



THE CORPORATION OF THE TOWN OF OAKVILLE

BY-LAW NUMBER 2018-044

A by-law to amend the Site Alteration By-law 2003-021

COUNCIL ENACTS AS FOLLOWS:

1. The recitals of the Site Alteration By-law 2003-021 are amended by adding the following:

AND WHEREAS Section 11(3) of the Municipal Act, 2001 authorizes local municipalities to pass by-laws respecting matters within the sphere of jurisdiction for culture, parks, recreation, and heritage;

AND WHEREAS the Council for The Corporation of the Town of Oakville, consistent with provincial law and policy, deems it desirable to ensure that, in the event of conflict between a 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, subject to the greater paramountcy of provisions that protect the health or safety of persons;

2. Section 1 of the Site Alteration By-law 2003-021 is amended by deleting the definition of "lot" and adding the following definitions:

"Building Code Act" means the Building Code Act, 1992, S.O. 1992, c. 23, as amended;

"Built heritage resource" means a building, structure, monument, installation or any manufactured remnant that contributes to a property's cultural heritage value or interest as identified by a community, including an Aboriginal community. Built heritage resources are generally located on property that has been designated under Parts IV or V of the *Ontario Heritage Act*, or included on local, provincial and/or federal registers;

"Conserved" (or "conserve") means the identification, protection, management and use of built heritage resources, cultural heritage landscapes and archaeological resources in a manner that ensures their

cultural heritage value or interest is retained under the *Ontario Heritage Act*. This may be achieved by the implementation of recommendations set out in a conservation plan, archaeological assessment, and/or heritage impact assessment. Mitigative measures and/or alternative development approaches can be included in these plans and assessments;

“Cultural heritage landscape” means a defined geographical area that may have been modified by human activity and is identified as having cultural heritage value or interest by a community, including an Aboriginal community. The area may involve features such as structures, spaces, archaeological sites or natural elements that are valued together for their interrelationship, meaning or association. Examples may include, but are not limited to, heritage conservation districts designated under the *Ontario Heritage Act*; villages, parks, gardens, battlefields, mainstreets and other streets of special interest, golf courses, farmscapes, neighbourhoods, cemeteries, historic roads and trailways, viewsheds, natural areas and industrial complexes of heritage significance; and areas recognized by federal or international designation authorities (e.g. a National Historic Site or District designation, or a UNESCO World Heritage Site);

“Cultural heritage landscape conservation plan” or **“CHL conservation plan”** means, for a cultural heritage landscape contained or included in a protected heritage property, a conservation plan approved by the Town pursuant to Town By-law 2018-019;

“Cultural heritage resources” means built heritage resources, cultural heritage landscapes and archaeological resources that have been determined to have cultural heritage value or interest for the important contribution they make to our understanding of the history of a place, an event, or a people. While some cultural heritage resources may already be identified and inventoried by official sources, the significance of others can only be determined after evaluation;

“Cultural heritage value or interest” means:

- (a) In the case of a protected heritage property created on or after April 28, 2005, the cultural heritage value or interest stated in applicable notices, by-laws, designations or orders under the *Ontario Heritage Act*; or
- (b) In the case of a protected heritage property created before April 28, 2005, the cultural heritage value or interest that is set out in, or can be reasonably inferred from, applicable notices, by-laws, supporting

documentation for a by-law, designations or orders under the *Ontario Heritage Act*,

"Director" means the Director of Development Engineering of the Town of Oakville or designate;

"Feature" means, in relation to a cultural heritage landscape, a built heritage resource, a circulation system, a spatial organization, a visible sign of past or continuing land use or pattern of land use, an archaeological site, a space, a natural element, a visual relationship, a view or a vista that has cultural heritage value or interest or contributes to the cultural heritage value or interest or heritage attributes of the landscape;

"Heritage attributes" means the principal features or elements that contribute to a protected heritage property's cultural heritage value or interest, and may include the property's built or manufactured elements, as well as natural landforms, vegetation, water features, and its visual setting (including significant views or vistas to or from a protected heritage property), as identified:

- (a) In the case of a protected heritage property created on or after November 26, 2002, are described in applicable notices, by-laws, designations or orders under the *Ontario Heritage Act*; or
- (b) In the case of a protected heritage property created before November 26, 2002, are described in, or can be reasonably inferred from, applicable notices, by-laws, supporting documentation for a by-law, designations or orders under the *Ontario Heritage Act*;

"Heritage Oakville Advisory Committee" means a municipal advisory committee which reviews heritage permits and other heritage-related matters. The Committee is constituted under Section 28 of the *Ontario Heritage Act*;

"Natural element" means soil, rock, water and vegetation, and includes a landform, hill, mound, berm, watercourse, water body, ditch, spring, wetland or forest, whether designed or otherwise;

"Ontario Heritage Act" means the *Ontario Heritage Act*, R. S.O. 1990, c. O.18, as amended;

"Protected Heritage Property" means real property in the Town, including all buildings, structures and other features thereon, that:

- (a) has been designed under Part IV of the *Ontario Heritage Act*;

- (b) has been designed under Part V of the *Ontario Heritage Act*, or
- (c) is 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;

“Structure” means a building or other manufactured thing erected on land by humans that is distinct in visual form and materials from the land itself and natural elements and includes any structure designated under the *Building Code*, as amended, a building permit for which has been issued under the authority of the *Building Code Act*;

3. Section 3.1 of the Site Alteration By-law 2003-021 is amended by adding a new subsection (d) as follows:

- (d) the physical alteration of property that is incidental to a Town approval to demolish buildings or structures on the property.

4. Section 4.1 of the Site Alteration By-law 2003-021 is amended by adding a new subsection (g) as follows:

- (g) in the case of protected heritage property, a heritage impact assessment prepared in accordance with Town requirements.

5. Section 5 of the Site Alteration By-law 2003-021 is amended by adding a new subsection (k) as follows:

- (k) for a protected heritage property that is subject to this By-law, the Director is satisfied that:
 - (i) the site alteration is not likely to impact the heritage attributes of the property; or
 - (ii) the site alteration is likely to affect the heritage attributes of the property, but, following consultation with the Town’s Heritage Advisory Committee, the Town has consented to an alteration of the property in accordance with section 33 of the *Ontario Heritage Act*.

6. Section 6 of the Site Alteration By-law 2003-021 is amended by deleting subsection (e) and replacing with the following:

- (e) requiring the owner, prior to the issuance of the permit, to enter into an agreement with the Town containing such provisions, including but not limited to the provision of security for the owner's obligations under this by-law, as the Director considers necessary to ensure that the site alteration is done in accordance with prevailing Town of Oakville design standards, the conservation of heritage values and attributes, proper engineering principles and the requirements of this by-law, which agreement may be registered on title to the lands;

7. Section 14 of the Site Alteration By-law 2003-021 is amended by adding the following new subsections:

- 14.1 In the event of a conflict between any of the provisions of this By-law, the provision that ensures that cultural heritage resources are conserved shall prevail, subject to the greater paramountcy of any provision authorizing action to protect the health of safety of persons.
- 14.2 Where a provision of this by-law conflicts with a provision of any other by-law in force in the Town, the provision that ensures that cultural heritage resources are conserved shall prevail, subject to the greater paramountcy of any provision authorizing action to protect the health or safety of persons.

PASSED this 27th day of February, 2018

Rob Burton Mayor

Vicki Tytaneck Town Clerk