

To: Corporate Services Committee

From: Tracy Adams, Commissioner,
Corporate Services Department

Report Number: CORP-20-29

Date of Report: September 30, 2020

Date of Meeting: October 5, 2020

Subject: Property Standards By-law 1-2002 and Heritage Properties

File: D-2200

1.0 Purpose

This report responds to the following Corporate Services Committee's May 8, 2017 direction (CORP-17-22):

“That CORP-17-22, being the first report of Heritage Oshawa requesting staff investigate potential Heritage Property clauses to be included in the municipal Property Standards By-law be referred to staff for a report.”

The report presents amendments to Property Standards By-law 1-2002, as amended (“Property Standards By-law”).

Attachment 1 is a list of currently designated heritage properties located in the City.

Attachment 2 is a copy of the correspondence Heritage Oshawa submitted as part of this by-law review.

Attachment 3 is a list of Heritage Oshawa's proposed standards and staff responses.

2.0 Recommendation

That the Corporate Services Committee recommend to City Council:

That Council approve a by-law to amend Property Standards By-law 1-2002, as amended, in a final form and content acceptable to Legal Services and the Commissioner of Corporate Services to establish standards specific to heritage properties.

3.0 Executive Summary

Not applicable.

4.0 Input From Other Sources

The following internal branches were consulted during the preparation of this report as well as Heritage Oshawa:

- Building Services
- Legal Services
- Planning Services
- Taxation and Revenue Services

The by-laws of the following municipalities were reviewed during the preparation of this report: Ajax, Barrie, Clarington, Halton Hills, London, Milton, Oakville, Pickering, Waterloo, Whitby and Windsor.

5.0 Analysis

5.1 Background

At its May 8, 2017 meeting, the Corporate Services Committee (“Committee”) considered a report from Heritage Oshawa pertaining to legislative updates that enable municipalities to include clauses specifically related to heritage resources in property standards by-laws to prevent demolition by neglect. Committee subsequently directed staff to investigate potential Heritage Property clauses to be included in the municipal Property Standards By-law.

While staff are undertaking a broader review of the Property Standards By-law, staff believe that the consultation undertaken with Heritage Oshawa has provided sufficient feedback to address the part of the review associated with heritage properties at this time.

5.1.1 Designation, Heritage Oshawa and Heritage Property Tax Reduction Program

Heritage Oshawa is the municipal heritage advisory committee to Council that was established in 1995 and is governed by By-law 2-2011, as amended. The Committee consists of one (1) Council member, one (1) stakeholder member from the Oshawa Historical Society, and seven (7) volunteer members from the community appointed by Council. Heritage Oshawa advises and assists Council on all matters relating to the designation and preservation of heritage properties as well as promotion of the City’s cultural heritage resources.

Heritage designation is a process established in the Ontario Heritage Act, 1990, c. O.18 (“Ontario Heritage Act”) to recognize and protect properties of cultural value or interest. The owner of a designated heritage property must apply to Council and receive consent regarding any proposed alteration or demolition. Owners of designated heritage properties within the City of Oshawa may be eligible for a Heritage Property Tax Rebate.

The Government of Ontario has enabled municipalities to offer tax relief to owners of eligible heritage properties to help owners maintain and restore these unique and valuable resources. City Council approved the implementation of a Heritage Property Tax Reduction Program in 2011 based on a recognition that owners of heritage properties

often incur above-average expenses to maintain aging structures and the heritage attributes of these properties. The City has set the amount of the annual tax reduction at forty (40) percent of the City and School Board portions of the taxes payable on the eligible heritage property. To be eligible, a property must be designated as a property of cultural heritage value or interest under Part IV of the Ontario Heritage Act, or it must be part of a heritage conservation district under Part V of the Ontario Heritage Act. Additionally, the property must be subject to a Heritage Easement Agreement under section 37 of the Ontario Heritage Act.

There are various advantages to designated heritage properties, including:

- Strengthening community identity;
- Acknowledging the City's past while providing links to the future;
- Contributing to the local quality of life;
- Conserving irreplaceable, highly visible heritage resources;
- Communicating pride in the City's heritage;
- Providing owners with an attractive plaque; and,
- Promoting sound conservation practices.

Owners of designated properties seek approval of Council, in consultation with Heritage Oshawa, for property alterations that impact the "reasons for designation". Designation does not prohibit alterations. In fact, alterations that restore or maintain heritage features of a property are encouraged. If an owner disagrees with a Council decision regarding designation or alterations, the owner may appeal to the Conservation Review Board. Owners of designated properties must seek approval of Council, in consultation with Heritage Oshawa, to demolish a designated structure.

5.2 Property Standards By-law 1-2002

The City's Property Standards By-law, established pursuant to the provincial Building Code Act, 1992, S.O. 1992, c. 23 ("Building Code Act") prescribes minimum standards for the maintenance and occupancy of buildings, structures, and surrounding lands. It is important:

- As a tool for addressing the City's strategic goal of "Social Equity: Ensure an inclusive, healthy and safe community";
- As a mechanism to maintain properties and buildings to a minimum standard;
- Providing tools to maintain and enhance the character/image of the City;
- For sustaining property values;
- For preserving the tax base; and,
- For protecting the safety and the quality of life of residents and businesses.

