

Part C

Implementing The District

8.0 Implementation

8.1 Overview

In order to implement the District's policies and guidelines, an application review process that is simple, efficient, and fair is required. The District Plan must be interpreted in a consistent manner and avoid subjective decision-making by review authorities.

This section provides further details on the following implementation mechanisms:

- a review body to provide advice on proposed alterations, new construction, demolitions in the District;
- an application review process that reflects the scope of the proposed work;
- the availability of the policies and guidelines for use by the public;
- the availability of financial assistance to assist in conservation initiatives;
- public awareness of the District concept, its objectives, and boundaries;
- a mechanism to review and, if necessary, amend the District's policies and procedures.

8.2 Review and Approval Authority in the District

The designation of a heritage district invokes Section 42.1 of the *Ontario Heritage Act* which states:

“No owner of property situated in a heritage conservation district that has been designated by a municipality under this Part shall do any of the following, unless the owner obtains a permit from the municipality to do so:

1. Alter, or permit the alteration of, any part of the property, other than the interior of any structure or building on the property.
2. Erect, demolish or remove any building or structure on the property or permit the erection, demolition or removal of such a building or structure.”

Under section 42.2 of the *Ontario Heritage Act*, the District Plan may exempt certain classes of minor alterations from the requirement for a permit.

The review of all proposed work in the District from a heritage perspective is shared by Heritage Section staff and Heritage Markham. Heritage Section staff is comprised of Heritage Planners who work in the Development Services Commission. Heritage Section staff are responsible for the processing of all development applications in the District and assisting Heritage Markham in its review of applications. Heritage Markham is the Town's heritage advisory committee comprised of property owners and Town Councillors.

In order to streamline the approval process, staff has been delegated the authority to review and approve many types of compliant or non-controversial projects on behalf of Council. If staff has any concern about an application, it can be forwarded to Council for resolution.

According to the provisions of the *Ontario Heritage Act*, if an application to erect a building or structure or to alter the external portions is denied by Council or approved with terms and conditions the applicant does not support, the applicant can appeal the decision to the Ontario Municipal Board. The Board can approve, approve with conditions, or dismiss the application.

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8.2 Review and Approval Authority in the District cont'd

Note: Non-controversial projects are those that are consistent with or compliant with the Heritage District Plan's policies and guidelines. Controversial projects are those that are not consistent or compliant with the Plan's policies and guidelines, or where the Plan does not address the issue.

8.3 Application Review Process

Once a heritage conservation designation comes into force, no person, including the municipality, can erect, demolish, remove, or alter any external portion of any building or structure without a permit issued by the municipality. The permit application process is a means for the municipality to assess proposed changes and determine if these are beneficial or detrimental to the heritage attributes or character of the District.

The approval permit process can be simplified into three processes: Heritage Permit, Building Permit (Heritage), and Site Plan Approval (Heritage). Essentially, the application and approval process varies with the magnitude of the project. For example, approval to paint a building should be received, in most cases, almost immediately from Town staff whereas a request to construct an addition or a new building would require a Site Plan Approval Agreement followed by a Building Permit.

8.3.1 The Heritage Permit

This type of application is only used when no other municipal approvals are required for the work to be undertaken. The following list identifies some of the types of minor projects which may require only a Heritage Permit:

- painting (see exemptions on next page);
- new or different windows or doors;
- changes or removal of architectural decoration or features;
- new buildings that are less than 10 sq. m and visible from the streetscape;
- introduction of skylights on non-heritage roofs (that do not require structural alteration of existing roof) or awnings on dwellings;
- masonry cleaning and repointing;
- new or extended fences in front yards or on a corner lot;
- new or increased parking areas/driveways;
- change in driveway material;
- front yard patios and permanent lamp installations;
- television satellite dishes that can be viewed from the streetscape;
- mechanical equipment on dwellings, such as air conditioners and heat pumps, that can be viewed from the streetscape;
- permanent art installations;
- public information signage;
- planting or removal of trees in the public/municipal right-of-way;
- all above-ground public works in the public/municipal right-of-way.

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8.3.1 The Heritage Permit cont'd

The list is not exhaustive and any undertaking should be discussed with Heritage Section staff. In addition, applicants are requested to confirm their projects with the Building Standards Department to ensure that a Building Permit is not required. There is no fee for a Heritage Permit.

