

# HERITAGE REVITALIZATION AGREEMENTS

## A RESOURCE GUIDE

The Heritage Revitalization Agreement is an important component in a local government's heritage program, as it not only supports heritage retention and rehabilitation, it can also be used to advance the local government's other priorities, such as housing and rental strategies.

The significance of this heritage conservation tool will be better understood with a more complete understanding of its potential. As the City of Vancouver puts it, "HRAs are powerful and flexible tools specifically written to suit unique properties and situations." ([source](#))

The goal of this guide is to encourage the application of the Heritage Revitalization Agreement by offering research, guidelines, and standards. By understanding best practices and lessons learned, the Heritage Revitalization Agreement can be used as a powerful and flexible tool to achieve the local government's planning and development goals.

HeritageBC



## **CONTENTS**

Introduction	<b>3</b>
Overview	<b>4</b>
Benefits	<b>6</b>
Process	<b>7</b>
Examples	<b>9</b>
Covenants	<b>10</b>
Sample Enabling Bylaw	<b>13</b>
Legislation	<b>21</b>

# HERITAGE REVITALIZATION AGREEMENTS

## INTRODUCTION

The *Local Government Act* does not provide a concise definition of a Heritage Revitalization Agreement (HRA), but several explanations have been developed to describe a relatively simple concept with a potentially complex application.

According to the *Local Government Act*, the basic components are:

- It is an agreement between a property owner and the local government;
- The agreement may be used to outline a schedule and timeline of work, and/or to vary or supplement land use regulations (to achieve a desired outcome specific to the heritage property).

This definition is provided by the Real Estate Board of Greater Vancouver ([source](#)):

**“Municipalities may offer legal, written [heritage revitalization] agreements negotiated between a property owner and a municipality to provide non-financial incentives to help owners to conserve a heritage property. This agreement is registered on the property title.”**

The City of New Westminster provides the following on its website ([source](#)):

**“A Heritage Revitalization Agreement, or HRA for short, is a formal, voluntary, written agreement that is negotiated between a property owner and a local government. It outlines the duties and obligations of, and the benefits to both parties of the agreement. The agreement allows local governments to supersede local zoning regulations and to provide non-financial incentives which would make it viable for owners to conserve property of heritage merit.”**

An HRA is a form of long-term, legal protection enabled with a bylaw that is registered on the title of the property. As an HRA is written to suit unique properties and situations, each HRA is different from the next and does not create precedence.

The *Heritage Conservation: A Community Guide*, which was written in 1995 in response to the then new *Local Government Act*, provides the most extensive explanation ([source](#)):

**A Heritage Revitalization Agreement is a formal voluntary written agreement negotiated by a local government and an owner of heritage property. A Heritage Revitalization Agreement outlines the duties, obligations, and benefits negotiated by both parties to the agreement. A Heritage Revitalization Agreement may:**

- detail the timing of the agreement terms;
- vary or supplement the provisions of a rural land use bylaw including use, density, siting, and lot size;
- vary or supplement the provisions of a bylaw which concern land use designation, development cost recovery, subdivision and development requirements;
- vary or supplement a permit under Part 14 of the Local Government Act (Planning and Land Use Management);
- vary or supplement a bylaw or heritage alteration permit under Division 6, Section 617 of the Local Government Act;
- and/or include other terms agreed to by the local government and the property owner.

## HERITAGE REVITALIZATION AGREEMENTS

### OVERVIEW

*Heritage Conservation: A Community Guide* states, “Heritage Revitalization Agreements are intended to provide a powerful and flexible tool which enable agreements to be specifically written to suit unique properties and situations. They may be used to set out the conditions which apply to a particular property. The terms of the agreement supersede local government zoning regulations, and may vary use, density, and siting regulations.” ([source](#))

The flexibility of the HRA allows for creative solutions that it can be used for unique properties and special situations requiring exceptions and relaxations of existing regulations. As a result, the HRA is a creative process that can be individualized to the specifics of each situation.

Following are some of the situations for which the HRA can be used. (Note: this is not intended to be an exhaustive list; specific application of the HRA is at the discretion of the local government.)

