

The Corporation of The Town of Gananoque

By-law 2014-098

BEING A BY-LAW TO ADOPT A HERITAGE PROPERTY POLICY AND PROCEDURE

WHEREAS by Section 5 of the Municipal Act, 2001, S.O. 2001, c. 25, the powers of a municipal corporation are to be exercised by its Council;

AND WHEREAS the Municipal Act, 2001, S.O. 2001, c. 25, provides that the powers of every Council are to be exercised by Bylaw;

AND WHEREAS section 27 of the Ontario Heritage Act requires a municipality to maintain a register that lists all formally designated heritage properties and that the list may be expanded to include "non-designated" properties.

AND WHEREAS regulation 9/06 of the Ontario Heritage Act sets out the criteria for determining cultural heritage value or interest.

AND WHEREAS the decision to include a "non-designated" property rests with the municipal Council upon consultation with its Municipal Heritage Committee.

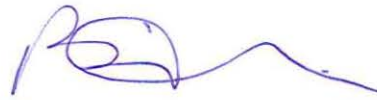
NOW THEREFORE the Council of the Corporation of the Town of Gananoque hereby enacts as follows:

1. That Council adopts the Heritage Properties Policies and Procedures as set out in Schedule 'A' attached hereto and forming part of this by-law.
2. That this by-law come into force and effect as of the date of passing.

READ THREE TIMES and finally passed this 2nd day of September, 2014.



Mayor, Erika Demchuk



Clerk, Bonnie Dingwall



Heritage Properties Policies and Procedures

MUNICIPAL REGISTER

The Municipal Register is the official list of cultural heritage properties that has been identified as being important to the community. Every municipality in Ontario, under Section 27 of the *Ontario Heritage Act*, is required to maintain a Municipal Register that lists all formally designated heritage properties. A municipal council may expand the Register to also include “non-designated” properties that it believes to be of cultural heritage value or interest (Appendix A).

Regulation 9/06 of the *Ontario Heritage Act* (Appendix B) sets out the criteria for determining cultural heritage value or interest. Under the legislation, a property is required to meet one of the criteria to be considered a cultural heritage resource. The decision to include a “non-designated” property rests with municipal council upon consultation with its municipal heritage committee.

DESIGNATED PROPERTIES

This list includes key information on all the buildings, structures, landscapes and districts that have been designated under Section 29 of the *Ontario Heritage Act*. The process for designation is as per the *Ontario Heritage Act* (Appendix C).

CULTURAL HERITAGE PROPERTIES “NON-DESIGNATED”

As per Section 27 (1.2) *Ontario Heritage Act*, in addition to the property listed in the register under Subsection 27 (1.1), the register may include property that has not been designated but that the council of the municipality believes to be of cultural heritage value or interest. This is commonly known as “listing”.

The listing of non-designated properties provides interim protection for sites undergoing change. Owners are required to provide Council at least 60 days’ notice of their intention to demolish or remove a building or structure on the property. This allows time for the municipality to decide whether to begin the designation process to give long term protection to the property.

PROCESS FOR LISTING PROPERTIES

- 1) The Heritage Committee, or in the absence of a Heritage Committee, Council will identify properties that have cultural heritage value or interest as per Regulation 9/06 of the *Ontario Heritage Act*.
- 2) A report is to be prepared including the street address, complete legal address, date and a brief rationale based on Regulation 9/06 of the *Ontario Heritage Act*
- 3) A representative from the Heritage Committee, or in the absence of a Heritage Committee, Council will notify the property owner of the proposed non-designation status.
- 4) The report will be reviewed by Council. A property will become listed as a cultural heritage non-designated property by way of Council resolution.

REMOVAL OF LISTED PROPERTIES

If a property is listed as a “non-designated” property and the owner disagrees with the information included on the Municipal Register they may request consideration for removal of the property from the Municipal Register on the basis that it does not meet the criteria for determining cultural heritage value or interest prescribed under Regulation 9/06 of the *Ontario Heritage Act*.

- 1) The property owner may request the property to be removed from the non-designated listing through a formal request submitted to the Municipal Clerk. The request must include the following:
 - i. Property owner contact information;
 - ii. Street address for property in question;
 - iii. Complete legal address;
 - iv. Reasoning why the property does not meet the criteria as per Regulation 9/06.
- 2) The Clerk will submit the request to the Staff member associated with the Heritage Committee. Staff will consult with the Heritage Committee to prepare a recommendation for Council. The Heritage Committee meetings are open to the public and applicants are encouraged to attend the meeting and present the rationale for their request.
- 3) The request and Heritage Committee recommendation will be reviewed by Council. A property may be removed from the list of cultural heritage non-designated properties by way of Council resolution.

REQUEST FOR DEMOLITION

As per section 27 (3)-(5) of the *Ontario Heritage Act* the property owner shall not demolish or remove a building or structure on the property or permit the demolition or removal of the building or structure unless the owner gives the council of the municipality at least 60 days' notice in writing of the owner's intention to demolish or remove the building or structure or to permit the demolition or removal of the building or structure. 2006, c. 11, Sched. B, s. 11 (2).

- 1) The property owner must submit an Application for Demolition and a Letter of Intent to the Chief Building Official. The Letter of Intent must include the following:
 - i. The reason(s) for demolition or removal of the listed non-designated structure;
 - ii. The plans for the property.
- 2) The Chief Building Official will submit the Application and Letter of Intent to the Staff member associated with the Heritage Committee. Staff will consult with appropriate managers and Heritage Committee to prepare a report to Council.
- 3) Once the report and supporting documents are included as part of the Council Agenda, the property owner will be notified.
- 4) The 60 day period will commence on the date of the Council Meeting in which the documentation is included as part of the agenda.
- 5) Based on the information submitted, Council may:
 - a) Approve the application for demolition and remove the property from the Municipal Register; or
 - b) Work with the property owner and/or Heritage Committee to find alternative options; or
 - c) Issue a Notice to Designate as per Section 29 of the *Ontario Heritage Act*

If no alternative options are agreed upon and/or no decision is made by day 61, the property owner has met the obligation under Section 27 and may proceed as per the Building Code.

APPENDIX A: Heritage Register Obligations for Listed Non-Designated and Designated Properties

HERITAGE REGISTER	Listed Non-Designated Cultural Heritage Properties	Designated Heritage Property (Town By-law)
Legislation	<i>Ontario Heritage Act (OHA)</i> Sections 27 (Part IV) and 39.2 (Part V) <i>Building Code Act</i>	<i>Ontario Heritage Act</i> Sections 29 (Part IV) <i>Building Code Act</i>
Requirement for Heritage Permit	No	Yes Permits required for alterations to property designated under Parts IV and V of the OHA – Sections 33 and 42
Information Required for Heritage Register	Property Description required under Act Town prepares Information Sheet containing photograph, historical information, and property evaluation	<ul style="list-style-type: none"> • Property Legal Description • Ownership • Statement of Cultural Heritage Value or Interest • Description of Heritage Attributes
Criteria for determining cultural heritage value or interest	None Town uses criteria based on Ontario Regulation 9/06	Criteria prescribed by Regulation 9/06 under Section 29(1) of the OHA
Demolition Permit Application	Delay Town must be provided with 60 days’ notice of intent to demolish, providing time for consideration of options with respect to heritage conservation (e.g. designation) – Section 27.3 of the OHA	Refusal (with right of appeal) Town can refuse to issue permit to demolish and this decision can be appealed to the Ontario Municipal Board – Section 34 of the OHA
Registration	No Registration on Title	Designation By-law Registered on Title

APPENDIX B: Criteria for Determining Cultural Heritage Value or Interest

ONTARIO REGULATION 9/06

made under the

ONTARIO HERITAGE ACT

Made: December 7, 2005

Filed: January 25, 2006

Published on e-Laws: January 26, 2006

Printed in *The Ontario Gazette*: February 11, 2006

CRITERIA FOR DETERMINING CULTURAL HERITAGE VALUE OR INTEREST

Criteria

1. (1) The criteria set out in subsection (2) are prescribed for the purposes of clause 29 (1) (a) of the Act.

(2) A property may be designated under section 29 of the Act if it meets one or more of the following criteria for determining whether it is of cultural heritage value or interest:
 1. The property has design value or physical value because it,
 - i. is a rare, unique, representative or early example of a style, type, expression, material or construction method,
 - ii. displays a high degree of craftsmanship or artistic merit, or
 - iii. demonstrates a high degree of technical or scientific achievement.
 2. The property has historical value or associative value because it,
 - i. has direct associations with a theme, event, belief, person, activity, organization or institution that is significant to a community,
 - ii. yields, or has the potential to yield, information that contributes to an understanding of a community or culture, or
 - iii. demonstrates or reflects the work or ideas of an architect, artist, builder, designer or theorist who is significant to a community.
 3. The property has contextual value because it,
 - i. is important in defining, maintaining or supporting the character of an area,
 - ii. is physically, functionally, visually or historically linked to its surroundings, or
 - iii. is a landmark.

APPENDIX C

1. Designation by Municipal Bylaw
(Section 29 of the Ontario Heritage Act)

