



Bylaw Name:	Heritage Preservation Bylaw (PH-HP.1)
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TABLE OF CONTENTS

1	Title and Scope.....	2
2	Operation and Interpretation	3
3	Designation of a Heritage Resource.....	4
4	Heritage Permits	10
5	Evaluation Criteria for Heritage Permits	13
6	General Provisions for Development.....	14
7	Exemptions to Zoning and Development By-law Regulations.....	17
8	Penalties.....	18
9	Definitions.....	18

1 TITLE AND SCOPE

1.1 TITLE

- 1.1.1 This by-law may be cited as the *City of Charlottetown Heritage Preservation By-law* but it may also be referred to as the '*Heritage By-law*' or 'the by-law' within the context of this document.

1.2 AUTHORITY

- 1.2.1 This by-law is enacted under the authority of the *Municipal Government Act* R.S.P.E.I. 1988, Cap. M-12.1 and the *Heritage Places Protection Act*, R.S.P.E.I. 1988, Cap. H-3.1.

1.3 EFFECTIVE DATE

- 1.3.1 The effective date of this by-law is the date of its approval by the Minister responsible for administering the *Heritage Places Protection Act*, R.S.P.E.I. 1988, Cap. H-3.1.

1.4 IMPLEMENTATION

- 1.4.1 This by-law implements City policies in the *City of Charlottetown Official Plan 1999* to preserve, conserve and protect Heritage Resources within the City.

1.5 SCOPE

- 1.5.1 This by-law applies to all lands, Buildings, Structures and Developments within the City of Charlottetown, and more specifically to:
- a. Designated Heritage Resources; and
 - b. All properties located within a Heritage Preservation Area.
- 1.5.2 A list of all Designated Heritage Resources and Heritage Preservation Areas shall be maintained by the City and shall be made available in conjunction with this by-law.
- 1.5.3 This by-law prescribes the:
- a. Provisions for the Designation of a Heritage Resource or a Heritage Preservation Area;
 - b. Provisions for revoking the Designation of a Designated Heritage Resource, Heritage Preservation Area, or a portion thereof; and
 - c. The criteria by which a Heritage Permit will be reviewed and processed.

1.6 OTHER BY-LAWS, PERMITS AND LICENSES

- 1.6.1 Nothing in this by-law shall relieve any person from the obligation to comply with the requirements of any other by-law of the City in force from time to time, or the obligation to obtain any license, permit, authority, or approval required under any by-law of the City, or statute or regulation of the Province of Prince Edward Island or the Government of Canada.

1.7 CERTAIN WORDS

- 1.7.1 In this by-law words used in the present tense include the future; words in the singular number include the plural and words in the plural number include the singular, all as the context allows; and the word 'shall' is mandatory and is not permissive.

2 OPERATION AND INTERPRETATION

2.1 ADMINISTRATION

- 2.1.1 Council shall appoint a Heritage Officer who shall administer this by-law.
- 2.1.2 The Heritage Officer shall prepare an annual report of heritage related activities, including but not limited to designations, revocations, and Heritage Permits, which shall be submitted to the provincial department responsible for the *Heritage Places Preservation Act*, as per Section 16(4) of the Act.
- 2.1.3 The Heritage Officer shall maintain an inventory of Heritage Resources in the City which are considered to be of historical and/or architectural importance.

2.2 HERITAGE BOARD

- 2.2.1 The Heritage Board shall be responsible for:
- a. Developing, reviewing and updating criteria for the Designation of Heritage Resources as necessary; and
 - b. Making recommendations, through collaboration with the Heritage Officer, as per the provisions of this by-law.
- 2.2.2 Composition of the Heritage Board
- a. The Heritage Board shall have at least six (6) members appointed as follows:
 - i. At least two (2) members of the Heritage Board shall be City Councilors appointed at the discretion of the Mayor;
 - ii. Members shall be residents of the City;
 - iii. Council at its discretion may replace no more than two resident members of the Heritage Board during a term of Council and the appointment shall be for their term on the Board;
 - iv. Any member of the Heritage Board shall be eligible for reappointment for no more than two (2) consecutive terms. The duration of one (1) term on the Board is 4 years; and
 - v. Should a vacancy occur on the Heritage Board for any reason other than the expiry of the term of a member, Council may appoint a person to fill the vacancy and the person appointed may hold office for the remainder of the term of the member whose place they were appointed to fill.

- b. A member who is absent from three (3) consecutive meetings of the Heritage Board without cause shall be deemed to have resigned.

2.2.3 Heritage Board Meetings

- a. The Heritage Board shall meet at least once a month unless there is no business to be addressed, and shall also meet at the call of the Chair or at the request of one-third of its members.
- b. A quorum for meetings of the Heritage Board shall be one-half of the members plus one, with at least one (1) Councilor and one (1) resident member as part of the quorum.
- c. In the event that conflicts of interest should reduce the number of members of the Heritage Board below a quorum, the Mayor may appoint additional member(s) *pro tem* in order to satisfy the quorum requirements.