The HRA can be used to:

- Supersede local government regulations by altering existing bylaws, such as:
  - Zoning bylaws
  - Subdivision bylaw
  - Heritage conservation bylaws
  - Development cost levies bylaw
- Vary use, density, lot size, setbacks and other siting regulations
- Vary a permit under Part 14 of the Local Government Act (Planning and Land Use Management)
- Vary a heritage alteration permit;
- Establish and detail the timing of agreement terms
- Set out the level of conservation to be undertaken by the owner
- Include other conditions as negotiated
- Outline the owner’s responsibilities if the property is damaged or destroyed
- Outline the owner’s responsibilities if the HRA is contravened in any way
- Include other terms of conditions agreed to by both parties

Common requests in HRA projects are:

- property subdivision
- extra floor space
- fewer parking spaces
- extra building height

## Eligibility

To be eligible for a Heritage Revitalization Agreement, a property must have heritage value according to the local government's specifications. It is possible, then, the property will already be found on a heritage inventory or register listing, or it will have been designated as a heritage property.

Without prior recognition of heritage value, the property will likely need to be identified and described by a heritage professional (in a Statement of Significance) and approved by the Community Heritage Commission, Heritage Advisory Committee and/or city staff.

In addition to heritage value, the property may be assessed according to:

- Neighbourhood context
- Streetscape character
- Existing zoning, especially lot sizes and density
- Balance of public and private benefits
- Level of neighbourhood support

[\(source\)](#)



## HERITAGE REVITALIZATION AGREEMENTS

# BENEFITS

A Heritage Revitalization Agreement (HRA) is a mutually-beneficial arrangement that balances:

- Private and public interests
- Heritage conservation and development
- Liveability and densification
- Philosophy and realism

Private benefits may take the form of:

- Improved finances through a subdivision
- Increased in square footage
- Increased density through a subdivision
- Change of usage
- Relaxed zoning restrictions (e.g. parking, setbacks, etc.)
- Increased height of a building
- The increased or decreased parking area
- Changed, improved siting regulations
- Energy efficiency and sustainability
- Freedom to adapt or modernize the property to reflect one's needs and tastes

Public benefit may take the form of:

- Longer-term protection for the property
- Restoration or rehabilitation of the property
- The extended lifecycle of the property
- Improved site condition, more attractive streetscape
- Changes to landscaping, parks or open spaces
- New historic information and documentation
- Enhanced community character with a stronger sense of place and identity

The local government's HRA policy can support goals, such as:

- Rehabilitation of heritage districts, streets
- Civic pride in heritage properties and other resources
- Quality of life strategies; balanced and liveable neighbourhoods
- Affordable housing strategies
- Improved home rental strategies
- Mixed and expanded usages (e.g. senior or youth centre, live-work)
- Improved site-specific conditions (e.g. improved accessibility)
- Stimulated cultural tourism and other economic opportunities
- Sustainable communities

([source](#), [source](#), and [source](#))

## HERITAGE REVITALIZATION AGREEMENTS PROCESS

An HRA application can have the following simplified process:

- preliminary inquiry
- pre-application review
- application
- community and committee review
- consideration of bylaws

The following proposes a more detailed schedule (although the exact process is dependent on each situation and local requirements):

1. Local government or the property owner identifies the need for the use of a Heritage Revitalization Agreement (HRA) that could be used to in a particular situation. The need may arise from the unusual siting of a building, a unique lot configuration, or other unique circumstances.
  - This phase includes the assessment of heritage qualities in order to meet eligibility requirements.
  - This phase also determines the appropriateness of HRA versus heritage conservation covenant (see the Heritage Conservation Covenant resource guide for additional information).
2. Local government and the property owner negotiate the proposed form of development and the terms of the HRA, including the obligations, duties, and benefits of the agreement.
3. Local government seeks legal advice and drafts the HRA and the corresponding bylaw.
4. The owner submits a development application and /or subdivision application and financial analysis which are reviewed by staff. Approval is subject to Council enacting the HRA Bylaw.
  - The application is reviewed for zoning, building code, site servicing, fire aspects, etc.
5. If the use or density of the property is proposed to be changed, a public hearing must be held. Refer to the *Local Government Act* for public hearing requirements.
  - Community Heritage Commission, relevant Neighbourhood Associations, the Advisory Planning Commission, the Design Panel and immediate neighbours may be consulted during this process.
6. Council or regional district board adopts the bylaw.
7. Within 30 days of the adoption of the bylaw, local government files a notice in the Land Title Office to register the Heritage Revitalization Agreement on the property title. Local government must also notify the minister responsible for the Heritage Conservation Act (the Heritage Branch).
8. The project phase will include requirements as specified by the local government. These may include (but not limited to):
  - Submission of building permit drawings
  - Formal review by City departments
  - Heritage Alteration Permit
  - Regular updates on work progress
  - Site visits by local government staff
  - A Heritage Revitalization Agreement may only be altered with the consent of the property owner and local government. Local government must adopt a bylaw to amend a Heritage Revitalization Agreement.
  - At completion, a site review is conducted, and the project is signed off.

