

Heritage Conservation: A Community Guide

Heritage Conservation: A Community Guide

Province of British Columbia
Ministry of Tourism, Sport and the Arts
HERITAGE BRANCH

Canadian Cataloguing in Publication Data
Main entry under title:
Heritage conservation, a community guide

ISBN 0-7726-2606-5

1. British Columbia. Heritage Conservation Statutes Amendment Act, 1994. 2. Historic sites - Law and legislation - British Columbia. 3. Historic sites - Government policy - British Columbia. 4. Historic sites - British Columbia - Conservation and restoration - Handbooks, manuals, etc. I. British Columbia. Heritage Branch.

KEB448.9.H472 1995 344.711 '094 C95-960329-8
KF4311.B7A272 1995

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INTRODUCTION

The *Heritage Conservation Statutes Amendment Act (HCSAA)*, proclaimed by the Lieutenant Governor in October 1994, made wide-ranging improvements to heritage conservation legislation in British Columbia. The *HCSAA* amended more than twenty Acts, and made significant changes to the *Heritage Conservation Act*, the *Local Government Act*, and the *Vancouver Charter*. The *Community Charter* also empowers local governments to undertake heritage conservation activities.

Local governments in British Columbia have a wide variety of tools for the conservation of community heritage resources. Provincial legislation provides for:

- a "tool kit" of powers for local government to more effectively manage community heritage resources;
- better integration of heritage conservation into land use planning;
- improved fairness and procedures for developers and owners of heritage property;
- conservation incentives;
- tougher penalties to deter and punish offenses against heritage resources;
- improved ability to work with First Nations;
- improved heritage stewardship by provincial agencies.

Who Should Use the Community Guide?

This community guide is intended to meet the needs of non-technical users of the heritage legislation in communities throughout British Columbia. Those who may find this information most useful include members of Community Heritage Commissions, local government planners and administrators, members of local heritage and museums societies, and other people interested in heritage conservation.

What Does This Community Guide Include?

This guide includes both general and specific information about heritage conservation legislation in British Columbia. General parts of this guide include information on planning for heritage conservation, terms used in the legislation, principles of heritage conservation, highlights for local government, and a reference list of other recommended reading. Specific parts of this guide include information on the most commonly used local government heritage conservation tools made available by the legislation. Each tool is discussed individually, including these topics:

- What is it?
- What does it do?
- When do you use it?
- How do you use it?
- Example(s).

Available heritage conservation tools generally fall into two basic groups:

- **Tools for Planning** - enable **research**, **planning**, and **integration** of heritage conservation with community planning.

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- **Tools for Conservation** enable local governments to provide **support** to owners of heritage buildings and **legal protection** for a community's residential heritage buildings.

A cautionary note: Although this guide was prepared to help you understand the legislation, each local government must refer to the legislation and seek its own legal counsel for specific legal interpretations. Additionally, as an introductory treatment, this guide does not include numerous topics that may pertain to a small percentage of conservation situations.

Abbreviations

BIA - Business Improvement Area

CC - *Community Charter*

HCA - *Heritage Conservation Act*

HPI - Historic Places Initiative

LTA - *Land Title Act*

LGA - *Local Government Act*

OCP - official community plan

VC - *Vancouver Charter*

For further information on heritage legislation contact:

BC HERITAGE BRANCH

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We're located on the 5th Floor, 800 Johnson Street, Victoria, with office open Monday to Friday 8:30 am to 4:30 pm. For detailed consultation, we suggest calling *in advance* for an appointment with Branch Staff.

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HIGHLIGHTS FOR LOCAL GOVERNMENT

The *Community Charter*, the *Local Government Act* and the *Vancouver Charter*, and other statutes, enable municipalities and regional districts to better integrate heritage conservation activities into the mainstream of development and community planning.

A Special Note About Regional Districts

Municipal councils are empowered by the *Community Charter* to engage in heritage conservation services and to use the tools provided in Part 27 of the *Local Government Act*. Regional Districts however, are in somewhat different situation. If they wish to provide heritage conservation services, they first must adopt an establishing bylaw [LGA s. 800].

Please also note that in some cases, legislative tools have different restrictions, depending on whether they are being used by a council or a regional board. Tax exemptions, for example, may be granted under the *Community Charter* by municipal councils for any specified term, whereas regional districts may only grant them for up to ten years. Regional districts should consult the relevant legislation directly for further information and/or clarification.

Planning Tools

Community Heritage Commission

Local government may, by bylaw, appoint a Community Heritage Commission to help manage and implement community heritage planning and activities.

Community Heritage Register

By resolution, local government can establish an official listing of properties identified as having **heritage character** or **heritage value** to the community. A **community heritage register**:

- facilitates integration of heritage considerations with **community planning**;
- enables **monitoring of properties** through licensing and permit application processes;
- **informs** property owners and prospective buyers of property's heritage value;
- in itself **does not provide heritage protection**.

Properties on a community heritage register are listed in the Provincial Heritage Register and can be eligible for nomination to the Canadian Register of Historic Places.

Support Tools

More Powerful Incentives

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Local government may offer incentives to property owners:

- full or partial [tax exemptions](#)
- direct [monetary grants](#);
- [non-monetary support](#) (technical advice, program coordination, funding of a non-profit society, commemoration, public works projects, priority routing of applications, etc.);
- **heritage alteration permits** may waive or relax some portions of land-use bylaws;
- **density bonuses** and **new uses** can be permitted;
- special consideration under the **B.C. Building Code** for registered and protected properties.

The Legal Protection Tool Kit

This section provides an introductory description of 12 key ‘tools’ available:

[Heritage Inspection](#)

Local government (and the province) can order heritage inspections to assess heritage value and conservation needs.

[Heritage Revitalization Agreement](#)

Allows a local government and property owner to make a formal voluntary written agreement which may specify terms and vary or supplement numerous bylaw and permit conditions, including:

- rural land use, density, siting, and lot size;
- a land use designation, development cost recovery, subdivision and development requirements;
- a permit under *LGA* Part 26; a bylaw or heritage alteration permit under *LGA* Part 27.

[Heritage Alteration Permit](#)

Allows changes to be authorized for protected heritage property (designation, conservation covenant, heritage revitalization agreement, heritage conservation area). May not vary use or density, but may vary or supplement rural land use bylaws, land use designation, permits, development cost charge recovery, subdivision and development requirements.

[Heritage Impact Assessment](#)

Owners or developers can be required to provide information prior to development approvals regarding the impact of their proposals on protected heritage properties.

[Heritage Designation](#)

By bylaw, heritage designation can provide long-term protection to a single property, a portion of a property (exterior, interior, landscape features), or more than one property. It is the **primary** form of long-term local government regulation that can **prohibit demolition**. It can also prohibit moving, structural and land changes, and alterations to specified exterior, interior fixtures, and landscaping.

[Heritage Site Maintenance Standards](#)

Minimum standards can be established for maintaining properties protected by designation or heritage conservation areas.

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Temporary Heritage Protection

Temporary heritage protection tools deal with immediate and short-term circumstances and can be used until longer-term measures are enacted :

- withholding of approvals,
- withholding of demolition permits,
- temporary protection orders,
- temporary protection bylaws, or
- temporary protection control periods.

Specific time limits apply. Temporary heritage protection cannot be extended indefinitely.

Heritage Compensation

Local government must provide fair compensation to a property owner for loss in market value as a direct result of designation. Compensation may be monetary or non-monetary. Owners must apply for compensation within a year of designation. Owners may waive the right to compensation. Disputes are settled by binding arbitration under the *Commercial Arbitration Act*.

Tree Protection

Municipalities have “natural person” powers under the Community Charter, which allows them broad scope for regulation and management of trees.

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.

Heritage Conservation Area

Local government can define special areas in the OCP to provide long-term protection to a distinctive heritage area. Heritage conservation areas may require a heritage alteration permit for:

- subdivision,
- additions,
- new construction,
- alteration of a building, structure, land, or feature.

Reservation and Dedication of Heritage Property

Local government can commit to providing long-term protection to public property (cenotaphs, historic trails, statues, city halls, or parks).

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Procedures for Local Government

One-Stop-Shopping Concept for Approvals

Necessary approvals for heritage rehabilitation work can be expedited and consolidated. Staff can work with owners to identify and resolve technical conservation problems and regulatory conflicts.

Procedures related to heritage conservation may be included in the local government procedures manual.

Delegation of Authority

A council may pass a bylaw delegating certain of its powers, duties and functions to a council member, council committee, officer, employee or other body established by council. (CC s. 154)

- heritage inspection(s),
- heritage impact assessment(s),
- heritage alteration permit(s).

Giving Notice

Procedures for creating heritage protection require fairness, advance notice to the public and affected parties, rationale for heritage protection, a public hearing, and post-enactment notice to owners.

Disputes and Penalties (under the Local Government Act)

Provincial Ombudsman

The Ombudsman has authority to investigate complaints regarding the exercise of any heritage protection powers or the powers or the standards of fairness used by local government.

Serious Offences - Maximum fine of \$50,000 (\$1 million for corporations) and up to two years in jail for illegal alteration or destruction of protected heritage property.

Minor Offences - Maximum fine of \$2,000 and/or six months in jail.

Civil Remedies - Local government can apply for a court order to require compliance of a heritage requirement, or for restoration or compensatory conservation work if a protected heritage property is illegally altered or destroyed.

Notice of Infractions on Land Title - If local government discovers unauthorized alteration of heritage property, a notice can be placed on the land title until the matter is resolved.

Local Government Requirements for Giving Notice

The following are simple interpretations of *Local Government Act* requirements for giving notice. Please consult applicable sections of the *Local Government Act* [LGA s. 974-978] for specific notification procedures.

PUBLIC NOTICE

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Notice to property owners and the public **must** be given before or after enactment of many heritage protection provisions. If notice is required, it may be given to a property owner or occupant in person, by registered mail, or if neither of these is possible, by an advertisement in a local newspaper. A notice may be posted on the applicable land if a reasonable attempt has been made to notify the property owner. Local government may post a notice on protected heritage property or property that is subject to some forms of temporary heritage protection.

LAND TITLE OFFICE

Local government **must** file a notice with the Land Title Office in compliance with the office's requirements if:

- repayment of exempted taxes is required,
- a conservation covenant is made,
- a heritage revitalization agreement is adopted,
- a property receives heritage designation,
- a heritage conservation area bylaw is adopted, or
- any of the above circumstances no longer apply.

MINISTER RESPONSIBLE FOR HERITAGE

Local government **must** notify the minister responsible for heritage conservation if a heritage property is

- on a community heritage register,
 - given a tax exemption,
 - designated,
 - subject to a heritage revitalization agreement,
 - on a heritage conservation area schedule, or
 - any of the above circumstances no longer apply.
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PLANNING FOR HERITAGE CONSERVATION

Heritage Conservation Terms

The *Heritage Conservation Statutes Amendment Act* (1994) introduced a number of meanings that were new at the time to British Columbia's heritage conservation vocabulary. Some were terms used for new tools created by the legislation. Other terms were familiar, but used in new ways or with new meanings in the context of the legislation.