3 DESIGNATION OF A HERITAGE RESOURCE

3.1 APPLICATION

3.1.1 The process to Designate a Heritage Resource may be initiated by:

- a. The Heritage Officer and/or Heritage Board;
- b. An application by the property Owner(s); or
- c. An interested third party.

3.1.2 The process to Designate a Heritage Preservation Area may be initiated by:

- a. The Heritage Officer and/or Heritage Board;
- b. An application and petition signed by a minimum of at least 65% of the property Owner(s) affected by the Designation.

3.1.3 Where an Owner(s) or interested third party initiates the process to Designate a Heritage Resource or Heritage Preservation Area, the applicant shall submit a completed application form which includes a summary report on the history of the property and copies of historic documents which confirm the age, architect, original owner(s), and/or other historically relevant information on the property.

3.2 HERITAGE ASSESSMENT

3.2.1 The Heritage Officer shall carry out research and will prepare a Heritage Assessment Report on a property(ies) proposed for Designation.

3.2.2 The Heritage Assessment Report shall take into consideration the following:

- a. The age of the Building or Structure;
- b. Architectural/archeological/aesthetic value, including but not limited to the following elements:

- i. Style/tradition;
 - ii. Design/craftsmanship;
 - iii. Setting/streetscape;
 - iv. Integrity;
 - v. Construction methods and materials;
 - vi. Exterior or outward appearance/condition; and
 - vii. Landmark status.
- c. The historic value, including but not limited to the following elements:
- i. Architect/builder;
 - ii. Political/economic influence;
 - iii. Social/cultural influence;
 - iv. Historical context; and
 - v. Association with event/person/activity.
- 3.2.3 A Heritage Assessment for a Heritage Preservation Area, or an archaeological site, group of Buildings, district or cultural landscape may also take into consideration the following:
- i. An exceptionally creative achievement in concept and design, technology and/or planning, or a significant stage in the development of Canada, Prince Edward Island or the City of Charlottetown;
 - ii. A symbol in whole or in part of a cultural tradition, a way of life or ideas important in the development of Canada, Prince Edward Island or the City of Charlottetown;
 - iii. An explicit and/or meaningful association with one or more persons who are deemed of national or local historic significance; or
 - iv. An explicit and/or meaningful association with one or more events that are deemed of national or local historic significance.

3.3 REVIEW PROCESS

- 3.3.1 The Heritage Board shall consider the Heritage Assessment Report and any additional information provided by the applicant, if applicable, and shall make a recommendation to Council to consider the Designation of the Heritage Resource or Heritage Preservation Area.
- 3.3.2 On the recommendation of Heritage Board, Council may reject a proposal to Designate a Heritage Resource or Heritage Preservation Area without public Notice.
- 3.3.3 Before Council Designates a Heritage Resource or Heritage Preservation Area, a Notice of the Intention to Designate shall be:
- a. Published in a newspaper having general circulation in the area;
 - b. Posted on the City's website; and

City of Charlottetown Heritage Preservation By-law

- c. Served on the Owner(s) of the property(ies), when the Owner(s) is not the applicant.
- 3.3.4 The Notice of Intention to Designate a Heritage Resource or Heritage Preservation Area shall contain:
- a. The civic address and parcel identification number (PID) of the Heritage Resource, or a boundary description and a map for a proposed Heritage Preservation Area;
 - b. A summary of the consequences of Designation;
 - c. The date and time by which written comments or objections must be received on the proposed Designation; and
 - d. Such other particulars as Council deems necessary or relevant.
- 3.3.5 An Owner or any person, group or organization interested in, or likely to be affected by a proposed Designation, may object to the proposed Designation by submitting comments or concerns in writing within 30 calendar days of the date of the Notice of Intention to Designate.
- 3.3.6 Where a Notice of Intention to Designate a Heritage Resource or Heritage Preservation Area has been issued, no person shall move, alter, develop or demolish any Building(s), Structure(s), site or area for a period of 120 calendar days from the date of the Notice, unless the Notice is revoked or cancelled under these regulations.
- 3.3.7 Where no objection to the Notice of Intention to Designate is received, Council may by resolution Designate the Heritage Resource or Heritage Preservation Area.
- 3.3.8 If a written objection has been filed, the application will be reviewed by the Heritage Board, which shall consider the objection(s) filed along with any further information provided by the Heritage Officer. After which the Heritage Board shall make a recommendation to Council to:
- a. Designate the Heritage Resource or Heritage Preservation Area as described in the Notice of Intention to Designate;
 - b. Amend the Notice of Intention to Designate; or
 - c. Cancel the intent to Designate the Heritage Resource or Heritage Preservation Area.
- 3.3.9 Where Council has Designated a Heritage Resource or Heritage Preservation Area, written Notice shall be:
- a. Issued to the property Owner(s) and it shall include information respecting the right of appeal under the *Heritage Places Protection Act*, R.S.P.E.I. 1988, Cap.H-3.1;
 - b. Filed with the Registrar of Deeds office; and
 - c. Filed on the Register of Heritage Places.
- 3.3.10 If an application to Designate is not approved or is cancelled, a Heritage Resource may again be considered for Designation in accordance with the procedure set out in this by-law after a one (1) year lapse has occurred since the last application.