([source](#), [source](#), and [source](#))

The City of New Westminster offers the following list for the application process (the list may vary according to each situation):

1. Application Form
2. Application Fee
3. Letter of Authorization from property owner, if applicable
4. Land Title Certificate indicating current ownership
5. Site survey (certified) showing location of building, height of building, corners of site, plus other elements as required
6. Statement of Significance (by professional other than project architect)
7. Heritage Conservation Plan detailing conservation work (this may be written by the project architect)
8. Design rationale
  - 11×17" architectural drawings of the proposed project, drawn to ¼" scale. Must include a site plan, exterior elevations, cross sections, floor plans, geodetic elevations of all floors.
  - Proposed materials should be indicated on the exterior elevations. Parking on-site must show stall dimensions, drive and manoeuvring aisles, drive-way slopes and turning radii
9. Landscape plan to scale showing number, type and size of plant material proposed, plus the proposed treatment of other surfaces of the site, and the proposed treatment of the street boulevard and driveway crossing
10. Plans must also include a statistical table of the proposal covering all of the conditions of use for the applicable zoning district, plus the variances being requested. The table must include required/permitted and proposed yards and setbacks, density, floor space ratio, site coverage, height, parking and loading requirements, balcony and open space dimensions and areas, housing unit types and areas, and areas set aside for common areas (if applicable) should also be noted. Any bylaw deficiencies should be noted
11. Current photos of building (all elevations), also of the site and surrounding properties
12. Colour and material board

([source](#))

## HERITAGE REVITALIZATION AGREEMENTS

# EXAMPLES

### Example 1

A family owns a heritage house situated on a large lot in a single-family neighbourhood. The owner wishes to subdivide their property into two legal-sized lots, which would require the relocation or destruction of the house.

To preserve the heritage building in its present landscaped setting, the owner and the City enter into an HRA with terms that allow for both the subdivision of the property and the retention of the house in its present location. The agreement varies the Subdivision Bylaw to allow subdivision into two lots, creating one lot narrower than normally permitted.

In return, the owner agrees to restore and continually protect and conserve the heritage house. Any future development of the narrow lot is subject to siting requirements. The proposal is in line with the permitted use and density, so a public hearing would not normally be required. However, the heritage designation also proposed for the heritage building means that a public hearing must be held. ([source](#))

### Example 2

In order to conserve an historic hotel and to construct a new building beside it, a significant investment in restoration work is required and certain variances are requested.

The property owner and City staff negotiate an HRA that describes the form of development, varies siting requirements, permits non-conforming uses and increases the allowable density on the site.

In return, the owner agrees to restore, maintain and protect the exterior of the building and the interior lobby, grand staircase and ballroom and allow public access for one day per year.

A Public Hearing is required because of the use and density variances requested. ([source](#))

### Example 3

The owner of a historic commercial building in a downtown core initiates discussion with the local government regarding the redevelopment potential of the site. In order to conserve the historic building and to build a new building on the site, a significant investment in the restoration of the historic building is required and the building siting requirements in the community's zoning bylaw must be relaxed. The property owner and local government negotiate a Heritage Revitalization Agreement to enable redevelopment of the site. The agreement allows relaxation of the siting requirements, permits additional uses such as multiple family dwellings to be accommodated on the site, and increases the allowable density on the site. In return, the owner agrees to restore and maintain the historic building, allow public access for interpretation one day per year, and agrees to the installation of an appropriate commemorative plaque on the property. ([source](#))

# HERITAGE REVITALIZATION AGREEMENTS

## COVENANTS

### 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*) ([source](#))

- 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 the evaluation of properties under the *Assessment Act* that are subject to a covenant under the amended *Land Title Act*.

## Process and Benefits of Heritage Conservation Covenant

*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 REVITALIZATION AGREEMENTS

# SAMPLE ENABLING BYLAW

With minor alterations, this sample bylaw was prepared by Lidstone, Young, Anderson for *Heritage Conservation: A Technical Manual for Local Governments*, 1995.

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### WHEREAS:

- A. The Council may by bylaw pursuant to the Local Government Act, Division 5 — Continuing Protection: Heritage Revitalization Agreements enter into a heritage revitalization -agreement with the owner of heritage property;
- B. The Council considers that certain lands and premises situate within the District described as:  
(the “Lands”)  
have heritage value and ought to be conserved.
- C. The Owner of the Land and the District have agreed on nature, character and extent of the heritage value of the Lands and on the nature, extent and form of conservation necessary to protect the heritage value.