5.3 Ontario Heritage Act and Property Standards By-laws

The Ontario Heritage Act is intended to give municipalities and the provincial government powers to preserve the heritage of Ontario. Under the Ontario Heritage Act, municipalities can pass by-laws to designate properties of cultural value or interest. Designation is a way of publically acknowledging a property's value to a community. It also helps to ensure the conservation of these places for the benefit and enjoyment of present and future generations. Designated buildings have "heritage attributes" which are, according to the Ontario Heritage Act, "the attributes of the property, buildings and structures that contribute to their cultural value or interest".

The Ontario Heritage Act is very prescriptive when it comes to the alteration and demolition of designated properties.

Properties may be designated under Part IV or Part V of the Ontario Heritage Act. Part IV addresses the conservation of property of cultural heritage value or interest, whereas Part V deals with heritage conservation districts.

The Ontario Heritage Act is prescriptive in what a Property Standards By-law can address. Pursuant to Section 35.3 of the Ontario Heritage Act, a municipal property standards by-law is limited to establishing minimum standards for maintenance of heritage attributes of properties that are designated by municipal by-law (Section 29) or designated by the Minister (Section 34.5).

Section 35.3 of the Ontario Heritage Act states:

"If a by-law passed under section 15.1 [Property Standards By-law] of the Building Code Act setting out standards for the maintenance of property in the municipality is in effect in a municipality, the council of the municipality may, by by-law,

- (a) Prescribe minimum standards for the maintenance of the heritage attributes of property in the municipality that has been designated by the municipality under section 29 or by the Minister under section 34.5; and
- (b) Require property that has been designated under section 29 or 34.5 and that does not comply with the standards to be repaired and maintained to conform with the standards."

The City currently has twenty-five (25) designated heritage properties, the addresses of which have been appended in **Attachment 1**.

5.4 Municipal Scan: Property Standards By-laws and Heritage Provisions

A scan of municipal by-laws was undertaken in order understand whether Durham Lakeshore Municipalities and comparable-sized municipalities address the issue of heritage properties in their respective property standards by-laws. The results of this scan are found in **Table 1**.

Table 1 Municipal Scan of Property Standards By-laws

Municipality	Heritage Provisions in Property Standards By-law
Ajax	Yes
Barrie	No
Clarington	Yes
Halton Hills	Yes
London	Yes
Milton	Yes
Oakville	Yes
Pickering	No
Waterloo	Yes
Whitby	Yes
Windsor	Yes

The scan identified the following common provisions in property standards by-laws that address heritage properties:

- Minimum standards and repair of heritage attributes;
- Replacement using the same or similar materials;
- No demolition/alteration except pursuant to the Ontario Heritage Act; and,
- Vacant building standards (e.g. connection to utilities and weather tight boarding of entrances).

Additionally, enforcement of these provisions often involves Inspectors/Officers working closely with other staff members involved in heritage planning.

5.5 Building Code Act and Limitations

The Building Code Act is the enabling legislation that permits municipalities to establish property standards by-laws. The Building Code Act not only grants the authority to pass a property standards by-law, but also legislates administrative requirements related to the inspection process, order contents and issuance processes, order appeal processes, emergency orders, etc.

Repair is defined in the Building Code Act, as

“... the provision of facilities, the making of additions or alterations or the taking of any other action that may be required to ensure that a property conforms with the standards established in a by-law passed under this section”.

Through the Building Code Act, municipalities may prescribe standards for the maintenance and occupancy of property and for prohibiting the occupancy or use of property that does not conform to the standards. Furthermore, municipalities can require that non-conforming property be repaired and maintained to conform to the standards or the site to be cleared of all buildings, structures, debris or refuse and left in a graded and levelled condition.

In its current state, the City's Property Standards By-law has no standards specific to heritage properties. Currently heritage properties may be boarded up when vacant, repaired to general minimum standards as opposed to in a manner that maintains the property's heritage attributes, or may have demolition ordered if they fall into states of disrepair. By updating the Property Standards By-law to directly address heritage properties, it is possible to ensure that special consideration is given to protecting the City's heritage resources.

5.6 Heritage Oshawa Comments

Staff engaged Heritage Oshawa with a presentation at the December 11, 2019 Heritage Oshawa meeting. Subsequently, Heritage Oshawa submitted feedback and made the following three (3) recommendations:

1. "That the City immediately amend the existing Property Standards By-law and the Municipal Code by adding and enforcing a "Heritage Properties" section in order to protect Oshawa's heritage resources and to prevent "demolition by neglect."
2. That the City delegate the Policy Advisor to Heritage Oshawa to inspect and enforce this specialized section of the Code, and consider applying significant new fines for contraventions of these By-laws.
3. That the City encourage responsible ownership of Oshawa's irreplaceable heritage resources by promoting the details and benefits of this new by-law section to the public."

The detailed Heritage Oshawa response and proposed inclusions to the Property Standards By-law have been appended as **Attachment 2**. The proposal addresses many of the issues related to heritage property standards. It is necessary to note that the recommendation to include Inventory or Non-Designated properties would be beyond the authority offered under the Ontario Heritage Act as noted above, and the abilities of the Property Standards By-law. A breakdown of the Heritage Oshawa proposal and staff response is found in **Attachment 3**.

