

# THE CORPORATION OF THE MUNICIPALITY OF PORT HOPE

## BY-LAW NO. 45/2018

*Being a By-law to establish provisions for the Heritage Incentive Grant Program and Repeal By-law 74/2016*

WHEREAS Section 8(1) of the Municipal Act, 2001 provides that the powers of a municipality under any Act shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate, and to enhance their ability to respond to municipal issues;

AND WHEREAS Section 9 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Municipal Act, 2001;

AND WHEREAS Section 11(3) 5 of the Municipal Act, 2001 provides that a municipality may pass By-laws within the following sphere of jurisdiction: culture, parks, recreation and heritage;

AND WHEREAS Sections 39(1) and 45 of the Ontario Heritage Act authorizes a municipality to pass By-laws providing for the making of a grant to an Owner of property designated under Part IV of the Act or located in a Heritage Conservation District designated under Part V of the Act 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 Council may prescribe;

AND WHEREAS Section 23.1 of the Municipal Act, 2001 provides that Sections 9 and 11 of the Municipal Act, 2001 authorize a municipality to delegate its powers under the Municipal Act, 2001 or any Act, subject to certain limitations;

AND WHEREAS Section 227 of the Municipal Act, 2001 provides that it is the role of officers and employees of the municipality to implement Council decisions and establish practices and procedures to implement those decisions;

AND WHEREAS the Council of the Municipality of Port Hope in 2005 established a Heritage Incentive Grant Program where owners of commercial properties designated under Part IV of the Ontario Heritage Act or properties located within a Heritage Conservation District under Part V of the Ontario Heritage Act may apply for a grant to assist with offsetting costs associated with restoration/preservation of designated property façade or other elements specifically identified in the designation By-law.

NOW THEREFORE the Municipal Council of the Corporation of the Municipality of Port Hope enacts as follows:

1. SHORT TITLE

This By-law may be cited as the “Heritage Incentive Grant By-law”.

2. DEFINITIONS

For the purposes of this By-law:

- 2.1 “Act” means the Ontario Heritage Act, R.S.O., 1990, c.O-18 as amended from time to time.

- 2.2 “Alter” means to change in any manner and includes to restore, renovate, repair or disturb and “alteration” has a corresponding meaning and for the purposes of this By-law “Altering” has the same meaning.
- 2.3 “Council” means the Council of the Municipality of Port Hope.
- 2.4 “Heritage Approval” means the approval issued by the Heritage Port Hope (HPH) Advisory Committee that is required to be issued in order to undertake changes to designated properties because of their historic or architectural significance under the Ontario Heritage Act, pursuant to Section 42 of the Act or the consent of Council given pursuant to Section 33(1) of the Act.
- 2.5 “Heritage Conservation District” means the lands within the Municipality identified by By-law as a Heritage Conservation District.
- 2.6 “HIAC” means the Heritage Incentive Advisory Committee (HIAC) established pursuant to the terms of this By-law.
- 2.7 “HPH” means the Heritage Port Hope (HPH) Advisory Committee as appointed by Council.
- 2.8 “Municipality” means the Corporation of the Municipality of Port Hope.
- 2.9 “Program” means the Heritage Incentive Grant Program established by Council pursuant to the provisions of this By-law.
- 2.10 “Property” means land, buildings or structures which have been designated under Part IV of the Ontario Heritage Act, or properties that are located in a Heritage Conservation District designated under Part V of the Ontario Heritage Act.
- 2.11 Definitions shall also include the plural form where applicable.
3. GRANT
- 3.1 The Heritage Incentive Grant Program shall continue at the discretion of Council and may be terminated at any time, without prior notice by the passage of a duly enacted By-law by Council.
- 3.2 Provisions of this By-law and the Heritage Incentive Grant Program shall only apply to commercial properties that have been designated under Part IV of the Ontario Heritage Act or properties that are located in a Heritage Conservation District (Walton Street, Queen Street, Ontario Street and John Street) designated under Part V of the Ontario Heritage Act.
- 3.3 Council may in its discretion set aside for each calendar year an amount which may be awarded to owners of property for work to be undertaken in accordance with the provisions of this By-law. The current amount set aside by Council which may be allocated in accordance with this program is Thirty Five Thousand Dollars (\$35,000.00), per calendar year. The unallocated or remaining balance within the HIAC budget will be carried over from year to year. A review of the grant program allotment and balance will take place during the annual budget process.
- 3.4 The maximum amount that may be allocated per individual property, per calendar year, shall be set by Council and may be subject to change. The current maximum amount that may be awarded to any individual property is set at Twenty Five Thousand Dollars (\$25,000.00), per calendar year.

3.5 Council hereby authorizes the Heritage Incentives Advisory Committee (HIAC) to administer the allocation of the Heritage Incentive Grant Program in accordance with applicable legislation, Municipal By-laws and Policies and to provide advice to Council on the Heritage Incentive Grant Program.

#### 4. CRITERIA

4.1 An owner of a commercial property designated under Part IV of the Ontario Heritage Act or an owner of a property located in a Heritage Conservation District designated under Part V of the Ontario Heritage Act, seeking to obtain funding under the Heritage Incentive Grant Program shall submit a **complete** Heritage Incentive Grant application on or before the 15<sup>th</sup> of each month for consideration by the Heritage Incentive Advisory Committee. The meetings will be called as indicated within the Terms of Reference on an as needed basis and will endeavor to be held within 21 days of receiving the complete application. Incomplete applications will not be eligible for consideration of a grant. A complete application shall include but not be limited to the property owner providing:

- a brief description of the project/work to be done with supporting information such as photographs of areas that require restoring, historical drawings or photographs of significant architectural features which have been lost and are intended to be restored;
- Heritage Approval Application approved by Heritage Port Hope and stamped with all required supporting information such as plans, drawings, diagrams and specifications that illustrate the extent of the work as shown on the HIAC application and building permit issue drawings (where applicable) and particulars of the methods that are to be used to do the work;
- detailed estimate(s) for the cost of any work directly related to the building façade or any other feature which is specifically identified in the By-law is eligible for consideration of a grant under the provisions of this By-law. Costs associated with scaffolding and preparation of drawings if required will be considered as eligible costs of the project; and
- a copy of the building permit where a building permit is required.
- applications for grant funding for signage exclude temporary signs or sandwich board signs, and must be approved by Heritage Port Hope and in accordance with the Sign By-law prior to being considered by the Heritage Incentive Grant Committee.

4.2 Only a property for which all municipal taxes and other charges if any, levied against the property for which the Heritage Incentive Grant is sought are paid in full to date and in good standing is eligible to receive a Heritage Incentive Grant under this By-law and the Heritage Incentive Grant Program.

4.3 The proposed work to be undertaken shall apply to the building façade or any other feature which is specifically identified in the By-law designating the property.

4.4 A grant pursuant to this By-law shall generally not be provided for any property that applied and was awarded a grant within five (5) years from satisfactory completion of any project/work in compliance with the approved Heritage Approval application and Heritage Incentive Grant application, preceding the making of a subsequent application, unless an owner makes application with sufficient rationale to the satisfaction of HIAC. Consideration of any application with a lesser time frame will be at the sole discretion of HIAC. A property owner shall not commence any work or construction subject to a Heritage Incentive Grant application until the property owner has received written confirmation that the application has been approved.

If work or construction subject to the Heritage Incentive Grant application is commenced prior to the property owner receiving written confirmation, such work or construction shall not be eligible for a Heritage Incentive Grant and the application will be deemed to be declined.

- 4.5 It is within the discretion of HIAC to set the amount of any Heritage Incentive Grant given, with or without terms and conditions, to determine whether costs related to certain elements of the work proposed is ineligible or to reject an application, or any part thereof. In considering any application for a grant pursuant to the provisions of this By-law, HIAC shall consider, among other things, the overall value to the community, extent of restoration work to be undertaken, scope of preservation work proposed, the degree to which the alteration will follow accepted heritage guidelines and the degree to which the proposed work/alteration will have a positive impact on the streetscape.
- 4.6 The Heritage Incentive Grant amount awarded by HIAC must be matched by at least an equal contribution by the property owner taking into account the scope of the project/work including eligible project costs in accordance with the property owner's Heritage Grant Application, as substantiated through the submission of detailed paid receipts. HIAC may reduce the amount of the Heritage Grant allotment to be paid out, should the owner alter or only complete a portion of the project/work from that of which was outlined in the property owner's Heritage Grant Application and taken into consideration by HIAC when determining the amount of the Heritage Incentive Grant to be given. Consideration of any change in the Heritage Grant allotment will be at the sole discretion of HIAC.
- 4.7 Any grant that has been approved and authorized by HIAC pursuant to the terms of this By-law shall be paid by the Municipality upon the authorized representative from the Heritage Port Hope (HPH) Advisory Committee verifying that the work has been completed to the satisfaction of HPH in compliance with the approved Heritage Approval application and Heritage Incentive Grant application. In addition, the Municipal Chief Building Official or designate shall undertake a final inspection and provide verification that the work has been satisfactorily completed and is in compliance with all regulatory legislation.
- 4.8 Where a Heritage Incentive Grant application has been awarded funding and the work to be undertaken cannot be completed within the calendar year (December 31), a property owner must apply to HIAC prior to the calendar year end for an extension to complete the work. Extensions may be authorized by HIAC on an annual basis up to a maximum of two (2) extensions from the current calendar year of the Grant Application that was awarded. Grant approval is automatically rescinded for any project not completed within the calendar year of the second approved extension period.

## 5. VALIDITY

- 5.1 If any term or provision or any part of a provision of this By-law or the application submitted thereof is declared to be invalid, or unenforceable, the remainder of this By-law, or such application shall not be affected and shall be applied and enforced in accordance with its terms to the fullest extent possible according to law.

6. EFFECT

6.1 This By-law shall take effect upon the date of passing and repeals By-law 74/2016

READ a FIRST, SECOND and THIRD time and finally passed in Open Council this 5<sup>th</sup> day of June, 2018.

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R. J. Sanderson, Mayor

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B. Gilmer, Municipal Clerk