### NOW THEREFORE IN OPEN MEETING ASSEMBLED, THE COUNCIL ENACTS AS FOLLOWS:

#### 1. TITLE:

This may be cited for all purposes as “District of \_\_\_\_\_ Heritage Revitalization Agreement Bylaw, No. \_\_\_\_\_”

#### 2. HERITAGE REVITALIZATION AGREEMENT

The Council of the District is authorized hereby to enter into that certain Heritage Revitalization Agreement appended to this Bylaw as Schedule “A”, (the “Heritage Revitalization Agreement”) in respect of the Lands;

#### 3. EXECUTION OF AGREEMENT

The Mayor and the Clerk are authorized on behalf of the Council to sign and seal the Heritage Revitalization Agreement.

#### 4. SCHEDULE

Schedule “A” forms a part of this bylaw.

(approvals and signatures)

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SCHEDULE "A"

This Agreement made the \_\_\_\_ day of \_\_\_\_ 20\_\_\_\_

BETWEEN:

(the "Owner")

OF THE FIRST PART

AND:

THE CORPORATION OF THE \_\_\_\_\_, a municipal corporation by letters patent pursuant to the Local Government Act and having offices at: \_\_\_\_\_.

(the "District")

OF THE SECOND PART

WHEREAS:

A. The Owner is the registered owner in fee simple of the following lands and premises situate in the District of \_\_\_\_\_, British Columbia and described as:

(the "Lands");

B. The District and the Owner consider that the lands have heritage value.

C. The Owner and the District desire to conserve those improvements on and the heritage character of the lands which collectively constitute such heritage value;

D. For the purpose of conservation of the heritage value of the Lands, the Owner and the District have agreed to enter into this Agreement setting out the terms and conditions of continuing protection for the heritage value of the Lands.

E. The improvements on and heritage character of the lands which both the Owner and the District desire to conserve and which constitute the heritage value of the site have been described by text, drawings, illustrations, photographs and plans attached as Schedule "A" (the "Conservation Plan") to this Agreement

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the mutual promises of the parties hereto and for other good and valuable consideration (the receipt and sufficiency of whereof is hereby the parties acknowledged) the Owner and the District covenant and agree with one another pursuant to section Part 30 of the Local Government Act, Division 5 — Continuing Protection: Heritage revitalization as follows.

## Conservation Plan

1.

a) The Conservation Plan forms a part of this Agreement and to the extent that the text, drawings, illustrations, photographs, and plans constituting the Conservation Plan require interpretation, the District shall determine the matter and section 16 of this Agreement shall apply.

b) Part I of the Conservation Plan identifies, details and describes the character, extent and nature of the improvements on and heritage character of the Lands that have heritage value. Part II of the Conservation Plan provides for the timing and phasing of, and sets out standards and specifications for restoration, rehabilitation, replication, or repair to be undertaken and completed pursuant to this Agreement. Part III of the Conservation Plan sets out restrictions, requirements and guidelines for the conservation and maintenance of all improvements and features on the Lands having heritage value.

## Owner's Obligations to Conserve and Maintain

2. The Owner covenants and agrees that:

a) no improvement on the Lands identified in the Conservation Plan as having heritage value or a part of the heritage characters of the Lands shall be altered including alterations required or authorized by this Agreement, except pursuant to a heritage alteration permit issued by the District;

b) each action of restoration, rehabilitation, replication, repair or maintenance, required by Part II of the Conservation Plan shall be commenced and completed in accordance with the phasing, timing, standards and specifications set out in Part II of the Conservation Plan;

c) all improvements identified in Part I of the Conservation Plan as having heritage value shall be maintained to the minimum standards and in accordance with the guidelines and requirements set out in Part m of the Conservation Plan;

d) all those undeveloped areas of the Lands cross hatched in heavy black on the "Site Plan" forming part of the Conservation Plan, being lands in the opinion of the District necessary for the conservation of proximate improvements, identified in the Conservation Plan as having heritage value shall continue to remain free of all development and shall be kept in their landscaped and cultivated state, as required in and in accordance with the guidelines set out in Part II of the Conservation Plan, and without limiting the generality of the foregoing, the elevation and configuration of the land and terrain shall not be altered, and no trees or landscaping shall be removed or cut, except for reasonable pruning and grooming;

e) the Owner shall do or cause to be done all such things, and shall take or cause to be taken all such actions as are necessary to be taken all such actions as are necessary to ensure that the restrictions and requirements provided in subsections (a), (b), (c) and (d) of this section 2 are fully observed, and the Owner shall not do, cause or allow to be done anything that would be in breach of the restrictions herein.

