
- (b) weather-tight and free from leaks; and
- (c) free from loose or unsecured objects and materials.

2.17 Eavestroughs and Downpipes

An owner or occupier of protected heritage property or property within a heritage conservation area must maintain eavestroughs and downpipes that are attached to a building or accessory building:

- (a) in good condition and repair;
- (b) in good working order;
- (c) water-tight and free from leaks; and
- (d) in such a manner that rainwater does not penetrate the building or spill in an uncontrolled manner upon sidewalks, driveways, stairways or landings.

2.18 Fire Escapes, Stairs, Balconies, Porches, and Landings

An owner or occupier of protected heritage property or property within a heritage conservation area must maintain fire escapes, stairways, balconies, porches and landings, and all components in, on or attached to a building:

- (a) in good condition and repair;
- (b) properly and safely anchored; and
- (c) free from rust, holes, cracks, excessive wear and warping, and hazardous obstructions.

2.19 Protected Interior Fixtures and Architectural Features

An owner or occupier of protected heritage property or property within a heritage conservation area must maintain all interior architectural features and fixtures that have been designated as protected by a heritage designation by-law or are protected heritage property, in good repair.

2.20 Pests, Rodents, and Vermin

An owner or occupier of protected heritage property or property within a heritage conservation area must keep lands and buildings free of pests, rodents and vermin.

2.21 Protection of Vacant Property

An owner or occupier of protected heritage property or property within a heritage conservation area that is left unoccupied during construction or redevelopment must:

- (a) in the case of a building left unoccupied for 15 days or longer:
 - (i) secure all entries, and
 - (ii) post signage that reads “Protected Heritage or Heritage Conservation Area Site – No Vandalism or Removal of Materials; and
- (b) in the case of a building left unoccupied for 45 days or longer:
 - (i) secure all entries,
 - (ii) post signage that states “Protected Heritage or Heritage Conservation Area Site – No Vandalism or Removal of Materials”, and
 - (iii) board up all windows securely, to a standard that minimizes the potential for unauthorized entry.

3 Notices and Orders

3.1 Notices and Orders

The City Building Official or the Director of Planning may give notice or order a person:

- (a) to discontinue or refrain from proceeding with any work or using or occupying any land or building or doing anything that contravenes this by-law; or
- (b) to carry out any work or do anything to bring any land or building into conformity with this by-law,

within the time specified in such notice or order.

3.2 Service Of Notice Or Order

A notice or order shall be sufficiently served under this by-law:

- (a) on an owner, by mailing it by registered mail or by another method that provides proof of delivery, to the owner at the address of the owner as shown on the records of the Assessment Authority of British Columbia;
- (b) on an owner or occupier, by personal service to the owner and to each occupier; or
- (c) on an owner or occupier, by posting a notice or order in accordance with section 3.3.

3.3 Posting Of Notice Or Order

Subject to the provisions of section 3.4, a notice or order issued under this by-law shall be sufficiently served on an owner or occupier by posting of the order or notice on or near:

- (a) protected heritage property or property within a heritage conservation area; or
- (b) heritage conservation area property subject to temporary heritage protection under sections 583, 586, 589 or 590 of the *Vancouver Charter*.

3.4 Power Of Entry Of The Director Of Planning

The City Building Official or the Director of Planning is authorized to enter on to land or premises at any reasonable time for the purpose of posting an order or notice issued under this by-law, except that the City Building Official or the Director of Planning must:

- (a) make a reasonable attempt to notify the owner or occupier prior to or upon entering the land or premises; and
- (b) present a copy of the order to the owner or occupier upon request.

3.5 Prohibition Against Interference

A person must not:

- (a) interfere with the posting of an order or notice under this by-law; or
- (b) remove, alter, deface or destroy an order or notice posted under this by-law.

4 Offences and Penalties

4.1 Offences

A person who:

- (a) violates any provision of this by-law, or does any act or thing which violates any provision of this by-law, or suffers or allows any other person to do any act or thing which violates this by-law;

- (b) neglects to do or refrains from doing anything required to be done by this by-law; or
- (c) fails to comply, or suffers or allows any other person to fail to comply, with an order or notice given under this by-law,

is guilty of an offence against this by-law, and liable to the penalties imposed under this by-law.

4.2 Fine For Offence

Every person who commits an offence against this by-law is punishable on conviction by a fine of not less than \$1,000.00 and not more than \$10,000.00 for each offence.

4.3 Fine For Continuing Offence

Every person who commits an offence of a continuing nature against this by-law is liable to a fine not less than \$1,000.00 and not more than \$10,000.00 for each day such offence continues.

5 Enactment

5.1 Force and Effect

This by-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this 29th day of September, 2015

