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BYLAW NO. 209

**Being a Bylaw in the Town of Banff in the Province of Alberta
to designate the Luxton Residence as a Municipal Historic Resource**

WHEREAS the *Historical Resources Act*, R.S.A. 2000, c. H-9, as amended, permits the Municipal Council of a municipality to designate any historic resource within the municipality whose preservation it considers to be in the public interest as a Municipal Historic Resource upon giving notice to the owner of the resource in accordance with the *Historical Resources Act*; and

WHEREAS it is deemed in the public interest to designate the building located in the Town of Banff at 206 Beaver Street known as the Luxton Residence as a Municipal Historic Resource; and

WHEREAS the owners of the Luxton Residence have agreed to the terms and conditions of the compensation proposal set out in **Schedule “C”** as compensation for the designation of the Luxton Residence as a Municipal Historic Resource;

NOW THEREFORE the Municipal Council of the Town of Banff, having complied with the *Historical Resources Act*, and duly assembled, hereby enacts as follows:

1. BUILDINGS DESIGNATED AS A MUNICIPAL HISTORIC RESOURCE

The Buildings known as the Luxton Residence, specifically described in **Schedule “A”** which are located on the lands legally described as follows:

Lots: 2 & 3, Block: 8, Plan: 6719 BC

Are hereby designated as a Municipal Historic Resource.

2. PERMITTED REPAIRS AND REHABILITATION

Subject to section 3 hereof, the buildings hereby designated in section 1 as a Municipal Historic Resource shall not be removed, destroyed, disturbed, altered, rehabilitated, repaired or otherwise permanently affected, other than in accordance with the terms of **Schedule “B”** attached.

3. ADMINISTRATOR

The Manager of the Town of Banff Planning and Development Department is hereby appointed to administer the implementation of any matters arising from the matters set out in **Schedule “B”**.

4. COMPENSATION

Compensation shall be paid to the registered owners of the Luxton Residence herein designated a Municipal Historic Resource in the manner, at the times and in the amounts set out in **Schedule “C”**.

READ a first time this 28th day of October, A.D. 2002;

READ a second time this 28th day of October, A.D. 2002;

READ a third time and finally passed this 28th day of October, A.D. 2002

THE TOWN OF BANFF

MAYOR

DIRECTOR OF CORPORATE SERVICES

SCHEDULE “A” TO BYLAW NO. 209

This is **Schedule “A”** to Bylaw No. **209** and identifies by written description and photographs, those portions of the Luxton Residence located at 206 Beaver Street, which are regulated by the “General Guidelines for Rehabilitation” (**Schedule “B”**) and must be preserved (“the Regulated Portion”).

THE IDENTIFICATION OF REGULATED PORTIONS OF THE LUXTON RESIDENCE

The Regulated Portions of the Luxton Residence include: the west, south, east and north façades and roof of the residence; all façades and roof of the stable/garage; all window and door openings of each regulated façade and the location of the buildings on the lot enclosed by wood fence, gate and hedge. This includes all materials, detailing, entrances and windows as described below under each façade section.

Non-regulated portions of the building, being all other portions of the building not specifically identified as a Regulated Portion, may be rehabilitated, altered, repaired or otherwise permanently affected in any manner provided that such rehabilitation, alteration or repair does not impact on the regulated historic features of the building. Any development or alterations considered to be non-regulated portions of the Municipal Resource must meet the General Guidelines for Rehabilitation. Any development of any portion of the Land shall be undertaken in a manner that is sympathetic to the regulated historic features of the building.

The following architectural elements must be retained:

WEST FAÇADE OF RESIDENCE (Beaver Street)

- Front façade clad in painted horizontal wood siding with corner boards and trim (photo 1);
- Steeply pitched hipped roof, hipped roof dormer and decorative roof cresting (photos 1 & 2);
- Double window opening in hipped roof dormer (photo 2);
- Roof and dormer walls clad in cedar shingles (photo 2);
- Partial front entrance porch integral to roof with Queen Anne detailing (photos 3 & 4);
- Centered wood door with window immediately above door opening (photos 1 & 3);
- Single window opening with stained glass on each side of door (photos 1 & 5);

SOUTH FAÇADE OF RESIDENCE

- South façade clad in painted horizontal wood siding with corner boards and trim (photo 6);
- Steeply pitched hipped roof clad in cedar shingles and decorative roof cresting (photos 6 & 7);
- Three window openings on original building (photo 6);

EAST FAÇADE OF RESIDENCE (lane)