## Variation of Bylaws

[The items in this section, which may relate to zoning, parking, loading, and development cost bylaws, should be worded as they would be in a Development Permit or Development Variance Permit.]

## Discretion

4. Wherever in this Agreement a heritage alteration permit is required, the discretion to approve, refuse or issue such permit is delegated by the District to the Director of Planning and:

a) such exercise of discretion relating to the issuance of the heritage alteration permit shall be made by the Director acting reasonably in accordance with sound municipal heritage and conservation practice;

b) such exercise of discretion, including any terms and conditions imposed shall be consistent with the Local Government Act, and with the intent, terms, conditions and guidelines of the Conservation Plan;

c) the Director of Planning may refer to any exercise of discretion to Community Heritage Commission for advice.

## Construction and Maintenance of Works

5. Wherever in this Agreement the Owner is issued a heritage alteration permit to restore, rehabilitate, replicate, repair, replace, maintain or in any way alter improvements on, or features of the Lands identified in the Conservation Plan as having heritage value, or to construct or maintain other works to protect or conserve such improvements or features, all such work shall be done at the Owner's sole expense strictly in accordance with the Conservation Plan and with the heritage alteration permit and all plans and specifications forming part thereof and shall be diligently and continuously maintained in good repair and efficient operating condition by the Owner at the Owner's sole expense in accordance with good engineering, design, heritage and conservation practice.

## No Liability to District

6. In no case shall the District be liable or responsible in any way for:

a) Any personal injury, death or consequential damage of any nature whatsoever, howsoever caused, that be suffered or sustained by the Owner or by any other person who may be on the Lands; or

b) Any loss or damage of any nature whatsoever, howsoever caused to the Lands or any improvements or personal property thereon belonging to the Owner or to any other person;

Arising directly or indirectly from compliance with the restrictions and requirements herein, wrongful or negligent failure or omission to comply with restrictions and requirements herein, or refusal, omission or failure of the District to enforce or require compliance by the Owner with the restrictions or requirements herein or with any other term, condition or provision of this Agreement.

## Reasonable Care and Risk

7. The Owner shall at all times, in complying with the restrictions or requirements herein and its obligations in respect thereof, take reasonable care not to injure any person or cause or allow damage to any property, and shall take reasonable care not to cause, suffer, permit or allow any condition to exist that might reasonably lead to, cause or result in injury to any person or property including persons and property on adjacent lands. It shall be the sole responsibility of the Owner to comply and maintain compliance with the restrictions and requirements herein in a safe manner, and without reasonably foreseeable risk to person or property as aforesaid Subject to section 8 hereof, compliance with the restrictions and requirements in this Agreement shall be at the sole and exclusive risk of the Owner.

## Modification

8. If, in fulfilling its responsibilities and obligations pursuant to this Agreement, the Owner perceives or becomes aware of any unreasonable risk of injury to persons or damage to property or other potential loss that cannot be reasonably avoided, alleviated, reduced or eliminated except by measures that would be a breach of the restrictions, requirements or its obligations herein, the Owner shall notify the District in writing of the nature and extent of the risk and of the measures proposed by the Owner to be undertaken at its sole cost to reduce, alleviate, avoid or eliminate the risk. Risk shall remain with the Owner, and if the District has not approved such measures as proposed by the Owner within 90 days of receipt of such notice, risk shall pass to the District and the Owner or the District may proceed pursuant to section 19 and in the case of the District, S. 16 applies mutatis mutandis.

## Indemnity

9. The Owner shall at all times indemnify and save harmless the District of and from all loss and damage, and all actions, claims, costs, demands, expenses, fines, liabilities and suits of any nature whatsoever by whomsoever brought for which the District shall or may become liable, incur or suffer by reason of existence and effect whether direct or indirect of the restrictions or requirements herein, or breach or non-performance of its obligations hereunder, or by reason of any wrongful act or omission, default or negligence of the Owner.

## Alternative Remedies

10. Any performance by the District pursuant to a statutory right to perform the obligations of an Owner arising out of this Agreement, including out of any heritage alteration permit issued out of this Agreement, be exercised fully in accordance with the Local Government Act and shall be without prejudice to any and all remedies at law and equity available to the District, and no reference herein to, or exercise of any specific right or remedy by the District, shall preclude the District from exercising other right or remedy.

## **Damages**

11. The Owner covenants and agrees that the measure of the damages for any breach of the restrictions or requirements of this Agreement shall include, but shall not be limited to the actual cost and expense of all administration, labour, materials, equipment, services and work required for all remedial acts necessary to fully restore, rehabilitate, replace or maintain the building, structure, improvement on or feature of the Lands having heritage value to be protected, conserved, preserved or kept in its natural state. The nature and extent of any breach of the said restrictions and requirements, and the nature and extent of any restoration, rehabilitation, replacement, maintenance or remedial work or action of any nature required to remedy such breach shall be determined by the District by reference to the Conservation Plan, the sections 2 and 3 of this Agreement.