The following is a list of the most important new terms contained in the legislation. A glossary is provided in this document to help explain the meanings of these terms. Note that some terms take on subtle specific legal meanings depending on the Act in which they are used. It is therefore advisable to refer to the definition section of the relevant Act for the specific legal meaning of a term.

- community heritage commission
- community heritage register & provincial heritage register
- conservation
- conservation covenant
- heritage alteration permit
- heritage character
- heritage conservation area
- heritage control period
- heritage impact assessment
- heritage inspection
- heritage property
- heritage recognition
- heritage revitalization agreement
- heritage site
- heritage value
- protected heritage property
- temporary protection

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Principles of Heritage Conservation

Legislation in British Columbia enables heritage conservation practices to be integrated into the day to day mainstream planning activities of local government.

The principles of heritage conservation that follow have evolved out of the collective experience of British Columbians over the last two decades.

1. Planning Comes First

Communities should make every effort to plan for the conservation of their heritage resources. Planning will help to avoid conflict and last minute attempts to save valuable community resources.

Planning involves a number of steps that include:

- taking time to **communicate with owners** of heritage property and those who have an interest in heritage conservation,
- **identifying a vision** for the future of the community and its heritage resources,
- **identifying and evaluating** the community's heritage resources,
- **setting goals and objectives** for the conservation of the community's heritage resources,
- **assessing the various ways** the goals and objectives may be achieved, and
- **setting out a strategy** for how they will be achieved.

Once you have agreed on a plan, the conservation of resources is the next step. This could involve:

- implementing legal protection for a resource,
- undertaking physical preservation of a resource, and
- monitoring and evaluating completed work.

2. Legislation is Not a Substitute for Planning

By themselves, the tools enabled by the legislation are not enough. Used on their own, these tools can lead to ad hoc and piecemeal management of heritage resources. In order for these tools to be effective, they must be used in the context of heritage planning.

3. Plan Incrementally and Build on Success

An incremental approach to planning is recommended because most communities lack the financial resources, experience, and technical expertise to undertake comprehensive planning.

An incremental or one-step-at-a-time approach will help communities to acquire experience and to achieve some level of success before undertaking large projects. An incremental approach will help communities to proceed with heritage conservation at a pace they can handle, and will give communities the confidence and experience to take on new and larger initiatives.

Communities can achieve more when they build on past successes. Communities may succeed with a parade, a public art project with a heritage theme, or the restoration of a small commercial building. Whatever the projects or activities, the next step should be to build on those successes.

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4. Heritage Conservation is an On-going Process

Most of us think of planning as a linear process that has a beginning, a middle, and an end. Heritage conservation, however, involves a continuing series of planning cycles:

- plan,
- implement, and
- evaluate.

5. Get Organized and Build Community Support

The communities in British Columbia that have had the most success with heritage conservation are those that have been able to get organized.

Getting organized means integrating heritage activities within the context of the larger community, making a plan, recruiting volunteers, and building partnerships with property owners, business, and local government.

Community support is essential to achieving success in heritage activities. The more that members of the community are aware of their heritage, the more likely they will be to lend support and energy to heritage activities. Ideally all cultural interests should be involved in the heritage conservation activities of a community, including aboriginal and other cultural groups.

6. Consider the Whole Community

Rather than focusing on conserving individual heritage resources, a community should look at the role heritage conservation can play in the life of the community. The more the community's interests, needs, and issues as a whole are considered, the more likely it is that heritage conservation will be integrated into mainstream planning and other community activities.

7. Identify the Issue First, then Select the Tool

It is important to assess the problem or opportunity before a tool is selected. It helps to identify the problem first, look at alternative solutions, and then select the tool(s) which can best be used to solve the problem. The risks of choosing an inappropriate tool are higher when a community tries to fit the circumstance to the tool, rather than when it fits the tool to the circumstance.

8. Heritage Conservation Must be Fair

The legislation has been designed to provide fairness to both the public interest and to property owners. It is important that heritage proponents work with and consider the needs of owners of heritage properties to achieve fairness in conserving heritage resources.

9. Heritage Resources Require Stewardship

Stewardship is more than the physical tasks of restoration. It is a process of commitment and long-term management of community heritage resources. This may involve finding a new role for a resource to play in a community, or finding a way to make a resource more economically viable.

Heritage conservation is an on-going process of stewardship that must be carried on after physical restoration is complete. On-going stewardship of heritage resources will help to ensure conservation over the long term. Stewardship involves three steps:

- protection legal protection of the resource

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- preservation physical maintenance or upgrading of a resource
- interpretation presentation and commemoration; the education component of a conservation project

10. Invest in Your Future

Heritage conservation activities have successfully contributed to the economic development of many communities in British Columbia over the last fifteen years. If approached from a business point of view, heritage conservation efforts can help to preserve a community's past and generate much needed economic activity.

Residential Building Conservation

Heritage conservation legislation in British Columbia provides a variety of tools that can be used by municipalities and regional districts in the conservation of residential buildings and areas.

Types of Residential Conservation

These may include the exterior, interior, landscape, and/or land of:

- a single residence, or
- a cluster or district of residences.

Getting Started

Selecting the right tool for conservation will depend on your specific circumstances. Simple situations may be handled by using one tool. More complex situations may require a strategic approach using several tools. Start by determining your individual and/or community needs.

1 Analyze your situation - define the problem to be solved.

- Is the owner supportive?
- Is the residence or area threatened?
- Have you done your planning?

2 Determine your desired results - identify specifically what you want to achieve: now? In 5years? In 20 years?

3 Review your options - consider the tools (support, temporary and/ or long-term protection); narrow down and select.

- Do you need to provide support or legal protection?
- If it is support you need, do you have financial resources to offer?
- If you want legal protection, do you need short or long-term protection?

4 Consult with others - may include local government, property owners, planners, legal advice.

5 Seek a balanced approach – seek fairness; think out the long-range consequences.

Determining What is “Heritage”

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The *Local Government Act* [s. 5] gives local government the authority to determine heritage property as having sufficient **heritage value** or **heritage character** to justify its conservation.

Heritage properties should be officially listed by local government on a **community heritage register** to give notice to property owners and potential buyers.

Balancing Public and Private Rights

Local government is required to **give notice** to property owners of significant changes proposed to the status of a property. Generally property owners are given an opportunity to express their views regarding potential changes at a public hearing.

Doing Your Research

A **heritage inspection** may be performed at local government expense on a property which warrants investigation for evaluative purposes.

A **heritage impact assessment** can be required at owner or local government expense to predict the impact a proposed development may have on adjacent heritage resources.

Tools You Might Use

Planning Tools

Community and provincial heritage registers
Heritage inspection
Heritage impact assessment
Appropriate zoning

Support Tools

Tax exemption
Grants and non-monetary incentives

Protection Tools

Temporary heritage protection
Heritage revitalization agreement
Heritage conservation covenant
Heritage conservation area
Heritage alteration permit
Heritage designation
Heritage compensation
Heritage site maintenance standards
Acquisition of property [CC s. 8 (1)]

What if the heritage residence is...

...a single dwelling

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...that requires short-term protection?

Temporary heritage protection gives legal protection for a limited time. Forms include: withholding of approvals; withholding of demolition permits; and temporary protection orders or bylaws.

...that requires long-term protection?

A **conservation covenant** or a **heritage revitalization agreement** may be negotiated with the owner for long term protection.

- A conservation covenant is a contractual agreement between a residential property owner and local government or heritage organization. It is registered on the land title and may be binding on future property owners. A covenant can apply to natural or manmade resources; it cannot vary siting, use, or density.
- A heritage revitalization agreement is a formal voluntary agreement between a property owner and local government. It may allow exceptions and relaxations to use, density, and/or siting regulations.

Heritage designation offers long-term protection by bylaw of exteriors, interior fixtures, landscaping, and/or land, with or without the owner's agreement. A property owner is entitled to **local government heritage compensation** for proven reduction in market value resulting from heritage designation.

...that requires enforced maintenance?

Heritage site maintenance standards can be established to enforce minimum standards of care for properties that are designated or are in a heritage conservation area.

...in a cluster or district

...that requires short-term protection?

Temporary heritage protection gives legal protection for a limited time. Forms include withholding of approvals; withholding of demolition permits; temporary protection orders, bylaws, or control periods. In addition to the forms of temporary protection for individual buildings, control period bylaws can be established for area-wide planning.

...that requires long-term protection? For clusters or districts of residences with distinct heritage value or heritage character, local government may enter into individual agreements with property owners (**conservation covenant, heritage revitalization agreement, designation** as above), or establish one or more heritage conservation areas through a bylaw that amends the OCP.

A heritage conservation area can establish design controls for the area and provide protection to some or all properties. Protected properties must be identified in a bylaw. Property owners may not demolish, subdivide, make alterations or additions, or do new construction on properties protected by a heritage conservation area without a **heritage alteration permit**.

Local government can also prepare residential building design guidelines for an area as part of establishing a residential development permit area.

...under immediate threat?

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In addition to **temporary heritage protection**, local government can order a **heritage impact assessment** to be prepared by the proponent to determine the potential impact of a proposed development on neighbouring heritage properties.

...in need of support?

Local government can offer several types of support: full or partial tax exemptions for specified terms, or incentives in the form of grants and/or non-monetary support such as technical advice, program coordination, public works, commemoration, etc.

...protected

...and you want to make changes?

Local government may issue a **heritage alteration permit** for residences that are protected by designation, heritage conservation covenant, heritage revitalization agreement, or a heritage conservation area. A heritage alteration permit may vary zoning requirements, permits, or subdivision requirements, but cannot vary use or density. Local government may refuse to issue a heritage alteration permit if the proposed alteration would not be appropriate.

Commercial and Industrial Building Conservation

Heritage conservation legislation in British provides a variety of tools that can be used by municipalities and regional districts in the conservation of commercial and industrial buildings and areas.

Types of Commercial and Industrial Conservation

May include the exterior, interior, landscape, and/or land of:

- a single building, or
- a cluster or group of buildings.

Getting Started

Selecting the right tool for conservation will depend on your specific circumstances. Simple situations may be handled by using one tool. More complex situations may require a strategic approach using several tools. Start by determining your individual and/or community needs.

1 Analyze your situation - define the problem to be solved.

- Is the owner supportive?
- Is the building or area threatened?
- Have you done your planning?

2 Determine your desired results - identify specifically what you want to achieve: now? In 5 years? In 20 years?

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3 Review your options - consider the tools (support, temporary and/ or long-term protection); narrow down and select.

- Do you need to provide support or legal protection?
- If it is support you need, do you have financial resources to offer?
- If you want legal protection, do you need short or long-term protection?

4 Consult with others - may include local government, property owners, planners, legal advice.

5 Seek a balanced approach – seek fairness; think out the long-range consequences.

Determining What is “Heritage”

The *Local Government Act* [s.5] gives local government the authority to determine heritage property as having sufficient **heritage value** or **heritage character** to justify its conservation.

Heritage properties should be officially listed by local government on a **community heritage register** to give notice to property owners and potential buyers.