3.4 TEMPORARY DESIGNATION

- 3.4.1 Where, in the Heritage Officer's opinion, a Heritage Resource with characteristics that may meet the criteria for Designation, is at risk of imminent irreparable or costly damage to the site's heritage nature, the Heritage Officer may, without prior notice, request a temporary Designation by Council.
- 3.4.2 When Council approves a temporary Designation, a Notice of the temporary Designation shall be:
- a. Published in a newspaper having general circulation in the area;
 - b. Posted on the City's website; and
 - c. Served on the Owner(s) of the property(s) in question.
- 3.4.3 The Notice of temporary Designation of a Heritage Resource shall contain:
- a. The civic address and parcel identification number (PID) of the Heritage Resource;
 - b. A summary of the consequences of Designation;
 - c. The date and time by which written comments or objections must be received on the temporary Designation; and
 - d. Such other particulars as Council deems necessary or relevant.
- 3.4.4 Where a Temporary Designation has been ordered by Council, no person shall move, alter, develop or demolish any Building, Structure, site or area for a period of 45 calendar days from the date of service of the Notice under this section, unless the Notice is revoked or cancelled under these regulations.
- 3.4.5 Within 45 calendar days of the date of the Notice of Temporary Designation, the Temporary Designation status will expire unless Council proceeds with the process to Designate the Heritage Resource by posting a Notice of intent to Designate.

3.5 REVOCATION OF DESIGNATION

- 3.5.1 The process to revoke the Designation of a Heritage Resource, Heritage Preservation Area or portion thereof may be initiated by:
- a. The Heritage Officer and/or Heritage Board; or
 - b. An application by the property Owner(s).
- 3.5.2 Where an Owner initiates the process to revoke the Designation of a Heritage Resource, Heritage Preservation Area or portion thereof, the applicant shall submit:
- a. A completed application form including a description of the cause for revocation; and
 - b. A fee in the amount estimated to be sufficient to pay for required Notices and to remove the Designation on the registration of the property with the Registry of Deeds, in accordance with a fee schedule to be set from time-to-time by resolution of Council.

City of Charlottetown Heritage Preservation By-law

- 3.5.3 The revocation of Designation of a Heritage Resource, Heritage Preservation Area or portion thereof may be considered if:
- a. The property has been destroyed or damaged by any cause;
 - b. An order has been made under the City's *Dangerous, Hazardous and Unsightly Premises By-law* for the demolition of the property in question; or
 - c. The continued Designation of the property appears to be inappropriate as a result of the loss of the property's heritage value, as identified in the property's heritage assessment and as supported by the Heritage Officer, unless the loss of the heritage value was caused by neglect, abandonment or other action or inaction of the owner .
- 3.5.4 To initiate the process to revoke a Designation, or upon receipt of an application to revoke a Designation, the Heritage Officer shall carry out research and will prepare a Heritage Assessment Report on the property(ies).
- 3.5.5 The Heritage Board shall consider the Heritage Assessment Report and the information provided by the applicant, if applicable, and shall make a recommendation to Council to consider revoking the Designation of the Heritage Resource, Heritage Preservation Area or portion thereof.
- 3.5.6 On the recommendation of Heritage Board, Council may reject a request to revoke a Designation of a Heritage Resource, Heritage Preservation Area or portion thereof without public Notice.
- 3.5.7 Before Council revokes a Designation of a Heritage Resource, Heritage Preservation Area or portion thereof, Council shall conduct a public meeting to receive the views and opinions of the public and the applicant.
- 3.5.8 A Notice of the intention to revoke the Designation shall be:
- a. Published in a newspaper having general circulation in the area;
 - b. Posted on the City's website;
 - c. Served on the Owner(s) of the property(ies) when the Owner(s) is not the applicant; and
 - d. Posted in at least one (1) conspicuous place on the subject property at least seven (7) calendar days prior to the date fixed for the public meeting.
- 3.5.9 The Notice of intent to revoke the Designation of a Heritage Resource, Heritage Preservation Area or portion thereof, shall contain:
- a. The municipal address and parcel identification number (PID) of the Heritage Resource, or a description of the proposed boundary change and a map for a Heritage Preservation Area;
 - b. A summary of the reasons for considering revoking the Designation;
 - c. The date and time by which written comments or objections must be received, and the date, time and location of the public meeting; and
 - d. Such other particulars as Council deems necessary or relevant.