## **No Waiver**

12. No restrictions, requirements or other provisions in this Agreement shall be deemed to have been waived by the District unless a written waiver authorized by resolution of the Council and signed by an officer of the District has first been obtained and without limiting the generality of the foregoing, no condoning, excusing or overlooking by the District on previous occasions of any default nor any previously written waiver shall be taken to operate as a waiver by the District of any subsequent default or in any way to defeat or affect the rights or remedies the District.

## **Statutory Authority and Proprietary Rights**

13. Nothing in this Agreement shall limit, impair, fetter, or derogate from the statutory powers of the District all of which powers may be exercised by the District from time to time and at any time to the fullest extent that the District is enabled, and no permissive bylaw enacted by the District, or permit, license or approval, granted, made or issued thereunder, or pursuant to Statute, by District shall stop, limit or impair the District from relying upon and enforcing this Agreement in its proprietary capacity as the owner of an interest in the Lands.

## **Compliance with Laws**

14. Despite any provision of this Agreement, the Owner shall comply with all laws, including bylaws of the District and all regulations and orders of any authority having jurisdiction, and to the extent only that such laws, regulations and orders are mandatory and necessarily require the breach of any restriction or positive obligation herein to be observed or performed by the Owner, or less than strict compliance with the terms hereof, then the Owner upon sixty (60) days written notice to the District shall be excused from complying with such \_restrictions\_ or performing such obligation and such restriction or obligation shall be suspended but only to the extent and for the time that such mandatory law, regulation or order is inconsistent with compliance with the said restrictions of obligations.

## Notice

15. Any notice to be given hereunder shall be in writing and may be either delivered personally or sent by prepaid registered mail and if so mailed shall be deemed to have been given five (5) days following the date upon which it was mailed. The address of the parties for the purpose of notice shall be as follows:

If to the District:

Attention: Municipal Clerk, District of \_\_\_\_\_, BC, \_\_\_\_\_

If to the Owner:

Attention: \_\_\_\_\_

Any party hereto may at any time give notice in writing to the other of any change of address and after the third day of giving of such notice the address therein specified shall be the address of such party for the giving of notices hereunder.

## Arbitration

16. The Owner, if dissatisfied with the District's interpretation of the Conservation Plan and any determination pursuant tot S. 1(a) of this Agreement may require that the matter be decided and determined by binding arbitration as follows:

- a) the Owner must within fourteen (14) days of any exercise of discretion by the District give notice to the District of its intention to dispute and in such notice shall name a member in good standing of the Architectural Institute of British Columbia who has agreed to act as an arbitrator;
- b) the District shall within seven (7) days of receipt of the aforesaid notice either accept the Owner's arbitrator, or name another with the same qualifications willing to act, and shall give notice of the same to the Owner;
- c) where each of the Owner and the District has named an arbitrator, the two arbitrators shall within fourteen (14) days of the District's notice pursuant to this section 19(b) appoint a third arbitrator having the same qualifications and the three arbitrators shall decide the dispute;
- d) where the District accepts the arbitrator first selected by the Owner, that arbitrator shall act as a single arbitrator and forthwith decide the dispute;
- e) any arbitrator's decision in respect of the exercise of a discretion by the District shall be final, conclusive and binding on all parties.

Without limiting the District's power of inspection conferred by statute and in addition thereto, the District shall be entitled at all reasonable times and from time to time to enter onto the Lands for the purpose of ensuring that the Owner is fully observing and performing all of the restrictions and requirements in this Agreement to be observed and performed by the Owner.

## Headings

18. The headings in this Agreement are inserted for convenience only and shall not affect the construction of this Agreement or any provision hereof.

## Schedules

19. All schedules to this Agreement are incorporated into and form part of this Agreement.

## Number and Gender

20. Whenever the singular or masculine or neuter is used in this Agreement, the same shall be construed to mean the plural or feminine or body corporate where the context so requires.

## Interpretation

21. Terms used in this Agreement shall take their meaning from the Local Government Act.

## Successors Bound

22. All restrictions, rights and liabilities herein imposed upon or given to the respective parties shall extend to and be binding upon their respective heirs, executors, administrators, successors and assigns. When the Owner is more than one party they shall be bound jointly and severally by the terms, covenants and agreements herein on the part of the Owner.