Balancing Public and Private Rights

Local government is required to **give notice** to property owners of significant changes proposed to the status of a property. Generally property owners are given an opportunity to express their views regarding potential changes at a public hearing.

Doing Your Research

A **heritage inspection** may be performed at local government expense on a property that warrants investigation for evaluative purposes.

A **heritage impact assessment** can be required at owner or local government expense to predict the impact a proposed development may have on adjacent heritage resources.

Tools You Might Use

Planning Tools

- Community and provincial heritage registers
- Heritage inspection
- Heritage impact assessment
- Appropriate zoning

Support Tools

- Tax exemption
- Grants and non-monetary incentives
- Business improvement area

Protection Tools

- Temporary heritage protection

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Heritage revitalization agreement
Heritage conservation covenant
Heritage conservation area
Development permit area
Heritage alteration permit
Heritage designation
Heritage compensation
Heritage site maintenance standards
Acquisition of property [CC s. 8 (1)]

What if the commercial or industrial building is...

...a single building

...that requires short-term protection?

Temporary heritage protection gives legal protection for a limited time. Forms include: withholding of approvals; withholding of demolition permits; and temporary protection orders or bylaws.

...that requires long-term protection?

A conservation covenant or a heritage revitalization agreement may be negotiated for long term protection.

- A conservation covenant is a contractual agreement between a residential property owner and local government or heritage organization. It is registered on the land title and may be binding on future property owners. A covenant can apply to natural or manmade resources; it cannot vary siting, use, or density.
- A heritage revitalization agreement is a formal voluntary agreement between a property owner and local government. It may allow exceptions and relaxations to use, density, and/or siting regulations.

Heritage designation offers long-term protection by bylaw of exteriors, interior fixtures, landscaping, and/or land, with or without the owner's agreement. A property owner is entitled to **local government heritage compensation** for proven reduction in market value resulting from heritage designation.

...that requires enforced maintenance?

Heritage site maintenance standards can be established to enforce minimum standards of care for properties that are **designated** or are in a **heritage conservation area**.

...in a cluster or district

...that requires short-term protection?

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Temporary heritage protection gives legal protection for a limited time. Forms include withholding of approvals; withholding of demolition permits; temporary protection orders or bylaws. In addition to the forms of temporary protection for individual buildings, control period bylaws can be established for area-wide planning.

...that requires long-term protection?

For clusters or districts of commercial or industrial buildings with distinct heritage character, local government may enter into individual arrangements with property owners (**conservation covenant, heritage revitalization agreement, designation** as above), or establish one or more **heritage conservation areas** through a bylaw that amends the official community plan.

A heritage conservation area can establish design controls for the area and provide protection to some or all properties. Protected properties must be identified in the bylaw. Property owners may not demolish, subdivide, make alterations or additions, or do new construction on properties protected by a heritage conservation area without a **heritage alteration permit**.

Local government can also prepare commercial building design guidelines for an area as part of establishing a commercial **development permit area**.

...under immediate threat?

In addition to **temporary heritage protection**, local government can order a **heritage impact assessment** to be prepared by the proponent to determine the potential impact of a proposed development on neighbouring heritage properties.

...in need of support?

Local government can offer several types of support: full or partial **tax exemptions** for specified terms, or incentives in the form of **grants** and/or **non-monetary** support such as technical advice, program coordination, public works, commemoration, etc.

...in a commercial or industrial area?

Local governments may assist with the formation of a **business improvement area** (BIA) to enable the property owners of the area to undertake various initiatives to conserve the heritage character of the area.

...is protected

...and you want to make changes?

Local government may issue a **heritage alteration permit** for commercial or industrial buildings that are protected by designation, heritage conservation covenant, heritage revitalization agreement, or a heritage conservation area. Heritage alteration permits may vary permits, or zoning or subdivision requirements, but cannot vary use or density. Local government may refuse to issue a heritage alteration permit if the proposed alteration would not be appropriate.

...is regulated by the Federal Government?

.....
NOTE: *This guide is for information and advice only. Local governments looking to implement the heritage conservation tools outlined here should seek legal counsel.*

Examples include railway stations, harbour buildings, federal buildings, etc. In general, local government may **enact protection** for buildings regulated by the Federal Government if the protection does not negatively impact activities carried out in the building.

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Institutional Building Conservation

Heritage conservation legislation in British enables most public institutions to conserve heritage property. Communities should consult the relevant Acts, particularly the purposes and powers sections.

Types of Institutional Conservation

Institutional heritage buildings may include public buildings such as government buildings, hospitals, educational buildings, and places of worship. Institutional building conservation may include the exterior, interior, landscape, and/or land of:

- a single building, or
- a cluster or group of buildings.

Getting Started

Selecting the right tool for conservation will depend on your specific circumstances. Simple situations may be handled by using one tool. More complex situations may require a strategic approach using several tools. Start by determining your individual and/or community needs.

1 Analyze your situation - define the problem to be solved.

- Is the owner supportive?
- Is the building or area threatened?
- Have you done your planning?

2 Determine your desired results - identify specifically what you want to achieve: now? In 5years? In 20 years?

3 Review your options - consider the tools (support, temporary and/ or long-term protection); narrow down and select.

- Do you need to provide support or legal protection?
- If it is support you need, do you have financial resources to offer?
- If you want legal protection, do you need short or long-term protection?

4 Consult with others - may include local government, property owners, planners, legal advice.

5 Seek a balanced approach – seek fairness; think out the long-range consequences.

Determining What is “Heritage”

The *Local Government Act* [s. 5] gives local government the authority to determine heritage property as having sufficient **heritage value** or **heritage character** to justify its conservation.

Institutional heritage properties should be officially listed by local government on a **community heritage register**.

Balancing the Interests of Local Governments and Public Institutions

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Public institutions and local governments can work together to achieve common heritage conservation objectives.

Doing Your Research

A **heritage inspection** may be performed at local government expense on a property that warrants investigation for evaluative purposes.

A **heritage impact assessment** can be required at owner or local government expense to predict the impact a proposed development may have on adjacent heritage resources.

Tools You Might Use

Planning Tools

Community and provincial heritage registers

Heritage inspection

Heritage impact assessment

Appropriate zoning

Support Tools

Tax exemption

Grants and non-monetary incentives

Protection Tools

Temporary heritage protection

Heritage revitalization agreement

Heritage conservation covenant

Heritage conservation area

Development permit area

Heritage alteration permit

Heritage designation

Heritage compensation

Heritage site maintenance standards

Reservation and dedication

Universities, colleges, institutes, and hospital powers

Request for provincial/federal government protection

Acquisition of property [CC s. 8 (1)]

What if the institutional structure is...

...a building

...that requires short-term protection?

.....
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Temporary heritage protection gives legal protection for a limited time. Forms include: withholding of approvals; withholding of demolition permits; and temporary protection orders or bylaws.

...that requires long-term protection?

A conservation covenant or a heritage revitalization agreement may be negotiated for long term protection.

- A conservation covenant is a contractual agreement between a residential property owner and local government or heritage organization. It is registered on the land title and may be binding on future property owners. A covenant can apply to natural or manmade resources; it cannot vary siting, use, or density.
- A heritage revitalization agreement is a formal voluntary agreement between a property owner and local government. It may allow exceptions and relaxations to use, density, and/or siting regulations.

Heritage designation offers long-term protection by bylaw of exteriors, interior fixtures, landscaping, and/or land, with or without the owner's agreement. A property owner is entitled to **local government heritage compensation** for proven reduction in market value resulting from heritage designation.

...that requires enforced maintenance?

Heritage site maintenance standards can be established to enforce minimum standards of care for properties that are **designated** or are in a **heritage conservation area**.

...under immediate threat?

In addition to **temporary heritage protection**, local government can order a **heritage impact assessment** to be prepared by the proponent to determine the potential impact of a proposed development on neighbouring heritage properties.

...in need of support?

Local government can offer several types of support: full or partial **tax exemptions** for specified terms, or incentives in the form of **grants** and/or **non-monetary support** such as technical advice, program coordination, public works, commemoration, etc. Tax exemption does not apply to institutions that do not pay taxes, such as schools in active use or places of worship.

...is a university, college, or institute building?

The Board of Governors of a university is authorized to be responsible for the conservation of university heritage buildings and sites.

The Board of an institute or college is authorized to conserve its heritage property.

...is a hospital building?

Property owned by a hospital may be given **heritage designation status** by local government.

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...is a school building still in use?

An active school building may be protected by the same tools, with **the exception of development permit areas**, that apply to commercial and industrial buildings.

...is a place of worship?

Places of worship may be protected through the tools, with **the exception of development permit areas**, that apply to commercial and industrial resources.

...is owned by another level of government?

Examples include court houses, post offices etc. Local government **may formally request the senior level of government** to conserve the institutional heritage property. Further, local government can encourage senior governments to **adopt policies**, such as the Provincial Crown Stewardship policies, to manage heritage resources.

...is protected

...and you want to make changes?

Local government may issue a **heritage alteration permit** for commercial or industrial buildings that are protected by designation, heritage conservation covenant, heritage revitalization agreement, or a heritage conservation area. Heritage alteration permits may vary permits, or zoning or subdivision requirements, but cannot vary use or density. Local government may refuse to issue a heritage alteration permit if the proposed alteration would not be appropriate.

Natural Heritage Resource Conservation

Many heritage conservation tools available for building conservation are not applicable to natural resource conservation. Part 27 of the **Local Government Act** places specific limitations on the use of many of these tools for natural resource conservation. Generally, conservation tools enabled in Part 27 of the **Local Government Act** are available only where a natural feature has cultural or historical value.

Local Government Act Part 27 s. 948

- (1) This Part must not be used to conserve natural landscapes or undeveloped land except
 - (a) to the extent that the exercise of power under this Part in respect of natural landscape or undeveloped land is, in the opinion of local government, necessary for the conservation of adjacent or proximate real property that is protected heritage property, or
 - (1)) with respect to

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- (i) a site that has heritage value or heritage character related to human occupation or use, or
- (ii) individual landmarks and other natural features that have cultural or historical value.

Types of Natural Resource Conservation

May include trees, landscapes, gardens, views, parks, etc.

Getting Started

Selecting the right tool for conservation will depend on your specific circumstances. Simple situations may be handled by using one tool. More complex situations may require a strategic approach using several tools. Start by determining your individual and/or community needs.

1 Analyze your situation - define the problem to be solved.

- Is the owner supportive?
- Is the resource or area threatened?
- Have you done your planning?

2 Determine your desired results - identify specifically what you want to achieve: now? In 5years? In 20 years?

3 Review your options - consider the tools (support, temporary and/ or long-term protection); narrow down and select.

- Do you need to provide support or legal protection?
- If it is support you need, do you have financial resources to offer?
- If you want legal protection, do you need short or long-term protection?

4 Consult with others - may include local government, property owners, planners, legal advice.

5 Seek a balanced approach – seek fairness; think out the long-range consequences.

Determining Natural Heritage Resources

The *Local Government Act* [s. 5] gives local government the authority, subject to the limitations of Part 27, to determine natural heritage property as having sufficient **heritage value or heritage character** to justify its conservation.