5.7 Proposed Amendments to Property Standards By-law 1-2002

As noted, the City currently has twenty-five (25) properties that have been designated under section 29 or by the Minister under section 34.5. These properties would be affected by the introduction of heritage property standards to the Property Standards By-law.

After review, the following general amendments to the Property Standards By-law are recommended in relation to heritage properties:

- General standards for heritage properties
- Standards for the repair of heritage attributes
- Standards for the replacement of heritage attributes
- Standards for vacant heritage properties in addition to general updates for vacant properties that are not heritage properties

It is recommended that Council approve a by-law to establish the aforementioned standards in the City's Property Standards By-law.

5.8 Approach to Compliance: P.S.B. and Heritage Property Standards

The enforcement approach for heritage property standards will incorporate the necessary steps required by both the Property Standards By-law and the Ontario Building Code Act (for example, order service requirements).

Given the unique issues and special knowledge related to heritage properties, Municipal Law Enforcement ("M.L.E.") will rely on the expertise of Planning Services (specifically the Policy Advisor to Heritage Oshawa) when investigating complaints involving heritage properties. M.L.E. Officers will undertake the investigation and enforcement related to heritage property standards; however, M.L.E. will require the assistance and guidance of the Policy Advisor when:

- Investigating issues potentially pertaining to heritage attributes;
- Identifying the actions required to repair or replace heritage attributes; and,
- Determining whether compliance has been adequately achieved.

6.0 Financial Implications

There are no financial implications associated with this report.

7.0 Relationship to the Oshawa Strategic Plan

The recommendations in this report relate to Strategic Plan goals: 4.2 Accountable Leadership and 4.4 Cultural Vitality.



Brenda Jeffs, Director,
Municipal Law Enforcement and Licensing Services



Tracy Adams, Commissioner,
Corporate Services Department

Attachments

Current List of Designated Heritage Properties

The City currently has twenty-five (25) designated heritage properties, the addresses of which are listed in the following table:

	Address	Owned by Public Authority*
1	425 Simcoe Street North	
2	100 Simcoe Street South	✓
3	410 King Street East	
4	46 Riverside Drive North	
5	300 Ritson Road South	✓
6	100 Whiting Avenue	✓
7	65 Columbus Road East	✓
8	39 Columbus Road West	✓
9	185-201 Bond Street West	✓
10	3188 Grandview Street North	
11	50 King Street East	✓
12	68-72 King Street East	
13	270-290 Simcoe Street North	
14	452 Simcoe Street North	
15	2370 Simcoe Street North	
16	0 Thornton Road North (Trillium Horse Cemetery – north of Britannia Avenue West, east of Thornton, in Oshawa Creek Valley)	✓
17	3265 Simcoe Street North	✓
18	66 Simcoe Street South	
19	Lakeview Park Heritage house: 1446 Simcoe Street South	✓
20	Lakeview Park Heritage house: 1450 Simcoe Street South	✓
21	Lakeview Park Heritage house: 1454 Simcoe Street South	✓
22	210 Thornton Road North	✓
23	1725 Thornton Road North	
24	0 Britannia Avenue West (Northern Dancer Cemetery – south of Britannia Avenue West, west of Simcoe Street North)	✓
25	62 to 68 King St W/10 to 12A Centre St N (Oshawa House Hotel)	

* **Note:** Public Authority generally refers to Government of Canada, the Government of Ontario, the Region of Durham, City of Oshawa, and related agency, boards and commissions.



**Heritage Oshawa's Comments on City of Oshawa
Property Standards By-law Review**

Suggested Heritage Property Standards

January 23, 2020

To: Ken Man,
Manager, Policy and Research,
Municipal Law Enforcement and Licensing Services
City of Oshawa

Fr: Heritage Oshawa

Re: Comments on the City of Oshawa Property Standards By-law Review

Background:

As part of a series of consultations with residents and stakeholders concerning possible revisions to the current City of Oshawa Property Standards By-laws, Policy and Research Manager Ken Man provided a presentation on the By-laws and the Municipal Law Enforcement and Licensing Services Department to Heritage Oshawa at the Dec. 11 meeting.

Following the presentation, the Committee voted to defer commenting until Heritage Oshawa's January meeting in order to give the Committee members time to research heritage property standards by-laws.

Recommendations:

Based on these discussions, this research, and on the suggestions of heritage and urban design planner Matthew Somerville, who also presented at the December 11 meeting, Heritage Oshawa wishes to make the following recommendations. (*Note:* The full details and a draft of the suggested by-laws are appended.)

1. That the City immediately amend the existing Property Standards By-law and the Municipal Code by adding and enforcing a "Heritage Properties" section in order to protect Oshawa's heritage resources and to prevent "demolition by neglect." (See attached.)
2. That the City delegate the Policy Advisor to Heritage Oshawa to inspect and enforce this specialized section of the Code, and consider applying significant new fines for contraventions of these By-laws.
3. That the City encourage responsible ownership of Oshawa's irreplaceable heritage resources by promoting the details and benefits of this new by-law section to the public.

Thank you for requesting the input of Heritage Oshawa and for your consideration of this important matter.

Heritage Oshawa

Motion:

WHEREAS the Council of The Corporation of the City of Oshawa seeks to conserve cultural heritage resources on protected heritage properties and to prevent demolition by neglect by prescribing minimum standards for the maintenance of such properties; and

WHEREAS the Council for the Corporation of the City of Oshawa, consistent with provincial policy, deems it desirable to ensure that, in the event of conflict between any provision of this by-law and a provision in any other by-law passed by Council, the provision that ensures that cultural heritage resources are conserved *shall prevail*;

THEREFORE, please accept this letter and the attached recommendations as Heritage Oshawa's comments on the Property Standards By-law Review.