IN WITNESS WHEREOF the Owner and the District have executed this Agreement as of the date first above written.

(seal and signatures)

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## SCHEDULE "A"

### Conservation Plan

[In respect of a building, structure or other improvements on land this Conservation Plan should consist of photographs, blueprints, plans, drawings, illustrations and explanatory text identifying with certainty and describing in detail the features, components and other elements that constitute the heritage value to be conserved.

To the extent that action and work are required of the Owner, Part II of the Conservation Plan should set out with certainty what detailed action and work is required, when it must be commenced and completed, and to what standards and specifications (all to be included) it is to be done.

Part III of the Conservation Plan should set standards for continuing ongoing maintenance of all aspects of the Lands having heritage value]

# HERITAGE REVITALIZATION AGREEMENTS

## LEGISLATION

Following is the relevant legislation as it is found in the *Local Government Act (LGA)*, plus an accompanying commentary. Further details follow in other sections of this guide.

Please note: this is not intended to be a legal interpretation of the *LGA*. Please [refer to the complete Act](#) for more information and seek legal advice as required.

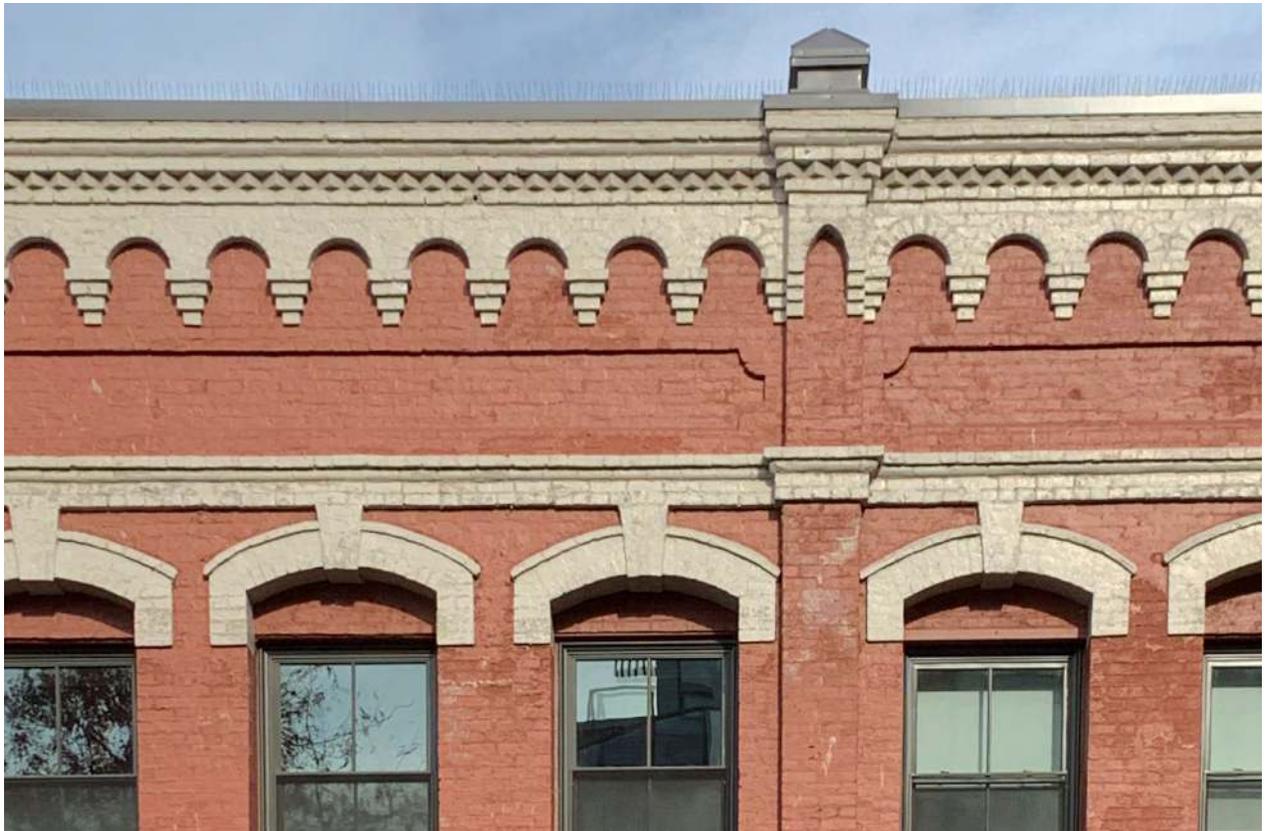
### Division 5 — Continuing Protection

#### Section 610 – Heritage Revitalization Agreements

<p>1.</p> <p>A local government may, by bylaw, enter into a Heritage Revitalization Agreement under this section with the owner of heritage property.</p>	<p>The <i>Local Government Act</i> offers this heritage conservation tool when the local government has adopted it through an enabling bylaw.</p>
<p>2.</p> <p>A Heritage Revitalization Agreement may do one or more of the following:</p> <p>a) include provisions regarding the phasing and timing of the commencement and completion of actions required by the agreement;</p> <p>b) vary or supplement provisions of one or more of the following:</p> <p>i. a bylaw or heritage alteration permit under this Part;</p> <p>ii. a land use permit under Part 14 [Planning and Land Use Management];</p> <p>iii. a land use regulation bylaw under Part 14;</p> <p>iv. a bylaw under Division 11 [Subdivision and Development: Requirements and Related Matters] of Part 14;</p> <p>v. a bylaw under Division 19 [Development Costs Recovery] of Part 14;</p> <p>c) include other terms and conditions that may be agreed on by the local government and the owner.</p>	<p>The HRA can set out the activities and timeline of the intended project and/or it can vary or supplement land use permits/regulations and other mutually agreeable activities.</p>
<p>3.</p> <p>A Heritage Revitalization Agreement prevails over a bylaw or permit referred to in subsection (2) (b) to the extent of any conflict.</p>	<p>The alteration to existing bylaws and land use regulations is a key feature of the Heritage Revitalization Agreement, making this a strong tool for retention and conservation, as well as for achieving local planning and development goals (see Benefits in this guide for more information).</p>