City of Charlottetown Heritage Preservation By-law

- 3.5.10 Council may at their discretion revoke the Designation of a Heritage Resource without holding a public meeting, when the property has been damaged or destroyed by a natural hazard for which no person can be held responsible, and an order has been made under the City's *Dangerous, Hazardous and Unsightly Premises By-law* for the demolition of the property in question.
- 3.5.11 An Owner or any person, group or organization interested in, or likely to be affected by a proposed Designation, may object to the proposed revocation of Designation, within 30 calendar days of the date of the Notice of intention to revoke the Designation.
- 3.5.12 Where Council has published Notice of revocation of a Designated Heritage Resource, Heritage Preservation Area, or portion thereof, no Development and/or Building Permit shall be issued and no person shall move, alter, develop or demolish any Building, Structure, site or area for a period of 45 days from the date of the Notice of the revocation, unless an order has been made under the City's *Dangerous, Hazardous and Unsightly Premises By-law*.
- 3.5.13 Where no objection to the Notice of intention to revoke a Designation is received, Council may by resolution revoke the Designation of the Heritage Resource, Heritage Preservation Area or portion thereof.
- 3.5.14 If a written objection has been filed, the application will be reviewed by the Heritage Board, which shall consider the objection(s) filed along with any further information provided by the Heritage Officer. After which the Heritage Board shall make a recommendation to Council to:
- a. Revoke the designation of the Heritage Resource, Heritage Preservation Area or portion thereof as described in the Notice of intention to revoke the Designation; or
 - b. Cancel the intent to revoke the Designation of the Heritage Resource, Heritage Preservation Area or portion thereof.
- 3.5.15 Where Council has revoked the Designation of a Heritage Resource, Heritage Preservation Area or portion thereof, written Notice shall be:
- a. Issued to the property Owner and it shall include information respecting the right of appeal under the *Heritage Places Protection Act*, R.S.P.E.I. 1988, Cap.H-3.1;
 - b. Filed with the Registrar of Deeds office; and
 - c. Filed on the Register of Heritage Places.
- 3.5.16 Nothing in this section affects an investigation or charges brought against any person for an offence under the *Heritage Places Protection Act*.
- 3.5.17 A Heritage Resource or Heritage Preservation Area may be Designated again in accordance with the procedure set out in these regulations.

3.6 APPEAL DECISION OF DESIGNATION OR OF REVOCATION OF DESIGNATION

- 3.6.1 The decision of Council to Designate a Heritage Resource or to revoke the Designation of a Heritage Resource may be appealed by written Notice to the Commission, within 30 days of the Notice of Designation or Notice of Revocation of Designation of the Heritage Resource.

- 3.6.2 A Notice of appeal under this section shall be in the form prescribed by the Commission and shall be served on the Commission and Council.
- 3.6.3 The Commission shall give written Notice to the Owner(s), Council and other interested parties of the date, time and place of an appeal hearing.
- 3.6.4 Where a Notice of appeal has been issued, no person shall move, alter, develop or demolish any Building, Structure, site or area subject to the appeal for the duration of the appeal hearing and until such time as the Commission has made a decision on the outcome of the hearing.
- 3.6.5 After an appeal hearing, the Commission may confirm the Designation, vary the scope of the Designation or revoke the Designation.

4 HERITAGE PERMITS

4.1 HERITAGE PERMITS

- 4.1.1 No Person shall carry out or cause to be carried out any exterior Alteration, Development or demolition of a Designated Heritage Resource, or of any property within a Heritage Preservation Area with the exception of Ordinary Maintenance, without first obtaining a Heritage Permit.
- 4.1.2 All applications for a Heritage Permit shall be submitted to the Heritage Officer and shall be accompanied by drawings to an appropriate scale depicting the following:
 - a. Architectural plans and Building elevations drawings, if applicable;
 - b. Site plan with dimensions, detailing the location(s) of all proposed and existing Buildings and Structures and the existing and proposed setbacks;
 - c. The location and details of proposed open space, vehicular circulation and parking areas; and
 - d. Any additional information required to assess the application, as requested by the Heritage Officer.

4.2 TYPES OF HERITAGE PERMIT APPLICATIONS

4.2.1 Demolition Permits

- a. Demolition Permits pursuant to the *Zoning and Development By-law* regulations shall be prohibited for Designated Heritage Resource(s) or for any property(ies) within a Heritage Preservation Area.
- b. The applicant must first revoke the Designation status from the property, or revoke the Designation for that portion of the Heritage Preservation Area impacted by the demolition.

4.2.2 Permit Exemptions

- a. A Heritage Permit is not required for:

City of Charlottetown Heritage Preservation By-law

- i. Ordinary Maintenance and repairs of the exterior of a Building or Structure provided that any replacement of materials shall be compatible with the existing material(s) in colour and composition.
- ii. Interior Alteration(s) to a Building or structure provided that the Alteration(s) does not result in a change that is visible from the exterior.
- iii. A change in use provided that the change does not require an Alteration to the site and/or Building.

4.2.3 Minor Applications

- a. A Heritage Permit application is considered a minor application if it involves:
 - i. Masonry work, including maintenance, cleaning and repointing of masonry, replacement of masonry units, but excluding cleaning of a foundation;
 - ii. Exterior Building repairs, Alterations and maintenance, including siding and roofing where a change in material or design is proposed;
 - iii. Window or door replacements in existing openings;
 - iv. Site Development, including but not limited to Alterations to significant landscape features and vegetation, and changes to driveway access, vehicular circulation and parking areas; or
 - v. Fences and other detached Structures
- b. Minor Applications are subject to an internal review by the Heritage Officer.
- c. Notwithstanding any other sections of this by-law, Heritage Permits for minor applications may be approved by the Heritage Officer. The Heritage Officer may at their discretion refer the application to the Heritage Board.
- d. If the application is rejected, the applicant may:
 - i. Revise the application and resubmit; or
 - ii. Request the application be processed as a non-substantive application, whereas the Heritage Officer shall prepare a Heritage Assessment Report and shall make a recommendation to the Heritage Board on the disposition of the Heritage Permit application. The disposition of the application shall be determined as per the Non-substantive application process below.

