

CORPORATION OF THE CITY OF KINGSTON

Ontario

BY-LAW NO. XXXX-XXX

A BY-LAW TO ESTABLISH A HERITAGE GRANT PROGRAM

PASSED: X X, 2017

To replace By-law No. 2005-258

As Amended By By-Law No:

By-Law No. 2006-148
By-law No. 2007-145A

Passed July 18, 2006
Passed August 14, 2007

A BY-LAW TO ESTABLISH A HERITAGE GRANT PROGRAM

INDEX

Section	Page
1.0 INTENT OF THE PROGRAM.....	5
2.0 DEFINITIONS:	5
3.0 FUNDING FORMULA AND OWNER CONTRIBUTION	7
4.0 ELIGIBLE PROPERTY	7
5.0 ELIGIBLE WORK.....	8
6.0 INELIGIBLE WORK	9
7.0 APPLICATION REQUIREMENTS.....	9
8.0 EVALUATION OF APPLICATIONS	10
9.0 ADMINISTRATION	11

DRAFT

BY-LAW NO. XXXX-XXX

A BY-LAW TO ESTABLISH A HERITAGE GRANT PROGRAM

PASSED: X, 2017

WHEREAS the City of Kingston values its architectural heritage;

AND WHEREAS the City of Kingston was the first municipality in Ontario to establish a legally mandated Municipal Heritage group, which was accomplished through special legislation known as the *Kingston Act*,

AND WHEREAS since 1970 approximately 1400 properties have been identified for the conservation of their historical or architectural value or interest;

AND WHEREAS the Province of Ontario discontinued financial grant support for heritage preservation or restoration;

AND WHEREAS Section 39 of the *Ontario Heritage Act* authorizes the Council of a municipality to pass a By-law providing for the making of a grant or loan to the owner of a property designated under *the Act* for the purpose of paying for the whole or any part of the cost of alteration of the property on such terms and conditions as the Council may prescribe;

AND WHEREAS pursuant to Section 39 of the Ontario Heritage Act R.S.O 1990, c.0. 18, as amended, and clause 23.2 (1)(c) of the Municipal Act 2001, S. O, 2001,c. 25 as amended, permits a municipality to delegate grant making powers to an individual who is an officer, employee or agent of the municipality for the purposes of paying for the whole or any part of the cost of alteration of the property on such terms and conditions as the Council may prescribe;

AND WHEREAS Section 45 of the *Ontario Heritage Act* authorizes the Council of a municipality to pass By-laws providing for the making of a grant or loan to the owner of any building or structure and the land appurtenant thereto that is situate within an area that has been designated by by-law under Part V of *the Act*, as a heritage conservation district, for the purpose of paying for the whole or any part of the cost of alteration of such property on such terms and conditions as the Council may prescribe;

AND WHEREAS the City of Kingston desires to assist heritage property owners and encourage the restoration and preservation of buildings or structures of historic or architectural value;

NOW THEREFORE the Council of the Corporation of the City of Kingston enacts as follows:

1.0 INTENT OF THE PROGRAM

1.1 The City of Kingston Heritage Grant Program provides funding for approved *conservation* or *restoration* projects on properties designated under Part IV or Part V of the Ontario Heritage Act.

2.0 DEFINITIONS:

2.1 In this by-law, unless otherwise specified in this by-law:

- a) 'Act' shall mean the Ontario Heritage Act, R.S.O. 1990, c. O.18.
- b) 'Applicant' shall mean the owner of the property applying for a grant, or their agent, if such agent is authorized in writing by the owner to act as agent for making the applications;
- c) 'City' shall mean The Corporation of the City of Kingston;
- d) 'Conservation' shall mean all action or processes that are aimed at safeguarding the *character defining elements* of a *designated heritage property* so as to retain its heritage value and extend its physical life;
- e) 'Contravention' shall mean an offence under a municipal by-law, statute or regulation for which enforcement proceedings have been commenced that relate specifically to the building or land for which a grant is sought or given;
- f) 'Council' shall mean the Council of The Corporation of the City of Kingston.
- g) 'Director' shall mean the Director of Planning, Building and Licensing Services or the successor department to which the work is administratively assigned, or his/her designate;
- h) 'Designated Heritage Property' shall mean property including all buildings and structures thereon that have been designated by municipal by-law as being of cultural heritage value or interest pursuant to Parts IV and V of the *Act*;
- i) 'Eligible Property' shall mean that which is described in Section 4 of this by-law ;
- j) 'Eligible Conservation Work' shall mean that which is described in Section 5 of this by-law;