Property Rights and Public Access

Because of the potential impact of the desire and expectation for **public access** to natural heritage resource sites, special consideration should be given to the rights of private property owners.

Local government is required to **give notice** to property owners of significant changes proposed to the status of a property. Generally property owners are given an opportunity to express their views regarding potential changes at a public hearing.

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Doing Your Research

Research is an important step in conserving natural resources. Some tools such as **heritage inspection** and **heritage impact assessment** are subject to the limitation Part 27 of the *Local Government Act*. Site research will generally require the cooperation of a private property owner.

Tools You Might Use

Planning Tools

Provincial heritage register
Appropriate zoning

Support Tools

Tax exemption
Grants and non-monetary incentives

Protection Tools

Heritage conservation covenant
Municipal forest reserve [*LGA* s. 306-308]
Reservation and dedication
Tree protection bylaw
Development permit area
Acquisition of property [*CC* s. 8 (1)]

Protection tools subject to the limitations of Local Government Act Part 27

Community heritage register
Heritage inspection
Heritage impact assessment
Temporary heritage protection
Heritage revitalization agreement
Heritage conservation area
Heritage alteration permit
Heritage designation
Heritage compensation

What if the resource is...

...a single landmark tree?

The most practical tool available to protect a landmark tree is a **tree protection bylaw** which enables local government to regulate the cutting, maintenance, and removal of trees. **Heritage designation** may also be used to protect a landmark tree.

...a group of trees?

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A group of trees (identified by area, species, class, size, or significance) may be protected by a **tree protection bylaw** which enables local government to regulate the cutting, maintenance, and removal of trees.

...a landscape, garden, or view?

A **conservation covenant** is one of the tools best suited to the protection of a natural heritage site where a private property owner is supportive of conservation. A conservation covenant is a contractual agreement between a property owner and local government or heritage organization. It is registered on the land title and may be binding on future owners.

A **development permit area** may be designated in an official community plan for the protection of the natural environment.

Acquisition of private property by local government is possible if the local government decides that circumstances justify the acquisition.

...is publicly owned?

A **municipal forest reserve** may be used to set aside land owned by the municipality that the council or regional board determines is suitable for reforestation purposes. The establishment of a forest reserve requires adoption of a bylaw approved by a 2/3 vote of council and assent of the electors.

If a resource is owned by a local government, the powers of **reservation** and **dedication** are available. These tools create a binding commitment on the local government to protect heritage property which it owns. Local government may not undertake a public work or pass a bylaw that is in conflict with a reservation or dedication.

...under immediate threat?

Subject to the limitations in *LGA* Part 27, **temporary protection tools** and **heritage impact assessment** may be used to provide temporary protection to a site. For long-term protection, a **development permit area** may be established, or a **conservation covenant** may be agreed to by local government and the property owner.

...in need of support?

Local government can offer several types of support: full or partial **tax exemptions** [CC s. 25 and s. 225 and *LGA* s. 183.1], or incentives in the form of **grants** and/or **non-monetary support** such as technical advice, program coordination, public works, commemoration, etc.

...is adjacent or proximate to a protected heritage property?

An **impact assessment**, some forms of **temporary protection**, a **conservation covenant**, or **designation** may be used to protect property that is adjacent, or proximate, and important to the integrity of a **protected** heritage property.

..is protected

...and you want to make changes?

If a natural heritage resource is protected by a reservation or dedication bylaw, or by any other bylaw, the **bylaw may be amended** with the approval of the council or regional board. Amendments to a reservation bylaw also require the approval of the minister responsible.

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If the resource is protected by a **development permit area**, **re-issuance** of the development permit may be required in order to accommodate changes to the provisions of the development permit. If the resource is protected by a **tree protection bylaw**, a **permit may be issued** to enable certain alterations to be made to the resource.

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Archaeological Site, Aboriginal Traditional Use Site, and Heritage Object Conservation

Many different kinds of heritage values, including aboriginal traditional use sites and archaeological resources, may be found on private lands within the jurisdiction of local governments. Local governments are thus often the first to become aware of such heritage values and to make land use decisions which may affect these values.

Rather than being confronted with such concerns at the "eleventh hour" and incurring the costs associated with disrupted development projects, local governments are encouraged to consider heritage matters, including archaeological and aboriginal traditional use sites, in official land use planning processes.

Early awareness of these issues can prevent problems or conflicts with land use and development.

While the Province has primary responsibility for protecting and managing these sites, local governments need to be aware of sensitive, or potentially sensitive, archaeological and aboriginal traditional use sites in their jurisdictions.

Types of Heritage Resources with Protected Status

The *Heritage Conservation Act* protects the following types of resources, managed through a Provincial permit system: [HCA s. 13]

- all pre-1846 archaeological sites;
- all Provincially designated sites which may include archaeological or aboriginal cultural heritage sites;
- all rock art sites, such as petroglyphs and pictographs;
- all burial sites of historic and archaeological value;
- all wrecks (ship, aircraft, etc.) more than 2 years old;
- aboriginal heritage sites which have been included in a schedule adopted by Order In Council;
- archaeological sites of unknown origin;
- archaeological sites for which "identification standards" have been established by Order In Council; and
- sites for which a heritage inspection or heritage investigation is being undertaken.

Getting Started

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Local governments should be aware of the breadth of Provincial responsibilities for heritage and aboriginal cultural interests and values.

Where a local government has concerns about the existence of archaeological or aboriginal cultural sites (their number, distribution, or importance), it should contact the Archaeology Branch of the provincial government.

As part of the planning process, it is also recommended to local government discuss potentially important cultural heritage sites and values with local aboriginal groups.

Tools the Province May Use

Permit or order for heritage inspection and heritage investigation [*HCA* s. 12 or s. 14]

Protection provisions [*HCA* s. 13]

Promotion of heritage value [*HCA* s. 18]

Temporary protection order [*HCA* s. 16]

Agreements with First Nations [*HCA* s. 4]

Tools Local Government May Use

Heritage inspection

Heritage impact assessment

Heritage recognition

Grants and non-monetary incentives

Determining What is an Archaeological or Aboriginal Site

Archaeological sites have **physical evidence** of human occupation or cultural activity. Aboriginal traditional use sites may or may not contain physical evidence, but do have an **association with the traditional activities** of a particular living aboriginal cultural group.

The extent, importance, and sensitivity of **archaeological sites** may be established through **heritage inspection** or **heritage investigation**. These are under the regulatory authority of the Province.

The extent, importance, and sensitivity of aboriginal traditional use sites are **determined in part through consultation with an aboriginal community** and review of pertinent ethnographic reports.

Where a local government requires completion of a heritage inspection or heritage impact assessment, this power remains subject to Provincial regulatory authority under the *Heritage Conservation Act*.

Some Notes on Heritage Objects

Archaeological and aboriginal traditional use sites under the protection of the Province may contain heritage objects; these items also have protected status. Such an object may **not** be removed from its site **without a permit** issued by the minister responsible for *the Heritage Conservation Act*.

Many community museums hold aboriginal cultural objects. Because many First Nations are concerned with issues pertaining to legal possession and appropriate care of such objects, local governments are encouraged to be **sensitive** to the complexities of object ownership.

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Many community museums have over time collected non-aboriginal heritage objects. Curatorial care of these objects is provided for in the *Local Government Act*, and may be an important activity of a community heritage group.

Local government may list heritage objects on a community heritage register if they are real property. Objects are considered to be real property if they are part of or affixed to the land.

Local government may exercise control of heritage objects considered to be real property where they have enacted heritage protection, such as a municipal heritage designation, heritage conservation covenant, heritage revitalization agreement, or heritage conservation area.

THE TOOLS

Planning Tools

Community Heritage Commission

Local Government Act s. 953, Community Charter, s. 143

What is it?

A community heritage commission is a **body created or authorized** by local government.

What does it do?

A community heritage commission is intended to assist a council or regional district board with the management and implementation of community heritage conservation planning and activities.

A community heritage commission may exercise a greater range of powers than a heritage advisory committee did, including the ability to undertake support activities and/or to take on other non-regulatory activities delegated to it by a council or regional district board. A community heritage commission may:

- advise local government on matters included in the commission's terms of reference,
- advise local government on matters referred to it by local government, and/or
- undertake or support heritage activities authorized by local government.

When do you use it?

A local government establishes or authorizes one or more community heritage commission(s) when it wishes to undertake or plan for heritage activities in the community. A commission can be established

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or appointed by local government to advise on a range of heritage matters, or to undertake a specific task, project, or program.

An existing organization, such as a historical or museum society, may be authorized by a local government to act as a community heritage commission.

How do you use it?

A community heritage commission may be created or authorized by a municipality or regional district; however, a regional district must first pass an establishing bylaw [LGA s. 800].

1. Local government creates or authorizes a community heritage commission by adopting a bylaw, which **must** include the commission's:
 - name,
 - terms of reference,
 - composition and appointment procedure, and
 - operating procedures.
2. Local government **appoints a council or regional district board representative and staff liaison** to the community heritage commission.
3. The community heritage commission **plans its activities** including the preparation of a budget for council or regional district board consideration.
4. The commission **undertakes its business activities and reports to the council or regional district board** according to its terms of reference. Except as authorize by a local government, meetings of a community heritage commission must be **open to the public**.

Legislative References

LGA s. 953, *Community Charter*, s. 143

Examples

1

A regional district board authorizes the local historical society to act as the community heritage commission to advise the regional district board on the planning of a heritage conservation strategy for the regional district.

2

A municipal council acknowledges that its former heritage advisory committee is continued as a community heritage commission [HCSAA s. 107]. The council initiates a process of review to expand the terms of reference of the commission in keeping with the provisions of *the Local Government Act* s.

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953. This section enables commissions to undertake and support heritage activities, such as fundraising and coordinating a conservation program.

Community Heritage Register

Local Government Act s. 954

What is it?

A community heritage register is an **official listing of properties** identified by a local government as having heritage value or heritage character. Inclusion on a community heritage register **does not** constitute heritage designation or any other form of permanent heritage protection.

What does it do?

A community heritage register is intended to:

- **officially list** the heritage resources in the community;
- **give notice** to property owners, and potential buyers, of heritage factors (historical, architectural, aesthetic, etc.) which may affect development options for a listed property; and
- **enable monitoring of proposed changes** to properties through the local government licensing and permit application processes. Inclusion of a property on a community heritage register does not in itself constitute permanent heritage protection and does not create any financial liability for the local government. The register may, however, be used to "flag" properties for possible future protection.

Properties on a community heritage register are **eligible for special provisions** in the B.C. Building Code Heritage Building Supplement.

When do you use it?

A community heritage register may be established by communities that are interested in integrating heritage conservation activities into other local government land use planning processes (e.g., OCP, local area plan).

A community heritage register is used to formally list heritage resources that the community identifies as having **heritage value** or **heritage character**.