Appendix

Suggested updates for the following Property Standards By-law sections:

Section 2: Definitions of the Property Standards By-law 1-2002 is amended by adding:

“Class A” properties — Properties within the City of Oshawa that have been evaluated by Heritage Oshawa and have a very high potential for designation.

“Class B” properties — Properties within the City of Oshawa that have been evaluated by Heritage Oshawa and have good potential for designation.

“Designated Part IV”— Real property, including all buildings and structures thereon, that has been designated by the City under section 29 or by the Minister under section 34.5 of the Ontario Heritage Act.

“Designated Part V” — Real property, including all buildings and structures thereon, located within a heritage conservation district that has been designated by the City under section 41 of the Ontario Heritage Act.

“Heritage Attributes” —

A. The attributes or features of property, buildings or structures that contribute to the property's cultural heritage value or interest that are defined or described or that can be reasonably inferred:

- (1) In a by-law designating a property passed under section 29 of the Ontario Heritage Act and identified as heritage attributes, values, reasons for designation, or otherwise;
- (2) In a Minister's order made under section 34.5 of the Ontario Heritage Act and identified as heritage attributes, values, reasons for designation or otherwise;
- (3) In a heritage research report identifying that the attributes and values meet the criteria for designation under Regulation 9/06 of the Ontario Heritage Act;
- (4) In a by-law designating a heritage conservation district passed under section 41 of the Ontario Heritage Act and identified as heritage attributes, values, reasons for designation or otherwise; or
- (5) In the supporting documentation required for a by-law designating a heritage conservation district, including but not limited to a heritage conservation district plan, assessment or inventory, and identified as heritage attributes, reasons for designation or otherwise.

B. The elements, features or building components including, roofs, walls, floors, retaining walls, foundations and independent interior structures and structural systems that hold up, support, or protect the heritage values and attributes and without which the heritage values and attributes may be at risk.

“Heritage property” — A building or structure or part of a building, or structure and includes the lands and premises appurtenant thereto and all mobile homes, mobile

buildings, mobile structures, outbuildings, fences and erections thereon whether heretofore or hereafter erected, and includes vacant property, Listed, Non-Designated Properties, Part IV Heritage Properties, and Part V Heritage Properties as defined by the Ontario Heritage Act.

“Inventory” — The Heritage Oshawa Inventory of City of Oshawa Heritage Properties identifies properties of cultural heritage value or interest within Oshawa. The Inventory includes all properties listed on the Register of Properties of Cultural Heritage Value or Interest, as well as properties identified as “Class A” or “Class B.”

“Listed, Non-Designated Property” — A property formally identified by the City as a significant cultural heritage resource as defined by the Ontario Heritage Act. The owner of a Listed, Non-Designated Property listed on the Register must give Council notice of at least 60 days of its intent to demolish a structure on the property, as defined by the Ontario Heritage Act.

“Listing” — The process in which a property identified as having Cultural Heritage Value is added to the City of Oshawa Register.

“Register” — The City of Oshawa Register of Properties of Cultural Heritage Value or Interest (the ‘Register’) is a list of properties that have been formally recognized by Council, pursuant to Section 27 of the Ontario Heritage Act, as being properties within the City of Oshawa having cultural heritage value or interest. The Register includes designated and Listed, Non-Designated properties.

Section 3: “Owner Responsibility” of the Property Standards By-law 1-2002 is amended by adding:

3.1.1 (i) heritage attributes

NEW Section 9: Heritage Property Standards is added to the Property Standards By-law 1-2002:

HERITAGE PROPERTIES

Minimum standards:

In addition to the minimum standards for the maintenance and occupancy of property in the City as set out in Section 6, the owner or occupant of a “Class A” or “Class B” property on the Heritage Oshawa Inventory of City of Oshawa Heritage Properties, a Listed, Non-Designated Property, a Part IV Heritage Property, a Part V Heritage Property, or a property subject to a notice of intention to designate under section 29 of Part IV of the Ontario Heritage Act for having cultural heritage value or interest shall:

A. Maintain, preserve and protect the heritage attributes so as to maintain the heritage character, visual and structural heritage integrity of the building or structure.

B. Maintain the property in a manner that will ensure the protection and preservation of the heritage values and attributes.

C. Maintain all aspects of a property, whether heritage attributes or not, to ensure the structural and functional integrity and preservation of the property as a whole.

Repair of heritage attributes:

Despite any other provision of this chapter, where a heritage attribute of a “Class A” or “Class B” property on the Heritage Oshawa Inventory of City of Oshawa Heritage Properties, a Listed, Non-Designated Property, Part IV heritage property, a Part V heritage property, or a property subject to a notice of intention to designate under section 29 of Part IV of the Ontario Heritage Act for having cultural heritage value or interest 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 other distinctive features of the heritage attribute;
- (3) Using the same types of material as the original and in keeping with the design, colour, texture, grain and any other distinctive features of the original; and
- (4) 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 material.