- k) 'Estimated total cost' shall mean the total cost of works inclusive of HST and PST, associated with the alteration of a heritage property, that have not yet been carried out but for which documentation (e.g., quotation, scope of work, etc.) has been received by the Owner and/or the Applicant;
- l) 'Guidelines' shall mean any guidelines that may be developed for the purposes of administering the this By-Law, as may be amended from time to time;
- m) 'Heritage Attributes or Character Defining Elements' shall mean the principal features, characteristics, context and appearance that contribute to the cultural significance of an *eligible property*;
- n) 'Heritage Kingston' shall mean the City's municipal cultural heritage advisory committee, established pursuant to the *Act*;
- o) 'Owner' shall mean the person registered on title in the proper land registry office as owner;
- p) 'Preservation' shall mean the act or process of applying measures necessary to sustain the existing form, integrity and materials of a cultural *heritage property*;
- q) 'Restoration' shall mean the process of accurately revealing, recovering, replicating, reproducing, reconstructing, or representing the state of a *heritage property* at a particular period in its history, while still protecting the cultural heritage value of the property.
- r) 'Routine Maintenance' shall mean cyclical, non-destructive actions, which are necessary to slow the deterioration of an *Eligible Heritage Property*; this includes:
- i. Periodic inspection;
 - ii. Property cleanup;
 - iii. Gardening and repair of landscape features;
 - iv. Replacement of broken glass in windows;
 - v. Minor exterior repairs (e.g replacement of individual asphalt shingles where there is little or no change in colour or design etc.);
 - vi. Repointing areas of wall space under 1.5 square meters; and
 - vii. Any other work defined as "maintenance" within a designation by-law.

- s) 'Total cost' shall mean the total cost of works, inclusive of HST and PST, associated with the alteration of a heritage property, that have been carried out and for which documentation confirming the completion of the works has been received by the Owner and/or the Applicant.

3.0 FUNDING FORMULA AND OWNER CONTRIBUTION

- 3.1 The Heritage Grant Program provides a matching grant of up to half of the *Estimated Total Cost* (50%) of the *Eligible Conservation Work*, up to a maximum of five thousand dollars (\$5,000).
- 3.2 If the *Owner* wishes to complete the work themselves, the cost of materials, contracted labour, rented equipment, and related expenses necessary to complete the *Eligible Conservation Work* may be considered part of the *Total Cost* provided proof of such costs (i.e., receipts) are provided to the City. The cost of labour of self-completed work will not be considered part of the *Total Cost*.

4.0 ELIGIBLE PROPERTY

- 4.1 For a property to be considered eligible for a grant, the property must be:
- a. designated under the *Ontario Heritage Act*, as follows:
 - i. for a single property, a designation by-law must have been passed and registered under Part IV of the Act; or
 - ii. for a property located within a heritage conservation district, a designation by-law must have been passed under Part V of the Act;
 - b. free of any compliance orders, enforcement orders, and *Contraventions*; and
 - c. free of property tax arrears and any other fees or penalties owed to the *City*;
- 4.2 The *Owner* of a property that is currently receiving funding through the City's Heritage Tax Refund program (By-Law 2005-257) will not be eligible for the receipt of a grant under this By-law.
- 4.3 The *Owner* of a property that has received provisional approval of a grant subject to this By-law will not be eligible for an additional grant(s) until such time as any works associated with the approved grant have been completed, inspected and approved by the City.

- 4.4 *Designated Heritage Properties* owned by any level of government or institution which receives funding from any level of government are not eligible for funding under this By-law.
- 4.5 The *Owner* of an *Eligible Property* may only receive grant funding for *Conservation* works associated with that property, in accordance with the provisions of this By-law, once every two years (i.e., every other year). Where the ownership of an *Eligible Property* changes within this two year period, the subsequent *Owner* shall be limited in the same manner as if the ownership of the *Eligible Property* did not change.

5.0 ELIGIBLE WORK

- 5.1 To be eligible for a *Heritage Grant*, the proposed work must:
- a. correspond with a heritage permit application which has received approval within the last 12 months; or
 - b. correspond with a heritage permit application which is made concurrent with a grant application, in which case the issuance of any grant funding will be dependent on the approval of the heritage permit.
- 5.2 Grant funding will only be issued when associated with alterations approved under the *Ontario Heritage Act* that preserve, restore or enhance specific *Heritage Attributes* and do not detract from or diminish the cultural heritage value of a property or District, being limited to the following:
- a. re-construction of significant architectural elements or features which still exist but are beyond conservation or repair;
 - b. repair or replacement of windows in accordance with the City's Policy on Window Renovations in Heritage Buildings;
 - c. repair of masonry elements in accordance with the City's Policy on Masonry Restoration in Heritage Buildings;
 - d. restoration or re-introduction of significant architectural elements or features which have been lost but for which the appearance can be clearly determined from archival or documentary sources or physical evidence that supports the existence of the missing features;
 - e. introduction or repair of protective elements that will protect original features;
 - f. any preservation / conservation work necessary to ensure a building is structurally sound including the correction of serious structural faults which threaten the building's survival;
 - g. any preservation /conservation work which preserves, restores or enhances specific *Heritage Attributes* associated with historic cemeteries and their features, such as mausolea, vaults, stone walls,

wrought iron fences and gates which are part of the original design, but not specific grave markers, tombs, or monuments;

- h. exterior painting where it can be demonstrated that the proposed colours are consistent with, and do not detract from, the history and character defining attributes of the property or those identified within the relevant District; or
 - i. any other alterations which the Director, in his or her sole discretion, determines will uphold the objectives of this By-law.
- 5.3 Eligible *Conservation Work* will be guided by the following policies and principles: Individual Designation By-Laws, Heritage Conservation District Plans, Conservation Principles from the Ontario Ministry of Tourism Cultural and Sport or the relevant Ministry, and Parks Canada's "Standards and Guidelines for the Conservation of Historic Places in Canada."

