

# INSURANCE FOR HERITAGE-PROTECTED PROPERTIES

Guidance document prepared by the  
Prince Edward Heritage Advisory Committee

Document current at November 24, 2020

## Context and purpose

This guidance document concerns insurance for properties individually designated under Part IV of the *Ontario Heritage Act* (“OHA”) and the over 80 contributing properties that are part of the Picton Main Street Heritage Conservation District (“Picton HCD”) designated under Part V of the OHA (Note: A second Heritage Conservation District is being studied for Wellington).

The municipal by-laws written after 2005 for individually designated properties identify particular heritage attributes to be conserved, the attributes falling within one or more of three categories according to Ontario Regulation 9/06 (design or physical value; historical or associative value; contextual value). Individual by-laws written prior to 2005 may be less specific in describing heritage attributes. The Picton HCD Plan, which serves as the heritage by-law for all properties within the HCD, “recognize[s] the cultural heritage value and character of defined *areas* [emphasis added]” (p. 9). There are over ten properties within the Picton HCD that also have their own individual designation by-laws, for example, the Regent Theatre and Royal Hotel. In these cases, the principles and guidelines of the Picton HCD Plan apply, in addition to the obligations associated with the individual designation by-law (Picton HCD Plan, p. 9).

Whether a property is designated under Part IV or Part V, the owner must apply to the Planning department for a heritage permit before carrying out repairs or alterations to the property, or demolishing a protected building, as may arise in the case of an insurance claim stemming from partial or total loss by fire, natural disaster, or other cause. One of the roles of the Prince Edward Heritage Advisory Committee (“PEHAC”) is to review heritage permit applications in accordance with the OHA and to provide Council with its advice with respect to those applications. (It is important to note that PEHAC advises Council; it does not approve applications.)

This guidance document has a three-fold purpose:

1. It is prepared as an aid to members of the public who have questions about insuring heritage properties, whether individually designated or within the Picton HCD.
2. It is intended as a reference for PEHAC members when: (a) reviewing heritage permit applications in the case of partial or complete destruction of heritage properties; and (b) communicating with property owners who are considering the individual designation of their properties under Part IV of the OHA.
3. It is also intended that the document will provide predictability for the insurance industry with respect to PEHAC’s approach in the case of damage to, or partial or complete destruction of, heritage properties.

## **Guidance of the Provincial Government**

In August 2012, the Ministry of Tourism, Culture and Sport (in 2019 renamed the Ministry of Heritage, Sport, Tourism and Culture Industries) published a one-page document called “Insurance and Heritage Properties” to help owners and insurance companies understand their obligations under the OHA. The Ministry states:

“Designation ... does not place additional requirements on the insurer and therefore should not affect your premiums ... If a building on a heritage property is completely or partially destroyed, the designation by-law does not oblige the owner to replicate any lost heritage attributes [i.e., those features identified for protection in the designation by-law that in normal circumstances cannot be altered without the approval of a heritage permit]. A replacement building, for example, can be of a different design.”

The Ministry goes on to say that if the owner wants the original features of the property replaced, the owner should be sure to obtain the necessary amount of insurance coverage. Please refer to the provincial document for the full guidance: Attachment 1, or [http://www.mtc.gov.on.ca/en/publications/Heritage\\_Insurance.pdf](http://www.mtc.gov.on.ca/en/publications/Heritage_Insurance.pdf)

The Ministry document does not refer specifically to properties within a Heritage Conservation District; however, the Picton HCD Plan provides such guidance.

## **Guidance of the Picton Heritage Conservation District Plan**

The Picton HCD Plan can be downloaded from the County website: <https://www.thecounty.ca/county-government/departments/planning/heritage-conservation/picton-heritage-conservation-district/>

As stated above, the Picton HCD Plan recognizes the cultural heritage value and character of defined *areas* within the District. According to the Plan, Part V designations do “not require property owners ... to restore buildings to a former appearance” (p. 9). The heritage attributes of the HCD and of the Character Areas within the HCD are set out in the Plan on pp 16–18. The Plan also distinguishes between properties that are contributing or non-contributing to the cultural heritage value of the HCD.