A Heritage Permit is **not required** for the following type of projects:

- Any interior work except that which affects external appearance;
- General repairs to existing materials such as eavestroughs, roofs, chimneys, fences, exterior cladding, and weather-stripping;
- Repairs to broken window panes to original specifications;
- Roof re-shingling as per the District Plan Policies and guidelines (e.g. replacing asphalt with the same material);
- New or replacement rear yard fencing unless on a corner lot, or adjacent to a municipal road;
- Repainting in existing colour scheme if the colours are in conformity with the District Plan or in conformity with a previous Heritage Permit;
- Paving or re-paving a driveway in asphalt; and
- Backyard features that are not readily visible from the street such as patios, pools, ponds, fountains, garden, and tool sheds, gazebos, doghouses/dog runs, and other small outbuildings.

The procedure to be followed has been created to streamline and minimize the time and effort needed by the applicant to gain this approval. Council and Heritage Markham have delegated the approval of non-controversial Heritage Permits to Heritage Section staff.

Applicant:

- Reviews project with Heritage Staff (optional).
- Confirms with Building Standards whether a Building Permit is required.
- Completes one-page Heritage Permit application form.

Heritage Staff:

- Reviews application and either:
 - approves permit, or suggests modifications; or
 - circulates to Heritage Markham and/or Council
- Provides a summary of all decisions to Heritage Markham for information.
- Forwards application to Committee/Council if outstanding issues cannot be resolved.

8.3.2 Building Permit (Heritage)

A Building Permit issued for construction, demolition, or signage in a heritage conservation district is considered to satisfy the requirements for a permit required under Section 42 of the *Ontario Heritage Act*. In addition to new construction, building permits are required for projects that usually involve structural changes and require compliance with the *Ontario Building Code*. Types of projects that require a Building Permit include:

- New construction (additions and new buildings may also require Site Plan Approval—see Section 8.3.3);
- new building over 10 sq m in size;

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8.3.2 Building Permit (Heritage) cont'd

- structural alterations to a building or part thereof (i.e. verandas and porches);
- changes to roof cladding (e.g. asphalt to wood shingles);
- full replacement of entire wall cladding or complete building recladding;
- new chimneys;
- skylights requiring structural alteration to the roof;
- awnings on commercial buildings;
- mechanical equipment on commercial buildings;
- demolition; and
- commercial signage.

A fee is required to obtain a Building Permit (Heritage). Council has delegated the approval of non-controversial Building Permits to staff.

The approval procedure is essentially the same as for any building permit application with Heritage Markham or, in some cases, Heritage Section staff, being a review body as part of the application circulation.

Applicant:

- Applies to the Building Standards Department and completes the standard permit application form.
- Consults with Heritage Staff, if desired

Building Standards:

- Circulates application to Heritage Section.

Heritage Staff:

- Reviews application and either:
 - supports permit (with or without conditions) or does not support permit; or
 - circulates to Heritage Markham for comment.
- Provides a summary of all decisions to Heritage Markham for information.
- Advises Building Standards Department
- Forwards application and report to Committee/Council if outstanding issues cannot be resolved.

8.3.3 Site Plan Approval (Heritage)

The Site Plan Approval (Heritage) process requires the submission of detailed building elevations, a site plan, and a tree preservation/landscape plan. A full application review is required for all new construction and additions over 50m² (including residential properties) whereas a simplified form of review may be required for:

- a) an alteration or addition to an existing building or structure where the alteration or addition is between 20m² and 50m²;
- b) an accessory building or structure that has a gross floor area between 20m² and 50m²;
- c) an enlargement, improvement, or modification to a building or structure that has a floor area less than 20m² if such change will materially alter any building elevation that fronts onto a public or private street.

Determination of whether a site plan application is required for residential projects under 50m² is at the discretion of Town staff, and will usually depend on how publicly visible the project will be.

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8.3.3 Site Plan Approval (Heritage) cont'd

The approval procedure is essentially the same as for any site plan application with Heritage Markham simply being a review body as part of the application circulation. An application fee is required for a Site Plan Approval as well as the preparation of a Site Plan Agreement.

Applicant:

- Consults with Heritage Staff, if desired, as part of a pre-consultation meeting.
- Applies to the Planning Department and completes the standard application form.

Planning Department:

- Forwards application to Heritage Section, in addition to other departments and agencies.

Heritage Staff:

- Assists Heritage Markham in reviewing application submission.
- Forwards comments from Town departments and external agencies to applicant and may recommend changes.
- Determines who can approve the application (Commissioner of Development Services or Development Services Committee).
- Forwards application and report to Committee/Council if outstanding issues cannot be resolved.
- Prepares standard Letter Agreement if approved project is less than 50m².
- Undertakes inspection at completion of work

Town Staff:

- Forward all requirements to Legal Department for inclusion in Site Plan Agreement for projects over 50m².