<p>4. A Heritage Revitalization Agreement may be amended by bylaw only with the consent of the owner.</p> <p>5. A local government must not require an owner to enter into or consent to the amendment of a Heritage Revitalization Agreement as a condition of issuing any permit, licence or other authorization that may be required to enable the heritage property to be used or developed in accordance with the applicable bylaws.</p>	<p>These items explain the rights of the property owner:</p> <p>HRAs can be used only with the cooperation of the property owner.</p> <p>A property owner is not required to enter into an HRA to achieve something that is already permissible.</p>
<p>6. A local government must not enter into or amend a Heritage Revitalization Agreement unless the agreement or amendment is approved as follows:</p> <p>a. by the minister, if circumstances prescribed under subsection (7) apply;</p> <p>b. by the minister responsible for the administration of the Transportation Act, if the agreement or amendment covers land subject to section 52 (3) of that Act.</p> <p>7. The minister may, by regulation, prescribe circumstances in which approval under subsection (6) (a) is required.</p>	<p>This provides special conditions that require the approval of the Province of BC. The Province has the authority (related to these conditions) to make further requirements.</p>
<p>8. Before entering into or amending a Heritage Revitalization Agreement, a local government must hold a public hearing on the matter if the agreement or amendment would</p> <p>a. permit a change to the use or density of use that is not otherwise authorized by the applicable zoning of the property, or</p> <p>b. alter a zoning bylaw in relation to residential rental tenure as defined in section 455,</p> <p>and, for these purposes, Division 3 [Public Hearings on Planning and Land Use Bylaws] of Part 14 applies.</p>	<p>A public hearing is required if the application proposes to change density or a change to the current rental situation.</p>

<p>9.</p> <p>Despite section 135 [requirements for passing bylaws] of the Community Charter, if a public hearing on the matter has been held under subsection (8) of this section, the local government may adopt the bylaw under this section at the same meeting at which the bylaw passed third reading.</p>	<p>After holding a public meeting, the HRA bylaw can be passed at the third reading.</p>
<p>10.</p> <p>Within 30 days after entering into or amending a Heritage Revitalization Agreement, the local government must</p> <ul style="list-style-type: none"> <li>– file a notice in the land title office in accordance with section 594, and</li> <li>– give notice to the heritage minister in accordance with section 595.</li> </ul>	<p>HRAs must be reported to land titles and the Heritage Branch within 30-days of approval.</p>
<p>11.</p> <p>If a notice is filed under subsection (10) (a), the Heritage Revitalization Agreement and any amendment to it is binding on all persons who acquire an interest in the land affected by the agreement.</p>	<p>The conditions of an HRA are specific to the property and not the owner. For example, the HRA will survive a change of ownership.</p>



## HERITAGE REVITALIZATION AGREEMENTS: 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 Conservation Areas

Heritage Impact Assessment  
Heritage Covenant  
Temporary Heritage Protections

All guides are available at [heritagebc.ca](http://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.

# HeritageBC



[heritagebc.ca](http://heritagebc.ca)

