THE CORPORATION OF THE TOWN OF COBOURG

BY-LAW NO. 097-2009

BEING a By-law to regulate the alteration of Designated Property and property located within Heritage Conservation Districts within the Town of Cobourg

WHEREAS the Council for the Town of Cobourg has by By-law designated properties as Designated Properties pursuant to Section 29 of the ***Ontario Heritage Act***, R.S.O. 1990, c.H-18 as amended;

AND WHEREAS the Council for the Town of Cobourg has by By-law designated parts of the Town of Cobourg as Heritage Conservation Districts in accordance with Part V of the ***Ontario Heritage Act***, R.S.O., 1990, H-18 as amended;

AND WHEREAS Section 33 of the ***Ontario Heritage Act*** provides that no Owner of property designated under Section 29 shall alter a property unless Council consents in writing to the alteration;

AND WHEREAS Section 42 of the ***Ontario Heritage Act,*** R.S.O., 1990, c.O-18 provides that no one is to alter or permit the alteration of any property or erect, demolish or remove any building or structure on a property located in a Heritage Conservation District without a permit issued by the Municipality;

AND WHEREAS Section 42 (2.2) of the ***Ontario Heritage Act*** provides that an application for a permit shall include such information as the Council of the Municipality may require;

NOW THEREFORE the Council for the Corporation of the Town of Cobourg hereby **ENACTS AS FOLLOWS:**

1. **Short Title**

This By-law may be cited as the Heritage Permit By-law.

2. **Definitions**

(1) In this By-law,

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

(b) **"Applicant"** - means the Owner of a building or Property who applies for a permit or consent in writing or any person authorized in writing by the Owner to apply for a permit or consent in writing on the Owner's behalf;

(c) **"Alter"** - means to change in any manner and includes to restore, renovate, repair or disturb and "alteration" has a corresponding meaning;

(d) **"Director"** - means the Director of Planning and Development for the Town as appointed by By-law from time to time;

(e) **"Designated Property"** - means a specific property designated by the Town as a property to be of cultural heritage value or interest pursuant to Section 29 of the Act;

(f) **"Heritage Conservation District"** - means any part of the Town of Cobourg designated as a Heritage Conservation District by By-law pursuant to the provisions of Part V of the Act;

(g) **"Cobourg Heritage Committee"** - means the Committee formerly known as the Local Architectural Conservation Advisory Committee which has been continued as the Cobourg Heritage Committee pursuant to the provisions of Section 22 of the Act to advise and assist Council in matters relating to Part IV, Part V and such other heritage matters as Council may specify;

(h) **"Owner"** - means the registered Owner of the property and includes a lessee, mortgagee in possession and the person in charge of the property;

(i) **"Permit"** - means permission or authorization given in writing by Council or its delegate to an applicant to perform alterations to a building or structure or the demolition or removal of any building or structure on any property located in a Heritage Conservation District;

(j) **"Property"** - means real property and includes all buildings and structures thereon.

(2) Terms not defined in this By-law shall have the meaning ascribed to them in the Act.

3. **General Prohibition**

(1) No person shall do any of the following on any property situated in a Heritage Conservation District unless the person has a permit issued pursuant to the provisions of this By-law to do so:

(a) alter or permit the alteration of any part of the Property other than the interior of any structure or building on the Property; or

(b) erect, demolish or remove any building or structure on the Property or permit the erection, demolition or removal of such a building or structure.

(2) No person shall do any of the following on any Designated Property unless a person has the consent in writing of Council or its designate pursuant to the provisions of this By-

law to do so:

(a) alter the Property or permit the alteration of the Property if the alteration is likely to affect the Property's heritage attributes, as set out in the description of the Designated Property's Heritage attributes that was required to be served and registered under subsection 29 (6) or (14) of the Act as the case may be; or

(b) demolish or remove a building or structure on a Designated Property or permit the demolition or removal of a building or structure on a Designated Property.

(3) Where a permit has been issued pursuant to Section 3 (1) above or consent in writing has been given pursuant to Section 3 (2) of this By-law, no person shall do any work on the building or property for which the permit was issued or the consent in writing given other than the work that has been permitted or authorized in writing.

4. **Applications for Permits and Consents**

(1) To obtain a permit or consent in writing required by Section 3 of this By-law, the Owner of the property shall file with the Director a complete Town of Cobourg Heritage Permit Application as approved by the Director from time to time.

(2) Every application shall:

(a) identify and describe in detail the work, use and occupancy to be covered by the permit or consent for which the application is made;

(b) describe the Property on which the work is to be done by a description that will readily identify and locate the site on which the alteration, erection, demolition or removal is to occur;

(c) be accompanied by acceptable proof of corporate identity and property ownership unless such proof is determined by the Director to be unnecessary;

(d) be accompanied by such plans and specifications as may be required by the Director;

(e) state the name, address and telephone number of the owner, applicant, architect, engineer or other designer and the contractor or person hired to carry out the demolition as the case may be;

(f) include such information as may be required by the Director including, but not limited to any historic photographs of the building indicating exterior finishes and condition and the specifications of any products or materials for use on the building exterior;

(g) be signed by the Applicant who shall certify the truth of the contents of the application; and

(h) include payment of the fee for the application in the amount set by Council from time to time.

(3) Council is not required to consider any application for a permit or consent pursuant to the provisions of this By-law until the application is complete and in accordance with the provisions of this By-law.

5. **Consultation with Cobourg Heritage Committee**

(1) Council shall consult with the Cobourg Heritage Committee prior to making any decision as to the issuance of a permit or consent in writing for the alteration, erection, demolition or removal of any building or structure on a Designated Property or any building or structure on property in a Heritage Conservation District.