Inclusion of a property on a community heritage register enables a local government to:

- withhold an **approval** [LGA s. 960],
- withhold a **demolition permit** [LGA s. 961], or
- require an **impact assessment** [LGA s. 958].

How do you use it?

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1. Through a process of planning and research, community heritage issues and needs are assessed and a vision for the community's heritage resources is developed.
2. Local government establishes **eligibility criteria** for the community heritage register.
3. Community heritage resources are **researched** and **identified**.
4. A preliminary community heritage register list of resources is created.
5. Local government **consults with property owners** and anticipates the continuing need to provide information and to raise awareness, by such means as:
 - preparing clear and simple information packages (communities may wish to explain that registry status is not the same as designation status);
 - preparing a map to place individual heritage property in the context of the street, neighbourhood, or area;
 - assembling available information (such as before and after restoration photos, maps, archival material, inventories, etc.);
 - holding review meetings or workshops;
 - explaining eligibility criteria for financial assistance for conservation; and/or
 - offering technical assistance (e.g., design advice or rehabilitation standards).
6. Local government reviews, and, if necessary, revises the proposed community heritage register.
7. By resolution, a council or regional district board creates a community heritage register that lists selected properties. The register must **indicate the reasons** why a property is considered to have heritage value or heritage character.
8. Within 30 days of a property being added to, or deleted from, a register, local government **must notify the property owner** and the **minister responsible** for the *Heritage Conservation Act*.
9. Properties may be **added to**, or **deleted from**, the community heritage register **by resolution** of the council or regional district board.

Legislative Reference

Local Government Act s. 954

Examples

1

A community undertakes a process of planning in its downtown commercial core which identifies five individual buildings of heritage value to the community. Three of the buildings are privately owned. The local government consults with the property owners, who are advised that no legal protection will result from inclusion on the register but that their properties will be flagged on the local government's property file system. The local government a) passes a resolution which establishes the register, and, b) notifies both the property owners and the minister responsible for heritage conservation.

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A local government plans to draft a local area plan for a residential neighbourhood. As a part of the planning process it decides to establish a community heritage register for the neighbourhood. The research is completed, and residents and property owners are invited to a meeting to discuss the proposed register. Following the meeting, where most of the residents indicate their support for the register, council passes a resolution to establish the register and notifies the property owners and the minister responsible for heritage conservation.

Heritage Inspection

Local Government Act s. 956 and s. 957

What is it?

A heritage inspection is a physical examination of other research on, a property which is:

- designated,
- included on a heritage conservation area schedule,
- listed in a community heritage register,
- a potential heritage property according to criteria established by a local government, or
- an archaeological or other site protected under the *Heritage Conservation Act*.

What does it do?

A heritage inspection is intended to enable identification of the:

- heritage value or heritage character of a property, or
- need for protection and conservation of a property. The property may be under temporary protection while the heritage inspection is being conducted.

When do you use it?

A council or regional district board may order a heritage inspection in cases where it is considering **long-term protection** of a property, or where an eligible property is deteriorating through neglect by the owner and the local government is considering the protection and conservation needs of the property.

A heritage inspection should be ordered **only after** the council or regional district board has made **every effort** to obtain the information it requires through non-regulatory means.

How do you use it?

1. Local government becomes aware of a situation where an examination of a property is needed for **evaluation purposes**, and the information cannot be acquired through non-regulatory means.
2. Local government **orders a heritage inspection** of a property.
3. The order:

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- must state the **purpose** of the heritage inspection;
 - must specify **how long** the order is to remain in effect;
 - must require that the inspection be **carried out expeditiously**;
 - may provide for **temporary protection** of the property; and
 - may include terms, conditions, and specifications that the local government considers appropriate.
4. If access to the property is denied, local government **may secure a warrant** for access from the courts.
 5. If the order includes **temporary protection**, it remains in effect until:
 - the day after the inspection report is delivered to a regular meeting of the council or regional district board;
 - the day the local government informs the owner that the inspection is completed or no longer needed; or
 - 30 days have passed since the temporary protection was ordered.
 6. Following completion of the inspection, the local government **must advise the owner** that the inspection was conducted, and report to the owner any alteration or removal of material which resulted from the inspection.
 7. If possible, local government must repair damage to property resulting from a heritage inspection. If the damage cannot be repaired, the owner is eligible for compensation from the local government.

Legislative References

Local Government Act s. 956 and s. 957

Example

A local government becomes aware of the existence of a pioneer cabin structure on a remote private property. Local government requests the property owner to allow access to the site to enable its heritage consultant to examine the structure. The property owner denies access to the local government representative. The local government orders an inspection. The consultant inspects the property and advises the owner that the inspection was conducted, is concluded, and that no materials were removed from the site.

Heritage Impact Assessment

Local Government Act s. 958

What is it?

A heritage impact assessment is **information** or a **study** which describes the impact that a proposed development may have on a protected property.

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What does it do?

A heritage impact assessment is intended to provide a council or regional district board with important **decision-making** information regarding the **negative impact** of a proposed development on a heritage resource.

A heritage impact assessment is intended to provide information to a council or regional district board **prior** to issuing approvals for development.

When do you use it?

A council or regional district board may wish to request a heritage impact assessment in cases where it is considering proposal which it believes may have a negative impact on:

- a **designated** property,
- a property included on a **heritage conservation area** schedule, or
- a property **protected** under the *Heritage Conservation Act*.

A heritage impact assessment should **not** be requested if the information generated will not affect the outcome of the decision-making process.

How do you use it?

1. An applicant (who may be a property owner or developer) applies for a building permit, development permit, licence, or other approval.
2. Local government or its delegate determines **whether the proposal may affect** a designated property, property within a heritage conservation area, or a property protected under the *Heritage Conservation Act*.
3. Prior to further consideration of the application, local government or its delegate may require the applicant to **provide information** with respect to the **impact of the proposal**. Alternatively, the local government may prepare the impact assessment at its own expense.
4. If the local government or delegate requires the property owner to submit a heritage impact assessment the local government **must make the request in writing**. The request must include specifications for the information to be provided and the required qualifications of any persons undertaking the assessment. Once these specifications are communicated to the applicant, they may not be changed without the applicant's consent.
5. The applicant or local government engages a qualified person(s) to complete the heritage impact assessment. Upon completion, the applicant must submit the study to the local government.

Legislative Reference

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Example

A local government receives a building permit application for a commercially zoned property in its downtown. The proposed development will require extensive blasting and excavation of the site. The congregation of an adjacent designated church becomes aware of the proposed development and expresses concern to the council that the blasting and excavation work may negatively impact the stability of the church's rubble foundation and the integrity of the stained glass window. The congregation is also concerned that shadows cast by the proposed high-rise tower would increase dampness in the church structure and may negatively impact the historic church garden. Council orders the property owner of the proposed development to prepare and submit an impact assessment that addresses the concerns raised by the church congregation.

Support Tools

Tax Exemption

Community Charter s. 225, Local Government Act s. 183.1 and 809 (3) (b)

What is it?

Tax exemption is a mechanism that allows a council or regional district board to give property owners a **partial or total exemption of their property taxes** for approved heritage purposes, if a property is:

- protected
- included on a heritage conservation area schedule,
- subject to a heritage revitalization agreement,
- subject to a heritage conservation covenant under the Land Title Act, s. 219, or
- an archaeological or other site protected under the *Heritage Conservation Act*.

A bylaw adopted by 2/3 of the members of the council or regional board enables an exemption for the following calendar year. The bylaw must establish the term of the exemption, and for regional districts may not exceed a term of ten years.

What does it do?

Tax exemption is intended to enable local government to **provide financial support** to private property owners to conserve their heritage properties.

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When do you use it?

Tax exemption is an appropriate tool to use in cases where a local government wishes to provide financial support to a property owner to encourage conservation of a heritage property. For example, tax exemption can be used to mitigate increases in property taxes which may result from the conservation of a property.

Tax exemption may be used in one of two ways: for **areas or classes of buildings**, or for a **single building**. It may be used in an area for properties which meet established eligibility criteria. Alternatively, tax exemption may be used on a site-by-site basis with criteria and terms designed to suit each unique property.

How do you use it?

1. Through a process of planning, research, and consultation, a community **identifies tax relief** as the most appropriate way to assist in the conservation of heritage property in the community.
2. Local government designs **criteria for tax exemption eligibility**, including the application procedure, expected improvements, conditions of tax exemption, legal protection of heritage property, rate and term of exemption, and repayment provisions.
3. Local government prepares and adopts, by a 2/3 vote of its members, **a bylaw to enable the tax exemption** on or before October 31. If the tax exemption is to apply for more than one year, local government must **publish a notice** regarding the proposed tax exemption in at least 2 issues of a local newspaper at least 30 days prior to adopting the bylaw. The bylaw **may not** be adopted if more than 5% of the voters petition against it.
4. Within 30 days of the adoption of the bylaw, the local government **notifies the minister responsible** for the *Heritage Conservation Act*.
5. Local government **monitors** tax exempted properties to ensure compliance with the terms of the heritage protection and any requirements for maintenance, rehabilitation, or restoration.
6. In the event of non-compliance, the local government **may require repayment** of exempted taxes. A bylaw to require repayment of exempted taxes must be adopted by a 2/3 vote of council members.

Legislative References

Community Charter s. 25 and s. 225, *Local Government Act* s. 183.1

Examples

1

A community amends its official community plan to identify a heritage conservation area in its downtown. A schedule of protected heritage properties is included in the official community plan.

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Council then advises the property owners that they are eligible for a tax exemption. The exemption is equal to the amount property taxes will increase as a result of approved restoration work, and the exemption will be in effect for a five year period. Council, with the assent of the electors, adopts a bylaw enabling the tax exemption. Individual property owners submit an application to local government for tax exemption when they have completed the approved restoration work. Council effectively maintains the amount of taxes on eligible properties for five years.

2

A fraternal organization owns an important and unique building located on the fringe of a commercial area in a rural community. The organization expresses its desire to conserve the property and to undertake an extensive program of restoration. Members of the organization approach the municipal council and request a tax exemption for the property. The council and the organization negotiate the terms of the tax exemption and a bylaw is adopted, with the assent of the electors, enabling the exemption to be in place for the term specified.

Grants and Non-monetary Incentives

Community Charter Act s. 8 and s. 25. and *LGA* s. 176 and 183.1

What is it?

In addition to tax exemption, local government may provide **financial** and **non-monetary support** to owners of heritage properties. Direct financial support may be given in the form of **monetary grants** to property owners. Non-monetary support may be provided in the form of **regulatory relaxations, additional density, and support services** such as: program coordination, assistance to a nonprofit society, technical advice, public works projects, commemoration, and/or priority routing of heritage applications.

What does it do?

Grants and non-monetary incentives are intended to enable a local government to:

- **encourage property owners** to restore or to rehabilitate their heritage properties, and
- enable communities to provide **assistance other than monetary grants** to owners of heritage properties.

When do you use it?

Direct financial assistance in the form of monetary grants may be used by a community which a) has the financial resources, and, b) believes that direct financial assistance is the most effective incentive it could use to facilitate the conservation of specific resources.