When considering heritage permit applications for HCD properties, PEHAC follows the “Design Guidelines” in the Picton HCD Plan, pp 41–64. The “Design Guidelines generally apply only to the parts of buildings or properties that can be seen from the street (including side streets and side laneways, but not rear lanes)” (p. 41). The Plan does not apply to interiors.

The detailed design guidelines for buildings (pp 45–54) are especially useful in addressing: height; mass and scale; roofs and rooflines; additions; porches, porticoes and exterior stairs; doors and windows; storefronts; signs; materials; architectural detailing; modern equipment/utilities; and energy efficiency.

With respect to demolition, the guidelines state (p. 63) that the “County does not support the demolition, in part or whole, of a contributing building within the District”; however, the HCD Plan recognizes that catastrophic events, such as a fire, may make demolition in part or in whole unavoidable, in which case, the owner “should consult the County as early as possible. Any proposals for the alteration of a partially demolished building or redevelopment of a site should be informed by the HCD Design Guidelines.” In addition, in making a proposal, the owner “shall complete and submit a report to the County providing” the information itemized on p. 63.

### **From the insurance industry’s perspective**

When seeking insurance for a heritage-protected property, it is important for property owners to recognize that insurance companies are not compelled to insure heritage properties or to give reasons for not insuring them. Each insurance company makes decisions regarding the types of risks it will insure and those it does not wish to insure, taking into account many factors, including insurance market conditions.

The insurance company (or broker acting on the owner’s behalf) must have a copy of the individual designation by-law so that it is aware of the heritage attributes protected by the by-law, or must know that the property is within the Picton HCD (or other HCD if others are enacted).

If the company decides to insure the property, it will set down clear terms to avoid delays in processing claims and prevent unreasonable expectations on the part of the owner when making a claim. For example, the insurer may offer only to replace destroyed building elements with current materials and methods, not historic materials and methods.

### **PEHAC approach in the case of partial or complete destruction**

PEHAC recognizes that property owners and the insurance industry need predictability with respect to its review of heritage permit applications; therefore, PEHAC will:

- consider applications related to insurance claims in a timely fashion so as to minimize any delay in processing the claim;
- adhere to the Ministry’s guidance that “the designation by-law does not oblige the owner to replicate any [completely or partially destroyed] lost heritage attributes” and the HCD Plan’s guidance that the HCD Plan does “not require property owners ... to restore buildings to a former appearance”; and
- at the same time, work with owners to find solutions that are in keeping with the legislated goal of conserving identified heritage attributes and a property’s cultural heritage value.

For the reference of PEHAC, the public, and the insurance industry, here follow typical (but not actual) examples of property damage and PEHAC’s recommended approach that is consistent with Ministry guidance and/or the Picton HCD Plan. The examples are not intended to be prescriptive, but rather to demonstrate how the owner and PEHAC can work together to reach a satisfactory outcome.

Buildings individually designated under Part IV of the OHA:

1. *A fire in one wing of a heritage-protected building caused partial damage: It left the walls and roof intact, but destroyed the wood window sashes and frames that were identified as heritage attributes in the by-law.*

The recommended PEHAC response to a heritage permit application to repair the damage would be to approve the replacement of the window sashes and frames with current materials and methods (vinyl windows would be an acceptable alternative to the original wood), matching the original configuration, sizes and details where possible within the insurance budget, and to replace them in their original location if the arrangement of the window openings on the surviving walls is also a heritage attribute.

2. (a) *A falling tree severely damaged beyond structural repair the heritage attribute of a “steep-pitched roof, a County form.”*

In this case, it is the roof profile that is important, not the roof finish. PEHAC would inform the owner that there is no requirement to replicate the original roof, but also suggest that it would be desirable to match the roof configuration and steep pitch, even if the old-growth timber roof structure and deck, and the roof finish (for example, cedar shingles), are replaced with current and common materials. The preferred outcome in this instance would be that the owner decides to follow PEHAC’s advice and the insurer agrees to pay for rebuilding the roof with current and common materials (for example, light-weight, close-spaced pre-fabricated wood trusses and plywood deck) while maintaining the overall roof configuration and steep pitch.