- Steeply pitched hipped roof of original building, hipped roof dormer and decorative roof cresting (photo 8);
- Double window opening in hipped roof dormer (photo 8);
- Roof and dormer walls clad in cedar shingles (photo 8);

NORTH FAÇADE OF RESIDENCE

- North façade clad in painted horizontal wood siding with corner boards and trim (photo 9);
- Steeply pitched hipped roof clad in cedar shingles and decorative roof cresting;
- Two window openings (photo 9);

WEST FAÇADE OF STABLE/GARAGE

- Restored horizontal log wall with vertical corner boards, single window opening and shingled gable roof (photos 10 & 11);

SOUTH FAÇADE OF STABLE/GARAGE

- Restored horizontal log wall with vertical corner boards and window opening (photo 12);
- Gable end clad in horizontal wood siding with loft door and window opening (photo 13);

EAST FAÇADE OF STABLE/GARAGE (lane)

- Restored horizontal log wall with vertical corner boards, one double door opening and one single door opening and shingled gable roof (photos 14 & 15);

NORTH FAÇADE OF STABLE/GARAGE

- Restored horizontal log wall with vertical corner boards and two window openings (photo 16);
- Gable end clad in horizontal wood siding (photo 16);

PHOTOGRAPHIC DETAILS



Photo 1 – North façade



Photo 2 – Dormer detail (west)



Photo 3 – Porch detail



Photo 4 – Decorative feature



Photo 5 – Stained glass detail



Photo 6 – South façade



Photo 7 – Decorative roof cresting



Photo 8 – Dormer detail (east)



Photo 9 – North façade



Photo 10 – West façade of stable/garage



Photo 11 – Corner detail



Photo 12 – South façade



Photo 13 – South façade gable end detail



Photo 14 – East façade



Photo 15 – Door detail



Photo 16 – North façade

SCHEDULE “B” TO BYLAW NO. 209

This is **Schedule “B”** to Bylaw No. **209** and identifies the “General Guidelines for Rehabilitation” for the Luxton Residence located at 206 Beaver Street.

GENERAL GUIDELINES FOR REHABILITATION

1. Approval of Rehabilitation Work

As per section 26 (6) of the Alberta *Historical Resources Act*, notwithstanding any other Act, no person shall destroy, disturb, alter, restore or repair an historic resource or remove any historic object from an historic resource that has been designated under this section, without the written approval of the Council or person appointed by the Council of the purpose.

The Manager of the Planning and Development Department has been appointed by Town Council as the approving authority for this purpose.

2. Compatible Uses

Wherever possible, the uses proposed for a Municipal Historic Resource shall be compatible with the existing building such that only minimal changes are required to the building. The use of a Municipal Historic Resource for its original purpose is desirable.

3. Original Character

The original distinctive qualities and character of the building as designated by the Municipal Historic Resource bylaw should be preserved. The removal or alteration of any historical materials or features shall be avoided whenever possible.

4. The Historic Period

The Municipal Historic Resource should be recognized as a product of its own time. Alterations which are not based on historical fact or which recreate an earlier or later idiom shall be discouraged.

5. Witness to Change

Changes to the Municipal Historic Resource may have occurred over time. These alterations are evidence of the history and development of the building. Because this evolution may have acquired significance in its own right, alterations to the original building should be recognized and respected where indicated.

6. Repair and Replacement

Deteriorated architectural features shall be repaired rather than replaced wherever possible. Where replacement is necessary, the new material should match the original as to composition, colour, texture, design, etc. The repair or replacement of architectural features shall be based on a sound knowledge of the original characteristics of the feature. Such knowledge shall be based on historical or pictorial evidence and not upon conjecture.

7. Style and Craftsmanship

Distinctive stylistic features and examples of skilled craftsmanship that have been designated by the Municipal Historic Resource Bylaw shall be preserved and treated sensitively.

8. Cleaning

In all cases, surface cleaning shall be undertaken with the gentlest means available. Sandblasting in particular, but also other cleaning methods, damage historic buildings and should not be undertaken without thorough testing prior to use on a building. Sandblasting is not recommended on brick, stone or wood. In all instances, it should be ascertained that a building exterior is really in need of cleaning prior to undertaking the work.

9. Reversibility of Improvements

When the introduction of new elements or materials is necessary to stabilize or preserve a municipally designated historic resource, alterations shall be undertaken such that the new materials, should they fail, may be removed at a later date without damage to the original fabric of the Municipal Historic Resource. Where this is not possible, (i.e., use of epoxy) only those methods and materials that have been thoroughly tested and found satisfactory in situ shall be used.