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Indirect non-monetary support may be used by a community which a) lacks the financial resources to provide direct financial incentives, and/or, b) believes indirect support will be a more effective incentive than direct financial support.

How do you use it?

1. A community recognizes the **benefits** of support to owners of heritage properties.
2. The **needs** of heritage property owners are identified.
3. Alternative support mechanisms are explored and the most appropriate methods are selected.
4. The **support program is designed**, including eligibility criteria, program management, staff coordination and budgeting. The incentive program may include a variety of components which provide both financial and non-monetary support.
5. If **financial incentives** are proposed, local government must pass a 2/3 vote of a council or regional district board to adopt a motion regarding the provision of financial aid.
6. The incentive program is **implemented, monitored, and modified** periodically to respect the changing needs of property owners and the community.

Legislative References

Community Charter Act s. 8 and s. 25. and LGA s. 176 and 183.1

Example

A community identifies a need to provide an incentive to property owners of heritage buildings in a small commercial area in order to a) encourage the rehabilitation of the heritage buildings, and, b) to increase the aesthetic appeal of the commercial area. The local government, through a process of consultation with tenants and property owners in the area, agrees to undertake upgrading of the sidewalks and landscaping in the area, and to provide planning staff time to draft and administer design guidelines for rehabilitation of individual buildings in the area.

Protection Tools

Temporary Heritage Protection

Local Government Act s. 960, s. 961, s. 962, s. 963, s. 964, and s. 965

What is it?

Temporary protection mechanisms allow **protection of a property for a limited period of time**. Several types of temporary protection are available to local governments, including:

- withholding of approvals (*LGA* s. 960),

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- withholding of demolition permits (*LGA s. 961*),
- temporary protection orders (*LGA s. 962*),
- temporary protection bylaws (*LGA s. 963*), and
- temporary protection control periods (*LGA s. 964*).

What does it do?

Temporary protection is intended to allow local government to give detailed consideration to future **long-term protection options** for a property and to **negotiate** an appropriate resolution with the property owner.

When do you use it?

Each of the five different temporary protection tools has specific application.

Local government may “**withhold an approval**” (*LGA s. 960*) for an action that would lead to alteration of a protected heritage property, a temporarily protected heritage property, and/or a property in a community heritage register.

Local government may “**withhold a demolition permit**” (*LGA s. 961*) for a protected heritage property or a property on a community heritage register.

Local government may make a “**temporary protection order**” (*LGA s. 962*) to give temporary protection to potential heritage property, or to adjacent or nearby property in order to protect a heritage property.

Local government may introduce a **bylaw** for heritage designation or a heritage conservation area **which initiates a period of temporary protection** (*LGA s. 963*).

Local government may declare a “**temporary protection control period**” (*LGA s. 964*) for up to one year for the purposes of heritage area planning.

How do you use it?

1. Withholding of approvals

- Local government authorizes the withholding of approvals by its officials.
- A local government official withholds an approval and forwards the matter to the next regular meeting of the council or regional district board for consideration.
- The council or regional district board considers the matter and may, in certain cases, extend the withholding period.

2. Withholding of demolition permits

- Local government authorizes its officials to withhold demolition permits.
- A local government official withholds a demolition permit for a) a protected heritage property until a heritage alteration permit or any other necessary approval is issued, or, b) for a property

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on a community heritage register until a building permit or any other necessary approvals are issued.

3. *Temporary protection orders*

- Local government prepares a resolution for temporary protection which specifies the period of protection, which cannot exceed 60 days without the consent of the owner. An order is adopted by resolution, and requires only one reading by the council or regional district board.
- The order may identify specific landscape features, specify the types of alterations which are permitted without a heritage alteration permit, and/or establish policies regarding the issuance of a heritage alteration permit while the property is under temporary protection.

4. *Temporary protection bylaws*

- Local government introduces a bylaw which proposes to a) establish a heritage conservation area in an official community plan, or, b) to designate a heritage property.
- Temporary protection of the property comes into effect once the bylaw is introduced.
- Introduction of a bylaw to establish a heritage conservation area creates a 120-day temporary protection period.

5. *Temporary protection control periods*

- Local government prepares and adopts a bylaw to declare a heritage control period for the purpose of heritage planning.
- The bylaw must specify the term of the control period, which may not exceed one year.
- The bylaw may identify specific landscape features, specify the types of alterations which are permitted without a heritage alteration permit, and/or establish policies regarding the issuance of a heritage alteration permit in relation to property in the protected area.

Legislative References

Local Government Act s. 960, s. 961, s. 962, s. 963, s. 964, and s. 965

Heritage Conservation Covenant

Land Title Act s. 219

What is it?

A heritage conservation covenant is a **contractual agreement** between a property owner and a local government or heritage organization. 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**.

What does it do?

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Heritage conservation covenants are intended to enable a local government or a heritage organization to **negotiate an agreement** with a property owner to protect and/or conserve a site or building. Such agreements may **not** vary local government regulations such as siting, use, or density.

When do you use it?

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.

How do you use it?

1. A community identifies a property that requires **long-term protection**.
2. 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.
3. **Terms** of the conservation covenant **are negotiated** by the parties to the covenant.
4. The parties seek legal advice and the heritage conservation covenant is drafted.
5. If local government is party to a heritage conservation covenant, the council **must adopt a resolution** authorizing the covenant.
6. Local government **registers** the conservation covenant on the property title in the Land Title Office.
7. The property is **monitored** by the local government or heritage organization for compliance with the terms of the conservation covenant.

Legislative References

Land Title Act s. 219

Example

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.

Heritage Revitalization Agreement

Local Government Act s. 966

What is it?

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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 26 of the *Local Government Act* (Planning and Land Use Management);
- vary or supplement a bylaw or heritage alteration permit under Part 27 of the *Local Government Act*; and/or
- include other terms agreed to by the local government and the property owner.

What does it do?

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.

When do you use it?

A heritage revitalization agreement is suited to unique conservation situations that demand creative solutions, such as complex and unique sites requiring exceptions and relaxations to zoning regulations.

How do you use it?

1. Local government **identifies the need** for the use of a heritage revitalization agreement. The need may arise from the unusual siting of a building, a unique lot configuration or other unique circumstances.
2. Local government and the property owner **negotiate the terms** of the heritage revitalization agreement, including the obligations, duties, and benefits of the agreement.
3. Local government seeks legal advice and drafts the heritage revitalization agreement bylaw.
4. If the **use** or **density** of the property are proposed to be changed, a public hearing must be held.
5. Council or regional district board **adopts** the bylaw.
6. Within 30 days of 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*.

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7. 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.

Legislative Reference

Local Government Act s. 966

Example

The owner of a historic commercial building in a downtown core initiates discussions 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.

Local Government Heritage Designation

Local Government Act s. 967, 968 and 969

What is it?

Heritage designation is a form of local government land use regulation that **protects** private heritage property.

What does it do?

Local government heritage designation is intended to give **long-term protection** to heritage property. It is the **primary** form of long-term local government regulation that can **prohibit demolition**. Heritage designation is not commemoration, but rather is a form of legal protection. A designation bylaw may prohibit one or more of the following:

- exterior alterations;
- structural changes;
- moving of a structure;
- actions which would damage a specified interior feature;
- actions which would damage a specified heritage landscape feature; and/or
- alteration, excavation, or construction on protected land.

Unless permitted in the designation bylaw, **no changes** may be made to a heritage designated property **without a heritage alteration permit**.

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When do you use it?

Heritage designation is applied to property when **long-term protection** of the property is desired, and it is determined that heritage designation is the most suitable of the long-term protection tools to use in a particular situation. Heritage designation may be enacted with or without the consent of the property owner. Real property may be designated if the property has **heritage value** or **heritage character**, or if the designation is **necessary to protect a nearby** heritage property. Types of property which may be given heritage designation include:

- a single property,
- part of a property,
- more than one property owned by one or more owners,
- affixed interior features or features identified in the bylaw, and
- landscape features.

How do you use it?

1. Through a process of planning and research, a local government identifies heritage property considered to be worthy of **long-term protection**.
2. Alternative long-term protection tools are considered.
3. Consultation takes place with the property owner.
4. Local government considers the possible ramifications of designating the property, including the potential requirement to provide **compensation** to the property owner for any reduction in market value of the property directly attributable to the designation.
5. Local government prepares a report on the property and makes it available to the public. The report must include information regarding:
 - the **heritage value** or **heritage character** of the property;
 - compatibility of conservation with the **official community plan**;
 - compatibility of conservation with the lawful **use of the property and adjoining lands**;
 - the condition and economic **viability** of the property; and
 - the need for **financial support**.
6. A proposed heritage designation **bylaw is prepared**, usually by the city clerk or planning department.
7. A public hearing **must** be held prior to the adoption of a heritage designation bylaw. **Notice of the public hearing** must be a) published in a local newspaper, and, b) sent to all owners of, owners with an interest in, and occupiers of property proposed to be designated.
8. Within 30 days of approval or defeat of the bylaw, property owners and occupiers **must be notified** of the outcome.

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9. Following adoption of a designation bylaw, notification **must** be sent to the Land Title Office and the minister responsible for the *Heritage Conservation Act*.

10. A property owner may apply for compensation **within one year** of the designation coming into effect. The amount of compensation may be determined by agreement of the owner and the local government, or, if they are unable to agree, by binding arbitration under the *Commercial Arbitration Act*. If a property owner waives the right to compensation, the local government prepares a waiver form and has it signed by the property owner and local government officials.

11. Heritage designation may be **rescinded** by bylaw.

Legislative References

Local Government Act s. 967, s. 968 and s. 969

Example

A community establishes a community heritage commission and a community heritage register. The community heritage register includes two sites which are proposed to receive long-term heritage protection. Discussions with the property owners of the sites take place regarding ways in which long-term protection could be assured.

Site #1

A single family residence, which was built for the community's first mayor, is designated voluntarily and the owner waives the right to compensation.

Site #2

A privately owned industrial building, which was the site of the North American terminus of the first trans-Pacific telegraph line, is given long-term heritage protection by a heritage revitalization agreement. The agreement enables protection of the industrial building and development of the remainder of the site. In this case, designation is deemed unnecessary. The local government does, however, place a commemorative marker on the building similar to those given to designated sites.

Local Government Compensation for Heritage Designation

Local Government Act s. 967, s. 968 and s. 969

What is it?

Compensation for heritage designation is **payment by local government to owners of designated property** where heritage designation is **proved to cause a reduction** in the **market value** of a property **at the time of designation**. Compensation may be monetary, or may take some other form such as the provision of technical advice. Owners may choose to **waive** the right to compensation at the time of designation.

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What does it do?

Compensation is intended to provide **fair payment** to a property owner for any loss in market value that is a **direct result** of the heritage designation of his or her property.

When do you use it?

Only those owners whose property market value is reduced as a **direct consequence at the time** of heritage designation are eligible to apply for compensation. Further, the property owner **must** apply for the compensation within one year of the designation.

How do you use it?