Replacement of heritage attributes:

Despite any other provision of this chapter, where a heritage attribute of a “Class A” or “Class B” property on the Heritage Oshawa Inventory of City of Oshawa Heritage Properties, a Listed, Non-Designated Property, a Part IV heritage property, a Part V heritage property, or a property subject to a notice of intention to designate under section 29 of Part IV of the Ontario Heritage Act for having cultural heritage value or interest cannot be repaired, the heritage attribute shall be replaced:

- (1) Using the same types of material 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 material, and in such a manner as to replicate the appearance of the heritage attribute.

Clearing and levelling of heritage properties:

Despite any other provision of this chapter, or the Building Code Act, 1992, no building or structure on a “Class A” or “Class B” property on the Heritage Oshawa Inventory of City of Oshawa Heritage Properties, a Listed, Non-Designated Property, a Part IV heritage property, a Part V heritage property, or a property subject to a notice of intention to designate under section 29 of Part IV of the Ontario Heritage Act for having cultural heritage value or interest may be altered or cleared, including but not limited to removed, demolished, or relocated, except in accordance with the Ontario Heritage Act.

Preservation of properties with heritage attributes:

A “Class A” or “Class B” property on the Heritage Oshawa Inventory of City of Oshawa Heritage Properties, a Listed, Non-Designated Property, a Part IV heritage property, a Part V heritage property, or a property subject to a notice of intention to designate under section 29 of Part IV of the Ontario Heritage Act for having cultural heritage value or interest shall be maintained to ensure its structural integrity and preservation, whether directly related to maintaining heritage attributes or not, to ensure an intact and secure foundation, walls, roof, windows, chimneys, drainage, HVAC, plumbing, electrical, smoke detectors, and other systems as necessary to create and maintain the structure for the foreseeable future. At minimum, owners should make monthly inspection visits to the property to ensure upkeep and maintenance.

Vacant and damaged designated heritage properties:

A. Where a “Class A” or “Class B” property on the Heritage Oshawa Inventory of City of Oshawa Heritage Properties, a Listed, Non-Designated Property, a Part IV heritage property, a Part V heritage property, or a property subject to a notice of intention to designate under section 29 of Part IV of the Ontario Heritage Act for having cultural heritage value or interest 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, especially water damage.

B. The owner of a vacant “Class A” or “Class B” property on the Heritage Oshawa Inventory of City of Oshawa Heritage Properties, a Listed, Non-Designated Property, a Part IV heritage property, a Part V heritage property, or a property subject to a notice of intention to designate under section 29 of Part IV of the Ontario Heritage Act for having cultural heritage value or interest shall protect the building and property against the risk of fire, storm, neglect, intentional damage or damage by other causes by effectively preventing the entrance to it of all animals and unauthorized persons and by closing and securing openings to the building with plywood:

- (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. A variety of reversible fastener types are preferred as they reduce the chance of entry;
- (3) That is painted black to minimize visual impact;
- (4) That is a minimum of ½" (1.5 cm) or thicker. Particle board is insufficient.

C. No window, door or other opening on a "Class A" or "Class B" property on the Heritage Oshawa Inventory of City of Oshawa Heritage Properties, a Listed, Non-Designated Property, a Part IV heritage property, a Part V heritage property, or a property subject to a notice of intention to designate under section 29 of Part IV of the Ontario Heritage Act for having cultural heritage value or interest shall be secured by brick or masonry units held in place by mortar unless required by a Municipal Standards Officer.

D. Under no circumstances should a "Class A" or "Class B" property on the Heritage Oshawa Inventory of City of Oshawa Heritage Properties, a Listed, Non-Designated Property, a Part IV heritage property, a Part V heritage property, or a property subject to a notice of intention to designate under section 29 of Part IV of the Ontario Heritage Act for having cultural heritage value or interest be subject to water damage from roof leaks, unsecured openings, or other causes. Roofs and rainwater leaders/gutters must be structurally sound, adequately maintained, and cleaned regularly to ensure the property is watertight.

E. A "Class A" or "Class B" property on the Heritage Oshawa Inventory of City of Oshawa Heritage Properties, a Listed, Non-Designated Property, a Part IV heritage property, a Part V heritage property, or a property subject to a notice of intention to designate under section 29 of Part IV of the Ontario Heritage Act for having cultural heritage value or interest must not remain vacant and/or damaged for a period longer than two years from last occupancy or cessation of municipal services, within which time the necessary structural repairs or upgrades to ensure an intact and secure foundation, walls, roof, windows, chimneys, drainage, HVAC and other systems must be completed, as well as any restorations required to maintain, preserve, and protect the heritage attributes so as to maintain the heritage character, visual, and structural heritage integrity of the building or structure.

Demolition of a Heritage Property:

Notwithstanding any other provision in this by-law, this by-law does not authorize any demolition or removal at a protected heritage property that is likely to affect the heritage attributes of the property unless the demolition or removal has received Council consent under Section 34 of the Ontario Heritage Act.

Conflict:

If there is a conflict between this section and any other provision in this chapter or any other City by-law, the provision that establishes the highest standard for the protection of heritage attributes shall prevail.