(b) *A falling tree partially destroyed the heritage attribute of a “steep-pitched roof, a County form.”*

PEHAC’s advice would be as above, but with the additional suggestion that, instead of replacing the entire roof, the owner consider removing and replacing only the damaged part. Wood construction is a flexible technology, so after the damaged roof structure is cut back to the intact area, it would likely be simpler (and cheaper if less new material is purchased) to reconstruct the missing part of the roof structure and deck with current and common materials, then add a new roof finish over the entire roof or finish the new part of the roof to match the adjacent existing roof finish. This outcome would preserve the steep pitch.

Contributing building within the Picton HCD:

3. *Fire destroyed much of the second floor of a 2-storey building, a contributing property within the downtown core “character area” of Main Street, including damage to the load-bearing brick wall facing Main Street and the window openings.*

After the fire, the owner applied for a heritage permit for a major renovation, which included rebuilding the second floor and roof within the boundaries of the original envelope, but with a different interior layout and a new 2-storey extension at the rear. Although there was no obligation to restore the second floor

to its original condition, the owner proposed that the new second floor façade and side walls would be constructed in wood framing and finished in contemporary brick veneer matching the brick size, colour and texture of the first floor to the greatest extent possible, with factory-made windows matching the originals for size and location on the façade; the new addition, which would not be visible from Main Street, would be finished in pre-painted corrugated metal. In this character area, one of the heritage attributes is “The visual coherence created by the consistent (2 and 3 storey) height, massing, parapets, roof forms, regular pattern of fenestration, materials (most commonly brick), detailing and setbacks of the buildings” (pp 17–18).” PEHAC would recommend approval of this heritage permit because the proposal maintained the visual coherence of Main Street, specifically the building’s height, roof form, pattern of fenestration on the façade and brick material.

Individually designated building within the Picton HCD:

4. *An intense, but localized fire on the second floor of an individually designated building on a mid-block laneway within the Picton HCD severely damaged the load-bearing brick side wall at the second floor level. To restore its structural integrity, this section of the side wall will need to be dismantled and rebuilt.*

Whereas the designation by-law made no reference to the brick side wall or the windows in that wall, the HCD Plan for the character area identifies the heritage attribute of “views to adjacent streets and residential neighbourhoods created by the mid-block laneways.” Recognizing that there was no requirement under the OHA for the owner to rebuild the wall in a heritage type brick, PEHAC would recommend approval of the owner’s permit application to construct the wall in wood framing and finish in contemporary brick veneer matching the brick size, colour and texture of the first floor to the greatest extent possible, with factory-made windows matching the originals for size and location. The solution maintains “the size and form” of the brick building, as identified in the individual designation by-law, and the use of brick veneer and the original window pattern contributes to an ongoing public appreciation and enjoyment of the mid-block laneway identified in the HCD Plan.

**Insurance resources for Prince Edward County heritage-protected properties**

Bay of Quinte Mutual Insurance Co. is happy to discuss with property owners insurance for heritage-protected properties:

Jeffery Howell, President  
Bay of Quinte Mutual Insurance Co.  
PO Box 6050  
Picton ON  
KOK 2T0

Tel: 613-476-2145 Toll free: 1-800-267-2126  
jeff@bayofquintemutual.com  
<https://bayofquintemutual.com>

The following local insurance brokers can place insurance for heritage-protected properties with insurance companies depending on various factors, such as building condition and agreed replacement value:

Lana Whittaker, Commercial Account Executive  
McDougall Insurance & Financial  
268 Main Street  
Picton, ON  
K0K 2T0

Tel: 613-476-2776 x3516  
Fax: 613-476-7886  
lwhittaker@mcdougallinsurance.com  
[www.mcdougallinsurance.com](http://www.mcdougallinsurance.com)