4.2.4 Non-Substantive Applications

- a. A Heritage Permit application is considered a non-substantive application if it involves:
 - i. Accessory Buildings, as defined in the *Zoning and Development By-law*
 - ii. New window or door openings, or Alterations to existing window or door openings;
 - iii. Decks and other projections;
 - iv. An addition of up to 20 m² or ten percent (10%) of the Building or Structure's original footprint, whichever is greater;

City of Charlottetown Heritage Preservation By-law

- v. An amendment to the portion of a property which is Designated; or
 - vi. A subdivision or consolidation.
- b. Non-substantive applications are subject to an internal review by the Heritage Officer. The Heritage Officer shall prepare a Heritage Assessment Report and shall make a recommendation to the Heritage Board on the disposition of the Heritage Permit application.
- c. A subdivision of a Designated Heritage Resource shall result in both the parent parcel and new parcel(s) created by the subdivision being Designated; and, a subdivision of a property located within a Heritage Preservation Area shall result in both the parent parcel and new parcel(s) created by the subdivision being included within the Heritage Preservation Area; unless the applicant first applies to amend the boundaries of that portion of the property which is Designated, or to amend the boundaries of the Heritage Preservation Area.
- d. The Heritage Board shall review the Heritage Assessment Report and vote on the disposition of the application; and
- i. Where the application is jointly supported or rejected by the Heritage Officer and Heritage Board, the disposition of the Heritage Permit application shall be determined; or
 - ii. Where the Heritage Board disagrees with the recommendation of the Heritage Officer in evaluating the proposal than the Heritage Board may make a recommendation to Council, and Council will determine the disposition of the application.
- e. If the application is rejected, the applicant may:
- i. Revise the application and resubmit; or
 - ii. Request the application be processed as a substantive application whereas the Heritage Assessment Report and Heritage Board's recommendation shall be presented to Council, and Council shall determine the disposition of the Heritage Permit application.

4.2.5 Substantive Applications

- a. A Heritage Permit application is considered a substantive application if it involves:
- i. An addition of more than 20 m² or ten percent (10%) of the Building's original footprint.
 - ii. A significant Alteration to the Building's original style, design or materials.
- b. Substantive applications are subject to an internal review by the Heritage Officer. The Heritage Officer will prepare a Heritage Assessment Report and shall make a recommendation to the Heritage Board on the disposition of the application.
- c. The Heritage Board shall review the Heritage Assessment Report and vote on the disposition of the application; and
- i. Where the application is jointly supported by the Heritage Officer and Heritage Board, the application may proceed through the Development application process as per the *Zoning and Development By-law*, prior to Council determining the disposition of the Heritage Permit application; or

- ii. Where the Heritage Board disagrees with the recommendation of the Heritage Officer in evaluating the proposal the Heritage Board shall make a recommendation to Council, and Council will determine whether the application may proceed through the Development application process as per the *Zoning and Development By-law*.
- d. When a substantive application is rejected, the applicant may:
 - i. Revise their submission and resubmit; or
 - ii. Submit an application to revoke the Designation of the property in question.

4.3 CHANGES TO THE PROPOSAL

- 4.3.1 When change(s) to the proposed Development occur after the Heritage Permit has been approved, the change(s) shall be:
 - a. Reviewed by the Heritage Officer and an amended Heritage Permit may be approved; or
 - b. When the Heritage Officer determines that the proposed change(s) is a significant variation from the previously approved proposal, the approved Heritage Permit shall be void and the revised proposal shall be processed as a new application.

5 EVALUATION CRITERIA FOR HERITAGE PERMITS

5.1 EVALUATION CRITERIA

- 5.1.1 In evaluating an application for a Heritage Permit involving a Building or Structure, the Heritage Officer, Heritage Board and/or Council shall review the compatibility of the proposed Development in relation to the original and/or existing Building or Structure, including the following:
 - a. The *Standards and Guidelines for the Conservation of Historic Places in Canada*, as may be amended from time to time;
 - b. The original character, construction and architectural details;
 - c. The original or existing materials;
 - d. The scale of a proposed Development in relation to the scale and proportions of the original or existing Building or Structure;
 - e. The size and alignment of existing doors and windows;
 - f. The material and style of existing windows and doors, including details such as the casements, sashes, mullions, muntins, trims, and glazing;
 - g. The pitch, direction and arrangement of the roof and any associated chimney;
 - h. The significance of the accessory Building to the historic nature of the property and the original design elements of the accessory structure; and
 - i. Any other historical elements or architectural design considerations as deemed relevant by the Heritage Officer.