Staff Response to Heritage Oshawa Proposed Standards

Item	Heritage Oshawa Proposal	Staff Response
1	That the City immediately amend the existing Property Standards By-law and the Municipal Code by adding and enforcing a “Heritage Properties” section in order to protect Oshawa’s heritage resources and to prevent “demolition by neglect”.	Proposal will be included in the draft amending by-law.
2	That the City delegate the Policy Advisor to Heritage Oshawa to inspect and enforce this specialized section of the Code, and consider applying significant new fines for contraventions of these By-laws.	Staff Response: <ol style="list-style-type: none"> 1. The standards in the Property Standards By-law must be addressed by appointed Property Standards Officers who are trained as such and are familiar with the requirements under the Building Code Act. 2. Given the specialized nature of the standards pertaining to heritage properties, Municipal Law Enforcement Officers will work closely with Planning Services, specifically the Policy Advisor to Heritage Oshawa, when identifying violations related to heritage properties and attributes and identifying the requirements for compliance. 3. Staff will consider the issue of significant new fines related to contraventions of standards associated with heritage properties as part of the broader review of the Property Standards By-law.

Item	Heritage Oshawa Proposal	Staff Response
3	<p>That the City encourage responsible ownership of Oshawa's irreplaceable heritage resources by promoting the details and benefits of this new by-law section to the public.</p>	<p>Proposal will be implemented upon approval of the draft amending by-law:</p> <ol style="list-style-type: none"> 1. If approved, Municipal Law Enforcement staff will work with Corporate Communications to undertake a communications campaign to educate the owners of designated heritage properties and the public on these new standards.
4	<p>Definitions of the Property Standards By-law 1-2002 is amended by adding:</p> <p>"Class A" properties — Properties within the City of Oshawa that have been evaluated by Heritage Oshawa and have a very high potential for designation.</p> <p>"Class B" properties — Properties within the City of Oshawa that have been evaluated by Heritage Oshawa and have good potential for designation.</p> <p>"Designated Part IV"— Real property, including all buildings and structures thereon, that has been designated by the City under section 29 or by the Minister under section 34.5 of the Ontario Heritage Act.</p> <p>"Designated Part V" — Real property, including all buildings and structures thereon, located within a heritage conservation district that has been designated by the City under section 41 of the Ontario Heritage Act.</p>	<p>Staff Response:</p> <ol style="list-style-type: none"> 1. The City cannot regulate "Class A" properties, "Class B" properties, or "listed, non-designated properties" through a property standards by-law. 2. The City only has the authority to introduce standards for heritage properties for properties that are designated in accordance with the Ontario Heritage Act either: <ol style="list-style-type: none"> a. By the municipality under section 29; or, b. By the Minister under section 34.5. 3. Where the Ontario Heritage Act contains defined terms which are to be included in the City's by-law, the definitions should refer to those in the Ontario Heritage Act to ensure consistency and clarity.

Item	Heritage Oshawa Proposal	Staff Response
4 cont'd	<p>“Heritage Attributes” —</p> <p>A. The attributes or features of property, buildings or structures that contribute to the property's cultural heritage value or interest that are defined or described or that can be reasonably inferred:</p> <p>(1) In a by-law designating a property passed under section 29 of the Ontario Heritage Act and identified as heritage attributes, values, reasons for designation, or otherwise;</p> <p>(2) In a Minister's order made under section 34.5 of the Ontario Heritage Act and identified as heritage attributes, values, reasons for designation or otherwise;</p> <p>(3) In a heritage research report identifying that the attributes and values meet the criteria for designation under Regulation 9/06 of the Ontario Heritage Act;</p> <p>(4) In a by-law designating a heritage conservation district passed under section 41 of the Ontario Heritage Act and identified as heritage attributes, values, reasons for designation or otherwise; or</p>	

Item	Heritage Oshawa Proposal	Staff Response
4 cont'd	<p>(5) In the supporting documentation required for a by-law designating a heritage conservation district, including but not limited to a heritage conservation district plan, assessment or inventory, and identified as heritage attributes, reasons for designation or otherwise.</p> <p>B. The elements, features or building components including, roofs, walls, floors, retaining walls, foundations and independent interior structures and structural systems that hold up, support, or protect the heritage values and attributes and without which the heritage values and attributes may be at risk.</p> <p>“Heritage property” — A building or structure or part of a building, or structure and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures, outbuildings, fences and erections thereon whether heretofore or hereafter erected, and includes vacant property, Listed, Non-Designated Properties, Part IV Heritage Properties, and Part V Heritage Properties as defined by the Ontario Heritage Act.</p>	

Item	Heritage Oshawa Proposal	Staff Response
4 cont'd	<p>“Inventory” — The Heritage Oshawa Inventory of City of Oshawa Heritage Properties identifies properties of cultural heritage value or interest within Oshawa. The Inventory includes all properties listed on the Register of Properties of Cultural Heritage Value or Interest, as well as properties identified as “Class A” or “Class B.”</p> <p>“Listed, Non-Designated Property” — A property formally identified by the City as a significant cultural heritage resource as defined by the Ontario Heritage Act. The owner of a Listed, Non-Designated Property listed on the Register must give Council notice of at least 60 days of its intent to demolish a structure on the property, as defined by the Ontario Heritage Act.</p> <p>“Listing” — The process in which a property identified as having Cultural Heritage Value is added to the City of Oshawa Register.</p> <p>“Register” — The City of Oshawa Register of Properties of Cultural Heritage Value or Interest (the ‘Register’) is a list of properties that have been formally recognized by Council, pursuant to Section 27 of the Ontario Heritage Act, as being properties within the City of Oshawa having cultural heritage value or interest. The Register includes designated and Listed, Non-Designated properties.</p>	