1. A local government proposes to **designate** a heritage property.
2. Discussions take place between the local government and the property owner regarding the amount of compensation, if any, that may be required for a loss in property market value resulting from the heritage designation. If the designation is **voluntary**, or if no loss is anticipated, a **waiver for compensation** is prepared by the local government and is signed by both parties.
3. If an owner makes application for compensation, and if an agreement regarding the amount of compensation **cannot be reached** between the local government and the property owner, **either party may call for arbitration** under the *Commercial Arbitration Act* to determine the ‘value’ of compensation. Arbitration may be called either prior to, or following, the enactment of the designation bylaw.
4. A property owner may **only** apply for compensation **within one year** of the designation coming into effect.

Legislative References

Local Government Act s. 967, s. 968 and s. 969

Example

A local government proposes to designate a privately owned commercial building which was the community's first fire hall. Due to its location it is determined that the market value of the property will decrease as a result of designation. The owner and local government cannot come to an agreement regarding the amount of compensation. The local government requests that the amount of possible compensation be reviewed and, if necessary, determined under the *Commercial Arbitration Act* prior to designation. Following completion of the review, the local government decides to proceed with the designation. The property owner is paid monetary compensation awarded by an arbitrator for loss of market value that resulted from the designation.

Heritage Conservation Area

Local Government Act s. s. 970.1, s. 971, 972

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What is it?

A heritage conservation area is a **distinct district with special heritage value** and/or **heritage character**, identified for heritage conservation purposes in an **official community plan**.

What does it do?

A heritage conservation area is intended to provide **long-term protection to a distinctive area** which contains resources with special heritage value and/or heritage character. A heritage conservation area can provide protection to **all or some** of the properties in a heritage conservation area. Properties that are to be protected must be specifically identified in the bylaw.

In a heritage conservation area, a property owner may **not** do any of the following without a **heritage alteration permit**:

- **subdivision** of a property;
- **addition** of a structure or addition to an existing structure;
- **construction** of a new building; or
- **alteration** to a building, structure, land, or feature.

When do you use it?

A local government establishes a heritage conservation area when it has identified a **distinctive area** which it feels should be managed by **long-term protection**. Establishing a ‘heritage conservation area’ is **not** an appropriate tool for a single site.

How do you use it?

1. Through a process of planning and research, a community **identifies a distinctive area** that it determines should be managed by **long-term** heritage protection.
2. Local government, in **consultation with the area property owners**, agrees that a heritage conservation area is the best tool to provide long-term protection.
3. Local government consults with area property owners regarding the **control mechanisms** (including design controls) which may be included in the bylaw.
4. Local government **prepares a bylaw** to amend the **official community plan** to identify the heritage conservation area.

The bylaw must include:

- a description of the special features or characteristics which justify the establishment of a heritage conservation area,
- the objectives of the heritage conservation area, and
- guidelines for how the objectives will be achieved.

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The bylaw may also:

- identify circumstances for which a permit is **not** required, and
 - include a schedule listing the protected properties in the area, and identify features or characteristics that contribute to the heritage value or heritage character of the area.
5. At least ten days before a public hearing is held to discuss the amendment, local government **notifies all owners** of property listed on the heritage conservation area schedule.
 6. Local government **adopts** the heritage conservation area bylaw.
 7. Local government **notifies** the Land Title Office and the minister responsible for the *Heritage Conservation Act* of the adoption of the heritage conservation area bylaw, as well as any **additions** or **deletions** that may be made to the heritage conservation area schedule.

Legislative References

Local Government Act s. s. 970.1, s. 971, 972

Example

A community identifies a neighbourhood that it believes warrants long-term heritage protection. Following local government consultation with the property owners in the area, it is agreed that a number of historic structures, buildings, and landscape features should be protected by the creation of a heritage conservation area in the community's official community plan.

Local government prepares a bylaw outlining a description of the special features or characteristics which justify the establishment of the heritage conservation area, the objectives of the heritage conservation area, and guidelines for how the objectives will be achieved. The bylaw also includes a schedule to the official community plan that lists those structures, buildings, and landscape features which are specifically protected by the heritage conservation area.

Local government notifies property owners in the area and holds a public hearing regarding the bylaw. Council adopts the bylaw, and notifies the Land Title Office and the minister responsible for the *Heritage Conservation Act*.

Heritage Alteration Permit

Local Government Act s. 972 and s. 973

What is it?

A heritage alteration permit is an authorization by local government that allows certain kinds of **changes to be made to protected heritage property**.

What does it do?

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A heritage alteration permit is intended to allow local government to **authorize changes** to be made to **protected heritage properties**. A heritage alteration permit provides the flexibility to respond to the requests and needs of owners of protected properties over time. A heritage alteration permit may vary or supplement portions of the *Local Government Act*, including:

- some of the provisions regarding **rural land use bylaws**;
- **Land use designation**;
- **permits**;
- **development cost recovery**; and
- **subdivision** and **development** requirements.

Local government may not refuse to issue a heritage alteration permit as a means to prohibit the legitimate development of property.

A heritage alteration permit may **not** vary the use or density provisions of a local government land use bylaw.

When do you use it?

Heritage alteration permits are used most frequently in relation to properties that are:

- **designated**;
- included on a **heritage conservation area schedule**;
- protected by a **heritage revitalization agreement**;
- protected by a **heritage conservation covenant**; or
- **archaeological sites or other sites** protected under the *Heritage Conservation Act*.

How do you use it?

1. Local government must **establish the requirements** for heritage alteration permits in any **heritage revitalization agreement** or **heritage conservation covenant**. Heritage alteration permits are automatically required for properties that are **designated**, included on a **heritage conservation area schedule**, or **archaeological and other sites** protected under the *Heritage Conservation Act*.
2. A property owner **makes application** for a heritage alteration permit that details the proposed alterations to the heritage property.
3. Local government or its delegate **evaluates the proposed alterations** and approves or denies the issuance of a heritage alteration permit. A local government may refuse issuance of a heritage alteration permit if the proposed alterations are inconsistent with the intent of the heritage protection.

Legislative References

Local Government Act s. 972 and s. 973

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Example

A single family residential structure is included on a heritage conservation area schedule of an official community plan. The owner of the building makes application to the local government for a heritage alteration permit to allow for the reconstruction of a verandah on the front of the building. The director of planning, as the delegate of the local government, evaluates the application, makes suggestions for improvement of the design, finalizes the design with the applicant, and issues the permit.

Heritage Site Maintenance Standards

Local Government Act s. 970 and s. 979 (d)

What is it?

Heritage site maintenance standards **establish minimum requirements** for the care and maintenance of real property, both land and improvements, that are **designated** or located within a **heritage conservation area**. Different maintenance standards may be established for different types of protected properties within a community.

What does it do?

Heritage site maintenance standards are intended to:

- communicate to property owners the **minimum expectations** of local government regarding the maintenance of properties,
- ensure that properties are **not allowed to deteriorate** through neglect, and
- enable local government to apply to court for a **maintenance order**.

When do you use it?

Heritage maintenance standards may be used to require owners to **maintain their buildings to an acceptable level** or condition as determined by local government.

Maintenance standards may also be used in cases where property owners **receive significant financial assistance** for the conservation of their property. In this case, maintenance of a conserved property would be a condition of receipt of a grant. Except as noted, maintenance standards may **not** be used to require a property owner to improve a building.

How do you use it?

1. Local government **establishes criteria** to identify those classes of properties subject to heritage site maintenance standards. Only properties that are **designated** or are within a **heritage conservation area** may be subject to heritage maintenance standards.
2. Local government drafts heritage site maintenance standards.

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3. Local government **adopts**, by bylaw, heritage site maintenance standards, and **communicates maintenance expectations** to property owners.
4. Local government **monitors** properties subject to the maintenance standards and, if necessary, **enforces** the standards. A **heritage inspection** may be ordered to verify that the maintenance standards are being met.

Enforcement provisions for maintenance standards include application by the local government to the Supreme Court to order the property be brought up to the required standards.

Legislative References

Local Government Act s. 970 and s. 979 (d)

Examples

1

A heritage conservation area is established by local government in a historic residential area. The local government adopts, by bylaw, maintenance standards for the buildings in the area. An important historic building, left vacant for many years, is at risk of being “demolished through neglect” and is a danger to passersby. The local government applies to the Supreme Court for an order of compliance with the maintenance standards. The order is granted, but the owner refuses to undertake the required work. Consistent with the terms of the court order, the local government undertakes the required work and the owner is required to reimburse the local government.

2

A local government provides grants to property owners for the restoration of their commercial buildings. As a part of the management of the grant program, the local government identifies a need to establish maintenance standards for buildings that receive funding. Local government contracts with a qualified heritage consultant to draft the maintenance standards, and adopts the maintenance standards by bylaw. Buildings subject to the maintenance standards are monitored for compliance.

Tree Protection

Community Charter, s. 8 (3), s. 50, 51, 52 and *LGA* s. 919.1 (Development Permit Areas)

What is it?

Under the *Community Charter*, municipalities are granted “natural person” powers, which means they have the capacities, rights, powers and privileges “of a natural person of full capacity.” They are also allowed to “regulate”, “prohibit” or “impose requirements” in relation to a range of issues, including trees. Municipalities, therefore, may take steps to protect and maintain trees that they identify as having significance because of their heritage, landmark, or wildlife habitat value.

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These provisions of the *Community Charter* do not apply to regional district boards. Regional boards may instead find using development permit areas is more helpful. A development permit area will allow the designation of areas for “the protection of the natural environment, its ecosystems and biological diversity.”

What does it do?

The “natural person” powers under the Community Charter are intended to enable municipalities to **protect and manage their significant trees** as community heritage resources. Municipalities may:

- **identify** trees as significant;
- **regulate the cutting** of significant trees;
- **prohibit the cutting** of significant trees;
- **require maintenance** of significant trees;
- **require replacement** of damaged significant trees; and
- **assess or inspect** significant trees.

When do you use it?

A municipality may use its natural person powers regarding tree protection when it determines that trees warrant conservation and protection. (Trees may also be protected through the use of **heritage conservation covenants, heritage designation and development permit areas.**)

How do you use it?

1. Through a process of planning, research, and consultation, a community **identifies a need to protect trees** as community heritage resources.
2. Local government **identifies trees** in the community that are important for their heritage, landmark, or wildlife habitat value.
3. Council or regional district board **adopts a bylaw that lists the significant trees** in the community.
4. Council or regional district board **adopts a bylaw specifically indicating the prohibitions, requirements, and regulations** for the management of significant trees.
5. Local government **monitors** the significant trees in the community for compliance with the bylaw.

Legislative References

Community Charter, s. 8 (3), s. 50, 51, 52, *LGA* s. 919.1

Examples

1

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Through a process of planning and research, a local government identifies a need to give long-term protection to the tree resources in the community. The local government determines that all Garry Oak and all Cedar trees of a diameter greater than 60 cm and a number of individual trees of historical importance are deserving of long-term protection. A bylaw is drafted identifying the species and caliper (size) of trees to be protected by the bylaw, the species and location of historically important trees and the provisions for regulating the cutting or removal of trees. The bylaw is adopted by local government.

