

HERITAGE CONSERVATION COVENANTS

A RESOURCE GUIDE

HeritageBC



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INTRODUCTION

A heritage conservation covenant is a contractual agreement between a property owner and a local government or heritage organization. The Legislation is found in the BC Land Title Act, [section 219](#).

Registered on the title of the property, heritage covenants outline the responsibilities of the covenant parties with respect to the conservation of a heritage property. Conservation covenants can be used for the protection of natural, historical, cultural, architectural, environmental, heritage, scientific, wildlife or plant-life values.

A covenant travels with the title, so all future owners are bound by it as well.

The City of Surrey provides this description of a covenant:

“A Heritage Conservation Covenant is an agreement that protects part or all of a heritage property. It is negotiated with the owner of a heritage property and registered on title of the land. A conservation covenant can apply to either a natural or built feature. The owner signs the covenant with either the City or another interested party such as a heritage society. However, unlike an HRA, a conservation covenant cannot vary other City bylaws and regulations such as zoning. It is most useful where no changes to a property or building are proposed to take place, and the owner wishes to enter into a covenant with the City to ensure long-term protection.” ([source](#))

Heritage Conservation: A Community Guide states, “A heritage conservation covenant allows a local government or a heritage organization to negotiate terms of a contractual agreement with a property owner to protect a site, but cannot vary siting, use, or density. Covenants are registered on the land title and may be binding on future property owners.”

The *Community Guide* continues:

“Conservation covenants are registered on the title of the property. The covenant outlines the responsibilities of the covenant parties with respect to the conservation of a heritage property. Conservation covenants can apply to natural or man-made heritage resources. A conservation covenant may be used to conserve property when planning and research identifies a need for conservation, or when the parties are interested in formalizing the terms of conservation in a contract. A conservation covenant may “run with the land,” meaning that when the property is sold the conservation covenant remains in effect and may be binding on the new owner.” ([source](#))

Finally, The Land Title and Survey Authority of British Columbia offers this description of covenants for conservation purposes (referencing Section 219 of Land Title Act):

- A conservation covenant is a voluntary agreement to conserve land or protect features relating to it. It is an agreement between a private landowner and a designated individual or organization registered on the land title and is legally binding on the future owners of the property. A covenant may include provisions that restrict the use of, or require that improvements be maintained on the property for the protection of natural, historical, cultural, architectural, environmental, heritage, scientific, wildlife or plant-life values.
- Section 219 covenants are an inexpensive alternative to Crown acquisitions and provide the public with the means to preserve land or its special attributes.

The Land Title and Survey Authority of British Columbia provides the following highlights:

- Individuals and non-government organizations are able to register a covenant on private lands.
- Covenants can be created for specific purposes, such as protection, preservation or enhancement, and may be of a positive or negative nature.
- Responsibility for enforcing non-government covenants cannot be turned over to the Crown without consent, thus ensuring the government won't acquire unwanted costs and obligations.
- Administration and paperwork have been kept simple. All that is needed for registration at the Land Title Office is a statement of designation by the Surveyor General.
- All existing covenants entered into under the *Heritage Conservation Act* are ensured of continuation under the amended *Land Title Act*.
- The legislation clarifies the basis for evaluation of properties under the *Assessment Act* that are subject to a covenant under the amended *Land Title Act*.

PROCESS AND BENEFITS

Heritage Conservation: A Community Guide provides a summary process to establish a conservation covenant:

- Alternative long-term protection tools (such as heritage designation and heritage revitalization agreements) are considered. It is agreed by the parties involved that a conservation covenant is the most appropriate long-term protection tool for this situation.
- Terms of the conservation covenant are negotiated by the parties to the covenant.
- The parties seek legal advice and the heritage conservation covenant is drafted.
- If local government is party to a heritage conservation covenant, the council must adopt a resolution authorizing the covenant.
- Local government registers the conservation covenant on the property title in the Land Title Office.
- The property is monitored by the local government or heritage organization for compliance with the terms of the conservation covenant.

A resource guide developed for the City of Richmond provides the following benefits: Enables the parties to create an agreement to deal with site-specific issues.

- Allows a 3rd party (e.g. a heritage organization) to be included in the agreement to ensure ongoing protection in case a future Council discharges the covenant.
- The agreement can be made by other parties, independent of the local government.
- The agreement can be reinforced by financial charge during any period of contravention.
- The agreement can contain an indemnity in favour of the local government in regard to liability risks or other matters.

[\(source\)](#)

An Example of a Heritage Conservation Covenant

A property owner wishes to sell her heritage home, but wants to ensure its long-term conservation. She approaches local government to request that it become a party to a conservation covenant that would prohibit the future demolition of the home and subdivision of the property. A covenant is drafted by the local government (or the owner's solicitor) and is agreed to by both parties. The local government adopts a resolution authorizing the covenant. The local government notifies the Land Title Office of the covenant, and it is registered on the land title.

[\(source\)](#)

HERITAGE COVENANTS: RESOURCE GUIDE

This resource guide is part of a series describing the heritage conservation tools that are available through BC's *Local Government Act*. The other guides are:

Community Heritage Commissions
Community Heritage Registers
Heritage Designation
Heritage Revitalization Agreements

Heritage Impact Assessment
Heritage Conservation Areas
Temporary Heritage Protections

All guides are available at heritagebc.ca.

A NOTE TO READER

Please contact Heritage BC if this guide did not provide answers to your questions. [Let us know](#) how we can help, and we will find the information you need.

It is intended this guide will develop through community input. If you have best practices and case studies that would benefit this guide, please contact [Heritage BC](#).

The resource guides provide overviews through research and commentary. Application of the heritage conservation tools are not prescriptive, as they can be adapted to each situation. Local governments and regional districts wanting to implement the heritage conservation tools should seek legal counsel as required.

ABOUT HERITAGE BC

Heritage BC supports all people of British Columbia who champion the preservation and conservation of all forms of cultural heritage, developing awareness, appreciation and respect for B.C.'s built and intangible traditions.

Heritage BC is a charitable not-for-profit supporting heritage conservation across British Columbia through education, training and skills development, capacity building in heritage planning and funding through the Heritage Legacy Fund.

As an organization of provincial scope, Heritage BC recognizes that its members, and the local history and heritage they seek to preserve, occupy the lands and territories of B.C.'s Indigenous peoples. Heritage BC asks its members to reflect on the places where they reside and work, and to respect the diversity of cultures and experiences that form the richness of our provincial heritage.

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