



MEMORANDUM

TO: Heritage Markham Committee

FROM: Regan Hutcheson, Manager-Heritage Planning

DATE: January 13, 2021

SUBJECT: Request for Feedback
Draft Heritage Markham Terms of Reference and By-law

Project: Heritage Markham New Terms of Reference and By-law

Background:

- This matter was reviewed by Heritage Markham Committee in June 2020. The Committee suggested a few minor changes and requested further follow up on the conflict of interest policies regarding committee members.

Previous Guidance

- Heritage Markham Committee was established by by-law in 1975 making it one of the oldest advisory committees in the City (By-law 173-75).
- A procedural by-law in respect to the operation of the Heritage Markham Committee was approved in 1991 (By-law 54-91). This by-law is now quite dated and does not reflect the current procedures or operations of the Committee.
- The new Markham Official Plan (2014) provides additional guidance on the role and responsibilities of the municipal heritage committee.

Development Services Committee Direction

- On March 2017, Development Services Committee received a staff report on the Heritage Markham Committee- Conflicts of Interest and directed staff to report back on the following:
 - The **proposed improvements 1, 2 and 3** outlined in the report;
 - A **revised Terms of Reference** for the Heritage Markham Committee
 - **Appointment Committee guidelines** for the Heritage Markham Committee
 - **Code of Conduct** for all City of Markham advisory committees and boards.

- The three proposed improvements were:
 - Improvement 1 - Revise the Heritage Markham Terms of Reference to better identify the characteristics or attributes desired for committee members so the Appointment Committee fully understands the desired qualifications.
 - Improvement 2 - Require the Appointment Committee to enquire as to the extent to which a candidate employed in a heritage-related occupation expects to be undertaking local heritage work and whether there are others in his or her organization who could present before the heritage committee in the place and stead of the member, who will still declare a conflict if he or she were to be appointed to the Committee.
 - Improvement 3 - Incorporate the principles already found in the Heritage Markham Members Occupation-Related Conflict of Interest Policy into the new Code of Conduct that is being developed by the Legislative Services Department and ensure that the new Code of Conduct clearly outlines the responsibilities of members who have a direct or indirect pecuniary interest in agenda items and the process for how these will be handled.

Comments:

- A new **Heritage Markham Terms of Reference and By-law** have been drafted by Heritage Section staff. The new version would replace By-law 54-91. Sources used to help prepare these documents included the Ministry of Culture’s “Guide to Establishing and Sustaining an Effective Municipal Heritage Committee”, our current Heritage Markham procedural by-law, info from Legal Services, and others over the years related to Heritage Markham operations, our Official Plan heritage policies, and other MHC Terms of Reference documents such as Kingston and Oakville.
- Separate guidelines for the Appointment Committee were not prepared, **but guidance is now provided in the new Terms of Reference.**
- The **Code of Conduct** for City advisory committees and boards is a separate project being undertaken by Clerks.
- The new terms of reference attempts to reflect and provide direction on common matters for the successful operation of the Heritage Markham Committee.

Changes Suggested by Heritage Markham (June 2020)

- The changes requested by Heritage Markham Committee in June 2020 are indicated in red and underlined in the attached Terms of Reference. Most were minor edits with the most controversial involving the conflict of interest section (see below).

Conflict of Interest Policy

- Staff reviewed the current process of dealing with Heritage Markham members who have a Conflict of Interest due to their profession obligations and concluded that it be discontinued. Reference to this policy/procedure has been removed from the revised Terms of Reference.
- Staff had previously included a process in the terms of reference that has been used by Heritage Markham Committee since the 1990s that permits Committee members who are also involved in a heritage related occupation to declare a conflict, but also represent their

clients (so to attract people with a heritage skillset but not disadvantage them from undertaking heritage work in Markham). This process was implemented with the concurrence of the Legal Department at the time. The validity of this approach was raised at the last meeting and staff subsequently met with legal and clerks staff to discuss the matter. The findings:

- The Municipal Conflict of Interest Act (MCIA) applies to members of municipal heritage committees. The MCIA states that
 1. the Act applies to members of Local Boards, and
 2. that Local Boards include any committee established under any general or specific Act in respect to the affairs of municipalities.
- Section 5 of the MCIA states:

5 (1) Where a member, either on his or her own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter and is present at a meeting of the council or local board at which the matter is the subject of consideration, the member,

(a) shall, prior to any consideration of the matter at the meeting, disclose the interest and the general nature thereof;

(b) shall not take part in the discussion of, or vote on any question in respect of the matter; and

(c) shall not attempt in any way whether before, during or after the meeting to influence the voting on any such question. R.S.O. 1990, c. M.50, s. 5 (1).

- Both Clerks and Legal staff indicated that the main issue appears to centre on clause (c), and whether making a presentation and answering questions should be considered "**an attempt to influence**". Section 5(1)(c) of the *Act* requires an attempt to influence. This involves a deliberate act made with the intention of influencing another or which a reasonable person would objectively see as meant to influence another. A person may have breached this section if that person does something that he or she should have reasonably known could influence or would reasonably look like an attempt to influence.

In practice, a presentation could be considered influencing the Committee because an assessment of the heritage attributes of a property (or architectural elements proposed for a new construction) often involves a measure of subjectivity. The only purely factual pieces that would not be “opinion” would be basic facts about the property/building and its history. The Committee may believe that there are some attributes that should be protected, while the presenter doesn’t believe they are worthy of protection (or vice-versa). That kind of discussion could be seen as an “attempt to influence”.