10. Recording

Prior to undertaking any alterations, particularly in cases where alterations may threaten the building fabric (underpinning, moving structures), the applicant shall compile a complete record of the architectural features of the Municipal Historic Resource. Measured drawings and photographs of details may prove invaluable if major features are damaged or lost during the subsequent repair work.

11. Original Construction Details

In some historic structures, poor construction details or inappropriate material resulted in rapid deterioration of certain building elements. In these instances, accurate restoration of the original detail will inevitably result in the failure of the element. Therefore, restoration of the resource should be undertaken in such a fashion as to duplicate the original appearance as closely as possible while using details based on sound construction practice.

12. Enforcement

The owner and the Town shall enter into an agreement to ensure that the designated structure will be maintained in such a manner as to prevent any deterioration.

13. Improvements

Prior to undertaking any improvements, a schedule of alterations should be prepared. This schedule should include phasing of alterations where necessary due to program or budget restrictions. The type and timing of both short and long term maintenance work shall also be included.

14. Codes

At no time should the life and safety of occupants of a Municipal Historic Resource be deemed of lesser importance than the preservation of the original fabric of the Municipal Historic Resource. The required life and safety standards are those required by the current Alberta Building Code. However, notwithstanding these Code requirements, where the essential character of the structure is threatened by changes for code reasons, every effort shall be made to achieve an equivalent safety standard by alternate means so as to minimize the impact on the historic fabric.

15. Signs

As a general rule signs should be limited to signs that were originally present on the building. In instances where new use or interpretive functions dictate the use of additional signs, these new elements should be integrated into the general design of the project. The size, typeface, graphics and materials should be chosen to suit the period of the Municipal Historic Resource wherever possible. All signs must conform to the Banff Land Use Bylaw.

SCHEDULE “C” TO BYLAW NO. 209

This is **Schedule “C”** to Bylaw No. 209, being a Bylaw to Designate the Luxton Residence as a Municipal Historic Resource.

Summary of Compensation

1. Pursuant to section 28 of the *Historical Resources Act*, R.S.A. 2000, c. H-9, as amended, the Town of Banff (the “Town”) is required by law to provide compensation to the Owner as a result of the designation of the Luxton Residence as a Municipal Historic Resource. The Town and the Eleanor Luxton Historical Foundation, the Owners of the Luxton Residence as of the effective date of this Bylaw, have agreed, in the Compensation Agreement, upon the adequate compensation for the designation and any loss of economic value to the owners as a result of the designation. Neither the Town of Banff nor the Banff Heritage Corporation shall be obligated to provide any further consideration other than as set out in the Compensation Agreement.
2. Provided that at all times the Owner has performed its obligation under the Compensation Agreement and is not in default in any way under the Compensation Agreement, the Town and/or the Banff Heritage Corporation shall provide the following consideration to the Owner for the designation of the Luxton Residence as a Municipal Historic Resource:
 - 2.1 Upon designation of the Luxton Residence as a Municipal Historical Resource, so long as the building remains in serviceable condition, a Grant in Aid less than or equal to the municipal portion of property taxes (the “Grant”) not to exceed \$2,000.00 per annum during the years 2003 through 2007 inclusive.

The Consideration shall be provided to the Owners in the manner described in paragraphs 4 through 7 of this **Schedule “C”**.

3. Unless otherwise defined in this Bylaw the terms used in **Schedule “C”** shall have the same meaning as was assigned to them in the Compensation Agreement between the Town, the Banff Heritage Corporation and the Owners.

Grant in Aid of Municipal Property Tax

4. The Grant will be payable as of January 1st in the year following that in which Bylaw No. 209, designating the Luxton Residence as a Municipal Historic Resource, is passed.
5. The amount of the Grant paid in any given year will be the lesser of (i) the municipal portion of the Owner's property taxes assessed for that year by the Town; or (ii) \$ 2,000.00. In calculating the amount of the Grant only the municipal portion of the Owner's property taxes will be considered and no other taxes, such as school taxes and local improvement charges, shall be taken into consideration.
6. Payment of the Grant will be made to the Owner after the Owner has fully paid all taxes and levies due and owing to the Town, including the municipal portion of the Owner's property taxes.
7. Payment of the Grant may be discontinued if the historical integrity of the Luxton Residence is destroyed; if the Luxton Residence is not in serviceable condition or if Bylaw No. 209, designating the Luxton Residence as a Municipal Historic Resource, is rescinded at the discretion of Council.