- 5.1.2 In evaluating an application for a Heritage Permit for a Development that does not involve a Building or Structure, the Heritage Officer, Heritage Board and/or Council shall review the compatibility of the proposed Development in relation to the original and/or existing site conditions, including the following:
- a. The original or historical significance of the site or area;
 - b. The environmental, archeological, and/or cultural impact of the proposed Development;
 - c. The appropriateness of the landscaping plan, including proposed land elevations;
 - d. The restoration of landscaping features;
 - e. The compatibility of the proposed Development with existing Development in the vicinity;
 - f. The impact of the proposed Development on the streetscape in the area; and
 - g. Any other historical or site design considerations as deemed relevant by the Heritage Officer.

5.2 CONDITIONS ON HERITAGE PERMITS

- 5.2.1 The Heritage Officer, Heritage Board and/or Council may deny a Heritage Permit when an application does not meet the evaluation criteria; and, a Heritage Permit may be cancelled or suspended when the criteria for evaluating the application has not been upheld by the applicant.
- 5.2.2 The Heritage Officer, Heritage Board and/or Council may place conditions on a Heritage Permit in relation to:
- a. Specifying that the work, Development, or Alteration shall be done in the form in which it is proposed or with such variations as considered necessary;
 - b. Specifying the siting, dimensions, form, exterior design, finish and other particulars of the construction or renovation;
 - c. Requiring security or the posting of a bond for the purpose of mitigating any damages to and subsequent restoration or maintenance of the Designated Heritage Resource;
 - d. Requiring restitution to a previous state, where Development has proceeded without approval; and
 - e. Such other conditions as considered necessary.

6 GENERAL PROVISIONS FOR DEVELOPMENT

6.1 HERITAGE DEVELOPMENT REGULATIONS

- 6.1.1 The following Development Regulations apply to Alterations, additions, or new Development on a Designated Heritage Resource property, or on any property within a Heritage Preservation Area.

- 6.1.2 Where adherence to these regulations is expected to negatively impact the integrity of the Heritage Resource or the Heritage Preservation Area, the Heritage Officer and/or Heritage Board may make a recommendation for an exemption from these regulations and the application will be processed as a Substantive Heritage Permit Application.
- 6.1.3 Where adherence to these regulations will result in a conflict with the regulations in the *Zoning and Development By-law*, the Heritage Officer and/or Heritage Board may submit a recommendation for a variance or an exemption to the *Zoning and Development By-law* regulations, for the purpose of preserving the integrity of the Heritage Resource.

6.2 GRADE LEVEL: HEIGHT AND ARTICULATION

- 6.2.1 The height of the first storey shall be consistent with that of the existing Building(s), or of adjacent Buildings in a Heritage Preservation Area.
- 6.2.2 The heights and proportions of architectural features in the first storey shall be consistent with that of the existing Building(s) on the property.
- 6.2.3 The heights and proportions of architectural features in the first storey shall be consistent with that of the adjacent Buildings in a Heritage Preservation Area, for the:
 - a. Sign band height and size;
 - b. Window height, size and proportion, including transoms; and
 - c. Door height, position, and setback.
- 6.2.4 For infill Development in a Heritage Preservation Area located between existing Buildings with varying grade-level heights, the new Development shall select the height of one adjacent building to be consistent with.

6.3 UPPER LEVEL: CORNICE LINE AND STEP-BACKS

- 6.3.1 The height of the cornice shall be consistent and complementary to the existing Building(s) on the property, or to adjacent Buildings in a Heritage Preservation Area.
- 6.3.2 For infill Development in a Heritage Preservation Area located between existing Buildings that have varying cornice heights, the new Development shall select the cornice height of one adjacent building to be consistent with. Where the infill site has sufficient frontage to articulate two or more bays of comparable width to the existing Buildings, the new cornice may vary its height to reference both existing facades.
- 6.3.3 For a Development above an existing Building or adjacent to an existing Building and where the new Development will be taller than the existing Building(s) on the property or of adjacent Buildings in a Heritage Preservation Area:
 - a. That portion of the new Development that is taller shall visibly step down to a height consistent with that of the existing Building(s); and
 - b. Contrast in the articulation and material quality of the upper level(s) shall be used.

6.4 PROPORTION AND RHYTHM

- 6.4.1 The prevailing rhythm of the existing Building(s) on the property, or adjacent Building(s) within a Heritage Preservation Area, shall be reinforced in the design of the new Development, generally of a narrow vertical proportion.
- 6.4.2 For larger or wider Buildings, vertical divisions or bays in the façade at a rhythm consistent with the existing Building(s) or adjacent Building(s) within a Heritage Preservation Area shall be clearly articulated.
- 6.4.3 For grade-level commercial uses, retail bays or shop fronts shall be expressed in a similar scale and rhythm to the existing Building(s) or adjacent Building(s) within a Heritage Preservation Area.