2

Local government identifies a stand of trees which were planted as a wind break on the edge of the community's first homestead. The trees are now located on both private land and a public right of way. The local government passes a bylaw to identify the trees as having heritage significance. In anticipation of the redevelopment of the privately owned land, local government passes a bylaw that prohibits cutting or damaging the trees, and requires a letter of credit for the amount of the replacement value of the trees.

Reservation and Dedication of Heritage Property

Community Charter, s. 30, Local Government Act, s. 302

What is it?

Reservation and dedication of property are **powers of local government** that create a **binding commitment** of government **to protect heritage property** it owns. There are subtle differences between the powers of dedication and reservation. Reference should be made to the appropriate sections of the *Local Government Act* for clarification.

What does it do?

Reservation and dedication give **long-term** conservation protection to **publicly owned** property. As removal of the reservation requires a 2/3 vote of a council or regional district board, it is a **stronger form of protection** than heritage designation. Local government may **not** undertake a public work or pass a bylaw which is in conflict with a reservation or a dedication.

When do you use it?

Reservation and dedication may be used to protect public heritage properties such as cenotaphs, historic trails, statues, city halls, or parks.

How do you use it?

1. Local government **identifies public property** to be reserved or dedicated.
2. Local government **adopts a bylaw**, by a 2/3 vote, to reserve or dedicate a heritage property.

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3. A 2/3 vote of council or regional district board is **required to remove the reservation status** of a property.

Legislative References

Community Charter, s. 30, *Local Government*, s. 302

Example

A local government identifies a publicly owned 125 year old Hudson's Bay building as a significant heritage resource. Local government determines that long-term protection of the site is desirable and that reservation of the resource is warranted on the basis of the heritage value of the resource to the community. The local government adopts a bylaw to reserve the property and structure.

The Historic Places Initiative

The Historic Places Initiative is not a legislative tool, but rather a national initiative, led by the Government of Canada, in collaboration with all provincial and territorial governments, designed to increase awareness and appreciation of Canada's historic places and to foster a culture of conservation in the country. For more information on the Historic Places Initiative, see www.historicplaces.ca

Currently, the components of the HPI are:

The Canadian Register of Historic Places (CRHP)

www.historicplaces.ca/rep-reg/recherche-search_e.aspx?prov=BC

Its purpose is to increase the awareness of, and support for, historic places by providing a single source of information about historic places formally recognized for their heritage value at the local, provincial, territorial and national levels across the country. The register is an Internet-based searchable database of historic places that can be used by planners, policymakers, developers, industry, community organizations, teachers, students and the public at large.

The CHRP is being built through the ongoing addition of register records created by local, provincial, territorial and federal governments. Historic places that are located on a local government's community heritage register are reflected on the BC Register of Historic Places and can be nominated to the Canadian Register of Historic Places provided that the appropriate documentation standards are met.

Standards and Guidelines for the Conservation of Historic Places in Canada

http://historicplaces.ca/nor-sta/norm-stan_e.aspx

The Standards and Guidelines provide a consistent benchmark for conservation practice in Canada. They are intended to offer guidance in decision-making regarding the restoration and rehabilitation of historic places.

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Glossary

The definitions included in this glossary are intended to be simple explanations of some of the terms used in the different legislation: they are not intended to be legal definitions. For precise legal definitions of terms please refer to the noted sections of the relevant Acts.

Terms marked with ** have slight variations in meaning depending on the Act or section of an Act in which they are used.

Alter

means, in general terms, to change in any manner. More specifically, both the *HCA* and *LGA* refer, in their definition of *alter*, to the term *improvement* which is defined in the *Builders Lien Act* as "includes anything made, constructed, erected, built, altered, repaired, or added to, in, on, or under land, and attached to it or intended to become part of it, and also any cleaning, excavating, digging, tunneling, filling, grading or ditching of, in, or under land." [*HCA* s. 1] [*LGA* s. 947]

Business Improvement Area (BIA)

is an area (commercial or industrial) established by bylaw to enable property owners to jointly fund research, beautification projects on municipal properties, conservation of heritage property, or the promotion of business.

Community Heritage Commission

is a commission established or authorized under s. 953 of the *LGA* for the purposes of advising a local government on heritage matters or undertaking other activities authorized by a local government.

Community Heritage Register

is a list established and maintained by a local government that identifies real property considered by a local government to be heritage property. [*LGA* s. 954 (1)]

Conservation **

includes any activity undertaken to protect, preserve, or enhance the heritage value or heritage character of heritage property or an area. [*HCA* s. 1] [*LGA* s. 5]

Cultural heritage resource

means an object, site, or location of a traditional societal practice that is of historical, cultural, or archaeological significance to British Columbia, a community, or an aboriginal people. [*Mineral Tenure Act* s. 1] [*Forest Act* s. 1]

Development permit area

is an area established by bylaw to achieve specific objectives, such as guidelines for the form and character of commercial, industrial, or multi-family development and specifications for natural areas. A development permit is usually issued at the time a building permit is issued. The permit specifies the particulars of the proposed development.

First Nation

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means, as the context requires, an aboriginal people sharing common traditional territory and having a common tradition language, culture and laws, or the duly mandated governing body of one or more such people. [*HCA* s. 1]

Heritage alteration permit

is a permit issued under the *Local Government Act*, to allow changes to be made to a protected heritage property. [*LGA* s. 947 and s. 972]

Heritage character

means the overall effect produced by traits or features which give property or an area a distinctive quality or appearance. [*LGA* s. 5]

Heritage conservation area

is an area designated for heritage purposes under the *Local Government Act* in an official community plan. [*LGA* s. 947, s. 970.1, and s. 971]

Heritage control period

is a temporary period of protection of up to one year, established for the purpose of heritage area planning. [*HCA* s. 16] [*LGA* s. 964]

Heritage designation

means protection of land or an object under s. 9 of the *Heritage Conservation Act*, or protection of real property under s. 967 of the *Local Government Act*. Provisions for the continuations of municipal heritage designations made prior to enactment of the *HCSAA* are contained in *HCSAA* s. 102. [*HCA* s. 1 and s. 9] [*LGA* 947, s. 967, s. 968 and s. 969] [*HCSAA* s. 102]

Heritage impact assessment

means information or studies required under s. 958 of the *Local Government Act* which detail the potential impact of a proposal on a protected heritage property. [*LGA* s. 958]

Heritage inspection **

has slightly different meanings in the *HCA* and *LGA*; the appropriate Act should be consulted for the precise meaning. In general terms, *heritage inspection* means a physical examination and other research necessary to evaluate a property. The *LGA* enables heritage inspections only for property and does not enable inspections to determine conformance with heritage protection requirements. The *HCA* enables inspection of both heritage sites and objects and permits inspections to establish conformance with heritage protection requirements. [*HCA* s. 1 and s. 14] [*LGA* s. 947 and s. 956]

Heritage investigation

means an archaeological or other systematic study of heritage property to reveal its history, and may include the recording, removal and analysis of artifacts, features and other material necessary for the purpose of the heritage investigation. This term is used only in the *Heritage Conservation Act*. [*HCA* s. 1 and s. 14]

Heritage object

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means, whether designated or not, personal property that has heritage value to British Columbia, a community, or an aboriginal people. [HCA s. 1]

Heritage property **

means property that

- (a) in the opinion of a body or person authorized to exercise a power under the *Local Government Act* in relation to the property, has sufficient heritage value or heritage character to justify its conservation or,
- (b) is protected heritage property. [LGA s. 5]

Heritage recognition

means recognition or commemoration of a heritage property, an area or some other aspect of a community's heritage. Heritage recognition does not constitute protection of a property or area. [HCA s. 18] [LGA s. 955]

Heritage Revitalization Agreement

is an agreement made under the *Local Government Act* between a property owner and a local government for the purpose of conserving heritage property. [LGA s. 947 and s. 966]

Heritage site

means, whether designated or not, land including land covered by water, that has heritage value to British Columbia, a community, or an aboriginal people. [HCA s. 1]

Heritage Trust

means the British Columbia Heritage Trust, established in Part 3 of the *Heritage Conservation Act*. [HCA s. 1 and s. 24]

Heritage value

means a historical, cultural, aesthetic, scientific or educational worth or usefulness of property or an area. [HCA s. 1 & s. 18] [LGA s. 5]

Heritage wreck

means the remains of a wrecked vessel or aircraft where

- (a) 2 or more years have passed from the date that the vessel or aircraft sank, was washed ashore or crashed, or
- (b) the vessel or aircraft has been abandoned by its owner and the government has agreed to accept the abandonment for the purposes of the *Heritage Conservation Act*. [HCA s. 1]

Local government

means the council of a municipality; the board of a regional district; or the Trust Council or a local trust committee established under the *Islands Trust Act*. [HCA s. 1] [LGA s. 5]

Official community plan (OCP)

means a long term plan adopted by bylaw which is a general statement of objectives, policies, and land uses for a community.

Prescribed

means determined by regulation, bylaw or other enactment. [Interpretation Act]

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Protected heritage property **

means property that is

- (a) protected under s. 13 of the *Heritage Conservation Act*,
- (b) included under *Local Government Act* s. 970.1, 971 in a schedule to an official community plan, or
- (c) designated as protected under the *Local Government Act*. [LGA s. 5, s. 970.1, s. 971, s. 967] [HCA s. 13]

Provincial heritage object

is an object designated under s. 9 of the *Heritage Conservation Act*.

Provincial heritage property

means a property designated and protected under s. 9 of the *Heritage Conservation Act*.

Provincial heritage register

means a register maintained by the Province listing heritage sites and objects that have officially recognized heritage status or protection. [HCA s. 3]

Provincial heritage site

means a heritage site designated under s. 9 of the *Heritage Conservation Act* or a Provincial heritage property established under s. 23 of the *Heritage Conservation Act*.

Temporary protection

means a prohibition of alteration to a property enabled under s. 16 of the *Heritage Conservation Act* or s. 960 of the *Local Government Act*.

Zoning

means a bylaw which specifies the uses, densities, siting and subdivision of land buildings or structures permitted in a community.

Suggested Reading

Findley, Barbara; Hillyer, Ann. *Here Today, Here Tomorrow: Legal Tools for the Voluntary Protection of Private Land in British Columbia*. Vancouver: West Coast Environmental Law Research Foundation, 1994.

Paterson, D.D.; Colbay, L. J. *Heritage Landscapes in British Columbia: A Guide to Their Identification, Documentation and Preservation*. Vancouver: University of British Columbia Landscapes Architecture Program, 1989.

Kerr, Alastair. *Heritage Planning: A Guide for Local Government*. Victoria: Province of British Columbia, 1992. (out of print; visit libraries or view online at www.tsa.gov.bc.ca/heritage_branch/heritage_planning.htm)

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Fram, Mark. *Well Preserved: The Ontario Heritage Foundation's Manual of Principles and Practise for Architectural Conservation*. Erin, Ontario: Boston Mills Press, 1988.

Feildon, Bernard. *Conservation of Historic Buildings*. London: Thames and Hudson, 1976.

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