Legal Department:

- Drafts Site Plan Agreement and forwards to applicant for signing.
- Forwards Agreement to Mayor/Clerk for execution after owner has signed.

Applicant:

- Executes Agreement.
- Submits financial security or Letter of Credit to guarantee work will be completed as per plans.
- Undertakes approved work.
- Requests inspection and return of financial securities.

In an attempt to streamline the approval process, Council has delegated the approval of the following types of applications to the Commissioner of Development Services:

- additions to existing buildings or minor changes to previously approved plans;
- street townhouses;
- single and semi-detached dwellings in the District;
- additions and alterations to individually designated buildings;
- small to medium-sized commercial buildings.

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Once a site plan submission is endorsed for approval, a Building Permit application can be submitted. A simplified Site Plan Agreement is used for low density residential development. A standard Site Plan Agreement is used for all commercial, institutional, industrial, or multiple residential developments. A Site Plan Agreement in the District is considered to be a permit issued pursuant to the *Ontario Heritage Act*.

8.4 Appeal Process for Permits

Final authority for issuing permits is with Council, under the *Ontario Heritage Act*. Applications that are not able to be resolved in the delegated approval process can be forwarded to Council for final resolution.

According to the provisions of the *Ontario Heritage Act*, if a heritage permit application is denied by Council, or approved with terms and conditions the applicant does not support, the applicant can appeal the decision to the Ontario Municipal Board. The Board can approve, approve with conditions, or dismiss the application.

8.5 Enforcement of the District Plan

The Town will enforce the requirements of the District Plan using the regulatory provisions of the *Ontario Heritage Act*, the *Ontario Planning Act*, the *Ontario Building Code Act*, and the *Ontario Municipal Act*. The Town has used the provisions of the *Ontario Heritage Act* to prosecute those who contravene the requirements of the Act.

8.6 Understanding the District Plan

The staff of the Heritage Section (Development Services Commission) is available to assist individuals wanting more information on or clarification of heritage conservation measures,

funding assistance, administrative/approval procedures, and on the specific policies and guidelines of the District Plan.

8.7 Monitoring the District Plan

Heritage Section staff are responsible for the implementation of the policies and guidelines of the District Plan.

Review of the District Plan

The District Plan should be reviewed by Heritage Staff on a regular basis. The Plan is not a static document and will be monitored to ensure that the Plan's objectives are being achieved.

Amendments to the District Plan

The policies and guidelines of this Plan may be amended by by-law after consultation, amendment circulation to potentially impacted parties, and public notice. Minor administrative and technical changes to the Plan may be implemented by a resolution of Council. This includes changes such as:

- changes to the review process including delegation authority from Council;
- revisions to the District Plan Inventory (in light of new information or historical research, the need for updated photographs etc.)
- the provision and introduction of additional commentary and illustrations in the design guidelines that are determined to be useful in clarifying the objectives and policies of the Plan, and the intent of the design guidelines.

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Proposed changes to the classification of buildings or properties will follow the process detailed in Appendix C.

Public Information Meetings

Public information meetings may be held by the Development Services Commission (Heritage Section) or Heritage Markham on matters related to the District Plan of significant importance or public interest.

8.8 Financial Assistance for the District

Through the designation of a heritage conservation district, the municipality has recognized the importance of this area in terms of its architecture, history, and special character. To assist in the conservation and understanding of the built heritage, the municipality has created the following assistance programs. Please consult with the Heritage Section for further information and program details.

Heritage Loan Fund

- A loan fund for the purpose of promoting the repair, restoration, or reconstruction of existing or original exterior architectural elements of designated heritage structures or significant structures within a heritage conservation district.

Property Tax Reduction Program

- A program to offer property tax relief to owners of eligible heritage properties.

Designated Heritage Property Grant

- A grant program to assist property owners in restoring existing heritage features or replicating lost heritage features on significant buildings located within the Town's heritage districts.

Commercial Façade Improvement Grant Program

- A grant program to facilitate the physical upgrading of privately owned buildings in commercial use located within the Town's heritage districts.

Commercial Signage Replacement Grant Program

- A grant program to encourage the replacement of legal, but inappropriate commercial signage in heritage districts.

Heritage Reserve Fund

- A fund comprised of monies collected from Heritage Letters of Credit that can be used for:
 - a) municipal restoration projects;
 - b) municipal acquisition of heritage buildings;
 - c) municipal projects of a communicative nature such as plaques and interpretive signage;
 - d) undertaking heritage studies.