- The conclusion of staff was that the policy/procedure that allows a Heritage Markham member to declare a conflict, but present to the Committee on behalf of a client should be discontinued and not included in the new Terms of Reference.

Changes suggested by Councillors

- Staff also met with the Director of Planning and the three Heritage Markham Councillors and a few additional recommendations were suggested involving members and their geographical representation, electing a chair and qualifications. These changes are indicated in blue and underlined in the Terms of Reference. Key recommendations:
 - Representation: Only requiring one citizen representative from the major heritage conservation districts (Thornhill, Unionville and Markham Village) with the other representatives (7) from elsewhere (at-large) in order to attract the best candidates notwithstanding where they may reside;
 - Considering people from outside the municipality (this is currently permitted at the discretion of Council)
 - Consider other approaches to secure potential candidates- not just traditional notice in the newspaper (consider- professional organizations, recommended candidates, etc).
 - Position of Chair: A suggestion that the Heritage Markham Chair be one of the members of Council appointed to the Committee as opposed to a citizen representative. It was felt that this could enhance the status and prominence of the Committee and may improve meeting efficiency. Possible negative aspect- the Chair on occasion represents Heritage Markham Committee at Council on contentious issues which might be difficult if the Councillor doesn't support the Heritage Markham recommendation and votes against it as a Councillor.
 - The Rules of Procedure Governing Statutory and Advisory Committees- Section 2 indicates that *"(a) Every Committee shall at its first meeting elect one (1) of its members to act as the Chair and one (1) of its members as the Vice Chair unless Council provides otherwise at the time of the appointment of the Committee and its Members. Members of Council who sit on a Committee shall not be appointed as Chair."* In consulting with the Clerks Department, the City has had other committees where the chair has been a councillor.

Need for a By-law

- Section 28 (1) of the *Ontario Heritage Act* indicates that the council of a municipality may by by-law establish a municipal heritage committee to advise and assist the council on matters relating to this Part, matters relating to Part V **and such other heritage matters as the council may specify by by-law.** 2002, c. 18, Sched. F
- Markham established Heritage Markham in By-law 173-75 to assist and advise on matters related to Part IV and V of the Heritage Act, but not any other non-statutory roles, Council did adopt a Heritage Markham procedural by-law that does specify the other heritage matters, but as previously noted, this is out of date and needs to be replaced.
- The proposed Terms of Reference are separate from the by-law. We proposed this approach to allow the terms of reference to be amended in the future without the need of a by-law amendment.

Next Steps:

Proposed Review Process

- 1/ Review material with Heritage Section staff - completed
- 2/ Review with Clerks Dept – completed (May 2020)
- 3/ Heritage Markham Committee review – completed (June 2020)
- 4/ Second Heritage Markham Review – ongoing (January 2021)
- 5/ Second Clerks Dept Review – (January 7, 2021)
- 4/ Final review by Planning Department – January 2021
- 5/ Report to DSC/ Council – February 2021

Suggested Recommendation for Heritage Markham

That Heritage Markham Committee supports the proposed Heritage Markham Terms of Reference and By-law (January 2021 draft).

THE CORPORATION OF THE CITY OF MARKHAM

DRAFT

BY-LAW NUMBER

A By-law in respect to the mandate and operation
of the City's municipal heritage committee
(Heritage Markham)

WHEREAS the Council of the City of Markham is desirous of fostering an interest in and awareness of the City's cultural heritage resources, as well as providing for the protection, conservation, celebration and commemoration of these resources;

AND WHEREAS Council desires to be advised and assisted in this regard by members of the community with an interest, expertise and knowledge in this area;

AND WHEREAS Council of the Town of Markham did enact By-law 173-75 pursuant to Section 28 of the *Ontario Heritage Act* to establish a Local Architectural Conservation Advisory Committee on October 28, 1975, hereinafter referred to as the Heritage Markham Committee;

AND WHEREAS Council did enact By-law 54-91 on February 26, 1991 to adopt a procedural by-law in respect to the operation of the Heritage Markham Committee;

AND WHEREAS the Province of Ontario amended the *Ontario Heritage Act* in 2002 specifying that every local architectural conservation advisory committee established by the council of a municipality before the day subsection 2 (7) of Schedule F to the *Government Efficiency Act, 2002* comes into force is continued as the municipal heritage committee of the municipality;

AND WHEREAS Council deems it appropriate to adopt a new by-law in respect to the mandate and operation of the City's municipal heritage committee;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF MARKHAM ENACTS AS FOLLOWS:

1. That By-law 54-91 – A By-law in respect to the operation of the Town of Markham Local Architectural Conservation Advisory Committee (Heritage Markham) be repealed;
2. That the function of the Heritage Markham Committee is to advise and assist Council in matters relating to the identification, protection, conservation, use and/or management, celebration and commemoration of cultural heritage resources within the City in such a way that their heritage values, attributes and integrity are retained.
3. That subject to the *Ontario Heritage Act*, R.S.O. 1990, c.O.18, as amended from time to time, and to such limitations and restrictions as Council may herein and hereafter impose either by by-law or resolution, the Heritage Markham Committee shall provide advice to Council on:

- statutory matters pursuant to the *Ontario Heritage Act* that require the input of a municipal heritage committee, (unless those matters have been delegated to staff through a delegation by-law), and
 - non-statutory matters as identified by Council which involve or affect cultural heritage resources, including but not limited to, review of development and building permit applications and public works; maintaining a heritage register; research, evaluation and classification of properties; protection mechanisms; policy development and review; financial assistance opportunities; and education, promotion and commemoration;
4. That a Terms of Reference for the Heritage Markham Committee shall be adopted to address the mandate and operation of the committee, including but not limited to, the identification of statutory and non-statutory responsibilities, the organization of the committee (such as composition, qualifications, terms of service, officers), the organization of meetings (such as scheduling, sub-committees, agendas, quorum, delegations, conflicts), annual budget, role of committee members, role of City staff and reporting methods.

READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS ___ DAY OF _____, 2021

KIMBERLEY KITTINGHAM, CITY CLERK

FRANK SCARPITTI, MAYOR

Heritage Markham Committee

DRAFT Terms of Reference

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Approved By Council:

Revisions:

Note

The provisions in this terms of reference shall be interpreted in accordance with the Glossary of Terms, attached as Appendix 'A'.

1. Mandate of Heritage Markham Committee

1.1 Municipal Heritage Committee

- 1.1.1 As authorized under the *Ontario Heritage Act*, in 1975 Markham Council established, through By-law 173-75, a municipal heritage committee.
- 1.1.2 The name of Markham's municipal heritage committee is 'Heritage Markham'.
- 1.1.3 The Heritage Markham Committee is appointed by and is responsible and accountable to Markham Council.
- 1.1.4 Markham Council will consult with the Heritage Markham Committee on matters as required by the *Ontario Heritage Act*, the Markham Official Plan, as specified through the passing of a by-law or resolution, and as set out in this Terms of Reference.
- 1.1.5 The Heritage Markham Committee will be guided by the policies and regulations of the *Ontario Heritage Act*, heritage conservation guidelines endorsed the Province of Ontario, policies in the Markham Official Plan, individual heritage conservation district plans, and heritage policies adopted by Heritage Markham and Council.
- 1.1.6 The Heritage Markham Committee is an advisory committee. The role of the Committee is to advise and make recommendations on the identification, protection, conservation, use and/or management, celebration and commemoration of cultural heritage resources. All final decisions rest with Markham Council (or a Standing Committee of Council) except where Council has delegated approval authority to municipal staff or to Heritage Markham.

1.2 Statutory Role

- 1.2.1 Markham Council and City staff will seek the advice of the Heritage Markham Committee on the statutory provisions requiring consultation as provided for in the *Ontario Heritage Act*, as amended, including the following:

Under Part IV of the *Act*, to consult with the Heritage Markham Committee:

- before including a property in the Markham Register of Property of Cultural Heritage Value or Interest or removing the reference to such a property from the register;
- before Council passes an intention to designate a property;
- on an application to alter a designated property;

- on an application to amend or repeal a designation by-law;
- on an application to demolish or remove any of a property's heritage attributes as set out in a by-law or any building or structure on the property;
- before passing a by-law regarding an easement or covenant for the purpose of conservation of property of cultural heritage value or interest;
- before delegating by by-law Council's power to consent to alterations to property to an employee or official of the municipality.

Under Part V of the Act, to consult with the Heritage Markham Committee:

- before undertaking a study of any area of the municipality for the purpose of designating one or more heritage conservation districts;
- on an application to erect a building or structure, demolish or remove a building or structure, or demolish or remove any attribute of the property if the demolition or removal would affect a heritage attribute described in the heritage conservation district plan; (the 'erect' reference is from the new changes in 2020 that are to come into force Jan 1 2021 – previously it was July 1, 2020 but COVID)
- before delegating by by-law Council's power to grant permits for the alteration of property situated in a heritage conservation district to an employee or official of the municipality.

1.3 Non-Statutory Role

1.3.1 Markham Council and City staff will seek the advice of the Heritage Markham Committee on non-statutory activities and responsibilities including the following, subject to such limitations and restrictions as Council may herein or hereafter impose either by by-law or resolution. Heritage Markham may:

a) Land Use Planning Applications

- Provide advice to the land use planning process where cultural heritage resources are located on or adjacent to properties that are the subject of development applications including, but not limited to, amendments to the official plan and zoning by-laws, plans of subdivision, site plan control review, consent applications, minor variance applications, and heritage permits.
- Provide advice on natural heritage resources/landscapes if they are considered attributes in support of or associated with a cultural heritage resource.

b) Building Permits

- Provide advice through review and comment on building permits, signage permits and demolition permits affecting cultural heritage resources.

- c) Public Works
 - Render advice and information related to public works affecting cultural heritage resources.
- d) Markham Register of Property of Cultural Heritage Value or Interest
 - Identify and recommend properties to be added or deleted from the Register.
 - Ensure the Register is maintained, accurate, updated as required and available to the public.
- e) Evaluation of Cultural Heritage Resources
 - Assist in the research, evaluation and classification of properties as to their cultural heritage significance.
- f) Research
 - Ensure research and inventory projects are undertaken, as required
- g) Protection of Cultural Heritage Resources
 - Identify and provide advice on properties that warrant designation and/or further protection, under the *Ontario Heritage Act*.
 - Offer advice on proposals affecting or impacting cultural heritage resources on properties in Markham owned or under the control of the municipality, other municipalities, the provincial government and the federal government, including the Rouge National Urban Park.
 - Offer advice on heritage conservation plans, heritage impact assessments and other similar documents affecting cultural heritage resources.
- h) Policy Development
 - Provide advice related to the development, implementation and/or review of policy respecting:
 - the Markham Official Plan; and any Secondary Plans, which include cultural heritage resources;
 - Council's strategic and corporate documents which may impact cultural heritage resources;
 - The development of municipal heritage conservation guidelines, policies, plans and programs.
 - Zoning by-laws which may impact cultural heritage resources.
 - Recommend strategies, policies and initiatives in support of heritage conservation in Markham.

i) Funding Assistance

- Advise on the need for or availability of fiscal tools, funding, incentives and financial assistance, such as grants, loans or tax reduction programs, to facilitate the maintenance and conservation of protected properties of cultural heritage significance.
- Advise on the allocation of financial assistance related to existing heritage funding assistance programs.

j) Budget

- Assist in the development of an annual Committee budget for submission to Council through the Planning and Urban Design Department's operational budget.

k) Education, Promotion and Commemoration

- Promote public awareness of heritage conservation initiatives and programs, and engage the local community, as appropriate.
- Assist owners of cultural heritage properties in understanding and undertaking appropriate conservation and maintenance practices.
- Advise and/or inform on new legislation or funding initiatives that affect cultural heritage resources.
- Promote the commemoration of existing cultural heritage resources through means such as interpretive signage programs and designated property plaque programs, and the commemoration of significant cultural heritage resources which have been lost or negatively impacted through forms of interpretation, where appropriate.
- Support and advocate for the implementation of communication and educational programs to foster awareness, appreciation and enjoyment of cultural heritage resources such as in the form of newsletters, publications, website information, walking tours, exhibits, heritage awards programs, workshops and heritage celebrations.
- Support and encourage participation in promotional and educational programs offered by other levels of government or other groups related to cultural heritage resources.
- Cooperate with other public agencies and civic organizations and groups interested in the protection and promotion of cultural heritage resources.
- Encourage salvage, re-use or repurposing material that cannot be incorporated into the cultural heritage resource

l) Other

- Undertake such other duties and responsibilities relating to the City's heritage conservation program as may be assigned to it by Council.
- Keep Council informed of Committee plans and activities through Committee minutes, recommendations and an annual report, as necessary.

- Evaluate the effectiveness of the Committee examining accomplishments, both quantitative and qualitative, as well as areas requiring improvement.

2. Organization of the Committee

2.1 Composition

2.1.1 The Heritage Markham Committee will be comprised of ten (10) citizen members appointed by Council and three (3) members of Council. The Mayor [and Deputy Mayor are](#) ex-officio [members](#) of the Committee.

2.1.2 If possible, the citizen members will be selected on a geographic basis as follows:

- Thornhill Heritage Conservation District or Thornhill community ([1 member](#))
- Markham Village Heritage Conservation District or Markham Village community ([1 member](#))
- Unionville Heritage Conservation District or Unionville community ([1 member](#))
- ~~Buttonville Heritage Conservation District or rural area ([1 member](#))~~
- [Members at Large \(7 members\)](#)

Notwithstanding the above, Council may choose to deviate from this geographic approach, if necessary.

2.1.3 If possible, the Council members on the Heritage Markham Committee should be the Ward Councillors who represent the three largest heritage conservation districts.

2.2 Qualifications

2.2.1 A member of Heritage Markham Committee should possess a demonstrated interest, expertise and/or knowledge of heritage matters based on their profession, education or life experiences. A member should express a dedication and commitment to Markham's heritage conservation program.

2.2.2 Qualities or skills which are desirable for Heritage Markham Committee members include those with an interest or experience in:

- Local community history
- Heritage legislation, matters and programs
- Heritage related research
- Historical architecture, design or trades
- Restoration, conservation and construction approaches
- Interpreting heritage guidelines and plans
- Understanding of municipal procedures and legislation

2.2.3 The City will consider other approaches to find potential candidates for Heritage Markham Committee, such as contacting professional/heritage organizations, recommended candidates, etc. in addition to traditional notices in the newspaper in order to address the specialized skill set desired for committee members.

2.2.4 Those responsible for recommending candidates for the Heritage Markham Committee through the appointment process will be guided by the identified qualifications, characteristics and attributes desired for Committee members.

2.2.5 Those responsible for recommending candidates for the Heritage Markham Committee will not disqualify those candidates who are employed in a heritage or heritage-related occupation (i.e. heritage architect, contractor, lawyer, real estate agent) and from time to time may have a conflict of interest, but may enquire as to the extent to which a candidate expects to be undertaking local work involving heritage properties and whether there are others in their employment who could represent clients at the Committee if the candidate was to be appointed to the Committee.

2.2.6 Heritage Markham Committee members act in the capacity of volunteers to the municipality.

2.3 Term

2.3.1 Members of the Heritage Markham Committee will typically be appointed by Council for a three (3) year term.

2.3.2 Appointments will be staggered to prevent representatives from a specific area of the City from leaving the Committee at the same time. This will also ensure continuity of experience and succession planning.

2.3.3 If a member of the Heritage Markham Committee ceases to be a member, then any appointment of a replacement member will be only for the balance of such term, if practical.

2.3.4 Members of the Heritage Markham Committee will continue in their role until a successor is appointed by Council. If the member chooses to leave at the end of their identified term, the position will be declared vacant until Council appoints a new member.

2.3.5 Members are eligible for re-appointment upon expiry of their term provided that no member is appointed for more than two (2) consecutive terms (total of six years). The member must take a leave from the committee for a minimum of one year prior to re-applying. Council may, at its discretion, waive this requirement.

2.4 Chair/Vice Chair

2.4.1 The Heritage Markham Committee will elect a chairperson (Chair) and a vice-chairperson (Vice Chair), annually at its first meeting of the year, or as soon as practicable, ~~from among the members.~~ The Manager, Heritage Planning will conduct the elections of Chair and Vice Chair positions. Once the Chair and Vice Chair are elected, the Chair will preside over the remainder of the meeting.

2.4.2 The Chair will be one of the members of Council appointed to the Heritage Markham Committee as elected by all the entire Committee. The Vice Chair will be elected by all the members and may be any member of the Committee.

2.4.3 The Chair and Vice Chair will retain the position until a successor for each position is elected.

2.4.4 The Chair (or Vice Chair) is responsible for the effective and respectful operation of the Heritage Markham Committee. They will ensure that the Committee's discussions and recommendations are within the scope of the Committee's mandate and that the focus of dialogue and debate is from a heritage perspective.

2.4.5 Additional responsibilities and duties of the Chair, including meeting protocols (i.e. voting and motions) is provided for in the rules for procedure governing statutory and advisory committee as adopted by Council. Where the document is silent on a matter, Robert's Rules of Order would apply.

2.4.6 If both the Chair and **Vice** Chair are not present within fifteen minutes after the time for the meeting to begin, the Manager, Heritage Planning will call the meeting to order and will preside for the election of an Acting Chair. While presiding, the Acting Chair will have all the Chair's rights, duties and responsibilities.

2.4.7 The Chair (**or designate**) is the official spokesperson for the Heritage Markham Committee and will represent the Committee at official events, functions and other meetings, when required. See section 3.12 regarding media requests.

3. Meetings

3.1 Schedule

3.1.1 The Heritage Markham Committee will **generally** meet a minimum of twelve (12) times per year, usually once a month. Additional meetings may be held as required with proper notification.

3.1.2 The date and time of the regular meetings will be held on a consistent day, time and location throughout the year (i.e. the second Wednesday of each month beginning at 7:15 pm at the Markham Civic Centre). Established meeting dates will not be changed unless circumstances warrant special consideration.

3.1.3 If circumstances warrant **and legislation permits**, a Heritage Markham Committee meeting may be held in a **remote** manner using technology that would not require members to meet in-person.

Note- This is only permitted now due to the Emergency Order. The Municipal Act does not currently permit virtual meetings.

3.2 Sub-Committees

3.2.1 The Heritage Markham Committee may appoint a sub-committee from its members to investigate, organize and report on any matter related to the Committee's mandate.

- 3.2.2 In addition to any other sub-committees, on an annual basis, the Heritage Markham Committee will form the following sub-committees to meet as required:
- an Architectural Review Sub-Committee comprised of a minimum of three (3) members to address issues and applications requiring detailed analysis, review and consultation with an applicant or proponent. Depending on the issues under discussion, ~~additional~~ other members of the main Committee are welcome to attend and participate.
 - A Building Evaluation Sub-Committee comprised of two (2) members and two (2) members of Heritage Section staff to evaluate and classify cultural heritage resources.

3.2.3 Decisions of sub-committees can be made by voting or by consensus.

3.3 Agendas

- 3.3.1 Meetings of the Heritage Markham Committee will have a formal agenda prepared by the Clerks Department.
- 3.3.2 The Heritage Markham Committee agenda package will include the minutes from the previous meeting and memorandum from staff on each agenda item. The agenda package will be sent to Committee members at least five (5) days prior to the next Committee meeting.
- 3.3.3 Members of the Heritage Markham Committee may submit agenda items for inclusion on the agenda.
- 3.3.4 The Heritage Markham Committee agenda will be posted on the City website.
- 3.2.4 If required, a Heritage Markham Committee Addendum Agenda comprised of time-sensitive additional items for the Committee's consideration may be prepared. The Committee will determine at its meeting if the Addendum Agenda will be considered.

3.4 Quorum and Attendance

- 3.4.1 The quorum for the Heritage Markham Committee will six (6) members being in attendance.
- 3.4.2 As soon as there is a quorum present, the Chair will call the meeting to order. Where a quorum is not present within fifteen minutes after the hour fixed for a meeting, the Clerk will record the names of the members present. In the absence of a quorum, the meeting may continue, however no motion or recommendation may be made or passed.
- 3.4.3 Absenteeism and late arrivals by members will be will be subject to the City's rules of procedure governing statutory and advisory committees as adopted by Council.

3.5 Consideration of Agenda Items

- 3.5.1 The Chair will introduce the item on the agenda and ask Heritage Section staff to provide a brief overview, including the suggested staff recommendation for the Committee's consideration.

- 3.5.2 The Chair will invite those who have asked to provide a deputations to speak (See 3.6). The Chair will ask the applicant or their representative if they wish to provide any commentary on the item. Members will be afforded the opportunity to ask questions to those providing commentary on the application or matter. The merits of the application or matter will not be discussed at this time.
- 3.5.3 Discussion of the merits of an application or matter is confined to the members with the support of staff. The Chair will moderate and facilitate discussion and, as a courtesy, will wait until all members have made their comments before adding their own. [The Chair will maintain a list of members who have signaled that they wish to speak or ask questions, and the Chair will recognize members in the order in which they signaled their request.](#)
- 3.5.4 The Chair will seek a motion from the members to address the item under consideration. No member will discuss the merits of a motion before it is on the table (moved and seconded). Once discussion has concluded, the Chair will put to a vote the motion and announce the result.
- 3.5.5 Recorded votes are not permitted. Members are required to vote by a show of hands and if a member abstains from voting, the member's vote is considered in the negative. The Chair ~~or~~ [Acting Chair](#) will vote with other members upon all motions.
- 3.5.6 A tie vote is deemed to be negative and the motion is lost.

3.6 Deputations

- 3.6.1 Applicants and others may make deputations to the Heritage Markham Committee. Applicants may choose not to make a deputation, but instead make themselves available to answer any questions from the Committee when the item is being considered.
- 3.6.2 Deputations should be pre-arranged with staff and will be reflected in the agenda. A request for a deputation once the agenda has been published will only be permitted at the discretion of the Heritage Markham Committee members.
- 3.6.3 The priority in which deputations are heard by the Heritage Markham Committee and the amount of time allocated to the presentation will be as outlined in Markham's rules of procedure governing statutory and advisory committees, as adopted by Council.
- 3.6.4 After a deputation is made to the Heritage Markham Committee and all questions from members are addressed, the individual making the deputation will return to the public gallery and is to remain silent being cognizant that it is now time for the Committee to discuss the issue and make their recommendation. Necessary decorum dictates that all opinions must be respected and speaking from the audience is inappropriate.

3.7 Conflict of Interest

- 3.7.1 Heritage Markham Committee members will abide by the *Municipal Conflict of Interest Act*. [unless otherwise specified in this terms of reference.](#)
- 3.7.2 Heritage Markham Committee members will be responsible to seek their own legal advice as to whether they have a conflict of interest with any matter before the Committee. The Act refers

to whether there is a 'pecuniary interest' and according to the Act, a 'personal economic benefit' is key to determining if there is a pecuniary interest. City staff will not provide advice on this matter.

3.7.3 The conflict and the nature of the conflict will be declared at the beginning of the meeting and prior to any consideration of the matter on the agenda. Prior to the matter being considered by the Committee, the member with the identified conflict will leave the meeting table and sit in the public gallery area until consideration of the matter is completed. [The declaration of a conflict of interest does not affect quorum at the meeting.](#)

3.7.4 A Heritage Markham Committee member who earns their living in a heritage-related occupation and/or has been retained for a matter that is before the Committee is considered to have a conflict of interest and should strongly encouraged, if feasible, to have another representative of the member's firm or company appear before the Committee if a presentation is required or to answer questions.

~~3.7.5 A Heritage Markham Committee member who earns their living in a heritage-related occupation and/or has been retained for a matter that is before the Committee, and from time to time may have to appear before the Committee to represent a client (and cannot comply with 3.7.4), will undertake the following:~~

- ~~• The member will declare a conflict of interest due to being retained by a client in a professional capacity or for being an employee of the entity hired by the client.~~
- ~~• If a presentation is necessary, the member in conflict may do so on behalf of the client to explain the project or application, and answer any technical questions from the Committee.~~
- ~~• Once all questions are addressed, the member will leave the deputation area and sit in the public gallery area while the Committee members discuss the application and formulate a recommendation. The member with the professional conflict is strongly encouraged to voluntarily leave the meeting room when the Committee undertakes its deliberations so as to not influence the outcome in any manner.~~
- ~~• Once the Committee has approved a recommendation, the member will be invited to rejoin the Committee and proceed with other business.~~

3.7.5 Heritage Markham Committee members will not use their status on the Committee for personal, economic or political gain.

3.8 Compensation

3.8.1 Members of the Heritage Markham Committee will serve without compensation other than reimbursement of approved expenses incurred while performing duties on behalf of the Committee.

3.9 Other Meetings

- 3.9.1 Heritage Markham Committee members may through a Committee resolution be appointed to represent the Heritage Markham Committee on other committees or working groups created by municipality or others.
- 3.9.2 Heritage Markham Committee members may wish to attend an information session offered by Heritage Section staff immediately prior to a Heritage Markham Committee meeting. Attendance is voluntary and members can seek further clarification from staff on any agenda issues or applicable policies. The merits of an application or matter will not be discussed and no decisions will be made.

3.10 Safety/Disruptions

- 3.10.1 If at any time prior to, during or after the meeting, the safety of members of the Heritage Markham Committee or others in attendance is at risk, building security personnel (or local police) can be summoned by the Chair or City staff to address the situation and may involve removal of the person from the premises.
- 3.10.2 If a member of the Heritage Markham Committee or others in attendance at the meeting are being disruptive to the operations of the committee, that person will be warned by the Chair to cease the disruptive behavior, and failing to do so, will be asked to leave the meeting room. If they fail to leave, they may be removed from the meeting premises by building security personnel.

Disruptive behaviours may include:

- The use of un-parliamentary or offensive language, including any expressions or statements in debate or in questions that attribute false or undeclared motives to another person, charge another person with being dishonest, be abusive or insulting, or cause disorder;
- Making a noise or disturbance that prevents others from being able to participate in the meeting;
- Interruption of a person who is speaking, except if a Member wishes to raise a matter of privilege or a point of order;
- Ignoring or disobeying the Chair's decision on questions of order or rules of procedure or interpretation of the Committee's by-law(s) or terms of reference.

3.11 Adjournment of Meetings

- 3.11.1 Unless otherwise determined by a resolution of the Heritage Markham Committee, the meeting will adjourn no later than 11:00 p.m.
- 3.11.2 If there is unfinished business on the agenda at the time of adjournment, the Committee shall reconvene at an hour, date and place identified in a resolution detailing where the unfinished business will be considered which may include a special meeting or the next regularly scheduled Heritage Markham meeting.

3.12 Media Requests

3.12.1 All media requests will be coordinated through the City's Corporate Communications Department.

3.13 Procedural Matters

3.13.1 Procedural matters for the Heritage Markham Committee will be subject to the City's rules of procedure governing statutory and advisory committees as adopted by Council, unless otherwise specified in this terms of reference.

4. Annual Budget

4.1 The Heritage Markham Committee will develop and recommend an annual budget in a form satisfactory to the Director of Planning and Urban Design.

4.2 The annual budget will identify expenses associated with the operation of the Heritage Markham Committee, and may include among others matters, public education, special events, memberships, meeting refreshments, resource materials and training for members.

4.3 The annual budget allocation will be included as part of the Planning and Urban Design Department's operational budget, and will be administered by the Manager, Heritage Planning, or designate.

5. Role of Committee Members

5.1 Heritage Markham Committee members will attend all scheduled meetings and will notify the Chair or the designated municipal staff liaison if they are unable to attend a meeting.

5.2 Heritage Markham Committee members will read and possess a good understanding of all information supplied to them. If clarification is required on any material provided, the member will consult with staff from the Heritage Section. Members should be familiar with municipal, provincial and federal legislation, policies and programs that apply to cultural heritage resources.

5.3 Heritage Markham Committee members will disclose any conflicts of interest at the beginning of meetings, and adhere to any municipal code of conduct, and rules and procedures governing advisory committees as adopted by the municipality.

5.4 Heritage Markham Committee members will actively participate in and contribute to committee discussion and debate, in a respectful manner and focus their comments on heritage matters [currently before the committee](#).

5.5 Heritage Markham Committee members will endeavor to participate in staff organized site visits to properties identified on the committee agenda, if possible, and as required. When attending site visits, members will conduct themselves in a respectful manner as representatives of the City of Markham, and focus their comments on heritage related matters. Members will not visit private property without the owner's consent. Viewing properties from the public right-of-way is permissible.

- 5.6 Heritage Markham Committee members will undertake training, as required, to perform and enhance their role as a committee member with expenses to be covered through the Committee's budget.
- 5.7 Newly appointed Heritage Markham Committee members will undertake an orientation session with Heritage Section staff preferably prior to the member's first Heritage Markham meeting.
- 5.8 Heritage Markham Committee members will promote and support the protection and conservation of cultural heritage resources and the mandate of the municipal heritage committee.
- 5.9 Heritage Markham Committee members may assist in the identification and/or recruitment of future candidates for appointment consideration by the City.
- 5.10 Heritage Markham Committee members as individual appointees do not possess any authority or responsibilities, and the exercise of power is only through the recommendations and/or resolutions of the municipal heritage committee. Any observations or remarks related to Committee business or interpretation of Committee decisions (past or present) from a member (or a former member) are personal comments and should be qualified as such when speaking with others. Members (or former members) are cautioned not to represent themselves as possessing special knowledge or insight as to how the Committee will address a matter.

6. Role of City Staff

6.1 Clerks Department

- 6.1.1 The Clerks Department will be responsible for agenda production and delivery, the recording of Committee minutes, the preparation and distribution of Heritage Markham Committee extracts for each agenda item (for both internal and external recipients) and the forwarding of the Heritage Markham Committee minutes to Council to be received for information purposes.
- 6.1.2 The Heritage Markham Committee recording clerk possesses no voting privileges.
- 6.1.3 The Clerks Department will be responsible for maintaining a permanent record of the previous minutes of Heritage Markham Committee meetings.
- 6.1.4 The Clerks Department will be responsible for the administration of notices of intention to designate properties, appeals related to the notices and the registration of designation by-laws.

6.2 Planning and Urban Design Department – Heritage Section

- 6.2.1 Staff from the Heritage Section of the Planning and Urban Design Department will attend Heritage Markham Committee meetings and provide the Committee with professional planning and heritage advice, technical and procedural assistance, research, and administrative support. Staff will prepare information memos, including suggested recommendations, for Heritage Markham's consideration as part of the agenda package. Staff will also assist the Committee in educational and outreach projects, if possible.

- 6.2.2 Heritage Section staff will attend sub-committee meetings of the Heritage Markham Committee (i.e. Architectural Review Sub-Committee, Building Evaluation Sub-Committee), as required, and prepare notes from these meetings.
- 6.2.3 Heritage Section staff possesses no voting privileges.
- 6.2.4 Heritage Section staff will ensure that other staff and departments of the municipality, whose responsibilities and actions may impact cultural heritage resources, are aware of the status of these resources, the review and approval process related to alterations, and the role of the Heritage Markham Committee.
- 6.2.5 Heritage Section staff from the Heritage Section of the Planning and Urban Design Department will ensure that Heritage Markham Committee recommendations are forwarded to the appropriate staff at the City, or others as necessary, for consideration and/or action. This will include facilitating the recommendations of the Committee through the preparation of staff reports (see 7.2.2).
- 6.2.6 Heritage Section staff will prepare a Heritage Markham annual budget for consideration by the Heritage Markham Committee. Staff will administer the budget once approved by Council.
- 6.2.7 Heritage Section staff will maintain correspondence, files and records related to the operations and activities of the Heritage Markham Committee.
- 6.2.8 Heritage Section staff will conduct the elections of Heritage Markham Committee officers on an annual basis.
- 6.2.9 Heritage Section staff will conduct an orientation session with new members of the Heritage Markham Committee, as required.

7. Reporting Method

7.1 Heritage Markham Recommendations

- 7.1.1 A recommendation on an application or issue approved by the Heritage Markham Committee, will be forwarded to the appropriate municipal department (or to the **Committee of Adjustment**) for attention. If, there are outstanding heritage issues to be addressed, the applicant or proponent will be given the opportunity to modify the application or project. If the issue is satisfactorily addressed, Council approval of the heritage recommendation may not be necessary due to staff's delegated approval authority (see 7.3).
- 7.1.2 If unresolved issues continue to exist (i.e. conflict between what the Heritage Markham Committee has recommended and what the applicant or proponent wishes to undertake), the matter can be forwarded to the Development Services Committee and Council in the form of a staff report for a decision. There, the applicant or proponent may present their case for consideration.

7.2 Development Services Committee/Council

- 7.2.1 The minutes of the Heritage Markham Committee will be forwarded to Council through the Development Services Committee. [The minutes are received as information.](#)
- 7.2.2 Development applications (or other matters) that involve a cultural heritage resource and require Development Services Committee/Council approval will include the Heritage Markham Committee's recommendation and advice as part of the staff report. If the Heritage Markham recommendation is contrary to the staff recommendation on the matter, the Heritage Markham Committee's position/recommendation will be noted in the Recommendation section of the staff report and 'received as information' so that Council is aware of the advice from its municipal heritage committee, in addition to the staff recommendation.
- 7.2.3 The Council representatives on the Heritage Markham Committee may also assist in conveying the Committee's issues and recommendations to other members of Council.

7.3 Committee of Adjustment

- 7.3.1 [Committee of Adjustment applications such as minor variance or consent \(land division\) that involve a cultural heritage resource will include the Heritage Markham Committee's recommendation and advice as part of the staff report.](#)

7.4 Delegated Approvals

- 7.4.1 As per By-law 2007-67, the Manager, Heritage Planning, or designate, is delegated Council's approval authority respecting the granting of consents and approvals for alterations to individually designated properties and properties in heritage conservation districts, including the authority to attach terms and conditions. If the Manager, Heritage Planning has any concerns regarding an application, it will be forwarded to the Heritage Markham Committee for review and if necessary, Development Services Committee/Council for resolution.
- 7.4.2 The requirement for consultation and review with the Heritage Markham Committee for alterations of individually designated properties and properties located within heritage conservation districts that are compliant with accepted policies and guidelines is delegated to the Manager, Heritage Planning, or designate.
- 7.4.3 The Heritage Markham Committee will be informed of any staff approvals for information purposes on the next available Committee agenda.
- 7.4.4 Delegation authority to the Manager, Heritage Planning to approve on behalf of Council does not include the authority to refuse an application to alter a designated property, or the authority to consider applications for demolition or removals of individually designated properties or properties in heritage conservation districts.

Appendix 'A' – Glossary of Terms

“Act” refers to the *Ontario Heritage Act*

“Agenda” refers to a list of items to be considered at a meeting arranged in the order in which they are intended to be addressed.

“Adjourn” refers to officially ending the meeting.

“Chair” refers to the person who presides at the meeting. The Vice-Chair assumes this responsibility in the absence of the Chair.

“Committee” refers to the Heritage Markham Committee.

“Committee of Adjustment” refers to an appointed committee which is authorized by Council to grant minor variances from the zoning by-law and grant consents for land severances.

“Council” refers to The Council of the City of Markham.

“Cultural Heritage Resources” refers to built heritage resources (which include significant buildings, structures, monuments, installations or remains associated with architectural, cultural, social, political, economic or military history noted as being important to our community, and may be identified through designation, heritage easement or listing) and cultural heritage landscapes (defined geographical areas of heritage significance that have been modified by human activities and are valued by the a community, examples include heritage conservation districts, villages, parks, main streets, and cemeteries).

“Designated Property” refers to property that is protected pursuant to the Ontario Heritage Act either individually or as part of a heritage conservation district.

“Deputation” refers to a presentation by one or more individuals regarding a specific agenda item.

“Development Services Committee” refers to a standing committee of Council at which Heritage Markham matters are usually addressed.

“Heritage Conservation Plan” refers to a document that details how a specific cultural heritage resource can be conserved.

“Heritage Easement Agreement” refers to a legal document offering additional protections for a cultural heritage resources. It conveys to its holder the legal right to be involved in decisions concerning the future of a property.

“Heritage Impact Assessment” refers to a study to determine if any cultural heritage resources are impacted by a specific proposed development or site alteration, and how the resource can be conserved or the impacts mitigated.

“Heritage Markham” refers to Markham’s municipal heritage committee pursuant to the *Ontario Heritage Act*

“Member” refers to a member of the Heritage Markham Committee.

“Minutes” refers to the official record of the meeting.

“Motion” refers to a formal proposal or recommendation placed before the Committee by one Member (the mover of the motion) for debate and decision.

“Move” refers to formally proposing a motion or an amendment. The person who proposes the motion or amendment is called the “mover”. To discuss a specific motion, it must be “moved” and “seconded”.

“Order” refers to the behavior in a meeting which allows Members to conduct business without disruption.

“Order, call the meeting to” refers to an announcement by the Chair to indicate that the meeting is about to start. Also, can be a way for the Chair to enforce discipline at the meeting if rules have been broken.

“Quorum” refers to the minimum number of Members who must be present at a meeting to make the proceedings valid.

“Register of Property of Cultural Heritage Value or Interest” or **“Register”** refers to the Markham Register of Property of Cultural Heritage Value or Interest maintained pursuant to the *Ontario Heritage Act* as an inventory of individually designated properties, properties in heritage conservation districts and listed properties.

“Second” refers to formally endorsing a motion or amendment after it has been “moved”. The person who formally endorsed the motion or amendment is referred to as the “seconded”. To discuss a specific motion, it must be “moved” and “seconded”.

“Show of Hands” refers to the usual manner in which votes are cast. Those for and those against the motion are asked to raise their hands. The hands are counted, the result announced by the Chair, and the motion is declared either carried or lost.

“Vote, tie” refers to an equal number of votes for and against a motion.