Frank Wright, President  
W.H. Williamson and Co. Limited  
178 Main Street  
Picton, ON  
K0K 2T0

Tel: 613 476-7418 Toll free: 1 800 334-6296  
Fax: 613 476-4345

**ATTACHMENT 1:**  
**Guidance of the Provincial government**

## Insurance and Heritage Properties

### Will heritage designation make my property insurance premiums go up?

Your premiums should not go up as a result of a heritage designation. A variety of other reasons cause insurance companies to increase premiums for older buildings if there is a higher level of risk, such as services (out-dated wiring, old heating systems, etc.). In fact, some companies do not insure buildings over a certain age. Designation itself, however, does not place additional requirements on the insurer and therefore should not affect your premiums.

### What happens if a building is destroyed by fire, or some other accident? Would it have to be rebuilt as it was?

The intent of designation is to preserve the historic, physical, contextual or other community heritage value of a property. If a building on a heritage property is completely or partially destroyed, the designation by-law does not oblige the owner to replicate any lost heritage attributes. A replacement building, for example, can be of a different design.

### What if I *want* the original features of my property to be replicated in case of damage?

If this is what you want, make sure you're properly covered. Insurance coverage for this depends on the degree of risk you and your insurance company are prepared to share. The age, quality and condition of your building will affect what coverage is available and the premium charged.

"Replacement cost" coverage requires prior insurance appraisal of the building. It generally provides for the property to be repaired or replaced with like kind and quality up to the amount stated in the policy. If available, guaranteed replacement cost coverage can provide for replication of original historical detailing and other important features that have been lost or damaged – whether or not a property is designated. Some insurance companies even offer a special type of "by-law endorsement" coverage. If you have a designated property, it is advisable to share your designation by-law with your insurer in order to be certain that heritage attributes are properly covered by your policy.

You can also obtain coverage for "actual cash value" (ACV). The ACV is the calculated cost of replacing the property with something of like kind after taking depreciation into account. When you arrange the insurance, be sure to speak with your insurance representative about the basis of your claims settlement. It is important to understand what you can expect if the building were to be completely or partially destroyed by an insured peril.

As with any insurance plan, it's best to research the various insurance providers in order to find the most competitive rate and best service from your insurer.

If you have further questions, you can contact the Insurance Bureau of Canada Consumer Information Centre at 416-362-9528 or 1-800-387-2880 (Direct Lines) Consumer Officer(s) available Mon. to Fri. 8:00 am to 6:00 pm. Voice mail is available 24hr.

### What is heritage designation?

Designation is a way for owners to express pride in the heritage value of their property, and for the community to protect and promote awareness of its local history. The Ontario Heritage Act enables municipalities to designate properties of cultural heritage value or interest through a by-law.

Designation can apply to individual properties or to a whole neighbourhood or district. If a property or district is designated, it gains public recognition as well as protection from demolition or unsympathetic alteration so that the heritage attributes of the property can be conserved.

### If my property is designated, do I have to restore the property to its original design or appearance?

Heritage designation does not require you to restore your building to its original appearance. The designation by-law identifies the heritage attributes that are considered important, and council approval is required for changes that will affect those attributes.

If you want to restore any lost or missing features, you should discuss your project first with the Municipal Heritage Committee or appointed municipal staff person. They can best advise on the proposed work and its likely impact on your property – especially if this involves the removal of any important feature from a later period.

### Do I need permission for general maintenance?

General maintenance work, such as repainting of exterior trim, replacement or repairs to an existing asphalt roof, or alterations and repairs to property features that are not covered by the designation by-law do not usually require *heritage* approvals. However, you may still need a *building* permit. Check with your local building department.

### Who decides whether the work is acceptable or not?

Council is responsible for deciding on applications for a heritage permit, unless this power has been delegated to municipal staff. Normally the Municipal Heritage Committee will review applications for changes to the property and provides advice to staff and council. Staff and committee members can advise you on how to ensure that the changes you want to make won't detract from the property's heritage attributes.