(2) In considering an application for a permit or a consent in writing for the alteration, erection, demolition or removal of any building or structure on a Designated Property or any building or structure on property located in the Heritage Conservation District, the Cobourg Heritage Committee and Council shall have regard to the Heritage Conservation District Guidelines where the property is located in a Heritage Conservation District and where the Property is a Designated Property, the Cobourg Heritage Committee and Council shall have regard to the Designated Property Heritage Attributes as set out in the description of the Designated Property Attributes that was required to be served and registered pursuant to Section 29 (6) or (14) of the Act.

6. **Decision of Council**

Where an application for a consent in writing or a permit has been made to Council pursuant to the provisions of this By-law, Council shall within ninety days after receiving the completed application or within such longer periods as may be agreed upon by the Applicant and Council give the Applicant:

(a) the permit or consent in writing as applied for;

(b) notice that Council is refusing the application for the permit or consent in writing; or

(c) the permit or consent in writing applied for with terms and conditions attached.

7. **Delegation of Authority**

(1) Council hereby delegates to the Director Council's authority to consider applications for permits for the alteration of any

Property located in a Heritage Conservation District where the proposed alteration will affect matters including:

(a) the type or colour of paint to be applied to the exterior of the building;
(b) exterior signage;
(c) the erection of fences on the Property;
(d) the erection and or alteration of accessory buildings having an area of less than 10 square metres on the Property;
(e) the replacement of eaves troughs and down spouts;
(f) the installation of exterior lights;
(g) the installation of removable storm windows and doors;
(h) the restoration or replication of wooden windows;
(i) the repair of existing architectural features including roofs, wall cladding, dormers, cupolas, cornices, brackets, columns, balustrades, porches and exterior steps, entrances, sidewalks, building foundations and decorative wood, metal, stoneor terra cotta provided that the same type of materials are used for the repair as were used in the original features;
(j) the installation of mechanical or electrical equipment that is not visible from the street;
(k) the replacement of steps and sidewalks; and
(l) any alteration to the building that is not visible from the street upon which the property is located.

(2) Council hereby delegates to the Director Council's authority to consent to alterations to Designated Properties pursuant to Section 33 of the Act for the following alterations where those alterations are likely to affect a Property's Heritage Attributes as set out in the description of the Property's Heritage Attributes that was required to be served and registered under Section 29 (6) or (14) of the Act:

(a) the erection of fences;
(b) the erection or alteration of accessory building having an area of less than 10 square metres on the property;
(c) the replacement of eaves troughs and down spouts;
(d) installation of exterior lights;
(e) installation of removable storm windows and doors;
(f) the restoration or replication of wood windows;
(g) the repair of existing features including roofs, wall cladding, dormers, cupolas, cornices, brackets, columns, balustrades, porches and steps, entrances, sidewalks, building foundation and decorative wood, metal, stone or terra cotta provided that the same type of materials are used in the repair as were originally used in the features;
(h) the installation of mechanical or electrical equipment visible from the street;
(i) the replacement of steps and sidewalks;
(j) all interior work but only if the interior has been designated unless the interior work will affect the structural integrity of the building; and
(k) any alteration that is not visible from the street.

(4) Within ninety days after the receipt of a completed application or within such longer periods as may be agreed upon by the Applicant and the Director, the Director may give the Applicant,

(a) the permit or consent in writing as applied for;

(b) notice that the Director is refusing the application for the permit or consent in writing; or

(c) the permit or consent in writing applied for with terms and conditions attached.

8. **Revocation of Permit**

Council or the Director may revoke a permit or comment in writing that has been issued by Council or the Director, as the case may be, under this By-law:

(a) if it was issued on mistaken, faulty or incorrect information;

(b) if, after six months after its issuance, the alteration, construction or demolition in respect of which it was issued has not, in the opinion of Council or the Director been seriously commenced;

(c) if the alteration, construction or demolition of the building is, in the opinion of Council or the Director substantially suspended or discontinued for a period of more than one year;

(d) if it was issued in error; or

(e) if the holder of the permit requests in writing that the permit be revoked.

9. **Time Limit of Approval**

Any permit that has been issued by Council or the Director, as the case may be, under this By-law is valid for a period of two years from the date of the final approval.

10. **Offence**

(1) Any person who contravenes any provision of this By-law shall be deemed to have committed an offence and upon conviction may be subject to such fines as are set out in the Act.

(2) If a Designated Property is altered in contravention of Section 33 of this Act and this By-law or if the external portions of a building or structure located in a Heritage Conservation District are altered in contravention of Section 42 of the Act and this By-law, Council may, in addition to any other penalty imposed under this By-law or the Act, restore the property, building, or structure as nearly as possible to its

previous condition and may recover the cost of the restoration from the Owner of the property, building, or structure unless,

(a) in the opinion of Council, the property, building, or structure is in an unsafe condition or incapable of repairs; or

(b) the alteration was carried out for reasons of public health or safety or for the preservation of the property, building or structure.

11. **Validity**

Should any clause or provision of this By-law be declared by a Court of competent jurisdiction to be invalid, the same shall not affect the validity of this By-law as a whole or any part thereof other than the part so declared to be invalid.

12. By-law Number 077-2006 is hereby repealed.

THIS BY-LAW SHALL COME INTO FORCE and effect on the date of its passing hereof.

READ a first, second and third time and finally passed this 30th day of November, 2009.

Peter G. Dekanty
Mayor

Lorraine Brace
Municipal Clerk