6.5 FAÇADE ARTICULATION AND MATERIALITY

- 6.5.1 When the existing structure has wooden windows, the new windows shall also be wooden.
- 6.5.2 There are two alternative approaches to façade articulation for new Development on a Designated Heritage Resource property or on a property within a Heritage Preservation Area:
 - a. Similarity Approach:
 - i. The same architectural order and rhythm of the windows, and horizontal and vertical divisions of the heritage façade shall be maintained in the new Development;
 - ii. Similar materials as that of the existing Building(s) or adjacent Building(s) within a Heritage Preservation Area shall be used and where materials differ, a similar articulation on the surface through score lines or the alignment of seams of modular units shall be used; and
 - iii. A similar colour palette of the existing Building(s) or adjacent Building(s) within a Heritage Preservation Area shall be used.
 - b. Complementing Contrast Approach:
 - i. A different but proportional interpretation of the existing architectural order and rhythm of both horizontal and vertical divisions of the façade of the existing Building(s) or adjacent Building(s) within a Heritage Preservation Area, shall be used in the articulation of the new Building(s).
 - ii. Contrasting materials and surface treatments that complement the existing Building(s) or adjacent Building(s) within a Heritage Preservation Area shall be used. For example, the extensive use of glass in a clean-lined modern manner can be effective for minimal visual distraction and for its transparency.
 - iii. Materials and detailing will be of the highest quality to compliment that of the existing Building(s) or adjacent Building(s) within a Heritage Preservation Area.

6.6 FAÇADE RETENTION AND INTEGRATION

- 6.6.1 Where only the façade of a Heritage Resource is retained, the façade should not visually appear to be tacked on to a new Building or Structure; rather, it should be designed to be integrated with the new Development in a manner that visually appears that the former Building in its entirety has been retained. As such, the following design standards apply:
- a. The new exterior facade shall define the height and alignment of the former Building and shall complement the retained façade in construction, design and materials.
 - b. The new exterior facade beyond that of the former Building's shall be clearly distinguished through setbacks, design or materiality.
 - c. New construction above the retained façade shall be designed with a step-back according to the design standards for cornice line and upper level step-backs for a new Development above an existing Building.

6.7 MASONRY FAÇADE MAINTENANCE

- 6.7.1 The cleaning of a Designated Heritage Resource Building or Structure which is of masonry construction shall be deemed to be an Alteration to the exterior surface texture and shall not be considered Ordinary Maintenance. The cleaning process shall employ a technique which does not damage the façade.
- 6.7.2 Any person who proposes to repoint masonry on a Designated Heritage Resource Building or Structure shall consider the colour, composition, joint thickness and profile of the existing or original mortar.

7 EXEMPTIONS TO ZONING AND DEVELOPMENT BY-LAW REGULATIONS

7.1 ACCESSORY BUILDINGS

- 7.1.1 A non-substantive Heritage Permit application may be made for accessory building(s) on a Designated Heritage Resource or on a property within a Heritage Preservation Area to:
- a. Remove or demolish the accessory Building without revoking the Designation of the Heritage Resource property;
 - b. Be occupied as a Garden Suite or a Heritage Inn; or
 - c. Increase the maximum height permitted to the maximum height of the principle Building on the property.

7.2 SIGNAGE

- 7.2.1 A non-substantive Heritage Permit application may be made for a Sign Permit for a Designated Heritage Resource when the application does not adhere to the Sign Design Criteria of the *Zoning and Development By-law*.

7.3 RECOMMENDATIONS

- 7.3.1 The Heritage Officer and/or Heritage Board may make a recommendation as a condition of or in reference to a Heritage Permit for a Development and/or Building Permit application subject to regulations and processes of the *Zoning and Development By-law*, as follows:
- a. Specifying support for or against a variance application; or
 - b. Specifying support for or against an application for an exemption to the permitted uses or regulations in the Zone.

8 PENALTIES

8.1 PENALTIES

- 8.1.1 Any individual who contravenes any provisions of this by-law is guilty of an offence and liable on summary conviction to a fine not exceeding \$20,000.
- 8.1.2 Where a corporation is convicted of an offence under this by-law, the maximum fine that may be imposed is \$100,000.

8.2 INJUNCTIONS

- 8.2.1 The City may apply to the Supreme Court for an injunction to restrain the unlawful Alteration or demolition of any Designated Heritage Resource site, Structure or area.

9 DEFINITIONS

- 9.1 **Alteration** means any change in a structural or architectural component, or any increase or decrease in the volume of a Building or Structure.
- 9.2 **Building** means any structure placed on, over or under the land and every part of the same and any external chimney, staircase, porch, or other Structure used in connection with such Building.
- 9.3 **City** means the City of Charlottetown established pursuant to the *Municipal Government Act*.
- 9.4 **Commission** means the Island Regulatory and Appeals Commission created pursuant to the *Island Regulatory and Appeals Commission Act* R.S.P.E.I. 1988, Cap. I-11.
- 9.5 **Council** means the duly elected Mayor and Councilors of the City.
- 9.6 **Designate, Designated or Designation** means a Heritage Resource or Heritage Preservation Area recognized for its heritage value in which the criteria have been applied and evaluated, researched, and validated pursuant to this by-law, and includes those Heritage Resources that were Designated prior to the adoption of this by-law.