Item	Heritage Oshawa Proposal	Staff Response
5	<p>Section 3: "Owner Responsibility" of the Property Standards By-law 1-2002 is amended by adding:</p> <p>3.1.1 (i) heritage attributes</p>	<p>Proposal will be included in the draft amending by-law.</p>
6	<p>NEW Section 9: Heritage Property Standards is added to the Property Standards By-law 1-2002</p> <p>Minimum standards:</p> <p>In addition to the minimum standards for the maintenance and occupancy of property in the City as set out in Section 6, the owner or occupant of a "Class A" or "Class B" property on the Heritage Oshawa Inventory of City of Oshawa Heritage Properties, a Listed, Non-Designated Property, a Part IV Heritage Property, a Part V Heritage Property, or a property subject to a notice of intention to designate under section 29 of Part IV of the Ontario Heritage Act for having cultural heritage value or interest shall:</p> <p>A. Maintain, preserve and protect the heritage attributes so as to maintain the heritage character, visual and structural heritage integrity of the building or structure.</p> <p>B. Maintain the property in a manner that will ensure the protection and preservation of the heritage values and attributes.</p> <p>C. Maintain all aspects of a property, whether heritage attributes or not, to ensure the structural and functional integrity and preservation of the property as a whole.</p>	<p>Proposal will be included in the draft amending by-law with exceptions:</p> <ol style="list-style-type: none"> 1. As noted, standards can only apply to Part IV and Part V heritage properties. 2. A variation of the proposed general maintenance standards will be included in the draft amending by-law.

Item	Heritage Oshawa Proposal	Staff Response
7	<p>Repair of heritage attributes:</p> <p>Despite any other provision of this chapter, where a heritage attribute of a “Class A” or “Class B” property on the Heritage Oshawa Inventory of City of Oshawa Heritage Properties, a Listed, Non-Designated Property, Part IV heritage property, a Part V heritage property, or a property subject to a notice of intention to designate under section 29 of Part IV of the Ontario Heritage Act for having cultural heritage value or interest can be repaired, the heritage attribute shall not be replaced and shall be repaired:</p> <ul style="list-style-type: none"> (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 other distinctive features of the heritage attribute; (3) Using the same types of material as the original and in keeping with the design, colour, texture, grain and any other distinctive features of the original; and (4) 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 material. 	<p>Proposal will be included in the draft amending by-law with exceptions:</p> <ul style="list-style-type: none"> 1. As noted, standards can only apply to Part IV and Part V heritage properties. 2. A variation of the proposed repair standards will be included in the draft amending by-law.

Item	Heritage Oshawa Proposal	Staff Response
8	<p>Replacement of heritage attributes:</p> <p>Despite any other provision of this chapter, where a heritage attribute of a “Class A” or “Class B” property on the Heritage Oshawa Inventory of City of Oshawa Heritage Properties, a Listed, Non-Designated Property, a Part IV heritage property, a Part V heritage property, or a property subject to a notice of intention to designate under section 29 of Part IV of the Ontario Heritage Act for having cultural heritage value or interest cannot be repaired, the heritage attribute shall be replaced:</p> <ul style="list-style-type: none"> (1) Using the same types of material 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 material, and in such a manner as to replicate the appearance of the heritage attribute. 	<p>Proposal will be included in the draft amending by-law with exceptions:</p> <ul style="list-style-type: none"> 1. As noted, standards can only apply to Part IV and Part V heritage properties. 2. A variation of the proposed replacement standards will be included in the draft amending by-law.

Item	Heritage Oshawa Proposal	Staff Response
9	<p>Clearing and levelling of heritage properties:</p> <p>Despite any other provision of this chapter, or the Building Code Act, 1992, no building or structure on a “Class A” or “Class B” property on the Heritage Oshawa Inventory of City of Oshawa Heritage Properties, a Listed, Non-Designated Property, a Part IV heritage property, a Part V heritage property, or a property subject to a notice of intention to designate under section 29 of Part IV of the Ontario Heritage Act for having cultural heritage value or interest may be altered or cleared, including but not limited to removed, demolished, or relocated, except in accordance with the Ontario Heritage Act.</p>	<p>Proposal will be included in the draft amending by-law with exceptions:</p> <ol style="list-style-type: none"> 1. As noted, standards can only apply to Part IV and Part V heritage properties. 2. A variation of the proposed standards will be included in the draft amending by-law.
10	<p>Preservation of properties with heritage attributes:</p> <p>A “Class A” or “Class B” property on the Heritage Oshawa Inventory of City of Oshawa Heritage Properties, a Listed, Non-Designated Property, a Part IV heritage property, a Part V heritage property, or a property subject to a notice of intention to designate under section 29 of Part IV of the Ontario Heritage Act for having cultural heritage value or interest shall be maintained to ensure its structural integrity and preservation, whether directly related to maintaining heritage attributes or not, to ensure an intact and secure foundation, walls, roof, windows, chimneys, drainage, HVAC, plumbing, electrical, smoke detectors, and other systems as necessary to create and maintain the structure for the foreseeable future. At minimum, owners should make monthly inspection visits to the property to ensure upkeep and maintenance.</p>	<p>Staff Response:</p> <ol style="list-style-type: none"> 1. As noted, standards can only apply to Part IV and Part V heritage properties. 2. A variation of the proposed standards related to maintenance, repair and replacement will be included in the draft amending by-law. 3. Requiring owners to undertake a schedule of inspections is beyond the authority of property standards by-laws.

Item	Heritage Oshawa Proposal	Staff Response
11	<p>Vacant and damaged designated heritage properties:</p> <p>A. Where a “Class A” or “Class B” property on the Heritage Oshawa Inventory of City of Oshawa Heritage Properties, a Listed, Non-Designated Property, a Part IV heritage property, a Part V heritage property, or a property subject to a notice of intention to designate under section 29 of Part IV of the Ontario Heritage Act for having cultural heritage value or interest 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, especially water damage.</p> <p>B. The owner of a vacant “Class A” or “Class B” property on the Heritage Oshawa Inventory of City of Oshawa Heritage Properties, a Listed, Non-Designated Property, a Part IV heritage property, a Part V heritage property, or a property subject to a notice of intention to designate under section 29 of Part IV of the Ontario Heritage Act for having cultural heritage value or interest shall protect the building and property against the risk of fire, storm, neglect, intentional damage or damage by other causes by effectively preventing the entrance to it of all animals and unauthorized persons</p>	<p>Proposal will be included in the draft amending by-law with exceptions:</p> <ol style="list-style-type: none"> 1. As noted, standards can only apply to Part IV and Part V heritage properties. 2. A variation of the proposed standards related to vacant buildings will be included in the draft amending by-law. 3. Though a two (2) year timeline is given to vacant buildings under the non-heritage property standards section of the Property Standards By-law, owners are given two (2) options for compliance (undertaking remedial work required, or demolishing the building). Given the importance of heritage properties and the desire to avoid demolition, no maximum timeline for remaining vacant is being proposed in the amending by-law in relation to heritage properties. Moreover, in accordance with the Ontario Heritage Act, owners of designated properties must seek approval of Council, in consultation with Heritage Oshawa, to demolish a designated structure.

Item	Heritage Oshawa Proposal	Staff Response
11 cont'd	<p>and by closing and securing openings to the building with plywood:</p> <p>(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;</p> <p>(2) That is fastened securely in a manner that minimizes damage to the heritage attributes and the historic fabric and is reversible. A variety of reversible fastener types are preferred as they reduce the chance of entry;</p> <p>(3) That is painted black to minimize visual impact;</p> <p>(4) That is a <u>minimum</u> of ½” (1.5 cm) or thicker. Particle board is insufficient.</p> <p>C. No window, door or other opening on a “Class A” or “Class B” property on the Heritage Oshawa Inventory of City of Oshawa Heritage Properties, a Listed, Non-Designated Property, a Part IV heritage property, a Part V heritage property, or a property subject to a notice of intention to designate under section 29 of Part IV of the Ontario Heritage Act for having cultural heritage value or interest shall be secured by brick or masonry units held in place by mortar unless required by a Municipal Standards Officer.</p>	

Item	Heritage Oshawa Proposal	Staff Response
<p>11 cont'd</p>	<p>D. Under no circumstances should a “Class A” or “Class B” property on the Heritage Oshawa Inventory of City of Oshawa Heritage Properties, a Listed, Non-Designated Property, a Part IV heritage property, a Part V heritage property, or a property subject to a notice of intention to designate under section 29 of Part IV of the Ontario Heritage Act for having cultural heritage value or interest be subject to water damage from roof leaks, unsecured openings, or other causes. Roofs and rainwater leaders/gutters must be structurally sound, adequately maintained, and cleaned regularly to ensure the property is watertight.</p> <p>E. A “Class A” or “Class B” property on the Heritage Oshawa Inventory of City of Oshawa Heritage Properties, a Listed, Non-Designated Property, a Part IV heritage property, a Part V heritage property, or a property subject to a notice of intention to designate under section 29 of Part IV of the Ontario Heritage Act for having cultural heritage value or interest must not remain vacant and/or damaged for a period longer than two years from last occupancy or cessation of municipal services, within which time the necessary structural repairs or upgrades to ensure an intact and secure foundation, walls, roof, windows, chimneys, drainage, HVAC and other systems must be completed, as well as any restorations required to maintain, preserve, and protect the heritage attributes so as to maintain the heritage character, visual, and structural heritage integrity of the building or structure.</p>	

Item	Heritage Oshawa Proposal	Staff Response
12	<p>Demolition of a Heritage Property:</p> <p>Notwithstanding any other provision in this by-law, this by-law does not authorize any demolition or removal at a protected heritage property that is likely to affect the heritage attributes of the property unless the demolition or removal has received Council consent under Section 34 of the Ontario Heritage Act.</p>	<p>Proposal will be included in the draft amending by-law:</p> <ol style="list-style-type: none"> 1. A variation of the proposed standards will be included in the draft amending by-law.
13	<p>Conflict:</p> <p>If there is a conflict between this section and any other provision in this chapter or any other City by-law, the provision that establishes the highest standard for the protection of heritage attributes shall prevail.</p>	<p>Proposal will be included in the draft amending by-law:</p> <ol style="list-style-type: none"> 1. A variation of the proposed standards will be included in the draft amending by-law.