6.0 INELIGIBLE WORK

- 6.1 The following work is ineligible for grant funding issued under this By-law:
- a. interior work, unless related to structural issues that will contribute to the *Conservation of a Heritage Attribute*, or works that will conserve an interior feature or component that is identified as a *Heritage Attribute*;
 - b. short term, routine maintenance;
 - c. work on modern additions or work to accommodate modern renovations to a building of cultural heritage value;
 - d. general, non-destructive landscaping;
 - e. lighting, unless considered repair or restoration of a *Heritage Attribute*;
 - f. signs and commemorative plaques;
 - g. eaves-troughs, unless considered significant architectural features, such as those with decorative elements, or those made from long-lasting materials such as copper or lead;
 - h. mechanical systems and insulations;
 - i. skylights;
 - j. poor or defective work; or
 - k. non-permanent fixtures.

7.0 APPLICATION REQUIREMENTS

- 7.1 The submission of an application for a heritage grant must include the following:

- a. A completed application form and detailed description of the works;
- b. Photographs of the building and area(s) where work is proposed;
- c. An *Estimated Total Cost* of the proposed work including a detailed breakdown of the cost of materials, contracted labour, rented equipment, and related expenses necessary to complete the work;
- d. Owner's authorization where an Applicant is to act on behalf of the Owner.

8.0 EVALUATION OF APPLICATIONS

- 8.1 Applications for the heritage grant program must be submitted between January 1st and the last business day of March. Applications received outside of this period will only be considered if grant funding is available following the initial round of application review.
- 8.2 Applications will be reviewed by staff and the *Director*, or his / her designate, against the provisions of this By-law.
- 8.3 Applications that meet the provisions of this By-law will be awarded grant funding by the *Director*, or his / her designate, provided such funding does not exceed the value of the annual budget for heritage grant funding as approved by Council.
- 8.4 If the applications received meet the provisions of this By-law and are associated with grant funding that would exceed the available budget as approved by Council, the following criteria will be used to assess and accordingly allocate grant funding, with first priority going to those that score highest:
 - a. (40 points) Projects that include the maximum retention of heritage attributes;
 - b. (30 points) Projects that will provide the highest benefit to the public and broaden the public's understanding of heritage conservation;
 - c. (10 points) Projects where the integrity of the heritage property may be threatened if the work is not undertaken;
 - d. (10 points) Projects that demonstrate the highest standards of heritage conservation, as per Parks Canada's Standards and Guidelines;
 - e. (10 points) Applications for properties which have never received funding before.
- 8.5 Applications that meet the provisions of this By-law but are excluded from funding as a result of budget limitations and the conclusion of the

prioritization process described above will be given first priority for the receipt of funding in the next year of the heritage grant program.

9.0 ADMINISTRATION

- 9.1 The issuance of grant funding will not occur until the following are completed to the satisfaction of the City:
 - a. a site visit is completed by City staff to verify that the *Eligible Conservation Work* has been completed in accordance with the details of a permit issued under the provisions of the *Ontario Heritage Act*; and
 - b. The Owner or Applicant has provided confirmation that the *Total Cost* of the *Eligible Conservation Work* is equal to or less than the *Estimated Total Cost of the Eligible Conservation Work*.
- 9.2 Notwithstanding Section 3.1 to the contrary, the *Director*, or his / her designate, may approve of an increase in grant funding where the Total Cost exceeds the Estimated Total Cost provided the Total Cost is within thirty (30) percent of the Estimated Total Cost and where fifty (50) percent of the Total Cost does not exceed the maximum grant amount of five thousand dollars (\$5,000).
- 9.3 The *Eligible Conservation Work* must be completed within the three (3) year period from the date of approval of the heritage permit for which the grant is tied. In exceptional cases, the timeframe for project completion may be extended for up to one year, upon the submission of a written request to staff stating reasons required for the extension, for which approval is at the discretion of the *Director*.
- 9.4 Notwithstanding Section 4.1 to the contrary, provided that the application meets all other provisions of this By-Law, the *Director*, or his / her designate, may approve of a grant application if an outstanding order relates to a heritage attribute and the funding will allow this work to be completed.
- 9.5 Approval of a grant does not absolve the *Owner* from obtaining all other approvals required by law to undertake the project.