City of Charlottetown Heritage Preservation By-law

- 9.7 **Development** means a change in the use of land, Building, Structure or sign for any purpose, and shall include the carrying out of any Building, engineering, construction, or other operation in, on, over, or under land and water; or the construction, addition, erection or Alteration of any Building, Structure or sign.
- 9.8 **Heritage Assessment Report** means a report prepared by the Heritage Officer describing the heritage value of a Heritage Resource with respect to the criteria for evaluation for Designation, or the criteria for evaluating an application for a Heritage Permit.
- 9.9 **Heritage Board** means the standing committee of Councilors and resident members appointed by the Mayor and Council of the City of Charlottetown
- 9.10 **Heritage Officer** means any person appointed by the Council and charged by the City with the duty of administering the provisions of this by-law.
- 9.11 **Heritage Permit** means an official document giving authorization to proceed with a proposed action with regards to the Alteration of a Designated Heritage Resource or a property located within a Heritage Preservation Area and as regulated under this by-law. A Heritage Permit may be processed as a minor application, non-substantive application or a substantive application depending on the degree of alteration proposed and as per the regulations of this by-law.
- 9.12 **Heritage Preservation Area** means all properties, building, structures, streetscapes and open spaces within an area of the City of Charlottetown Designated by Council pursuant to this by-law.
- 9.13 **Heritage Resource** means any Building, special historic place, site, streetscape, or area recognized for its historic value and for which its protection may serve a social, economic and/or cultural benefit to the community.
- 9.14 **Notice** means information sent by ordinary mail explaining the necessary information as required by this by-law.
- 9.15 **Ordinary Maintenance** means those actions undertaken to prevent the deterioration of a Building or Structure, but does not include cleaning of masonry, or any Alteration, Design change, or replacement where such replacement involves a change in design or materials.
- 9.16 **Owner** means a person or corporation who legally owns a lot and is the registered land owner; or is an executor, administrator, trustee, agent or other person managing the subject lot or Building on behalf of the Owner.
- 9.17 **Registrar of Deeds** shall be the same meaning as defined in the *Registry Act* R.S.P.E.I. 1988, Cap. R-10.
- 9.18 **Register of Heritage Places** shall be the same meaning as defined in the *Heritage Places Protection Act Regulations*, R.S.P.E.I. 1988, Cap. H-3.1 and as may be amended.

City of Charlottetown Heritage Preservation By-law

9.19 **Structure** means anything that is erected, built, or constructed or parts joined together, or any such erection of fixed to or supported by the soil or by any other Structure. This term includes fences and signs.

9.20 **Zoning and Development By-law** means the *City of Charlottetown Zoning and Development By-Law*.

APPENDIX A. BYLAW REVISION HISTORY

Amendment No	First Reading	Second Reading	Minister Approval	Reference:	Details:
000	08/01/2018	09/01/2018	10/01/2018	n/a	Adoption of New Heritage Preservation Bylaw (effective October 1, 2018 when the Zoning & Development Bylaw, 2018-11 was approved by the Minister)
001	02/11/2019	03/11/2019	Not Required	Bylaw Amendment #2018-07-001	Rename Bylaw from 2018-11 to PH-HP.1

City of Charlottetown
A Bylaw to amend the Heritage Preservation Bylaw
BYLAW # 2018-07-001

BE IT ENACTED by the Council of the City of Charlottetown as follows:

PART I – INTERPRETATION AND APPLICATION

1. Title

(1) This Bylaw shall be known and cited as the “Bylaw to amend the Heritage Preservation Bylaw, Bylaw # 2018-07-001”

2. Authority

(1) Section 16 of the Planning Act R.S.P.E.I 1988 Cap. P-8, enables the Council of the City of Charlottetown, to adopt bylaws implementing an official plan for the municipality

3. Purpose

(1) The purpose of this bylaw is to renumber the City of Charlottetown’s Heritage Preservation Bylaw in order to provide Planning bylaws with unique qualifiers to clearly identify the Bylaws under the Planning & Heritage Department.

PART II – AMENDMENTS

4. The Heritage Preservation Bylaw, Bylaw #2018-07 is renumbered to Heritage Preservation Bylaw, Bylaw PH-HP.1

PART III – EFFECTIVE DATE

5. Effective Date

(1) The effective date of the Zoning & Development Bylaw amendment is the date as signed by the Minister of Communities, Land and Environment.

First Reading:

This Zoning & Development Bylaw, Bylaw #2018-07-001, was read a first time at Council meeting held on the 11th day of FEBRUARY, 2019.

This Zoning & Development Bylaw, Bylaw #2018-07-001, was approved by a majority of Council members present at the Council meeting held on 11th day of FEBRUARY, 2019.

Second Reading:


This Zoning & Development Bylaw, Bylaw #2018-07-001, was read a second time at Council meeting held on the 11th day of MARCH, 2019.

This Zoning & Development Bylaw, Bylaw #2018-07-001, was approved by a majority of Council members present at the Council meeting held on 11th day of MARCH, 2019.


Approval and Adoption by Council:

This Zoning & Development Bylaw, Bylaw #2018-07-001, was adopted by a majority of Council members present at the Council meeting held on 11th day of MARCH, 2019.

6. Signatures




Mayor/Chairperson
(signature sealed)



Chief Administrative Officer
(signature sealed)

This Heritage Preservation Bylaw, Bylaw #2018-07-001, adopted by the Council of the City of Charlottetown on 11th day of MARCH, 2019 is certified to be a true copy.



Chief Administrative Officer
(signature sealed)

March 15, 2019
Date: