THE EVOLUTION OF HERITAGE CONSERVATION PLANNING IN THEORY
AND PRACTICE: A CASE STUDY OF VICTORIA, BRITISH COLUMBIA

by

Chloe M. Fox

B.A., Simon Fraser University, 2007

A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF
THE REQUIREMENTS FOR THE DEGREE OF

MASTER OF ARTS

in

THE FACULTY OF GRADUATE STUDIES

(Community and Regional Planning)

THE UNIVERSITY OF BRITISH COLUMBIA

(Vancouver)

October 2011

© Chloe M. Fox, 2011
Abstract

This research explores in the intersection of theory and practice in heritage conservation planning and its connections to broader urban planning considerations. In doing so, this research presents a case study of the evolution of heritage conservation projects, policies and implementation programs in the area of Old Town and Chinatown in the downtown core of Victoria, British Columbia. Community plans, policy documents and implementation tools concerning heritage conservation and planning for the Old Town and Chinatown area are analyzed in addition to newspaper articles, online discussion forums and books on the subject of such efforts. In addition, an analysis of how particular policies and implementation tools play out at the level of an individual conservation project is presented through an examination of the Morley’s Soda Factory, a recent rehabilitation and adaptive reuse project within Old Town. The research demonstrates that in both conservation theory and conservation practice there has been a broadening in the justifications for conservation, in its subject matter and in the range of social groups involved since its effective beginnings in the mid- to late-18th century. Once a narrowly defined discipline concerned with preserving a restricted set of supposedly architecturally beautiful or historically significant buildings, as defined by elite values, conservation is now recognized as having linkages to the property market, economic development, cultural values, social capital, land use planning, waste management and urban design. In addition, the case study suggests that, at the level of an individual city and district, the particular trajectory of heritage conservation policy is highly dependent on the social, political and economic context of the locality. In particular, it considers the roles of the public and private sectors as well as the general public in the conservation process and the implications of these roles on conservation and urban planning goals.
## Table of Contents

Abstract........................................................................................................................................... ii  
Table of Contents .............................................................................................................................. iii  
List of Figures ..................................................................................................................................... v  
Acknowledgements ........................................................................................................................... vii  

1 Introduction ................................................................................................................................. 1  
1.1 The case: heritage conservation in Victoria, B.C................................................................. 4  
1.2 Problem statement.................................................................................................................... 5  
1.3 Methodology and data sources............................................................................................... 6  
1.4 Structure.................................................................................................................................... 6  

2 Changing Ideas in Heritage Conservation ............................................................................... 8  
2.1 Conservation as an ideal of the social elite ........................................................................... 8  
2.2 Conservation and postmodernism.......................................................................................... 9  
2.3 Values-based conservation...................................................................................................... 12  
2.3.1 Cultural values .................................................................................................................. 15  
2.3.2 Economic values .............................................................................................................. 17  
2.4 Conservation and sustainable development ........................................................................ 22  
2.5 Discussion and summary ........................................................................................................ 24  

3 The Historical Development of Victoria, B.C......................................................................... 28  

4 Old Town and Chinatown, Victoria B.C. ................................................................................... 40  

5 The Evolution of Heritage Conservation Planning in Old Town and Chinatown...... 51  
5.1 The emergence of a heritage conservation program (1970s to mid-1980s)....................... 54  
5.2 Redefining conservation as an approach to revitalization (mid-1980s to 2000s)............ 64  
5.3 Current trends and challenges in heritage conservation (2000 to present)..................... 75  
5.4 Discussion and summary ........................................................................................................ 83  

6 Implementing Heritage Conservation in Old Town and Chinatown; The Morley’s  
Soda Factory Rehabilitation ........................................................................................................ 86  
6.1 Morley’s Soda Factory, history and context ........................................................................ 86  
6.2 The demolition threat ............................................................................................................. 91
6.3 The rehabilitation process .......................................................................................... 93
6.4 Discussion and summary .......................................................................................... 102

7 Conclusion .................................................................................................................. 106
  7.1 The evolution of heritage conservation thought ...................................................... 106
  7.2 Consistency with the case study of Old Town and Chinatown ............................... 108
  7.3 Contrast with the case study of Old Town and Chinatown .................................... 111
  7.4 Additional conclusions .......................................................................................... 111
  7.5 Summary ................................................................................................................. 114

References ...................................................................................................................... 116

Appendices ...................................................................................................................... 127
  Appendix A Section 714A of the Municipal Act, as adopted in 1973 ......................... 127
  Appendix B Part III of the Heritage Conservation Act, as adopted in 1977 ............... 129
  Appendix C Heritage Conservation Statutes Amendment Act, 1994 ......................... 132
  Appendix D Part 27 of the Local Government Act ....................................................... 238
  Appendix E Old Town Statement of Significance ......................................................... 272
List of Figures

Figure 3.1 Location of HBC’s Fort Victoria................................................................. 29
Figure 3.2 Wooden construction on Government Street circa 1865............................. 30
Figure 3.3 Early brick construction on Wharf Street circa 1864................................. 31
Figure 3.4 Government Street circa the 1880s............................................................ 34
Figure 3.5 The Teague-designed Doane Building, Colonial Metropole Hotel and New England Hotel .................................................................................................................. 35
Figure 3.6 The Board of Trade Building (left) and Supreme Court Building (right)........ 36
Figure 3.7 The Rattenbury-designed provincial Parliament Buildings............................. 38
Figure 3.8 The Rattenbury-designed Empress Hotel..................................................... 39
Figure 4.1 Old Town and Chinatown case study area, DP Area 1 (red) and a portion of DP Area 2 (blue) ......................................................................................................................... 40
Figure 4.2 City growth to 1964..................................................................................... 41
Figure 4.3 Building vacancy in downtown Victoria, 1963.............................................. 43
Figure 4.4 Inner Harbour Renewal Area, including location of the Chinatown and Johnson and Pandora proposals .......................................................................................................................... 46
Figure 4.5 Illustration of the Johnson and Pandora department store redevelopment proposal .......................................................................................................................... 47
Figure 4.6 Centennial Square showing the fountain, original City Hall and 1963 addition 48
Figure 4.7 Rehabilitated buildings in Bastion Square at its entrance from Wharf Street.... 49
Figure 5.1 Location of the Reid Centre site..................................................................... 52
Figure 5.2 Wharf Street commercial frontages, circa 1970............................................. 57
Figure 5.3 Boundary of the Plan for the Rehabilitation of Chinatown............................ 59
Figure 5.4 Themed street-furniture in Chinatown............................................................. 60
Figure 5.5 The Gate of Harmonious Interest, 500 block Fisgard Street........................ 61
Figure 5.6 Fan Tan Alley.............................................................................................. 62
Figure 5.7 Victoria Eaton Centre site ............................................................................ 65
Figure 5.8 Development scenarios for Victoria Eaton Centre......................................... 67
Figure 5.9 Replicated façade of the Times Building, Victoria Eaton Centre ................. 68
Figure 5.10 Dragon Alley.............................................................................................. 75
Figure 6.1  Location of the Morley’s Soda Factory................................................................. 87
Figure 6.2  Waddington Alley and Morley’s Soda Factory (immediate left)......................... 88
Figure 6.3  The Northern Junk Buildings (left) and Janion Hotel (right).............................. 89
Acknowledgements

I offer my enduring gratitude to the faculty, staff and my fellow students at the School of Community and Regional Planning for their inspiration and support during my time as a graduate student. I owe particular thanks to my supervisor, Dr. T.A. Hutton, for encouraging me to pursue this research project and for supporting me and fuelling me with cappuccino throughout the process. In addition, I thank Helen Cain for her detailed and insightful comments and for sharing her incredible knowledge of heritage conservation planning at the City of Victoria.

Special thanks are owed to my friends and family for their love and support; in particular, my parents, who have always taken an interest in my academic pursuits and have provided financial support over the years.
Introduction

In an attempt to stop the wreckage, an imaginative new urban planning practice has arisen in historic cities across the world, the effort of modern societies to conserve the architectural culture of the civilizations of the past.

(Tung 2001, p. 16)

The desire to conserve the built environment is a relatively recent phenomenon. Although there are earlier examples of isolated attempts at the preservation of individual buildings and monuments in the Western world, Tiesdell et al. (1996) note that, “[i]t is only since the 1960s that historic areas and quarters of cities have had a significant re-evaluation of their positive qualities” (p. 46). Around this time, the belief began to emerge among a broad public that historic buildings and urban fabric were a valued resource that deserved to be preserved for future generations. Tung (2001) notes that this was not just about the loss of beloved old buildings, but also contained an element of fear that there was something more profound embodied in the built environment that was also being lost; “it was the loss of this ultimately unquantifiable social chemistry that people feared, the loss of the spirit of the city made palpable in the beautiful interwoven forms of the historic cityscape” (p. 28).

Tung (2001) argues that conservation evolves “out of conflict”; namely, it represents “a choice between urban change by destruction of the past and urban change by integration with the past” (p. 67). As the social and economic conditions under which urban areas were developed change, individual buildings, blocks and entire districts face structural, functional and economic obsolescence; there becomes “a mismatch between the services offered by the fabric and the needs seen through contemporary eyes” (Lichfield 1988 as cited in Tiesdell et al. 1996). By the mid-twentieth century, addressing obsolescence in the built environment predominantly involved the implementation of large-scale slum clearance, redevelopment and road building schemes following a Modernist vision of urban design and architecture. The urban landscape produced by Modernism had grave consequences for the historic urban fabric. Modern urban design sought a complete break with what Tung (2001) refers to as the traditional “sculptural system” whereby individual buildings become part of the larger urban form through their integration into the sculptural mass of the block (p. 25). Architecturally,
Modernism advocated a decisive break from past styles through the adoption of new building aesthetics that emphasized function over form. Modern buildings took on an angular form, eliminated superficial adornment and were designed to accommodate the needs and experiences of the machine age (Carmona et al. 2003; Knox 2011). As such, significant savings were achieved through the use of pre-fabricated, mass-produced building materials and assemblies creating buildings with an increasingly generic cultural expression becoming the equivalent of sculptural objects in space; disconnected from any larger social meaning or historical memory (Tung 2001; Clarke 2003).

As early as 1961, however, critics such as Jane Jacobs began questioning the results of Modernist architecture and planning. Jacobs (1961) argued that Modernist planning had taken away the life and vitality of communities “reducing city and countryside alike to a monotonous, unnourishing gruel” (p. 6-7). By the late 1960s, a growing tide of criticism was being mounted against the perceived alienation of the Modernist built environment with a renewed interest expressed in smaller scale development, neighbourhood history and context, mixed uses of space and notions of community (Zukin 2003b; Clarke 2003; Carmona et al. 2003; Knox 2011). Thus, a postmodern vision of the built environment emerged which embraces a messy vitality, complexity, ambiguity and even contradiction seeking continuity of local character and acknowledging the roles of history, context and urban life in shaping urban form (Knox 2011; Hutton 2004; Clarke 2003; Tiesdell et al. 1996). Knox (2011), for example, has called postmodern architecture “a style of styles” employing everything from “historicism and revivalism to metaphysical references and kitschy pastiche” (p. 162).

The transition to postmodernism also reflected a response to new economic realities becoming apparent in the late 1960s and early 1970s. Global economic restructuring led to a post-industrial economic transition in many former industrial cities of the Western world characterized by a decline in basic manufacturing and other traditional industries coupled with a rise in the tertiary sector (Tiesdell et al. 1996; Hutton 2004). In the process, much of the former productive landscape of the inner city was rendered obsolete. The OPEC oil crisis of 1973, and the economic recession that followed, presented further challenges for governments in addressing their new economic circumstances. Many authorities found they
could no longer afford to fund the proliferation of government programmes for housing, urban renewal, land use and transportation planning typical of the egalitarian approach to liberalism of the post-war period (Knox 2011). As such, governments embraced what Peck and Tickell (2002) have referred to as ‘roll-back’ and ‘roll-out’ neoliberalism which resulted in the cancellation of many public housing and infrastructure spending programmes as well as the establishment of public-private partnerships and the adoption by local governments of a decidedly pro-business attitude to land use decisions epitomized by the ‘highest and best use’ principle (Knox 2011). Local planning departments have become increasingly reliant upon proposals from private sector property developers resulting in the privatization of public space and in an urban form that is inextricably tied to commercial viability (Knox 2011; Zukin 2003a; Zukin 2003b).

Changing economic fortunes combined with changes in the ability for cities to address these changes have fundamentally shaped the direction of postmodernism in the built environment. Many cities have adopted restructuring policies aimed at re-positioning and re-branding the inner city as a centre of cultural production and as a key node in international networks of capital, services and information exchange (Tiesdell et al. 1996; Knox 2003; Hutton 2004; Clarke 2003). Such policies include an increased emphasis on design and aesthetics in the built environment whereby the uniqueness of place, in terms of image and experience, has become an important marketing tool for cities and a basis for post-industrial economic restructuring (see, for example, Short et al. 1993; Summerby-Murray 2002). Conservation has developed as a natural niche within the overall transition to postmodern urban form and has become an ally of post-industrial restructuring. As Ashworth (2003) explains, “much of the intrinsic purpose of conservation, whether made explicit or not, is the discovery and enhancement of distinctiveness” (p. 243). Haughton and Hunter (1994) note, for example, that place-marketing often draws on “the legacy of the built environment inherited from the first golden age” (p. 39 as cited in Tiesdell et al. 1996, p. 22). As such, functional diversification and/or restructuring of a declining area is often achieved through the conversion and adaptive re-use of existing historic buildings or the use of industrial symbolism in new developments (Tiesdell et al. 1996; Zukin 2003b; Tyrer and Crinson 2005). The result is an urban landscape characterized by the convergence of economic
development and culture that Knox (2011) argues focuses on spaces of consumption rather than production and which are “closely woven into the narratives of city branding” (p. 150).

Pursuing a conservationist approach to inner city restructuring, however, is not without conflict. As Lynch (1972) argues “[a]n environment that cannot be changed invites its own destruction” (p. 39). Thus, the primary driver of this tension is the question of the nature and extent of acceptable change to the built environment and the interaction of conservation values with overall planning and economic development objectives for the inner city. Other important questions, however, surround the cultural and political values implicit in the particular path local conservation policies take; namely, what is to be conserved, how is it to be conserved, who makes those decisions, do they meet the approval of landowners, the development community and the general public and, if not, what is the nature of the conflicts that arise and the tradeoffs that result? (Larkham 1996). As historic conservation as a discipline has evolved, particularly since the post-war period, the answers to these questions, in the eyes of conservation theorists, have also necessarily transformed. The question remains, however, as to whether this same pattern is evident in conservation practice.

1.1 The case: heritage conservation in Victoria, B.C.

The City of Victoria has been recognized as a leader in historic conservation activities in the province of British Columbia since the mid-1960s. Old Town, the largest single historic area in the province of British Columbia, makes up a significant portion of the city’s downtown core (City of Victoria 2006). Not only is the area recognized by various national designations for its role in the commercial, economic and social development of the province but the area is also home to over 200 properties that have been listed on the City of Victoria’s Heritage Register (City of Victoria 2011a).

Victoria’s pursuit of historic conservation can, in part, be seen as a result of its unique historical development and circumstances. Due to a number of factors, the city entered a post-industrial phase of development relatively early as compared to other North American cities thus requiring the local government to tackle the issues of obsolescence and adaptation in the built environment at a time when most other cities were still reaping the rewards of
industrialization. Following decades of slow decline, Victoria entered the post-war period with a renewed sense of economic optimism based on tourism, government and the service sector. Heritage conservation was embraced as a means of revitalizing its downtown core, without detrimental changes to the form and character of the built environment. Indeed, many streetscapes in the downtown core remain visually unaltered from their appearance at the turn of the 20th century.

Victoria offers an ideal case study of changing approaches to the practice of heritage conservation planning. The city’s history of involvement in heritage conservation means that the city has had sufficient time to develop a comprehensive approach to heritage conservation and to adapt it to changing circumstances and attitudes, thus providing the ability to observe evolutionary trends. In addition, the extent of conservation in the downtown core, the historic and current economic centre of the Capital Region, provides an opportunity to explore the evolving intersections between heritage conservation approaches and goals and broader planning goals for the revitalization of a post-industrial downtown.

1.2 Problem statement

The purpose of this research is to explore the intersection of theory and practice in heritage conservation planning. Specifically, it attempts to trace the general evolution of thought in heritage conservation planning and its insertion into the overall planning framework of the city in parallel with the implementation of heritage planning activities in Victoria B.C. In order to achieve this objective, the following research questions are addressed:

1. How has the discourse of heritage conservation planning evolved over time?
2. How have heritage conservation issues interacted with more mainstream planning considerations such as land use, density, urban design and economic development?
3. To what extent have heritage conservation planning initiatives in Victoria B.C.’s historic downtown core paralleled the general trajectory of thought in heritage conservation planning and its interaction with mainstream planning concerns?
1.3 Methodology and data sources

This research will use a case study approach to explore the intersection of theory and practice in heritage conservation planning. Case studies are frequently used in planning research as they have the potential to produce the rich, detailed, contextual descriptions necessary to understand the nuances that make planning policies and their outcomes differ from place to place. Historic conservation planning is no different; being best understood within the specific local context that it occurs (Tung 2001), as each city has a unique preservation ethic developed from the particular history, economic and political circumstances of the locale. Further, the details of conservation planning are, in most countries, left to local authorities (Larkham 1996). In Canada, although heritage policy indeed touches all levels of government, this is indeed the case. In British Columbia, in particular, Murray (2010) notes, “with few exceptions, the province has clearly considered that heritage is a responsibility best assumed at the local level, so the policy field is characterized by devolution and program delivery by civil society partners” (p. 381).

While a variety of research methods are available to the case study researcher, in this case, my approach encompasses a literature review and document analysis. City of Victoria planning documents will constitute the bulk of the documents analyzed. Specifically, Official Community Plans, as well as neighbourhood plans for the downtown area, policy plans concerning heritage conservation and related reports and implementation tools will be reviewed. These documents provide insight into the relationship between heritage conservation and planning decisions for the downtown core. In addition, newspaper articles, online discussion forums and books on the subject of such planning efforts are reviewed. Records and photographs available through both the City of Victoria Archives and the BC Archives are also used to corroborate information gathered from newspaper articles and books on the general course of development and economic change in Victoria.

1.4 Structure

This work begins by reviewing the evolution of heritage conservation planning as outlined in the literature. Changing ideas in heritage conservation planning are documented beginning with the emergence of concern over the fate of historic structures and progressing to current
thinking on the purpose of and approach to conservation. Throughout this review a variety of themes connected to heritage conservation are considered including, the role of the public and private sectors, intersections with the property market, social and cultural values and, in particular, connections between heritage conservation and broader planning considerations and goals.

This work then turns to a consideration of the evolution of heritage conservation in practice through a case study of the Old Town and Chinatown historic district in downtown Victoria B.C. Chapter 3 begins by contextualizing the case study through an overview of the city’s historical development. While the historical development of the city necessarily begins prior to European contact, for the purposes of this work, it is considered only from the founding of the city as a Hudson’s Bay Company outpost in the 1840s. Chapter 4 flows from Chapter 3 and rounds out the contextual framework of the research focusing specifically on the development of Old Town and Chinatown in relation to the development heritage conservation policies for the area.

Chapters 5 and 6 form the analytical component of the case study. Chapter 5 traces the evolution of heritage conservation policy for Old Town and Chinatown and the changing relationship between the program and broader planning goals for the downtown core. This is followed by Chapter 6, which considers how the implementation process of the current heritage conservation program in Old Town and Chinatown occurs through an examination of a particular rehabilitation project, the Morley’s Soda Factory building. Particular attention is paid to the roles of the city, the private sector, the property market, and the general public in the rehabilitation of a building under the city’s current conservation program. Finally, Chapter 7 offers a conclusion, which considers the apparent linkages and contradictions between the evolutionary trajectories of heritage conservation as outlined in the literature versus in practice, as demonstrated through the case study.
2 Changing Ideas in Heritage Conservation

Tiesdell et al. (1996) note that the development of conservation policy hinges on two factors: the recognition of value in the historic built environment and the desire to conserve it. Thus, the evolution of conservation policy is largely a story of changing attitudes towards the built environment. While conservation activity, in some form, is visible in most, if not all, modern societies, Avrami et al. (2000) note, “how conservation is approached and undertaken varies from culture to culture” (p. 3). This chapter explores the evolution of ideas in heritage conservation in the Western world. It considers how this evolution has been influenced by broader structural changes that have occurred in Western cities and how heritage conservation has been shaped by and has, in turn, shaped the practice of planning for urban areas.

2.1 Conservation as an ideal of the social elite

In Western society, the notion that certain aspects of the historic built environment deserve preservation emerged in relatively recent history. Specifically, Larkham (1996) suggests that although isolated conservation activity certainly occurred prior to the mid- to late-18th century, it was not until this time that the social elite in a number of European countries began to view the inherited landscapes of the past in a conservationist light. This corresponded to larger social changes of the Victorian era including the introduction of ideas of the ‘beautiful’, ‘sublime’ and ‘picturesque’ in philosophy, psychology and architecture by the Romantics. Particularly influential in shaping attitudes towards the built environment at this time was John Ruskin’s 1849 book The Seven Lamps of Architecture, which, for the first time, emphasized the spiritual and historic importance of architecture to a nation (Larkham 1996).

Changing attitudes, however, were relatively slow to translate into official policy and legislation. It was not until the late-19th century that the first legislation was enacted in a number of European nations (Britain, The Netherlands, France and the German States) and not until the early- to mid-20th century for most other nations (Larkham 1996; Carmona et al. 2003). The key concern of these early actions was undoubtedly protecting historic buildings
and monuments from harm with justifications for doing so primarily manifesting themselves in ‘should’ statements implying a moral obligation to preserve certain aspects of the historic built environment (Ashworth 2003). In *The Seven Lamps of Architecture*, for example, John Ruskin argues for the preservation of historic buildings by suggesting “we have no right whatever to touch them” (Ruskin 1849 as cited in Larkham 1996, p. 12). As such, early policies were largely passive in nature and limited in effect focusing on creating inventories of historic buildings and monuments selected by ‘experts’ on the basis of supposedly objective, intrinsic and obvious qualities such as age, beauty or religious significance (Ashworth 1994; Larkham 1996; Tiesdell et al. 1996). Correspondingly, restoration dominated the approaches taken to intervention in historic buildings giving questions of authentic form precedence over questions of use and economic viability (Larkham 1996; Ashworth 2003). In this sense, preservation effectively became the antithesis of development accepting no other urban management option that total preservation of those buildings and monuments deemed worthy (Ashworth 2003).

Upper-middle class values of beauty and significance dominated conservation policy and practice until the mid-1960s to early-1970s. Writing in 1972, Kevin Lynch notes that, in the United States, “large segments of the population have come to feel that preservation is moral in itself and that environments rich in [historic] features are more pleasant places in which to live” (p. 30). At this time, the desire to conserve the historic built environment for future generations began to be expressed by a broad public signaling a significant re-valuation within society of the characteristics of old buildings and districts. Whereas earlier preservation efforts reflected the values and efforts of the upper-middle class and relied almost solely on their ideas of intrinsic beauty and architectural significance, by the early-1970s, it was increasingly recognized by a broad public that historic places contain multiple layers of value to communities (Larkham 1996; Tiesdell et al. 1996).

### 2.2 Conservation and postmodernism

The emergence of a broad conservationist attitude in Western society in the mid-1960s to early-1970s is strongly linked to wider processes of social and environmental change occurring at the time. Ellin (1996) highlights two concurrent developments, which had
become increasingly apparent by the late 1960s, and which strongly influenced the expansion of conservation: the dissolution of downtown as the political, economic, social and symbolic focus of the city and, the widespread dissatisfaction with the product of modernist architecture and city planning; that is, the replacement of the existing urban fabric with a landscape of isolated buildings, open space and mass-produced tract housing.

Critics, such as Jane Jacobs, charged modernist planning and urban design with creating a landscape of ‘placelessness’, “of anonymous, impersonal spaces, massive structures and automobile throughways” (as cited in Ley 1987, p. 43). Instead, critics advocated an approach to planning and design respectful of existing local and historical context and expressed nostalgia for familiar styles of development, including a renewed interest in the historic built environment. As a design response to the mass-produced anonymity of modernist architecture, postmodern architectural styles, as they have come to be known, favour a pluralism ranging from “strict academic historicism, to a more ironic or parodic return that interprets the past, to drawing inspiration from the site, the social context, and/or from mass culture.” (Ellin 1996, p. 18). Ley (1987) argues that the underlying objective of such styles is the “construction of forms which suggest and evoke symbolic associations” through which local history and culture are recognized (p. 44). Thus, Ellin (1996) describes the ‘postmodern reflex’ as perhaps best understood “as a part of a larger search for meaning and security in a world that appears increasingly meaningless and scary” (p. 124).

One aspect of the postmodern response in architecture and urban design has been the broad call to maintain local historic flavour through the conservation of existing historic structures. Indeed, Ellin (1996) notes that the 1960s and 1970s saw “an efflorescence of historic preservation movements that extended around the globe” (p. 81). As an example, Relph (1987 as cited in Ellin 1996, p. 81) notes that, prior to the passage of the 1966 Historic Preservation Act in the United States, which called for the protection of historical or architecturally significant districts, only twenty cities in the United States had established conservation districts, whereas by 1975, over 200 cities had enacted them. In part, the proliferation of conservationist values can be seen as a natural extension of the postmodern cultural turn in architecture and planning. The momentum the movement has seen over the
course of the 20th century, however, has been greatly aided by several factors. The conservation field has, for example, become professionalized and legitimized through the establishment of academic degree programs dedicated to historic preservation (Ellin 1996). Perhaps more importantly, however, has been the coincidence between the growth of heritage conservation and social, economic and political processes occurring throughout the latter half of the 20th century.

Ellin (1996) argues “In its collective manifestation, the nostalgic impulse [in postmodernism] might be understood as a response to rapid change” (p. 124). This is substantiated by Kevin Lynch’s work on time and the built environment, in which he suggests that preservation is a key element to human psychological well-being and the ability for humans to comfortably adapt to change (see Lynch 1972). It is perhaps not surprising, then, that as the Western world has transitioned to a post-industrial state, whereby formerly productive inner city industries have relocated, leaving a landscape of obsolescence and decay, or have been replaced by predominantly consumption-oriented uses, “the sense of insecurity seems to have grown along with the intensity of the nostalgic impulse” (Ellin 1996 p. 124).

The re-colonization of the central city by the middle classes, beginning in the 1970s and 1980s, has been another force that has added momentum to the conservation movement. In part due to the 1973 OPEC oil crisis and the economic recession and growing concern for resource conservation that resulted from it, as well as a general dissatisfaction with the suburban landscape, the conservation movement gained momentum from the interest in the historic fabric of the central city expressed by ‘gentrifiers’ (Ellin 1996). While a detailed examination of the process of gentrification and its relationship to heritage conservation is beyond the scope of this research, it is should be recognized that gentrification has not only aided the conservation movement but has also contested its purpose and goals. Gentrifiers not only take part in the physical upgrading of historic structures, but also in the social upgrading of the broader neighbourhood, displacing poorer residents and less economically viable land uses. Thus, as Lynch (1972) observes, “historical preservation becomes another cloak for “poor removal”, a device to lure the return of the middle class” (p. 42).
2.3 Values-based conservation

As the conservation profession grew and developed over the latter half of the 20\textsuperscript{th} century, a linear process of conservation decision-making developed, which Avrami et al. (2000) describe as occurring in four stages. First, some product of material culture (an object or place) is recognized as ‘heritage’. In order to safeguard this heritage, the place or object is then afforded some level of protection through, for example, designation or acquisition by a museum. Finally, responsibility for the ongoing management of the object or place is handed to the owner or curator, following which a program of maintenance or intervention to ensure its ongoing survival may or may not occur. In this process, Avrami et al. (2000) argue, “the different aspects of conservation activity often remain separate and unintegrated, retaining the sense that conservation is isolated from social contexts.” (p. 4).

Perhaps most importantly, the linear model of conservation decision-making suggests that intervention decisions are not necessarily connected to the larger process of heritage recognition and, therefore, are not necessarily undertaken in accordance with the original intent of the object or place’s recognition as a heritage resource. It has been conservation interventions, however, that have traditionally generated the most interest among heritage conservation researchers and practitioners as the field has developed over the course of the 20\textsuperscript{th} century. Mason (2004) notes that this has manifested itself in a dominant mentality that can be described as the desire to “fix things”, which Mason further suggests has both literal and metaphoric connotations: the desire to fix deteriorating buildings or artifacts as well as the meaning of the preserved building or artifact.

Indeed, traditional theories of conservation have relied on stable notions of ‘intrinsic value’ or ‘authenticity’, which suggest an unchanging set of values emanating from the object or place itself, to justify conservation decisions (Mason 2002; Avrami et al. 2000). Thus, the separation of conservation interventions from the recognition of heritage values in an object or place is not viewed as problematic as interventions would not, and could not, change the meaning of the object or place.
As a counter to the traditional articulation of value and process of decision-making in heritage conservation, values-based theories of conservation have developed over the course of the last two and a half decades and are now recognized as ‘best practice’ in the field. Values-based theories of conservation prioritize “the memories, ideas and other social motivations that drive the urge to physically preserve the built environment” with conservation decisions based on “the appraisals of people, institutions, and groups make of the built environment’s values.” (Mason 2004, p. 68).

While values have always shaped conservation decision-making to some extent, such theories challenge the traditional theories of conservation on several levels. First, values-based theories argue that heritage is socially constructed and, therefore, fluid in its meaning and contingent on time and place. Avrami et al. (2000) suggest:

Artifacts are not static embodiments of culture but are, rather, a medium through which identity, power, and society are produced and reproduced. Objects, collections, buildings, and places become recognized as “heritage” through conscious decisions and unspoken values of particular people and institutions – and for reasons that are strongly shaped by social contexts and processes. (p. 6)

Thus, the ultimate goal of conservation is not to preserve the supposed intrinsic qualities of objects and places through physical interventions but to conserve the values embodied in their physical materiality, which may be achieved through a variety of techniques including, but not limited to, physical intervention.

As heritage values rely on social context and are seen as contingent and fluid, heritage becomes multivalent under a values-based theory of conservation. As Mason (2002) notes, “Value is formed in the nexus between ideas and things.” (p. 8). Thus, heritage objects and places can be ascribed a variety of values depending on the given moment in time and the social context of the individual, group or institution identifying value; their particular set of ideals, ethics and epistemologies. The variety and contingency of heritage values recognizes that certain values may, and likely will, be in conflict with each other. On the other hand, this does not preclude that some values may be universally, or nearly universally, held. Avrami et al. (2000), for example, suggest that, just as human happiness and societal peace are valued universally, “there is a universal quality to the notion of cultural heritage that transcends
relativistic interpretation but that is equally bound up in specificities of time and place.” (p. 7).

Secondly, values-based theories suggest that conservation is not simply a process of arresting decay, but of creating and recreating heritage (Avrami et al. 2000; Mason 2002). It is a social process, which involves many actions preceding as well as following the act of physical intervention. Recognizing an object or place as “heritage” is a value judgment in itself and, therefore, heritage conservation is not just about identifying existing value but about interpreting and adding value to the object or place through a process of valorization. The process of heritage conservation, therefore, can no longer be conceived as a linear process, but must be thought of as cyclical, integrated and embedded, whereby conservation decisions are responsive to changing social contexts with the heritage product consistently recreated to reflect such changes (Avrami et al. 2000).

Conservation decision-making, in accordance with a values-based theory, relies on an understanding of how and why heritage is valued, and by whom (Avrami et al. 2000; Mason 2002). Choosing a particular conservation approach necessarily prioritizes certain values over others and, as such, the selection process should rely on the prioritization of values expressed by the community and stakeholders in the conservation process, or, in the case of conflicting values, should aim to strike and sustain a reasonable balance of values expressed by each group (Avrami et al. 2000; Mason 2004). The assessment of heritage values, however, is a challenging endeavor due to the diverse, and possibly conflicting, nature of values and the fact that they can change over time and are strongly linked to social contexts. In addition, there are a wide variety of methodologies available to assess values, some of which will be well suited to certain types of values but not to others (Mason 2002).

While any typology under a values-based approach to conservation must be tailored to the specific heritage object or place in question and to the sociocultural contexts in which it exists, Mason (2002) suggests that, generally, the value assessment process can be conceptualized as having three parts, what Mason (2002) terms “identification”, “elicitation and elaboration”, and “ranking and prioritization”, which lead to the articulation of heritage
values. Within this process, Mason (2002) advocates the solicitation of a variety of perspectives and the use of multiple methodologies in order to provide a holistic view of heritage values and the contexts in which these values are generated. The intention is that a more complete picture of heritage values will lead to conservation decisions that are more reflective of community values. Thus, while the articulation of heritage values has traditionally been the domain of expert professionals in the fields of history, art history, architecture and archaeology, Mason (2002) emphasizes the importance of a participatory process involving the broader public. In order to translate a broad list of values into a logical conservation decision, however, there needs to be some process of synthesis or prioritization. To this end, Mason (2002; 2004) suggests using a tool termed a “statement of significance”. Such statements synthesize “all the reasons why a building or place should be preserved, why it is meaningful or useful, and what aspects require most urgent protections” (Mason 2004, p. 64). They are intended to provide clear positions on the value of the object or place in order to facilitate the development of conservation policy, strategies and, ultimately, intervention decisions.

While myriad values can emerge from a value assessment process, a distinction can be made between two broad categories of value: cultural value and economic value. Although there is necessarily overlap between these categories, Mason (2002) argues that economic-cultural distinction is a useful tool for value assessment as “economic and cultural spheres represent two quite distinct attitudes / perspectives toward to the subject of values and valuing.” (p. 10).

2.3.1 Cultural values
Cultural values represent the fact that heritage places and objects are a public good and include historical, symbolic, social, spiritual, religious and aesthetic values. Individual buildings and the urban environments have been increasingly recognized as being more than just “bricks and mortar”, for example; they contain stories, perceptions and associations (Kaufman 2009), they provide opportunities to learn about historic landscapes, events and people (Newby 1994; Ashworth 1994; Larkham 1996), they contribute to cultural memory and identity (Ashworth 1994; Tiesdell et al. 1996; Hayden 2003) and they provide a sense of
orientation, belonging and continuity to their inhabitants (Larkham 1996; Carmona et al. 2003; Norberg-Schulz 2003; Knox 2011). Meaning in the built environment, therefore, exists not only on the level of denotation – the building or area’s primary function, but also of connotation – the socially sustained understanding of the building or area (Carmona et al. 2003). All of these connotations represent cultural values ascribed to historic places and objects.

The importance of conserving the cultural values of a historic place has been articulated by Markus (1993), who argues that the meanings derived from a building’s form, function and space inform social relations helping to define both who we are to ourselves and within society. This is tied to the idea of ‘sense of place’ or ‘genius loci’. Norberg-Schulz (2003) traces the history of the concept back to the Romans who believed that every independent being had its ‘genius’, or guardian spirit, which gave life to people and places and determined their character or essence. The Romans believed that the ‘genius’ had a strong psychological function: in order to orient himself, man had to be able to identify himself with the environment, he had to “know how he is in a certain place” (Norberg-Schulz 2003, p. 124 – original emphasis). In more recent decades, the philosopher Martin Heidegger has suggested that an essential component of the social construction of place is the existential need for people to define themselves in relation to the physical world and that this can provide a feeling of rootedness or of spiritual unity with a particular place (Knox 2011). ‘Sense of place’, therefore, develops from the interaction between humans and the physical setting, function and meanings of a particular place which, in turn, affects their emotional experiences of and reactions to that place (Carmona et al. 2003; Larkham 1996). Thus, many have argued that preserving and/or enhancing an area’s ‘sense of place’ should be the primary aim of conservation efforts (see, for example, Tiesdell et al. 1996; Larkham 1996).

This broader view of cultural value, as opposed to traditional articulations of intrinsic historical, architectural or aesthetic value, has necessarily resulted in an expanding notion of the conservation-worthy. Thus, in terms of urban management strategies, the focus is no longer on architecturally significant or beautiful buildings – although these still have a place within conservation policy – but on more mundane and everyday structures and landscapes.
that embody what Hayden (2003) has termed ‘the power of place’ – “the power of ordinary urban landscapes to nurture citizens’ public memory, to encompass shared time in the form of shared territory” (p. 72). In addition, area-based approaches have become important as they serve not only to preserve groups of structures but also the setting, scale and ambience, the ‘sense of place’, of the district as a whole (Larkham 1996; Tung 2001).

### 2.3.2 Economic values

While economic values necessarily overlap with cultural values, they may be distinguished through their conceptualization in terms of economic theory; that is, values are generated through the consumer and most often expressed in terms of price (Mason 2002).

Since the 1980s conservation decisions have began to intersect in a much more profound way with broader planning goals, such as housing and economic development, as a result of the increasingly prevalent problem of aging urban landscapes and deindustrialization (Larkham 1996). Conservation programs have been increasingly asked to consider issues of obsolescence, decline and deterioration in both individual buildings and historic areas as a whole. As such, the common denominator among conservation strategies of the 1980s and 1990s has been the attempt to attract new uses and investment to the historic area through the mobilization of the heritage image. Compounding this reality have been changes in the political economy of the late-20th century which have meant that local governments have not been able to fund all of the required or desired conservation and that local planning is increasingly reliant on proposals from the private sector to initiate change. Thus, creating an economic climate in which investment will occur in the rehabilitation of the building and/or area has become an imperative to ensure the long-term conservation of the historic resources meaning, “economic and commercial justifications for preservation and conservation must ultimately underpin all others” (Tiesdell et al. 1996, p. 16).

With economic justifications assuming an increasing presence in conservation programs, it is important to understand the historic building in terms of real estate and property development. In an unfettered capitalist market, both economic obsolescence and rising land values relative to improvement values on a lot induce redevelopment pressure which, over
the long term, generally causes land in the private sector to be converted to the highest value use (Tiesdell et al. 1996; Clarke 2003). Conservation controls serve to check this process by discouraging or preventing the demolition of the existing building on the site. The risk in adopting such controls in a capitalist market, however, is the propensity for property owners to purposefully permit their buildings to slide into dereliction thus necessitating demolition on grounds of public safety (Tiesdell et al. 1996).

Heritage conservation has, however, demonstrated an ability to make a positive contribution to housing and economic development goals. This can be seen in many locations in the United States where Listokin et al. (1998) note that rehabilitation makes up a significant component of overall construction activity and has resulted in the revitalization of many historic downtowns through the mobilization of heritage tourism and the creation of new housing units in historic buildings.

Tiesdell et al. (1996) argue that economic value must be created at two scales: that of the individual building and that of its surrounding area as a whole. These two scales should, however, be seen as interconnected as “[t]he value of a particular parcel is, to a large extent, determined by the buildings, public improvements, and activities around it.” (Rypkema 1994, p. 57). The creation of conservation districts can, for example, demonstrate public commitment to an area, providing a level of comfort for private investment (Rypkema 1994).

Approaches to conservation-led economic development at both scales have largely revolved around the accommodation of contemporary uses. At the area-wide scale, many historic areas have successfully accommodated new uses through the introduction of new infill development. This strategy recognizes that there may be desirable uses that will assist in the economic regeneration of the area but which the existing historic buildings are unable to accommodate without detrimental change to their historic character. Introducing new buildings into an historic area, however, is fraught with tension over the potentially harmful relationship between the new building and the existing scale and ambience of the area. Tiesdell et al. (1996) argue that, in order to achieve a harmonious relationship between new buildings and existing historic resources, controls should be adopted to ensure the overall
massing and form of development, as well as the general rhythm of lot width and façade articulation, are consistent with the established character of the area.

Other area-wide approaches to conservation-led economic development have involved large-scale functional diversification involving the re-positioning of the historic area as a centre for tourism or housing. The development of heritage tourism and associated cultural activities, for example, has become increasingly ubiquitous since the 1980s (Dietvorst 1994; Ashworth 1994; Tiesdell et al. 1996). Newby (1994) notes that tourism can be problematic for historic districts as, in many cases, the growth of tourism has led to a situation of ‘over-commercialization’ whereby the pursuit of commercial value in the built environment is undertaken at the expense of the cultural values associated with conservation. Another common strategy has been the encouragement of residential conversion in the inner city (Tiesdell et al. 1996). This trend reflects not only the growing popularity of the ‘industrial chic’ image but also the adoption by local planning authorities of zoning and development policies intended to create residential supply thus providing around-the-clock life and support to businesses and reversing the trend of decline in such districts (Tiesdell et al. 1996). Unless the existing buildings are vacant, however, displacement is often the result of housing-led regeneration and thus, is often closely tied to processes of gentrification whereby lower income residents are gradually displaced by higher income residents and uses (Tiesdell et al. 1996).

On the scale of the individual building, change in form and function is a product of the nature of the building, those who own and occupy it and also of external factors such as natural hazards or war (Markus 1993; Ashworth 2003). Arguably the most important aspect from a conservationist viewpoint is the nature of the building that is being conserved as it has a direct impact on the type and range of intervention options that may be pursued. In many cases, the key to re-creating or maintaining economic value in a historic building is its ability to accommodate contemporary uses; as such, adaptive re-use of some form is a common strategy in revitalization efforts. The specific characteristics of an individual building affect its capacity to accommodate uses other than those for which it was originally designed. From a conservationist perspective, robust buildings, those buildings that can accommodate
changes in use without significant change in their physical form, generate the least conflict in achieving the dual objectives of creating economic value while preserving the historical and cultural values associated with the building (Carmona et al. 2003). Although Rypkema (1992) argues that recent preservation activity has demonstrated “that there is, in fact, an alternate use for virtually every kind of structure” (p. 206 as cited in Tiesdell et al. 1996, p. 34), one of the most flexible building types has proved to be the 19th century warehouse. Due to the utilitarian layout of these buildings, they have shown an ability to accommodate a wide range of uses including: residential, commercial, office or workshop / studio uses (Tiesdell et al. 1996).

The innate adaptability found in the 19th century warehouse is often not the case with other historic building types. Re-use, in such cases, often involves substantial structural alterations in order to accommodate modern functions. Alterations are primarily required to the interior space of the building sparking debate around the relative value of exterior versus interior form. Larkham (1996), for example, argues that conservation policy should emphasize the outward appearance of buildings as the preservation of exterior forms presupposes the preservation of the historic plot and street pattern thus also preserving the physical scale and character of the area. This view would see façadism – the construction of new building behind a retained historic façade – as an acceptable intervention technique. While façadism certainly provides the most flexibility in terms of accommodating new uses, Tiesdell et al. (1996) argue that it also “reduces the design of buildings to mere two-dimensional elevations” (p. 175) thus resulting in built forms which Richards (1994) describes as “little more than stage sets” (p. 20 as cited in Tiesdell et al. 1996, p. 175). Instead, Tiesdell et al. (1996) suggest that the relationship between the interior and exterior of a building is important and that enough of the interior arrangement should be preserved in order to maintain the sense of depth when viewed from the street.

Realizing the potential contributions of heritage conservation to housing and economic development at the scale of the individual building, as well as the historic area as a whole, requires a favorable regulatory and investment climate. Listokin et al. (1998) note that, in the United States, the potential economic benefits of heritage conservation are often stymied by
inhospitable and inflexible regulations. While tax credits for heritage conservation available in the United States have generated a significant number of new housing units, local zoning often limits the ability to change a building’s use while building codes often prevent the use of vacant upper stories in older commercial buildings by requiring two means of egress (Listokin et al. 1998). In Canada, Dehenz (2007) notes that income tax, property taxes and the Goods and Services Tax (GST) have all traditionally favored demolition and redevelopment over rehabilitation. Building codes, on the other hand, have a varying effect in Canada, where they are provincially regulated. In British Columbia, for example, heritage conservation has greatly benefitted from the inclusion of a schedule for alternative compliance, which can facilitate the accommodation of required safety upgrades while remaining sensitive to the heritage values of the building.

In many cities, the potential to capitalize on the potential housing and economic development benefits associated with heritage conservation has led to the adoption of what Ashworth (1994; 2003) has termed a ‘heritage’ approach to conservation. Larkham (1996) defines ‘heritage’ as “neither history nor place” but as “the process of selection and presentation of both for popular consumption” (p. 14). This approach clearly contains a strong market-orientation with historic resources selected for conservation based on their ability to be interpreted into an end product that will fulfill some segment of consumer demand (Ashworth 1994; 2003). Although there are many different ‘heritages’ that can be developed and a wide variety of urban management strategies that can be employed under this approach, the strategies selected are necessarily based on the vagaries of the market and have predominantly aimed to generate investment and local economic development through the use of the historic built environment in place-marketing and regeneration (Tiesdell et al. 1996; Larkham 1996). A significant implication of this is that, not only can different products be created through different interpretations of the same physical resource, but that it necessarily involves a “choice from a wide range of pasts, many of which will not be selected” (Ashworth 1994, p. 28). Not surprisingly, then, significant criticism has been mounted against the selectivity and sanitization of the history that is presented through the ‘heritage’ approach (see, for example, Summerby-Murray 2002) and specifically, the lack of representation by minority groups (see, for example, Hayden 2003; Kaufman 2009). Thus,
what gets preserved and what version of history gets presented is largely a function of what we identify as history, how we perceive what is identified and who gets to make those decisions (Tunbridge 1994; Tiesdell et al. 1996).

2.4 Conservation and sustainable development

Recently, the rising trend of consumerism in the Western world has encountered significant challenges. Knox (2011) notes that the global financial meltdown of 2008 – 2009 has brought a halt to consumer spending, has presented a fundamental challenge to neoliberal ideology and has fostered an interest among the broader public in creating a more sustainable and liveable urban future. This has given increasing momentum to growing concerns over poverty, climate change, environmental pollution and the depletion of global oil reserves, which has led to the emergence of sustainable development as a new paradigm in urban planning and architectural practice. Sustainable development requires the “promotion of values that encourage consumption standards that are within the bounds of the ecologically possible and to which all can reasonably aspire” (UN 1987, paragraph 5). Although sustainable development is recognized as having three ‘pillars’: environmental, economic and social equity, emphasis has been placed on the environmental dimension, as all other systems must operate within its confines. Thus adapting the built environment of cities to reduce its dependence on the natural environment for resource and waste assimilation functions has become the new goal in planning and architectural circles (Carmona et al. 2003).

Worskett (1975) argues that “at root, conservation like any other planning activity, is political…but it cannot succeed in a socially acceptable way without political support” (p. 9 as cited in Larkham 1996, p. 17). Thus, in order for historic conservation to have a viable future, there has been increasing recognition of the necessity of aligning its goals with those of the emerging sustainability paradigm. For example, Carl Elefante, one of the foremost writers on the intersection of conservation and sustainable development, has indicated the potential for a strong relationship between the two disciplines through his well-known phrase ‘the greenest building is…one that is already built’ (Elefante 2007). Furthermore, Elefante
(2007) has suggested that the process for building this relationship is necessarily one of greater communication, of teaching and learning.

Many conservationists have extolled the numerous lessons that conservation, as a discipline, has to teach the sustainable development movement. At the most fundamental level, Elefante (2007) notes that “[l]argely, the green building movement remains blind to its most troubling truth: we cannot build our way to sustainability.” (p. 26). Thus, one of the strongest sustainability arguments for heritage conservation is the recognition that “material conservation is an inherently waste-avoidance activity” (Cassar 2009, p. 6). Many cities, however, have been quick to embrace an approach to sustainable development centered on the use evaluation tools and codes, such as Leadership in Energy and Environmental Design (LEED), which typically measure environmental performance determined by a set of finite criteria and compared to set standards written for new buildings making their retroactive application to existing buildings quite difficult (Powter and Ross 2005). As such, many of the inherently sustainable attributes of building preservation and re-use, including: the conservation of energy and resources (Tiesdell et al. 1996; Cassar 2009), the preservation of inherently ‘green’ design features such as shutters, storm windows and vestibules (Powter and Ross 2005; Elefante 2007) and the role of buildings and construction in fostering regional and local culture, supporting community life and the economy (Powter and Ross 2005), are not appropriately recognized. Larkham (1996), for example, notes, “calculating the energy cost of building an existing structure and modifying it, compared to the energy costs of its demolition and replacement, often suggests that the former is a more energy-efficient solution” (p. 9-10). Results of a 2009 Life-Cycle Assessment study of the embodied energy effects of existing renovated historic buildings, conducted by the Athena Sustainable Materials Institute, in association with Morrison Hershfield Ltd., for example, suggest that significant environmental impacts can be avoided through building reuse, rather than demolition and redevelopment. In addition, the study found the magnitude of embodied energy effects to be so great that they are unlikely to be superseded by operating energy considerations where a building has been effectively renovated (Athena Sustainable Materials Institute and Morrison Hershfield Ltd. 2009). Despite such evidence, however, most of the green buildings rating systems currently in use accommodate only a superficial
system of life-cycle analysis, which ignores any potential after-use impacts other than demolition and disposal (Powter and Ross 2005; Elefante 2007).

Although many conservation projects appear to embody the concepts supported by the sustainable development movement, Cassar (2009) warns that “[t]he heritage environment must engage fully with the process of adaptation to climate change that the whole of society is undergoing; otherwise the real risk that historic buildings become redundant and the price of environmental obsolescence – demolition – in the future will be high” (p.8). Elefante (2007) suggests that, in order to avoid the consequence of environmental obsolescence, conservationists must address the fact that, although some historic buildings perform comparably well in terms of operable energy use, many do not. Instead of relying on the common practice of requesting exemption from energy performance requirements, Elefante (2007) suggests that conservation projects should seek to achieve alternative compliance. This, however, may induce conflict between the necessity to adapt the building and the desire to conserve its character and historical significance. Thus, Cassar (2009) suggests that “[s]ince the measure that we take will increasingly affect the integrity and therefore the meaning of historic buildings, we need evidence to justify the inevitable changes in significance and value to the public that major interventions to reduce and improve energy use entail” (p. 9).

2.5 Discussion and summary

Since its effective beginnings in the mid- to late-18th century, historic conservation activity in the Western world has greatly broadened in scope; there has been an expansion in the justifications for conservation, in its subject matter and in the range of social groups involved. Initially, historic conservation activity was a simplistic concern among the social elite over the survival of a relatively small segment of the historic built environment, which was deemed to embody qualities of beauty and architectural significance. Today, historic conservation is a widespread concern spanning all social classes over the survival, as well as the continued use and enjoyment, of historic areas. This concern is not only due to the perceived beauty or architectural detailing of historic buildings but also their socially sustained meanings and potential for economic development. The emergence of postmodern
critiques of the prevailing attitudes towards the planning and design of the built environment in the 1960s and 1970s generated a significant re-valuation of the historic urban fabric and saw the growth of a conservation movement in many Western countries. The development of values-based theories of conservation have recast heritage conservation as a social, as opposed to a technical, process and, as such, an enduring process “at once evolutionary and inventive – not a static set of practice and things” (Mason 2004, p. 70). More recently, historic conservation has attempted to realize the opportunities of the sustainability movement in terms of extolling the ‘green’ virtues of the historic built environment. This has led to a re-positioning, in some respects, of the justifications for conservation with many advocating for greater recognition of the inherent sustainability of conservation practice. Successive waves of thought in historic conservation have not entirely replaced the thinking of earlier periods, however, with the result that contemporary conservation programs generally exhibit a collection of elements from each stage in the development of ideas (Larkham 1996).

The gradual adoption of a more holistic approach to heritage conservation has resulted in a greater connection between heritage conservation and the broader practice of planning. Heritage conservation is now justified in terms of values, which often, if not always, intersect with traditional planning concerns of urban design, land use, affordable housing and economic development. Once the explicit domain of expert professionals in the fields of history, architecture, art history and archaeology, heritage conservation is now recognized as a social process necessarily involving a broad public including elected officials, property owners and cultural organizations as well as so-called experts from a wide variety of professions.

The evolving nature of conservation has been reflected in international doctrine on the subject, which, in turn, has informed national, regional and local conservation policies. The 1964 Venice Charter of the International Council on Monuments and Sites (ICOMOS), for example, is essentially silent on the existence of any heritage values beyond the historical and art-historical values of the physical materiality of the building or site. In addition, the charter assumes the universality of cultural values as opposed to the multivalent approach
later developed under values-based conservation theories. The social context of conservation decision-making, the non-physical values associated with heritage conservation as well as the importance of public involvement in the conservation process have only been recognized in more recent international charters, first appearing in the 1987 *Charter on the Conservation of Historic Towns and Urban Areas*. The principles of the document, for example, include:

*Principle #1:* In order to be most effective, the conservation of historic towns and other historic urban areas should be an integral part of coherent policies of economic and social development and of urban regional planning at every level.

*Principle #3:* The participation and the involvement of the residents are essential for the success of the conservation programme and should be encouraged. The conservation of historic towns and urban areas concerns their residents first of all.

Subsequent international instruments have largely served further this approach. The 1999 *Charter on the Built Vernacular Heritage*, for example, advocates a multidisciplinary approach to conservation, which respects the community’s established cultural values and embraces “not only the physical fabric of buildings, structures and spaces, but the ways in which they are used and understood, the traditions and the intangible association which attach to them” (Principles #2 and #5).

Just as the development of international doctrine on heritage conservation has reflected the broader evolution of the field and its progressive integration with the planning profession, so to have national, regional and local conservation programs reflected this progression. In Canada, for example, Parks Canada has now published two editions of its *Standards and Guidelines for the Conservation of Historic Places in Canada*, which sets out an explicit values-based framework for conservation decision-making. Given, however, that most historic places are real property and, therefore, fall under the domain of provincial or local jurisdiction, many provincial and local jurisdictions have based their conservation programs on these standards and guidelines and, in some cases (e.g. Victoria) have formally adopted the document as a set of guidelines to inform heritage conservation decisions.

The evolution of historic conservation in theory has predominantly been a story of expanding focus and increased integration with broader issues in planning practice. A clear consequence
of this interaction has been the broadening scope of conservation rationale through the inclusion of an expanding, and often conflicting, variety of values ascribed to the historic built environment. This has indeed added greater complexity to the general, underlying tension in historic conservation between the desire for stability in the built environment and the imperative of change but has also led to a more holistic and locally-responsive notion of heritage conservation. Thus, no longer is conservation a simple choice between saving old buildings and demolishing them. Conservation now encompasses a wide range of choices among a variety of urban futures and involves questions of social, cultural, political, economic and environmental value.
3 The Historical Development of Victoria, B.C.

The contemporary City of Victoria began as a Hudson’s Bay Company (HBC) trading post in 1843. The decision to establish Fort Victoria was largely a consequence of the broader political climate of the time. In the 1820s, the London-based HBC had established its western-North American headquarters at Fort Vancouver on the northern bank of the Columbia River. At this time, the British and American governments were still in the process of negotiating the boundary between their effective jurisdictions in the western territories of North America and, as such, traders of both loyalties operated side by side in the area around Fort Vancouver (Reksten 1986). Although Fort Vancouver’s location on the northern bank of the Columbia River had initially been a strategic response to the apparent likelihood of the establishment of the Columbia River as the border between British and American territories in western North America, by 1842 it appeared more likely that the 49th parallel would become the agreed upon boundary (Reksten 1986). Being south of this latitude, relocating their western-North American headquarters north of Fort Vancouver became a priority for the HBC who promptly began explorations around the southern tip of Vancouver Island for a site for a new fort.

The resulting explorations led to the establishment of Fort Victoria in 1843 adjacent to the Songhees’ main village on the site now bounded by Government, Broughton, Wharf and Bastion Streets (Figure 3.1). Initially, Kluckner (1986) notes that Fort Victoria enjoyed a “bucolic pace of life” (p. 32) with little development outside the fort aside from “the occasional log cabin and the cultivated fields, which started just outside the fort’s walls” (p. 14). It became apparent, however, that Fort Victoria was destined to become more than a trading post; specifically, the British government was keen to colonize Vancouver Island in order to provide security to their claim on the region. As such, in 1849, the Crown Colony of Vancouver Island was established with Fort Victoria as its capital. The British government granted the HBC control over the colony with the condition that a settlement of resident colonists be formed within five years (Kluckner 1986). Thus, the HBC had a strong influence over settlement patterns in the city’s formative years.
Formal preparations for settlement began in 1850 with the purchase of the adjacent Songhees’ townsite and, in 1853, with the surveying and layout of the Victoria townsite with its inner streets hugging the fort stockade (Segger 1996; Kluckner 1986). Immigration and development of the permanent settlement envisioned by the British government, however, were relatively slow until the discovery of gold on the Fraser River and the subsequent establishment of the Crown Colony of British Columbia, with New Westminster as its capital, in 1858. Victoria, in 1858, had only a handful of small wooden shops and saloons outside the fort stockade and was, therefore, ill-prepared to meet the needs of the influx of approximately 20,000 miners and traders which arrived within the year (UBC School of Architecture 1971). Victoria, however, blossomed as a city during the gold rush era becoming a free port in 1859 and incorporating as a city in 1862 (Segger 1996). The gold rush triggered an economic boom, which manifested itself in a construction frenzy along those streets that had been laid out with the initial townsite survey in 1853; in particular, along Wharf, Johnson, Yates and Bastion Streets in the area immediately to the north of the fort (UBC School of Architecture 1971; Reksten 1986; Segger 1996). In addition, the gold
rush initiated the first wave of Chinese immigration to the city leading to the establishment of Victoria’s Chinatown to the north of the HBC fort across the Johnson Street ravine. As land prices rose around the inner city, the HBC saw the opportunity to establish its governing functions on cheaper land and, as such, in 1864, dismantled the fort, subdivided and sold the land opening up additional land to meet the growing needs of incoming settlers, miners and traders (Kluckner 1986).

Most of the development from the gold rush era consisted of single storey, wooden structures (Figure 3.2). An early exception was Wharf Street immediately south of the old fort stockade which, by 1864, had much the same streetscape, dominated by one- and two-storey brick buildings, as it is today (Figure 3.3). The ‘boom-town’ atmosphere characteristic of the gold rush era, however, was in decline by the mid-1860s. Reksten (1986) reports that, by the winter of 1864, business had dropped, the population was declining, land values were plummeting and virtually no new development activity was occurring. The flood of gold seekers had become an exodus of discouraged men who, having spent their savings and found no gold, were looking for jobs or waiting for funds from home (Reksten 1986).

![Figure 3.2 Wooden construction on Government Street circa 1865](Source: BC Archives)
With the end of the gold rush, the colonies of British Columbia and Vancouver Island found themselves struggling economically. To reduce the costs associated with running the colonies, *An Act for the Union of the Colony of Vancouver Island with the Colony of British Columbia* received royal assent on August 6, 1866. The terms of union, however, were less than favorable for Victoria: Victoria was to lose its status as a free port and the position of governor of the new colony was to be assumed by British Columbia’s governor, Frederick Seymour, who was also charged with the decision of naming the capital of the new colony (Reksten 1986). Reksten (1986) reports that, although Seymour hoped the legislature would support British Columbia’s capital, New Westminster, as the new capital, he hesitated to name a capital from 1866 to 1868 allowing Victoria’s politicians to rally support throughout the province leading to the eventual decision to make Victoria the capital of the new combined colony in 1868.

Figure 3.3  Early brick construction on Wharf Street circa 1864
(Source: BC Archives)
Following the union of the colonies, the new colony faced the decision of whether to join the newly formed Dominion of Canada. Early on in the discussions it was determined that, as a condition of entering Confederation and as a necessity of creating a strong union within the Dominion, British Columbia would have to be connected via rail with the other provinces to the east. This recognition, however, sparked much debate surrounding the particular route and location of the terminus of the new rail line. At the time, British Columbia’s imports and exports arrived and left through Victoria’s harbour with San Francisco, the terminus of a transcontinental rail line since 1869, the colony’s most important and direct link to eastern markets (Wynn 1992). Thus, Victoria had a well-established economic landscape of commercial, wholesaling, shipping and brokering interests which provided capital to resource production enterprises and connected the extracted resources with broader markets. Harris (1992), notes, for example, that “[c]annery owners [in British Columbia] depended on commission agents in Victoria who advanced cash for supplies and labour; insured, transported, and marketed the salmon” (p. 60).

Being the largest city and most important commercial and political centre in the colony, the question of becoming the western terminus of the Canadian Pacific Railway (CPR) was of serious concern to Victorians. As the October 15, 1870 issue of The Daily British Colonist and Victoria Chronicle noted in an article entitled “The Great Highway”, “[t]he railroad stops at the Pacific; but its consequences and influence must be projected across the Pacific. Looking across both oceans, it beckons the commerce of the two hemispheres”. Securing the rail terminus in Victoria would ensure the city’s continued economic prosperity and growth while its location on the mainland would serve to undermine Victoria’s position of dominance. Locating the terminus at Victoria, on Vancouver Island, however, presented a significant challenge. Thus, there developed two camps in the debate over the route and terminus of the CPR. An informative summary of the debate appeared in the above-noted Daily British Colonist and Victoria Chronicle article, which notes:

There may be considered to be two distinct issues raised in the discussion which has…commenced. The one party would bring the railway to Vancouver Island, making Victoria and Esquimalt the terminus. The other party, pronouncing the crossing of the waters which separate the Island from the continent practically impossible, would make the terminus at New Westminster and Burrard Inlet. Now, here is the real issue: Can the Canadian Pacific Railway be carried across the Gulf of
Georgia? Or, rather, can it be done within practical financial bounds? – for it would scarcely be prudent to set a limit to engineering and scientific achievement now-a-days.

Ultimately, the issue of route and terminus were not to be resolved prior to British Columbia entering into Confederation in 1871. The terms of entrance contained only the promise of the construction of the CPR, remaining silent as to the route and terminus. Despite much political campaigning and debate, in 1880 it was determined that the crossing of the Strait of Georgia was not a feasible option and the decision was made to locate the terminus of the CPR at Burrard Inlet (Reksten 1986). This decision would prove fatal to Victoria’s commercial and industrial core as it directly resulted in the growth and development of Vancouver, which, by the turn of century, would replace Victoria as the province’s dominant commercial centre.

The immediate result of the decision to locate the terminus of the CPR at Burrard Inlet, and the commencement of construction, however, was an economic boom that not only affected the mainland but brought increased prosperity to Victoria. During the 1880s, Victoria, being the largest commercial and economic centre in the province at the time, experienced rapid growth as the railroad provided access to eastern markets. Throughout the decade Victoria experienced a steady growth in population of one thousand per year and, by 1889, had not only become the headquarters of many wholesaling and shipping functions for the province’s staples economy but had also developed a well-established manufacturing centre. Reksten (1986) notes that Victoria, at the time had “the largest iron-works on the Pacific Coast outside San Francisco, …five boot and shoe factories, four wagon and carriage factories, a saw mill, a planing mill, a box factory, a meat packing house, half a dozen cigar factories, two book binderies, two soap works, two cracker bakeries and a corset factory” (p. 111).

Indeed, during the 1880s, Victoria ranked 5th out of the 20 Canadian cities with a population over 10,000 in terms of per capita value of manufacturing production and, in 1890, produced six times as many exports, in terms of volume, as Vancouver and employed twice as many manufacturing workers as Vancouver and New Westminster combined. (Baskerville 1986 as cited in Dawson 2007; Wynn 1992).
Favorable economic conditions precipitated a construction boom in Victoria in the late-1880s and early-1890s. During this period, most of the wooden structures of the gold rush era were replaced with more substantial brick and stone architecture. This redevelopment trend reflects what Segger (1979) has described as a typical colonial concern for “architecture of permanence”; that is, symbolically, the presence of buildings constructed of more ‘permanent’ materials, such as brick and stone, as opposed to wood, were seen as legitimizing the social and cultural status of the colonist. Indeed, almost every structure on lower Johnson, Yates and Bastion Streets as well as the majority of those on Government Street and in Chinatown were constructed during these years (UBC School of Architecture 1971). Thus, Victoria’s commercial core quickly shed its “boom-town” appearance of the gold rush years with sturdy brick and stone buildings, many of which survive today, replacing the low, wooden structures (Figure 3.4).

Figure 3.4  Government Street circa the 1880s  
(Source: BC Archives)
One of the most active local architects during the building boom of the late-1880s and early-1890s was John Teague. Since many of his commercial structures survive today, Segger (1996) argues that, in terms of architectural style, it was Teague, more than any other person, who established the character of Victoria’s commercial core. For example, Teague’s surviving Doane Building (1891), the Colonial Metropole Hotel (1890, 1892) and the New England Hotel (1892) depicted in Figure 3.5 display a common architectural character which Segger (1996) describes as “no-nonsense… with an economical use of Victoria Italianate applied ornament” (p. 18).

![Figure 3.5 The Teague-designed Doane Building, Colonial Metropole Hotel and New England Hotel](image)

As development increased, the commercial landscape of the core area began to exhibit tendencies of specialization and agglomeration. Specialized quarters within the core area began to appear: lower Yates Street, for example, developed into a busy wholesale quarter while one block to the south, in what is now Bastion Square, became, for a time, the legal and financial headquarters of the province with the Supreme Court building constructed in 1889 and the Board of Trade building constructed in 1892 (Figure 3.6) (UBC School of Architecture 1971).
Segger (1979) suggests that the 1890s was the most significant decade in terms of changing the commercial and economic base in the province of British Columbia from Victoria to Vancouver. Although Victorians strongly resisted the erosion of their city’s dominant position in the economic landscape of the province, beginning in the 1890s Vancouver’s spectacular growth, combined with declining trade links with San Francisco, owing to California railroads switching from Vancouver Island coal to oil as a fuel source, served to slowly undermine Victoria’s function as the commercial, industrial and trading hub of the province (UBC School of Architecture 1971; Wynn 1992). While at the outset of the 1890s Victoria was the undisputed dominant city in the province, by the turn of century these roles had dramatically reversed. The federal census of 1901 found Vancouver’s population to be 26,133, substantially larger than Victoria’s at 20,816 (Reksten 1986). Commercially, Victoria dropped from 5th in the 1880s to 20th in 1901 in terms of per capita value of manufacturing production in Canadian cities with a population of over 10,000 and, by 1903, Vancouver’s exports were three times larger than Victoria’s (Dawson 2007).

Vancouver’s spectacular growth was a function of a variety of factors. Undoubtedly, assuming the important position of western terminus of the CPR was Vancouver’s greatest
asset in terms of spurring urban development. Not only providing an easier link to eastern markets for western resources, the construction of the CPR facilitated the expansion of settlement into the interior of BC and to the prairies. The rail link meant that these settlements were closely tied to Vancouver in terms of trade and commerce (Wynn 1992). With regard to industrial development, Vancouver possessed significant physical advantages over Victoria, which struggled with a constricted site and poor access (Hamilton and Simard 1993). Thus, many resource companies began to base their operations out of Vancouver, as opposed to Victoria (Wynn 1992). Perhaps equally important, however, was the attitude of Vancouverites towards the development of their city. Wynn (1992) notes, for example, that during the Klondike gold rush of the late 1890s, aggressive advertising by Vancouver interests meant that the fledgling city attracted and supplied a large share of the incoming miners and traders.

As the centre of commercial and industrial activity slowly shifted to Vancouver, Victoria’s social milieu also underwent a change. Victoria, for example, had housed Canada’s largest Chinese settlement in Chinatown, located across the Johnson Street ravine north of the commercial core, which covered approximately six city blocks in its prime and contained the headquarters of all Chinese associations in Canada (Lai 1991). Chinatown’s development pattern closely followed that of the rest of the downtown core with the majority of the existing brick structures having replaced earlier wooden buildings in the building boom of the late-1880s and early-1890s. Lai (1991) notes, however, that Chinatown adopted a unique streetscape similar to an “ancient Chinese town” with its “maze of claustrophobic courtyards, picturesque arcades, and narrow alleys” leading to “tenements, opium dens, gambling clubs, and other socioeconomic activities” (p. 6). As with the broader population, however, the rise of Vancouver as the dominant commercial centre in the province after the turn of the century gradually eroded Victoria’s importance as the centre of the Chinese community in Canada. Indeed, by 1911 Vancouver’s Chinese population had edged slightly higher than Victoria’s, and Vancouver has since replaced Victoria as Canada’s Asia-Pacific gateway (Lai 1991).

The influx of new types of immigrants also began to change the social structure of Victoria. As opposed to the characteristic settler of the Fraser River gold rush period looking to make
his fortune in the west, Segger (1979) notes that those who chose to settle in Victoria from the mid-1890s were “[e]ducated, cultured, and socially discriminating” coming from “ready-made bankrolls and financial backing” (p. 25). Specifically, this group included a large contingent of Eastern Canadians and Britons; in particular, colonial administrators, civil servants, and British Navy and Army officers looking to retire in Victoria (Segger 1979). Correspondingly, Victoria’s architecture of the mid-1890s through to the First World War “typified a society concerned with demonstrating a certain kind of social aloofness or ‘superiority’ through ostentatious cultural refinement and modishness” (Segger 1979, p. 45 – original emphasis). Two local architects, Samuel Maclure and Francis Mawson Rattenbury dominated the architectural scene during this period landing some of the largest commissions in the province and producing consciously fashionable buildings such as the Provincial Parliament Buildings (1893-1897) (Figure 3.7) and the Empress Hotel (1907) (Figure 3.8) (Segger 1996).

![The Rattenbury-designed provincial Parliament Buildings](image-url)

**Figure 3.7** The Rattenbury-designed provincial Parliament Buildings
As the 20th century unfolded, Victoria’s economic fortunes continued to worsen. Development stagnated and many of the city’s saloons, hotels and wholesalers struggled to survive as they were hit with Prohibition in 1916 followed by the Great Depression of the 1930s (UBC School of Architecture 1971). It wasn’t until the 1950s, in fact, that regional population and development began to increase at a significant pace (City of Victoria 1973). By this time, however, the city’s economic landscape had undergone considerable change. With the rise of Vancouver as the pre-eminent headquarters of the provincial economy, the city had slowly undergone a post-industrial, or more precisely, a ‘post-staples’ (Barnes and Hutton 2009) transition whereby traditional manufacturing, wholesaling and shipping activities were being replaced by, in the case of Victoria, the tourism, government and service sectors as the main drivers of the local economy. The effective ‘heart’ of the city had shifted slightly east, away from the harbour, towards the retail core along Douglas Street leaving areas of obsolete and derelict buildings in the former warehousing and wholesale areas along Wharf and Yates Streets as well as poorly kept low-rent areas in the former hotels and saloons of lower Johnson and Pandora Streets (Hamilton and Simard 1993; UBC School of Architecture 1971).
4 Old Town and Chinatown, Victoria B.C.

This case study focuses on two adjoining areas, Old Town and Chinatown, which together make up Development Permit Area 1 (Heritage Conservation) as defined in the 1995 Official Community Plan as well as adjacent areas along the Inner Harbour located in Development Permit Area 2 (Heritage Conservation) (Figure 4.1). This area is the traditional heart of the city encompassing the first areas of development in the city including the site of the original Fort Victoria (Figure 4.2). This area is also a designated Heritage Conservation Area as per the 1995 City of Victoria Official Community Plan in order to protect, conserve and enhance the “heritage character” of the area (City of Victoria 1995, Schedule B).

Figure 4.1 Old Town and Chinatown case study area, DP Area 1 (red) and a portion of DP Area 2 (blue)
(Source: City of Victoria 1995)
Figure 4.2  City growth to 1964

(Source: Capital Regional Planning Board 1965)
Once a bustling area of wholesaling, warehousing, financial, retail, transient accommodation and entertainment and cultural uses, Old Town and Chinatown stagnated throughout the first half of the 20th century as Vancouver overtook Victoria in terms of commercial and social importance in the province. Dawson (2007) notes that, initially, the city attempted to address the deindustrialization experienced as a result of Vancouver’s growth through attempts to attract potential investors and settlers through marketing the city as “a vibrant and productive centre that offered attractive opportunities” (p. 16). The city’s economy, however, did not show any signs of economic improvement until the post-war period, by which time the mainstays of the local economy had shifted decidedly away from manufacturing and wholesaling to tourism and government.

By the mid-20th century, the effects of this restructuring were clearly visible in Old Town and Chinatown. Although wholesaling and warehousing activities had not entirely disappeared, they were in sharp decline and, those that remained, had largely moved away from their traditional Old Town location in the area west of Government Street and south of Johnson Street along Yates and Wharf Streets (Capital Regional Planning Board 1965). Surveys completed in 1960 by the Capital Regional Planning Board classified 16% of total downtown warehouse space as vacant, the largest proportion in any use category (Capital Regional Planning Board 1965). Figure 4.3 illustrates the spatial consequences of this trend; in 1963, building vacancies in the downtown core were highly concentrated in the former warehousing and wholesaling district of Old Town.
The retail function of Victoria’s downtown core, however, remained strong. Retail sales in the downtown core increased 28% during the 1951 – 1961 trading period (as compared to downtown Vancouver which registered a 13% decrease in sales over the same period) (Capital Regional Planning Board 1965). Furthermore, the 1960 survey conducted by the Capital Regional Planning Board indicated that retail vacancies in the downtown core were relatively low at only 2% (Capital Regional Planning Board 1965). Viable retail businesses often occupied ground floor space while upper floors remained vacant. In fact, 80% of all vacant or derelict (defined as being vacant for at least two years) space was found to be located on the upper floors of buildings, two-thirds of which was in buildings where the ground floor was occupied by an active retail business (Capital Regional Planning Board 1961). By the late-1950s, however, the retail function of the downtown core was increasingly being challenged by the development of suburban shopping malls (City of Victoria 1973).
Thus, by 1965, it was felt that “[o]ne of the most critical questions affecting the future of downtown as a retail centre is, location of the next major department store” (Capital Regional Planning Board 1965, p. 27).

In addition to changes in the economic landscape of the historic commercial core, its traditional residential and social functions, in particular those of Chinatown had diminished. While the primary contributor to Chinatown’s decline was undoubtedly the rise of Vancouver as the centre of Chinese population and culture in Western Canada, Lai (1991) notes that the breakdown of discriminatory barriers towards the Chinese community in the 1960s resulted in the dispersion and assimilation of the Chinese population into broader Canadian society. Although Victoria’s Chinatown continued to play an important cultural and transitional role for many elderly Chinese as well as recent, low-income immigrants, by the 1960s the population and extent of Chinatown had significantly decreased (Lai 1991). Chinatown had become an “undesirable slum and an eyesore” in the minds of many Victorians with a proliferation of condemned tenement buildings “their upper floors boarded up and left vacant” (Lai 1991, p. 11). While adjacent Old Town was not traditionally a residential area, the concentration of hotels and saloons along lower Johnson and Pandora Streets which had once catered to miners and travelers passing through Victoria’s busy port had, by the mid-20th century, become an area of poor quality rooming houses and residential hotels accommodating a relatively small number of elderly, mostly male, residents of below average means (Capital Regional Planning Board 1965; City of Victoria 1973).

As the city’s economy picked up with the post-war economic boom, the City of Victoria was presented with the opportunity to address the landscape of deindustrialization, obsolescence, and decline of Old Town and Chinatown. Planners and politicians of the time saw the image of Victoria as having “three faces”:

The first is a face of mellowed charm and a dignity acquired over one hundred years - a quiet maturity to be seen in public buildings, parks and many residential areas. The second face is that of youthful activity symbolized in the confident new buildings of the last decade. From these two faces comes the popular impression of Victoria as an historic provincial capital, a city of gardens and healthy prosperity. But there is a third face which is not always recognized. It is the face of tired age, weary with the deterioration and neglect which mar the appearance and efficiency of buildings and
their surroundings. This third face is called blight and it is slowly corroding the fair faces of the city and creating both a threat and a challenge. (Capital Regional Planning Board 1961, p. 3)

Thus, the challenge became to revitalize the city through addressing the so-called ‘blighted’ areas. It was under these conditions that, in January 1963, the City of Victoria Council requested that the Capital Regional Planning Board undertake the first overall advisory plan for the city. The plan was to be related to development policy for the capital region as a whole and work was to run concurrently with a regional transportation study (Capital Regional Planning Board 1965).

Completed in 1965, the Overall Plan for Victoria contemplated drastic changes to the historic urban fabric and densities of much of the city and proposed modern transportation infrastructure ‘megaprojects’. In the downtown core, the plan introduced a density concept whereby the highest densities would be concentrated in the heart of the historic commercial district with densities diminishing to the east and north (Capital Regional Planning Board 1965). Specifically, the plan proposed a maximum floorspace ratio (FSR) of 8.0 for the area roughly bounded by Douglas Street to the east, Langley Street to the west, Broughton Street to the south and Herald Street to the north. Surrounding this area, to the south and west, was a proposed band of zoning that would permit a maximum of 5.0 FSR (Capital Regional Planning Board 1965). All proposed zoning categories encompassed a wide variety of commercial uses including retail, office, tourist accommodation and similar uses with smaller amounts of residential permitted in areas south of the core (FSR 8.0) area.

In addition to the increased densities, the plan expanded the scope of the previously completed Urban Renewal Study for the City of Victoria (Capital Regional Planning Board 1961); specifically, in the identified Inner Harbour Renewal Area which covered much of downtown’s historic commercial district (Figure 4.4). Within this area the renewal program was recommended to include: the creation of a pedestrian mall and the rehabilitation of tenement buildings along the 500-block of Fisgard Street in Chinatown and the redevelopment of the block bounded by Johnson, Pandora, Government and Store Streets for
a large department store and parking lot with vehicular access to the recommended West Victoria Freeway which was intended to circumnavigate the downtown core (Figure 4.5).

Figure 4.4  Inner Harbour Renewal Area, including location of the Chinatown and Johnson and Pandora proposals
Figure 4.5  Illustration of the Johnson and Pandora department store redevelopment proposal
(Source: Capital Regional Planning Board 1965)
By the time the 1965 plan was published, however, the City of Victoria had made significant strides in moving their revitalization efforts in the historic commercial core in a different direction through two important conservation initiatives. The first was in 1962 when, under the direction of Mayor Richard Biggerstaff Wilson, the City of Victoria committed municipal funds to the acquisition of land and buildings for the creation of Centennial Square – a public and civic space in the vicinity of City Hall developed in celebration of the city’s 100th birthday. The revitalization scheme included the juxtaposition of old and new with the retention of the Macpherson Playhouse (1914) and Victoria City Hall (1878, 1881, 1891), the construction of an addition to City Hall, a new parkade and specialty shops all grouped around a pedestrian square with a modern fountain at its centre (Figure 4.6). Segger (1979) notes that the retention of City Hall was a product of the determination of Mayor Biggerstaff Wilson “who, believing that the old City Hall had historic and cultural value to the citizens of Victoria, overcame enormous pressure to have the original building destroyed” (p. 61).

Figure 4.6  Centennial Square showing the fountain, original City Hall and 1963 addition

Immediately following the Centennial Square project, the City of Victoria embarked on another revitalization project, Bastion Square, in 1965. The Bastion Square project took the
city’s burgeoning conservationist approach to new lengths through the retention of all existing historic buildings flanking a series of pedestrian squares created from the closing-off of View Street from Government to Wharf Streets (Figure 4.7). Again, civic confidence in the rehabilitated area was demonstrated through the reuse of the Provincial Supreme Court building for the Maritime Museum of British Columbia.

Thus, Segger (1996) argues that the Centennial and Bastion Square projects, coupled with the recommendations of the 1965 Overall Plan for Victoria, “established the terms and language of the debate which would carry forward some 30 years” that is, whether to achieve revitalization through rehabilitation and conservation or whether to adopt a more Modernist approach to revitalization dominated by redevelopment, shopping malls, highways and parkades (p. 25). Although this debate continues in many respects, the City of Victoria is now recognized as a leader in heritage conservation planning. It would appear, then, that the question of whether to achieve revitalization via rehabilitation or redevelopment has largely been decided. Indeed, the 2002 Heritage Strategic Plan, prepared for the City of Victoria by Commonwealth Historic Resource Management Ltd., indicates broad public support for a conservationist approach to revitalization:
Many Victorians acknowledge the success of their conservation program. ‘We’ve almost conquered the “Don’t knock it down” issue. If [a building] can be salvaged, we do it,’ remarked one heritage stakeholder interviewed…Another said much the same ‘It is no longer necessary to convince people that heritage is a good thing. There is close to 100 per cent buy-in.’ (p. 1).

The apparent success of Victoria’s conservationist approach to revitalization has not only been acknowledged by the resident public, but has also garnered the city national and international recognition. In 2001, for example, the city was awarded the prestigious Heritage Canada Foundation Prince of Wales Prize for excellence in municipal heritage preservation (Commonwealth Historic Resource Management Ltd. 2002). In addition, the city has been recognized as an international tourist destination by Conde Nast Traveler Magazine which, in the early 1990s, identified Victoria as one of the top 10 most desirable urban destinations in the world (Tourism Victoria 1992 as cited in Hamilton and Simard 1993). The following chapters provide an analysis of the evolution of historic conservation planning policies and developments in Old Town and Chinatown from their beginnings with the public-led Bastion and Centennial Square projects to the city’s present-day position as a recognized leader in the field.
5 The Evolution of Heritage Conservation Planning in Old Town and Chinatown

By the late-1960s, the City of Victoria had established the terms of debate over the direction in which downtown revitalization would proceed. On the one hand, the recommendations of the 1965 *Overall Plan for Victoria* and the 1961 *Urban Renewal Study for the City of Victoria*, contemplated drastic changes to the built environment of the downtown core. On the other hand, the City, led by the commitments of Mayor Biggerstaff Wilson, had raised public awareness of the city’s built heritage and had put the City in a position of leadership in terms of heritage conservation. Specifically, the City had invested in the reuse of historic structures through the creation of Centennial and Bastion Squares and had achieved the refurbishment of a number of privately owned buildings through the Paint-Up Programme which offered technical advice and colour coordination services to private sector owners in Old Town and Chinatown (200 of which responded between 1965 and 1970, the period for which the program ran) (City of Victoria 1975a). With the two approaches defined, it was not until the early 1970s that the conservationist approach was to win out thus creating the basis of the City of Victoria’s renowned heritage conservation program.

In 1968, following the adoption of the 1965 *Overall Plan for Victoria*, the City of Victoria commissioned Acres Western to conduct a study of the Inner Harbour Renewal Area to establish future demand for space in the area, to propose a preliminary renewal concept and to determine the economic feasibility of this concept. The resulting renewal concept envisioned:

> A multi-functional complex with primary emphasis on high density apartment and hotel construction supplemented by modest recreation and open space and visitor-oriented retail outlets all serviced by off-street parking facilities and loading facilities. (Acres Western 1968, p. 10).

The results of this study found that renewal was economically feasible in the Inner Harbour area provided that federal urban renewal funding available under the National Housing Act be secured and that private capital play a substantial role in the assembly and development of land in the area. Thus, the City’s ultimate renewal scheme for the area envisioned public
funding to be limited to land acquisition for public purposes and public infrastructure improvements (City of Victoria 1971). The evident confidence of the financial backing of the private sector appears to be substantiated in large part by the City’s receipt of a substantial proposal from the private sector to redevelop a large waterfront site known as the Reid Centre site (Figure 5.1). Submitted in 1970, the proposal involved the construction of a large apartment-hotel complex including three 20-storey towers (Webster 1984).

Figure 5.1 Location of the Reid Centre site
The City’s apparent move towards large-scale redevelopment for the Old Town area was met with significant resistance from a variety of groups. In 1971, a group from the University of British Columbia’s School of Architecture produced the *Old Town Report*, which urged Victorians to consider both the history and potential of existing structures in Old Town. The report rejected the approach to renewal proposed by the *Overall Plan for Victoria* and the *Urban Renewal Study for the City of Victoria*, that is, the “fast and harsh method of demolition and rebuilding, usually on a large scale land assembly basis” in favour of an approach that “credits an older urban area…with values more essential to humanity than just the availability of its land for redevelopment” (UBC School of Architecture 1971, p. 39). On this basis, a series of recommendations for the Old Town area were proposed including the adoption of standards for redevelopment and rehabilitation as well as the utilization of regulatory tools to control demolition.

It was the Reid Centre proposal, however, that generated the most powerful resistance at the community level against large-scale redevelopment in the Old Town area. While the project was initially supported at the political level, Webster (1984) notes that it soon generated controversy due to a strong reaction from the public over the proposed scale of the development. Ultimately, it was Alderman Peter Pollen who was to champion the public’s views on redevelopment in the downtown area. During his term as Alderman from 1970 to 1971, Pollen frequently voted against redevelopment proposals. In 1971, he ran a successful campaign for Mayor with significant public support for his views on downtown redevelopment. Indeed, on many occasions throughout his term in office, Peter Pollen was touted as the city’s savior. An article from the June 22, 1975 issue of the Victoria Daily Colonist, for example, claims:

"Malefactors of great wealth and greater avarice were finalizing plans to transform our community from a ‘city of gardens’ into a highrise concrete jungle. Peter Pollen halted such madness. (as cited in Webster 1984, p. 72)."

Amidst the controversy, the Reid Centre proposal never came to fruition. The site has since been purchased by the Province and has been used as a parking lot for decades. The outcome, however, established the community’s desire for smaller-scale, sensitive revitalization,
founded on the rehabilitation of existing buildings and the celebration of the city’s built heritage. It was out of this desire that the city’s renowned heritage conservation program developed and was subsequently implemented. This chapter provides an analysis of select events and key periods in the evolution of heritage conservation policies for Old Town and Chinatown. The analysis focuses on changing approaches to heritage conservation as well as the interaction between changing approaches in heritage conservation with overall planning initiatives and goals for Victoria’s downtown core.

5.1 The emergence of a heritage conservation program (1970s to mid-1980s)

Prior to the early-1970s, there was no enabling legislation at the provincial level in British Columbia that specifically provided municipalities the opportunity to designate or protect historic structures. As such, early conservation efforts in the City of Victoria, such as Centennial and Bastion Square, were undertaken as city capital works initiatives with funding available to property owners for limited rehabilitation activities (i.e. cleaning and painting of historic buildings). In the absence of a clear mandate from the province to engage in heritage conservation, and with the majority of historic buildings owned by the private sector, heritage conservation planning effectively did not exist as a function of municipal government in Victoria.

In 1972, however, Mayor Peter Pollen created the Heritage Advisory Committee, the first body at the municipal level to be specifically tasked with heritage conservation. Segger (1996) notes that the committee was constituted to consider “community values rather than merely professional or academic values” (p. 124); thus fostering public education and awareness around historic conservation. The committee was mandated to make recommendations on buildings for designation and inclusion on the city’s heritage register as well as to receive and respond to requests from the public with regard to heritage conservation. One of their first actions, and arguably their most significant accomplishment, was to lobby the provincial government to amend the Municipal Act to enable local governments in British Columbia to protect heritage structures via legal designation. Ultimately, their lobbying was successful and Section 714A of the Municipal Act was added in 1973 authorizing municipalities to designate “heritage buildings, structures or lands for the
purpose of preserving evidence of the municipality’s history, culture and heritage” (subsection 1, see Appendix A). The amendment also allowed municipalities to create an advisory committee to assist the local government in matters concerning heritage. Members of Victoria’s Heritage Advisory Committee were formally appointed in 1973 under these new provisions.

With a clear mandate to undertake heritage conservation activities, the city embarked on a number of projects in Old Town and Chinatown, which focused, by and large, on identification, designation and area-wide public realm improvements. One of the first substantial projects was the compilation of a heritage inventory for the downtown core. Undertaken by the Heritage Advisory Committee, the result of the project was the 1975 Heritage Conservation Report, which has since been revised and published under the title This Old Town. The report covered only the central area of the city, including Old Town and Chinatown, and identified 133 buildings deserving of immediate attention by Council and a further 88 buildings of substantial heritage interest.

The committee’s criteria for identification in each category is extremely telling in terms of broader ideas in heritage conservation practice at the time. The committee clearly adopts a values-based approach recognizing value in the historic built environment in terms of social and educational resources and economic benefits noting that these buildings “are not merely architectural fossils, but can enhance and serve our urban environment as practical, useful and valuable living objects in today’s social and economic context” (City of Victoria 1975b, p. 1). Thus, buildings were identified based not only on their architectural merits or historical significance but also on their cultural importance and their potential for contemporary use. Those buildings included in the 133 deserving of immediate attention were considered to have opportunities for contemporary use while the other 88 were seen as requiring more effort to rehabilitate and reuse. While questions of use appear to assume a position of importance in the identification of heritage resources, they do not seem to have been the most important consideration in distinguishing among the 133 deserving of immediate attention and the other 88 of substantial interest. The report, for example, notes that those buildings
included in the other 88 had “substantial heritage interest” but were not “heritage landmarks” (City of Victoria 1975b, p. 13).

The publication of the *Heritage Conservation* Report prompted a number of advances in heritage planning in the City of Victoria. The report, for example, was the first publication from a municipal agency to specifically outline the potential benefits to the city of pursuing a heritage conservation agenda for the historic downtown core. The report highlights the role of the historic built environment as a social and educational resource:

> In a constantly changing world, the retention of old buildings lends a sense of permanence and perspective to our lives. They establish continuity by transmitting an awareness of our past, and represent a sense of security and stability to counteract the alienation people feel in an otherwise constantly changing environment. (p. 2)

In addition, the report suggests that the reuse of existing buildings may have economic benefits resulting from their attraction to tourists:

> The character of the City of Victoria…is inseparable from its heritage buildings. The quantity and quality of the buildings is exceptional in North America, and is a prime stimulus for Victoria’s important tourist income. (p. 5).

The most significant outcomes of the report, however, were the enactment of the first formal heritage designation in the city, the Wharf Street commercial frontages (Figure 5.2), and the recommendation of changes to provincial enabling legislation, which resulted, in 1977, in amendments to the *Municipal Act*. The report outlines a variety of challenges and opportunities for action and makes a number of recommendations for additional legislation, which the committee felt would advance the city’s ability to effectively conserve its heritage buildings. One such recommendation was to extend the existing power of municipalities to withhold a demolition permit. At the time, the *Municipal Act* allowed municipalities to withhold a demolition permit for a period of up to 90 days pending the adoption of an Official Community Plan or Zoning Bylaw. The report recommended this power be extended for the purposes of heritage conservation:
Municipalities should have the power to withhold the issuance of a demolition permit for a period of thirty days from the date of application prior to the adoption of a heritage designation by-law or of an amendment to such a by-law. If, within this thirty day period, Council reviews the applications and feels that the demolition proposed would be at variance or in conflict with the by-law, they should have the power to withhold the permit for an additional sixty days or impose such conditions on the granting of the demolition as may appear to the Council to be in the public interest. (p. 9)

Figure 5.2  Wharf Street commercial frontages, circa 1970
(Source: BC Archives)

In 1977, the intent of this recommendation was incorporated into provincial legislation when Section 714A of the Municipal Act replaced by the Heritage Conservation Act (HCA). The HCA contained a number of additional regulations and enabling clauses regarding municipal heritage conservation including, empowering municipal Councils to withhold a demolition or building permit for up to 90 days on a non-designated property that may have possible heritage significance (Part III, Section 14(1), see Appendix B). The HCA also included Section 11(4), which enabled, but did not require, municipalities to provide compensation
where designation resulted in a decrease in the economic value of the building, structure or land (see Appendix B). The inclusion of this section appears to have decreased the attractiveness of formal designation to municipalities.

In Victoria, the city broadened the scope of its heritage conservation activities by utilizing other powers at its disposal for the purposes of protecting historic buildings. In particular, land use powers were mobilized in an attempt to control the demolition of historic buildings. New zoning categories were introduced in 1974 to reduce the maximum height and density permitted in Old Town and parts of Chinatown. These new zones, CA3 and CA3C, permitted a limited mix of uses and established a maximum floorspace ratio of 3.0 and a maximum height of 50ft (City of Victoria 1973). The adoption of these new zoning categories, which reflected the scale of the historic buildings in the area, effectively removed the incentive to redevelop property in Old Town and most of Chinatown.

The expansion of the heritage conservation program throughout the 1970s greatly expanded the ability for the public sector to regulate and control land development activities carried out by the private sector. Throughout this period, however, the city continued to engage in conservation and revitalization projects in much the same manner as it had during the 1960s with the Centennial and Bastion Square projects. Perhaps the best example of this approach was the 1979 Chinatown rehabilitation project. Undertaken at the request of Victoria City Council, the objective of the project was “to restore and rehabilitate Chinatown’s physical fabric and to enhance its cultural and economic well-being for the use and enjoyment of all citizens of Victoria, as well as tourists visiting Vancouver Island” (City of Victoria 1979, p. 2). To achieve this goal, the Chinatown Ad Hoc Committee prepared a Plan for the Rehabilitation of Chinatown, which outlined a series of overall public realm improvements and specific projects designed to create a distinct image for Chinatown.

The plan covered the physical and functional core of Chinatown bounded by Store, Douglas, Chatham and Pandora Streets and with the 500 block of Fisgard Street as its “heart” (Figure 5.3). The restoration and rehabilitation contemplated by the plan focused on recreating the image of Chinatown from an area in decline to a unique cultural precinct within the
downtown core. As such, specific action items were designed to achieve an immediate improvement in the visual quality of the area and included: a paint-up program, the construction of the Gate of Harmonious Interest, the rehabilitation of Fan Tan Alley and other public realm improvements.

![Figure 5.3 Boundary of the Plan for the Rehabilitation of Chinatown](image)

As an immediate action designed to enhance the visual quality of architecturally or historically significant buildings within Chinatown, the plan identified 24 heritage buildings in the area requiring cleaning and painting, which were to be the subject of a “paint-up program” for the area. Public realm improvements for the area were designed to complement the impressive building stock in the area by providing a coherent, themed image for the area. Specific improvements included: the installation of Oriental-style lamp standards and bilingual street signs, sidewalk improvements, and the installation of ornamental plantings such as Chinese pine, flowering cherry, bamboo and azalea (City of Victoria 1979; Segger 1996) (Figure 5.4). This overall theme was further enhanced by the installation of The Gate...
of Harmonious Interest, which provided a landmark feature to anchor Chinatown (Figure 5.5).

![Figure 5.4 Themed street-furniture in Chinatown](image-url)
The emerging image of Chinatown was further enhanced through the rehabilitation of Fan Tan Alley (Figure 5.6). Fan Tan Alley was seen as an important component in the rehabilitation of Chinatown as the alley is evocative of the intimate alleyways and courtyards characteristic of the area (City of Victoria 1979). The restoration of the alleyway, which runs between Fisgard Street and Pandora Street, also presented a unique opportunity to establish a pedestrian link between Chinatown and Old Town to the south.
At the time, the majority of the buildings flanking the alley were vacant and the alley was known as a location of unsavory activities. Thus, the question of the use of the historic structures became an important feature in ensuring the ultimate success of the alleyway as a pedestrian link. David Lai, Chairman of the Chinatown Redevelopment Committee proposed encouraging the reclamation of vacant space along the alley by artisan or artist tenants who would be offered lower rents and secure tenancy in exchange for undertaking renovations and converting the vacant space to studios or workshops (Lai and Madoff 1997). By the summer of 1983, Lai and Madoff (1997) note that this program had generated significant interest with a number of buildings having been renovated by artist or artisan tenants in return for lower rents.
The goal of the Chinatown Rehabilitation Project illustrates the primary planning objective for the downtown core during this period; that is, revitalization. Thus, the overall focus of planning for the downtown core was much the same as it had been under the 1965 *Overall Plan for Victoria*. The specific approach and policy direction contemplated by plans of this era, however, presents a marked difference from the 1965 plan. In 1973, for example, City of Victoria adopted the *Central Area Plan*. This was the city’s first neighbourhood plan for the downtown core, including Old Town and Chinatown. The central message of the plan is the need to address the ongoing issues of decline and obsolescence in the downtown core and to “establish confidence in the future” (City of Victoria 1973, p. 17). The specific policy directions tend to focus on improvements to the image of downtown’s built environment through beautification projects, rehabilitation of existing buildings and the sensitive infill of new development.

In terms of heritage conservation, the 1973 *Central Area Plan* credits downtown with having an “impressive heritage of buildings of a past era” (p. 17) and recognizes the retention and rehabilitation of historic buildings as a worthwhile revitalization strategy for the downtown core as it “is an approach that adds greatly to a distinctive urban character” (p. 7). New development is also asked to be respectful of this character through the adoption of architectural typologies that are “in keeping with the existing standards of height, bulk, and spacing” (City of Victoria 1973, p. 9).

While the 1973 plan, as well as the 1975 *Heritage Conservation Report*, recognized the opportunities associated with creating a distinct urban environment through heritage conservation, they did not specifically make the connection between conservation and any particular policy directions for revitalization. It was not until 1977, with the completion of the city’s first comprehensive plan since the 1965 *Overall Plan for Victoria*, that the distinct heritage image of the downtown core was repositioned in terms of a specific economic development strategy. The 1977 *Community Plan* builds on the identification of the potential for inducing tourism through heritage conservation present in the *Heritage Conservation Report* by explicitly linking the two activities:
The City has evolved over a century and has a basic form and a variety of architecture unlike newer cities of similar size. There is an important opportunity to retain this distinctive character through careful consideration and guidance of the basic form and detailed design of development. (p. 10)

The “tourist industry” is very competitive and most of the factors involved are beyond local influence. As Victoria is comparatively remote from major visitor markets and is a relatively high cost area, particular attention should be paid to the distinctive character of the city. (p. 27)

The 1977 plan also exhibits a mounting concern over the need to closely monitor the retail and commercial function of the downtown core in relation to emerging commercial centres within the region. On the one hand, the plan recognizes that a more dispersed retail and commercial landscape reduces redevelopment pressures in Old Town and Chinatown. However, the need to maintain the economic viability of the historic downtown core is also recognized as necessary to ensure the retention of historic buildings and the ongoing revitalization of the area. As such, the plan suggests that care be taken “to ensure a balance of development between downtown and the commercial centres if they are to complement, rather than rival, each other” (p. 29).

5.2 Redefining conservation as an approach to revitalization (mid-1980s to 2000s)
By the mid-1980s, downtown’s share of retail sales was once again in decline. A 1986 study conducted by Urbanics Consultants Ltd. cited downtown’s inability to compete with the increasing size of suburban shopping centres in the region as the primary reason for this decline (as cited in Symmons 1987). Within this atmosphere, the City of Victoria encountered its first major challenge to its established program of heritage conservation and rehabilitation. In the summer of that year, Cadillac-Fairview submitted a development proposal for the creation of a new indoor mall, Victoria Eaton’s Centre, in Old Town. The proposal involved the demolition of all existing buildings in a two-block area between Douglas, Government, Fort and View Streets (Figure 5.7). Of the buildings proposed for demolition, ten were listed on the city’s heritage registry; but were not formally protected through designation.
The submission of this proposal prompted what Segger (1996) has called the city’s “largest public outcry in recent history” (p.102). Opposition to the proposal was so strong, in fact, that the province’s Special Development Commissioner was brought in at the request of city council in January 1987 to review the community’s concerns and to mediate a discussion between the developer, council and the community in an attempt to modify the project to the satisfaction of all (Symmons 1987). Central to the concerns expressed by the city and the community were issues of heritage and design. It was argued that the indoor mall concept was at fundamental odds with the street retailing character of Old Town, that the demolition of every listed heritage structure on the site would set an unwise and unacceptable precedent and that the superblock character of the proposal was inconsistent with the scale of Old Town (Symmons 1987).

With the involvement of the Special Development Commissioner, the proposal was revised to include the partial reconstruction and replication of the façades of four of the listed buildings: the Lettice and Sears (Bridgman) building (no date available), the Times (1910),
the Winch (1912) and the Driard Hotel (1892) (see Figure 5.8). The Special Development Commissioner’s final report also included a number of recommendations for the city in terms of the implementation of its heritage program. These recommendations revolved around the apparent lack of a clear policy statement regarding the city’s goal for listed buildings.

Simply including a building on the heritage registry does not afford it any formal protection. In the absence of an official policy regarding the retention of listed buildings, and in the absence of a specific application for demolition, the only tool available to the city was the relatively blunt instrument of existing zoning. Through the zoning amendment process the city had no legal basis for requiring the retention and rehabilitation of the existing buildings nor did it have any requirements regarding the design of new development in Old Town. Thus, the key recommendations of the 1987 report of the Special Development Commissioner were twofold:

That City Council prepare a policy statement at an early date regarding listed heritage buildings and that a reference to this be incorporated in the Official Community Plan. (Symmons 1987, p. 7); and

That the City of Victoria immediately develop design guidelines respecting new development in Old Town and that these be the basis for reviewing any future development proposals. (Symmons 1987, p. 8).
Figure 5.8 Development scenarios for Victoria Eaton Centre
(Source: Symmons 1987)
The revised Victoria Eaton Centre proposal was eventually approved and construction completed in 1990 (Figure 5.9). The project effectively questioned the city’s approach to heritage conservation as well as the relationship between conservation and broader planning and economic development goals for the downtown core. On the one hand, the city was struggling to retain the retail function of the downtown core in the face of a declining market share of regional retail sales. On the other hand, the city wished to retain the historic character and buildings of Old Town. The existing approach taken to heritage conservation had proven unable to achieve both.

Figure 5.9 Replicated façade of the Times Building, Victoria Eaton Centre
Prompted by the realities of the Eaton Centre project, the city began to adjust both its planning objectives for the downtown core as well as its heritage conservation program. In 1990, the city produced its second plan for the downtown core. The 1990 Downtown Plan was prepared largely in recognition of the changing context of the function of Victoria’s downtown core as had been made so blatantly clear through the Eaton’s Centre redevelopment debate. It identifies the key challenge facing the downtown core as “[accommodating] the additional projected development, while at the same time, ensuring the revitalization of our heritage structures” (City of Victoria 1990a, p. 2). The plan specifically attempts to retain the retail function of the downtown core through encouraging an increase in the resident population of the area as well as continued job growth.

To achieve the dual goals of the plan, accommodating growth and retaining historic buildings, the policy directions and implementation actions contemplated by the plan exhibit a much more proactive approach to heritage conservation than had previously existed. Heritage structures were not only to be protected but also to become an integral component in the future of the city’s downtown core. One of the objectives of the plan, for example, is “to encourage the development of upper floors of heritage buildings for residential or other active use” (City of Victoria 1990a, p. 3). In order to achieve this, recommended actions include: financial assistance mechanisms to promote the rehabilitation, adaptive re-use and restoration of important heritage buildings, investigating practical and feasible means of increasing the seismic resistance of historic buildings, adoption of guidelines for rehabilitation with reference to sensitive infill and “proper conservation principles and standards” (City of Victoria 1990a, p. 5), consideration of bonus density or density transfer programs for whole building restoration, and reducing on-site parking requirements for residential uses within Old Town and Chinatown (City of Victoria 1990a).

The adoption of a more proactive approach to regulating and encouraging private sector involvement in heritage conservation is coupled with an apparent decrease in direct involvement by the city in rehabilitation projects. During the previous two decades of heritage conservation activity, the city had been an active player in the rehabilitation of historic buildings initiating, for example, the rehabilitation of Chinatown, Centennial and
Bastion Squares. Conservation activity undertaken by the private sector was subject to regulation through designation and zoning. The 1990 plan, however, does not foresee any direct involvement by the city in initiating rehabilitation projects. Rather, in addition to indirectly encouraging conservation through the adoption of restrictive zoning controls and designation bylaws designed to discourage demolition and redevelopment, the city’s role appears to be expanded and re-cast in a more proactive light through the provision of direct incentives, including financial assistance, to conservation work undertaken in the private sector.

The plan also advocates an expanding definition of those buildings worthy of retention and rehabilitation. Buildings not included on the heritage registry due to their lack of architectural significance or to the disfiguration or alteration of their façades, for example, are identified as being still worthy of restoration as ‘‘their heritage character contributes to the value of the Downtown streetscape’’ (City of Victoria 1990a, p. 2). In addition, the plan frequently uses the moniker ‘‘traditional building’’ as opposed to ‘‘heritage building’’ implying an extension of the conservation-worthy to include more mundane structures.

The 1990 Downtown Plan was followed in 1995 with an updated Official Community Plan. As an Official Community Plan has legal status as a bylaw, the adoption of this plan served to enshrine the challenges, opportunities and strategic directions identified in the 1990 plan. The overarching theme of the plan, for example, is identified, once again, as the need to strengthen the position of downtown as the primary business and shopping area in the region.

By the mid-1990s, the city’s economy was once again in a state of relative flux with a decrease in government jobs, particularly at the federal level, as well as further rounds of deindustrialization in the Inner Harbour with the conversion of the Songhees industrial lands, located across the harbor from downtown, to residential use. Within this changing context, the plan contemplates broadening the city’s economic base, primarily though tourism promotion, and increasing the residential function of the downtown core.

In terms of heritage conservation, the plan reinforces and builds upon many of the directions outlined in the 1990 Downtown Plan. A virtually identical mixture of effective regulatory
controls, financial and other economic incentives are contemplated by both plans; however, the 1995 plan places more emphasis on building re-use, primarily through residential conversion of the upper storeys of historic buildings. The most significant aspect of the 1995 Official Community Plan, however, is the idea that there is a correct way to conserve historic resources. While this notion is apparent in the 1990 Downtown Plan through its reference to “proper” conservation standards (p. 5), it is made much more explicit through a number of policy directions in the 1995 plan. The maintenance of setting and character, for example, are identified as essential for the effective conservation of heritage resources. In order to guide the process of rehabilitation without harming the setting or character of the structure, a set of principles and standards are recommended for adoption:

The City should provide established design guidelines and rehabilitation principles and guidelines according to recognized professional standards, to assist in the regulation of rehabilitation and restoration of heritage buildings and to guide new development in heritage conservation areas. (City of Victoria 1995, p. 7.4).

The 1995 plan also incorporates a number of new heritage conservation powers afforded to municipalities in British Columbia with the introduction of the Heritage Conservation Statues Amendment Act (HCSAA) in 1994. This act made a number of significant changes to heritage conservation legislation in British Columbia through amendments to more than twenty different acts, including the Heritage Conservation Act and the Municipal Act (see Appendix C). The changes introduced under the HCSAA enhanced the ability of local governments to effectively engage in heritage conservation planning through the provision of: an expanded toolkit of conservation tools, better integration of conservation into land use planning, new conservation incentives and tougher penalties to deter and punish offenses (Province of British Columbia 1995). New tools enabled by the HCSAA included the designation of Heritage Conservation Areas within an Official Community Plan and the ability for local governments to incorporate processes for temporary protection, heritage inspection and impact assessment into the development review process. Within a designated Heritage Conservation Area, property cannot be subdivided, construction or renovation cannot be started, nor can any building or feature be altered unless the city has issued a permit (termed a Heritage Alteration Permit) facilitating the changes. The intent of these
measures is to provide long-term protection to a distinctive heritage area. As such, in order to designate a Heritage Conservation Area, an Official Community Plan must describe the special features or characteristics of the area that justify its designation, and the objectives of the designation, and must provide guidelines to achieve these objectives (Province of British Columbia 1995). Through a Heritage Alteration Permit, a municipality may seek to address the applicable guidelines and meet the stated objectives by varying or supplementing zoning or other bylaws and can include terms and conditions on the permit consistent with the purpose of protecting the heritage value of the property.

Aside from an expanded heritage conservation toolkit, the HCSAA is significant in that it explicitly adopted a values-based approach to conservation absent from previous legislation. Legislative changes adopted under the HCSAA were premised on ten principles, which emphasize the importance of planning for heritage conservation on an on-going basis. Principle #4, for example, asks local governments to consider planning for heritage conservation as involving a cyclical series of planning, implementation and evaluation processes, as opposed to a linear process, which terminates upon identification and/or protection of heritage resources (Province of British Columbia 1995). In addition, Principle #6 asks heritage conservation programs to focus on the broader role of heritage within the life of the community, as opposed to focusing on the identification and protection of individual resources (Province of British Columbia 1995). In accordance with these principles, HCSAA also introduced the idea of ‘heritage value’ and ‘heritage character’ as defined terms under the new legislation, ensuring that the intent of these principles would be translated into actions undertaken at the local government level. With the replacement of the Municipal Act with the Local Government Act, these principles are now reflected in Part 27 of the Local Government Act (see Appendix D).

In response to this new legislation, Victoria, under the 1995 Official Community Plan, designated Old Town and Chinatown as both a Heritage Conservation Area as well as a Development Permit Area for the purposes of revitalizing a commercial area, establishing objectives and providing guidelines for the form and character of industrial, commercial and multi-family residential development and protecting, conserving and enhancing the heritage
character of the area. The dual designation allows Victoria City Council to regulate the exterior design and finish of new buildings and structures and to review any proposed alteration to buildings which are either listed on the city’s Heritage Registry, subject to a heritage designation bylaw or subject to a covenant for the purposes of heritage conservation. For heritage properties, the designation as a Heritage Conservation Area allows the city to vary or supplement zoning or other bylaws to facilitate the retention identified heritage buildings.

This designation can be seen as an extension of an already evolving approach to heritage conservation that had been initiated as a result of the Eaton’s Centre redevelopment project. In 1988, for example, city had made an initial move towards area-based conservation through the adoption of an amendment to the 1986 *Official Community Plan* to designate Old Town and Chinatown as a Development Permit Area with the objectives of conservation, revitalization and control of new buildings (City of Victoria 1986). Thus, the additional designation of the area as a Heritage Conservation Area under the 1995 *Official Community Plan* built upon the earlier recognition of the potential benefits of an area-wide approach to conservation in Old Town and Chinatown and expanded the powers available to the City to retain heritage structures.

In addition to area-based regulatory approaches, the city, beginning in 1990, broadened the scope of its heritage conservation program further by introducing the first direct incentive to private developers for the rehabilitation of historic buildings. The Downtown Building Incentive Program (BIP) was introduced to ensure a consistent policy for the conservation of downtown heritage buildings, publicly or privately held (City of Victoria 1990b). The program is administered by the Victoria Civic Heritage Trust, an arms-length agency responsible for administering grants, providing advice to Council on tax incentive applications and delivering community initiatives. The program provides funding to private developers to a maximum of 50% of the cost of eligible heritage work on designated commercial or institutional property in the downtown area to a maximum of $50,000 per property (City of Victoria 1990b). Eligible work includes façade restoration, structural improvements and upgrading required by building codes.
Private sector owners and developers have subscribed heavily to the program since its implementation inducing over $100 million in private investment between 1990 and 2010 (Victoria Civic Heritage Trust 2010). The program, however, has been far more effective in achieving short-term economic revitalization goals for the historic downtown core than it has in contributing to the long-term conservation of individual buildings. Coriolis Consulting Corp. et al. (2007) note that the improvements funded by the BIP have typically been limited to cosmetic upgrades rather than structural improvements, seismic upgrading, the conversion of vacant upper floor space or other upgrades necessary for long term building retention. The effect of cosmetic upgrades, however, has proved substantial in terms of economic revitalization. Coriolis Consulting Corp. et al. (2007) note that BIP-enabled improvements have “helped make grade level space more attractive to retail tenants and… have improved the appearance of many buildings” (p. 2). This, in turn has enhanced the commercial vitality of the area. Indeed, in 2002, BIP grants were found to leverage $13.70 in private investment for every $1 in grant funds (Commonwealth Historic Resource Management Ltd. 2002).

The BIP was followed by the introduction of another financial incentive measure, the Tax Incentive Program (TIP). Introduced in 1998, the TIP is designed to encourage the conversion of the upper storeys of heritage-designated buildings to residential use. The TIP offers exemptions from annual property taxes for a period of up to ten years to offset seismic upgrading costs for buildings that have been fully upgraded to meet current building code and seismic requirements. The term of exemption is determined by dividing the cost of seismic upgrading (including professional design and engineering reports, drawings, cost estimates and specifications as well as the physical upgrading of building components) by the current annual property taxes, up to a maximum of 10 years. Thus, the actual value of the exemption may be more than the cost of upgrade as it is tied to the revised assessment of the property and the current tax rate for each year the property is subject to exemption.

The TIP has been quite successful aiding in the rehabilitation of 22 significant heritage buildings in Old Town and Chinatown between 1998 and 2011 (Victoria Civic Heritage Trust 2011). Completed in 1998, Dragon Alley was one of the first projects to be undertaken with funding from the TIP. The project involved the adaptive reuse of a series of three
derelict tenement buildings between Fisgard and Herald Streets in Chinatown to create 12 live-work units fronting an interior courtyard. This courtyard, created as part of the renovation, now connects two existing alleyways that previously did not penetrate the entire width of the block. Thus, the project has facilitated the creation of an intriguing pedestrian pathway, which adds to the historic ambience of Chinatown (Figure 5.10).

Figure 5.10 Dragon Alley

5.3 Current trends and challenges in heritage conservation (2000 to present)
Victoria’s expanding and evolving approach to heritage conservation earned the city, in 2001, the prestigious Heritage Canada Foundation Prince of Wales Prize for excellence in municipal heritage preservation. As the first decade of the 21st century unfolded, however, the city found itself increasingly challenged in terms of maintaining the effectiveness of its heritage conservation program. The city’s commitment to conservation faced a number of challenges, including: the preponderance of commercial vacancies in historic buildings
downtown as a result of provincial government downsizing; the lack of commitment to conservation on behalf of many downtown property owners; and the deterrent to rehabilitation posed by the high cost associated with the seismic requirements of the building code (Commonwealth Historic Resource Management Ltd. 2002).

As the decade unfolded, it also became apparent that the city’s established financial incentive systems, the TIP and the BIP, were not achieving the desired rate of rehabilitation in Old Town and Chinatown. Local developers began voicing concerns that, despite these financial incentive programs, rehabilitation projects were no longer economically attractive. To determine the source of these concerns, in 2007, the city retained Coriolis Consulting Corp. to conduct a study of the economic feasibility of rehabilitation projects in Old Town and Chinatown. The resulting *Downtown Victoria Heritage Building Economic Study* provides an examination of the characteristics of buildings that had been rehabilitated through the TIP versus those that had yet to be fully upgraded and identifies a number of factors affecting the likelihood of private sector interest in rehabilitation and, thus, the effectiveness of the city’s financial incentive programs.

The report identifies a number of characteristics common to those buildings that had been rehabilitated with assistance from the TIP, including having three or more storeys and frontages of over forty feet. In addition, of those buildings that had not been fully upgraded, the report suggests that many are currently not candidates for redevelopment. In part, this is attributed to the relatively low levels of demand for downtown office space and major retail redevelopment, as compared to other cities, due to Victoria’s limited role as a commercial and economic centre. The report also suggests, however, that, in many cases, redevelopment pressure is mitigated by the high value of existing tenanted space:

> The good news is that for any building that is tenanted (even at relatively low rents) and is in reasonably good condition (i.e. does not require a major capital expenditure to retain occupancy), the building is more valuable “as is”, as an income producing investment, than it is as a redevelopment site. This means that many heritage buildings would not be candidates for demolition and redevelopment even if they were not protected by the city. (Coriolis Consulting Corp. 2007, p. 12).
Thus, rehabilitation projects completed at the time of the study had generally involved properties in non-prime retail locations (generally, north of Yates Street), that had vacant or very low-rent upper floors and that involved buildings in reasonable condition. For sites with these favorable conditions, the TIP program was found to make marginal projects financially viable. The scale of funding, however, was found not to be substantial enough to make non-viable projects, those with high renovation costs or high property values and existing rents, attractive to developers (Coriolis Consulting Corp. 2007). The report also attributes the declining effectiveness of the TIP to the fact that developers are likely to select the most feasible and potentially lucrative projects first necessitating a stepped approach to incentive programming:

By definition, developers will rehab buildings that are available to them and in which there are not problems that make a project unworkable (e.g. costs that are too high, legal/ownership issues that are too complex, locations that are not marketable). Over time, it is reasonable to assume that the “doable” buildings will be rehabbed, leaving a dwindling inventory of un-rehabbed buildings that are either unavailable for some reason or will be the least viable from the developer’s perspective. As a result, the type and amount of incentive needed may on average have to increase over time for the remaining buildings. (Coriolis Consulting Corp. 2007, p. 9).

The findings of this report highlight an important consideration; that is, when the city is reliant on the private sector to implement heritage conservation goals, building rehabilitation must be an economically attractive pursuit. Thus, the city must continuously monitor its heritage conservation program to ensure that heritage conservation goals and standards are clearly articulated and that incentive programs are effective in overcoming economic barriers to rehabilitation. The city has recently adopted a set of standards and guidelines for conservation projects, which serve to mitigate the potentially damaging effect of achieving economic feasibility in rehabilitation projects by taking a non-prescriptive, outcome-oriented approach to managing change in the historic built environment.

Currently, the policy framework for the City of Victoria’s heritage conservation program are provided through the Official Community Plan, supplemented by neighbourhood plans, such as the Downtown Plan in the case of Old Town and Chinatown. As an implementation
measure, in 2005, Victoria adopted the Standards and Guidelines for the Conservation of Historic Places in Canada, which has established a set of values-based design guidelines for the evaluation of public and private sector conservation projects within the city. Compiled by Parks Canada, the standards and guidelines are intended to advance “responsible conservation practices”:

They provide a philosophical consistency for project work; and while neither technical nor case-specific, they provide the framework for making essential decisions about which features of an historic place should be maintained, and which can be altered. (City of Victoria n.d.).

The standards and guidelines are based on the concept of ‘heritage value’, a broad term, which has been defined as: “the aesthetic, historic, scientific, cultural, social or spiritual importance or significance for past, present and future generations” (Parks Canada 2010, p. 5). Heritage value is seen as being embodied in a structure or landscape’s ‘character-defining elements’, or “the materials, forms, location, spatial configuration, uses and cultural associations or meanings” (Parks Canada 2010, p. 5). Thus, the document sees the purpose of conservation as the retention of ‘heritage value’ through the retention and preservation of ‘character-defining elements’, or those physical or material elements of the object or place than embody the identified ‘heritage value’.

The Standards and Guidelines for the Conservation of Historic Places in Canada have been incorporated into the city’s formal guidelines for the Old Town and Chinatown Development Permit and Heritage Conservation Area (City of Victoria 1995). Thus, they function as a set of guiding principles to assist staff in their analysis and recommendations regarding heritage conservation projects. Individual applications for rehabilitation or alteration of a building on the city’s heritage register are required to address and incorporate these standards and guidelines into their proposals. The standards and guidelines are non-prescriptive and outcome-oriented with the primary goal of preserving the heritage value and character-defining elements of a structure or landscape. Preserving heritage value does not, however, necessarily mean adopting a pure preservationist approach to conservation. The document highlights three conservation treatments, each with their own specific standards and
guidelines, that may be deployed in isolation or in combination under the appropriate circumstances: preservation – “protecting, maintaining and stabilizing the existing form, material and integrity of an historic place” (p. 15), rehabilitation – “sensitive adaptation of an historic place or individual component for a continuing or compatible contemporary use” (p. 16), and restoration – “accurately revealing, recovering or representing the state of an historic place or individual component as it appeared at a particular period in its history” (p. 16).

The adoption of the Standards and Guidelines for the Conservation of Historic Places in Canada as a set of design guidelines, together with the overall values-based conception of heritage conservation planning enabled by the Local Government Act, and reflected in the policy direction of the city’s Official Community Plan and Downtown Plan, has provided a framework for how conservation is to occur within the city. Under this framework, all rehabilitation projects must preserve the structure’s heritage value and character-defining elements. Heritage value and character-defining elements are formally defined using a tool called a Statement of Significance (SoS). A SoS identifies what part of history a heritage resource represents and how and why it is of value and importance to contemporary society through providing a description of the resource, a statement of its heritage value and a list of its character-defining elements (Parks Canada 2010). The city has adopted a SoS for the Old Town Heritage Conservation Area, which includes Chinatown (see Appendix E).

This approach to heritage conservation also recognizes the role of new construction and additions to heritage structures as potentially impacting – complementing or detracting from – the heritage values and character-defining elements of Old Town and Chinatown. The Standards and Guidelines for the Conservation of Historic Places in Canada, for example, suggests that any new construction or addition that is to become part of a conservation project should be “physically and visually compatible with, subordinate to and distinguishable from the historic place” and should not impair the “essential form and integrity of an historic place” (Parks Canada 2010, p. 23). As a complement to the Standards and Guidelines for the Conservation of Historic Places in Canada, the city, in 2006, adopted formal design guidelines for new buildings and additions to non-heritage buildings in the Old Town and Chinatown Development Permit and Heritage Conservation Area (City of Victoria
These guidelines also adopt a values-based approach to the historic built environment recognizing that, like additions, new buildings have the potential to destroy the heritage value of resources in their vicinity (City of Victoria 2006). New buildings, however, are deemed to also have the capacity to enhance the character of the historic built environment and, thus, should not simply be designed to be “compatible with” or “subordinate to” the surrounding historic buildings. The introductory statement to the guidelines, for example, states:

For many years, design guides for new buildings in historic cities emphasized subservience to the past. Their key message was that design in a historic context must be imitative or meek – the commonly used words were “compatible with” and “subordinate to”. Buildings that followed such guidance often said little about the time in which they were designed – they ignored contemporary values…in our search for contemporary urbanism in Old Town, the latent structures that will answer this call shall respond to the existing urban context and find form that reflects the values of the time in which they are conceived. (City of Victoria 2006, p. 2).

Thus, the guidelines promote new developments that are “in harmony with their surroundings” and adopt a non-prescriptive, outcome-oriented approach similar to that adopted by the Standards and Guidelines for the Conservation of Historic Places in Canada in suggesting how developers might achieve such a harmonious relationship between new buildings and the existing historic built environment (City of Victoria 2006, p. 3). Three character areas are defined within Old Town and Chinatown and a statement of heritage value, is provided for each. The intent of the guidelines is that developers first read the value statement relevant to their particular site and “understand what physical things, such as spaces, connections, materials, textures, colour, views and shapes, contribute to the special character there” (City of Victoria 2006, p. 4). The design process is then largely about responding to this special character and considering the effect of new construction on the surrounding built environment. In this sense, new developments are asked to “contribute to the cherished character” of Old Town and Chinatown and to “have their own presence while being sensitive to their context” (City of Victoria 2006, p. 5).

While the development of a values-based approach to conservation within the City of Victoria has certainly aided in identifying the values associated with heritage resources as well as the desired outcomes of conservation activities, the city has not always been able to
avoid conflict between the economic and cultural components of heritage value. In February 2010, for example, the city and the owner of Rogers’ Chocolate Shop, a municipally and nationally recognized heritage building in Old Town, went to court under the Commercial Arbitration Act over the city’s designation of the shop’s interior. City of Victoria Heritage Designation (913 Government Street Interior) Bylaw No. 580 was passed in February 2009 designating the interior of the Rogers’ store including “all interior cabinets, counters, display cases, mouldings, mirrors, flooring, light fixtures, and other fixtures” as protected heritage property (Buholzer 2010). The bylaw was passed in reaction to plans submitted by the owner to renovate and expand the sales area of the shop, which remained largely unaltered from its original form. This bylaw was later amended in November 2009 to permit the creation of an opening in the rear wall of the original sales area to permit access to a new sales area at the rear and to permit the wood cabinet backings on the rear wall to be replaced with glass to provide visual continuity between the two sales areas (Buholzer 2010).

Unlike previous the 1977 Heritage Conservation Act, which stated that municipalities “may” provide compensation for any loss or damage suffered through designation, Part 27 of the Local Government Act specifically requires municipalities to provide compensation to owners of designated heritage property where such designation results in a decrease in market value of the property (see Appendix D). As the inability to expand their sales floor area clearly represented a decrease in economic value, Rogers’ Chocolates approached the city for compensation. The two parties were unable to agree on an amount and, as such, the matter ended up before an arbitrator who awarded Rogers’ a compensation order reported to be in the order of $900,000; a substantial amount given the financial constraints of most municipalities (Buholzer 2010).

Among heritage planners in British Columbia, the decision has been met with surprise with many arguing that heritage properties command a premium in rental or sales prices; thus, heritage designation could effectively enhance the value of the property. Whether or not this is always case, Buholzer (2010) suggests that this instance, being the first example of an award of compensation of heritage designation under Part 27 of the Local Government Act, will likely become a “cautionary tale” for future conservation efforts:
This compensation eligibility may have reduced prospects for a heritage designation that is likely to provoke a compensation claim, as few local governments have a fund to draw upon to compensate property owners. (p. 14).

As the prospects of designation are called into question, the city has begun to forge new connections in terms of the value of heritage conservation. Through renewed planning processes for the Official Community Plan and the Downtown Plan, the set of values associated with the historic built environment has recently been expanded to include connections to the city’s broader sustainability goals. In June 2011, as part of a process to review and update the city’s Official Community Plan, the city released a draft plan for public review. The draft OCP continues the city’s established values-based approach to conservation highlighting the multivalent role of heritage within a sustainable city (City of Victoria 2011b). Background research that led to the development of plan policies, for example, recognized a number of connections between heritage conservation and sustainability. Historic building re-use, for example, is recognized as supporting sustainable land use patterns directing investment into existing neighbourhoods instead of into the creation of new neighbourhoods in greenfield areas. Rehabilitation projects are also recognized as contributing to job creation in the construction sector and having potential to revitalize economically depressed areas of the city. Finally, heritage conservation is recognized as playing a role in the social sustainability of the community fostering a sense of place and connection to the past (City of Victoria 2010).

The city is also in the process of developing a new Downtown Plan. The 2011 draft version of the plan applies the same approach to conservation as the draft OCP and addresses the implementation of this approach in the downtown core area at a variety of scales; areas and districts, streetscapes and open space and buildings and sites. One of the most significant changes to the implementation of heritage conservation objectives proposed by the new Downtown Plan is the introduction of two new measures to enhance the economic feasibility of conservation projects. The plan explores the possibility of expanding the TIP to include the Rock Bay district, located to the north of Chinatown, as well as the feasibility of expanding the maximum exemption period from the current maximum of 10 years to 15
years (City of Victoria 2011a). In addition, the plan introduces a new fund, the Downtown Heritage Resource Seismic Upgrade Fund, designed to offset the high costs of seismic upgrading of heritage buildings (City of Victoria 2011a).

5.4 Discussion and summary

Since its initial beginnings in the 1960s, heritage conservation planning for Old Town and Chinatown has expanded and, in the process, has become more deeply integrated into the overall planning framework for the downtown core. Initially, heritage conservation predominantly involved identification, designation and public realm improvement projects with the city as the driver of conservation activity. Underscoring these initiatives was the goal of downtown revitalization following decades of industrial decline and building vacancies. Conservation represented a choice between revitalization through integration with the past or destruction of the past through large-scale redevelopment as contemplated under the 1965 Overall Plan for Victoria. During this initial stage, the historic built environment was not merely valued for its collection of buildings deemed architecturally or historically significant, although these did make up a significant proportion of designated buildings, but also for its role in preserving a sense of place, as an educational resource and a tourism-generator.

Towards the end of the first phase of heritage conservation in Victoria, it became apparent that requiring buildings to be retained through designation was not enough. It was increasingly recognized that, in order to ensure their long-term survival and to achieve the city’s revitalization goals, historic buildings must be in active use. The challenge of accommodating contemporary uses in the historic built fabric and thus creating economic value for the historic building is illustrated in the development of the Victoria Eaton’s Centre and became the challenge of heritage conservation in the 1990s. The lack of a clear goal for the rehabilitated product combined with the lack of an established standard for conservation activities led to the artificial and poorly integrated structure that is now the Victoria Eaton’s Centre.
By the early 1990s, the city was no longer directly involved in conservation projects and was increasingly reliant upon private sector developers to take on rehabilitation projects. Thus, the development of the Victoria Eaton’s Centre prompted the city to re-evaluate its heritage program and to adopt a more proactive approach in enabling private sector-led conservation projects. Financial incentive policies and area-based regulatory controls not only worked to conserve the historic built environment but to ensure that it played a functional role in a revitalized downtown core. The Victoria Eaton’s Centre project also induced the idea that there was a ‘right’ way to conserve buildings, which involved their re-use, as opposed to replication, and recognized their contribution to the overall character of the area.

More recently, the city has further clarified its approach to conservation through the adoption of a values-based approach reflective of changes to provincial enabling legislation. To assist in the implementation of this approach, the city has also adopted the *Standards and Guidelines for the Conservation of Historic Places in Canada*. The standards and guidelines function as a set of design guidelines against which conservation projects may be evaluated and recommendations may be formed. The standards and guidelines take a non-prescriptive, outcome-oriented approach to heritage conservation, which, in turn, provides a flexible, yet rigorous base against which to evaluate conservation projects.

As the purpose and method of conservation has evolved, so too have the tools used in achieving the city’s conservation goals. Growing concern over re-using, as opposed to simply preserving, historic buildings can be seen as influencing the shift in emphasis from formal designation to area-based management strategies and outcome oriented conservation standards. Perhaps more importantly for the evolution of conservation tools, however, have been the roles of provincial enabling legislation and public finance. A decrease in the funding capacity of government to undertake planning initiatives, for example, has led to and increasing shift to reliance on the private sector to raise capital and undertake major redevelopment projects, including heritage conservation projects.

Throughout the evolution of heritage conservation planning in Victoria, the role of provincial enabling policy has had a substantial influence on the method of conservation and the tools
used in practice. Conservation tools in particular have largely developed as a close reflection of shifts in provincial enabling legislation. The practice of formal designation, for example, expanded rapidly after the introduction of provincial legislation enabling this action in 1973. Later, the city was greatly assisted in its aspirations for a functioning, vibrant, conserved downtown core when the province introduced the *Heritage Conservation Statutes Amendment Act*, in 1994, which greatly expanded the powers available to municipal governments in terms of heritage conservation and brought conservation into the realm of planning in a much more profound way. Heritage conservation tools introduced under the act echoed those generally used in land use planning and urban design and enabled the city to use its heritage resources as a catalyst for revitalization in a more effective manner.

Thus, the city has expanded its approach to heritage conservation from its initial beginnings as a function of city capital works projects, to formal designation and protection, to the use of land use regulatory tools, financial incentives and conservation standards in an attempt to control the redevelopment of historic properties and to encourage their sympathetic rehabilitation and reuse. In the process, heritage conservation goals for Old Town and Chinatown have become increasingly linked to overall planning goals for the downtown core. Victoria’s current approach to heritage conservation planning reflects this evolution. Conservation policies today focus on rehabilitation and accommodation of contemporary uses, as opposed to preservation and restoration, with the city playing the role of custodians as opposed to curators of the historic environment.
6 Implementing Heritage Conservation in Old Town and Chinatown; The Morley’s Soda Factory Rehabilitation

Since the late-1960s, heritage conservation planning in the City of Victoria has evolved both in terms of its theoretical underpinnings as well as its implementation methods and tools. Currently, the guiding framework for Victoria’s heritage program is provided by the Official Community Plan and supplemented by local area plans such as, the Downtown Plan, which covers Old Town and Chinatown. The policies enshrined in these plans adopt a multivalent approach to conservation acknowledging its roles in the creation of a sustainable city, from promoting sustainable land use patterns to celebrating local culture to providing opportunities for cultural tourism and housing development and maintaining a sense of place. In accordance with this approach, the ultimate goal of heritage planning is the preservation of ‘heritage values’ through the retention and/or restoration of the ‘character-defining elements’ of historic resources.

Implementation of this approach primarily involves market-enabling strategies with the majority of conservation projects undertaken by the private sector, in accordance with city policies and guidelines. Thus, the city’s implementation toolbox includes a variety of regulatory tools and incentive programs designed to achieve the city’s overall heritage conservation goals while enabling private sector uptake of rehabilitation projects through enhancing their economic viability. This chapter explores how these strategies play out at the individual site level through an examination of a recent rehabilitation and adaptive reuse project in Old Town, Morley’s Soda Factory. It seeks to understand the roles of the city, private sector developers and the general public in the conservation process and what implications this has on the city’s goals for both heritage conservation and revitalization of the downtown core.

6.1 Morley’s Soda Factory, history and context
The Morley’s Soda Factory building, located at 1315-1317 Waddington Alley in downtown Victoria’s Old Town district (Figure 6.1), was constructed in 1884 for local businessman Christopher Morley who used the building for manufacturing soda water, lemonade, essence
of peppermint and ginger, and a variety of syrups (City of Victoria 2009a). The 2-storey brick factory is typical of industrial development that occurred during Victoria’s building boom of the 1880s and early-1890s. The vernacular industrial building features a large, arched carriageway leading from Waddington Alley to a rear courtyard where bottles of Morley’s concoctions were once loaded onto delivery wagons (Figure 6.2).

Figure 6.1 Location of the Morley’s Soda Factory
At the time of the factory’s construction, Waddington Alley was a lively commercial lane accommodating a variety of enterprises, including a bakery and restaurant, a blacksmith, a livery stable, a fish market, a shoemaker as well as a gambling establishment, dance hall and bowling alley (Heiman 2008a). Morley’s Soda Factory became one of the longest standing and most successful businesses in the alley. Upon Morley’s death in 1913, the business was taken over by the Crystal Spring Water Supply Co., which manufactured mineral water, fruit
cordials, fruit syrup and essences out of its premises in Victoria’s Rockland neighbourhood (Pallister 2005).

Since Morley’s death, the longest standing owner of the Waddington Alley building has been Clara Beatrice Kramer. The soda factory, along with two other historic properties in Old Town, the Northern Junk Buildings and the Janion Hotel (Figure 6.4), were purchased in 1950 by Kramer’s father-in-law and eventually passed to Kramer’s husband, Allan Kramer, a local scrap metal dealer. The buildings became the property of Clara Kramer in 1978, following the death of her husband (Watts 1995).

Figure 6.3   The Northern Junk Buildings (left) and Janion Hotel (right)

Kramer’s inheritance of the buildings ushered in a decades-long period of neglect and dereliction. Kramer became infamous in the local community for never attempting to lease, sell or even maintain her prominent heritage buildings. In a 2001 interview with the Times Colonist, Kramer attributed her neglect of the buildings to being occupied with other matters:
“I’ve had other things that have occupied me…I’ve been busy, let’s put it that way” (Paterson 2001, p. A1). Admitting that her buildings weren’t exactly “things of beauty”, Kramer stated, “I got tired of replacing the windows. And we’ve spent our lives taking graffiti off” (Paterson 2001, p. A1).

The Morley’s Soda Factory building, along with Kramer’s other historic buildings in Old Town, garnered a significant amount of interest from Victoria’s heritage community as well as from local developers and businesspeople over the tenure of her ownership. Largely unaltered from its original condition, to local heritage advocates the Morley’s building represented one of the best-preserved examples of Old Town’s 19th century industrial fabric. Indeed, as late as 2008, the building still retained its original wooden-sash windows, doorways and wooden doors (Heiman 2008a). In addition, according to City of Victoria Senior Heritage Planner Steve Barber, “the area they are in is really one of the most significant in Victoria in terms of its history” (Watts 1995, p. 1). In recognition of the building’s significance to the city’s history, and signaling the city’s interest in its conservation, Morley’s Soda Factory was added to the city’s Heritage Register in 1980 (Heiman 2008b).

Interest in restoring Morley’s Soda Factory and Kramer’s other buildings has also been expressed by the private sector. Of the three buildings willed to Kramer, it has been the Janion Hotel, however, that has generated the most interest from the private sector. In a 1995 interview with the Times Colonist, Barber noted that:

We have had no end of people marching in here and asking, ‘How can I get my hands on the Janion Hotel?’ I usually give them [Kramer’s] phone number and they go away and I never hear from them again. (Watts 1995, p. 1).

With prospective buyers unable to acquire the properties, Kramer’s buildings remained derelict into the 21st century, furthering the risk of irreversible structural deterioration. Kramer’s rights as owner of the properties placed the city in a quagmire in terms of realizing its conservation goals for the properties. Under the provincial Community Charter, cities in British Columbia do not have the power to expropriate property for the purposes of heritage
conservation. Thus, commenting on the fate of the buildings, Ron Greene, then-chair of the Victoria Civic Heritage Trust, noted: “What [Kramer] is doing is not in the best interests of the city, obviously. But they are her buildings” (Watts 1995, p. 1).

6.2 The demolition threat

In December 2007, following reports that the roof of Morley’s Soda Factory had collapsed under the weight of a heavy snowfall, the city utilized a rarely used heritage conservation power calling for inspections of Kramer’s properties to determine whether or not they were being adequately maintained (Heiman 2008b). Following several months of negotiation, the city was finally able to carry out inspections of the Morley’s building, as well as the Janion Hotel, on March 11, 2008. On March 6, 2008, however, prior to the city completing inspections on the properties, Kramer applied for demolition permits for both the Morley’s and Janion buildings, prompting an outcry from local heritage groups and the community at large. According to Kramer’s lawyer and representative on the application, David Houston, the application came as a result of disagreement between his client and the city over the future of the properties: “we have been in discussions with the city over the years and things haven’t worked out” (Heiman 2008c, p. A1).

According to Houston, his client felt it was the time to “do something” with the properties (Heiman 2008c, p. A1). That “something”, however, clearly did not correspond with the city’s conservation intentions for the properties, represented by their presence on the Heritage Register and within the designated Old Town and Chinatown Heritage Conservation Area. Rehabilitation, Houston commented, was not believed to be an economically viable option for the properties, despite the potential for assistance from the city’s incentive programs. While reportedly having no specific plans for the properties, Houston said, “We want to do something that will complement the neighbourhood and revitalize it…hopefully using some reclaimed materials” (Heiman 2008c, p. A1).

The receipt of demolition permit applications on the Janion and Morley’s buildings initiated what Times Colonist reporter Carolyn Heiman called a “firestorm” of comments on Vibrant Victoria, an online discussion forum for local urban issues (Heiman 2008a, p. A4). Forum
participants called the applications “a crime against the city” (Randall 2008), arguing that Kramer had “given the people of Victoria the middle finger for decades” (spanky123 2008). In a concise summary of the sentiments of the discussion, one participant highlighted the frustration felt by Victoria’s citizens at Kramer’s power as a property owner and her apparent lack of interest in the future of the buildings:

[The demolition permits are] a frustrating example of someone doing something that everyone KNOWS is morally wrong, and damaging to the city, yet technically, not illegal. Mrs. Kramer has been an irresponsible steward, and a poor citizen, and has damaged the fabric of downtown by her behaviour, yet in order to penalize her or even stop her we have to change the laws. (Caramia 2008, original emphasis).

Like many of the commenters on Vibrant Victoria, local heritage groups responded to the news of the demolition permit applications with dismay. Many, such as Nick Russell, local heritage advocate and president of the Hallmark Society, also expressed surprise at Kramer’s move to demolish the buildings after so many years of neglect (Heiman 2008d). Russell also said he believed that the city had been too lenient with Kramer and the state of her buildings (Heiman 2008d). Russ Fuller, president of the Victoria Historical Society, echoed this sentiment in a 2008 interview with the Times Colonist and warned the city against allowing the demolition of the Janion and Morley’s buildings:

[R]ewarding the owner’s ‘demolition by neglect’ by allowing these two edifices to be torn down and replaced by new development would set a dangerous precedent that would be noticed by other developers and owners and could lead to further losses of important heritage buildings in Old Town. (Heiman 2008e, p. A1).

The city, for its part, reacted quickly to the demolition permit applications, utilizing the rarely used power of temporary protection afforded by Section 962 of the Local Government Act. On March 13, 2008, Council voted unanimously to approve an Order for Temporary Protection of both the Morley’s and Janion buildings for a period of 60 days, the maximum permitted under the Local Government Act without consent of the property owner. The protection orders were intended to provide staff adequate time to review the results of the recently completed heritage inspections and prepare more detailed reports recommending options for the protection of the properties.
Following the approval of the temporary protection order, Senior Heritage Planner, Steve Barber, confirmed in an interview with the Times Colonist that staff would be recommending designation of the properties without consent of the owner, an action which would potentially result in a compensation claim from the owner and legal action to recoup economic losses (Heiman 2008d). Barber argued that the buildings were “integral to the integrity of Old Town” (Heiman 2008d, p. A3) and that, despite the applicant’s claim that rehabilitation was not an economically viable option for the buildings, given the success of other rehabilitation projects in the area, there was “no reason [the Janion and Morley’s Soda Factory buildings] could not be converted and rehabilitated” (Heiman 2008a, p. A4).

Thus, in May 2008, city staff initiated the first step to ensuring the long-term protection of the Janion Hotel and Morley’s Soda Factory buildings bringing forward a proposed bylaw for their designation as heritage structures. The bylaws received first and second readings on May 8, 2008 and the designation bylaw for the Morley’s building was presented at a public hearing on June 26, 2008. Six members of the public spoke at the hearing, all urging Council to approve the proposed designation bylaw.

6.3 The rehabilitation process
In the midst of the city’s designation process, news had surfaced that Kramer had agreed to sell the Morley’s Soda Factory to Chris LeFevre, a local developer known for tackling heritage rehabilitation and conversion projects in Old Town and Chinatown. On May 31, 2008 the Times Colonist reported that, pending finalization of the sale, LeFevre intended to rehabilitate and convert the structure (Heiman 2008f). The acquisition of Morley’s Soda Factory extended LeFevre’s portfolio to include to seven historic buildings in Old Town and Chinatown, each at varying stages in the rehabilitation process. LeFevre hinted in an interview with the Times Colonist that he had been interested in the property for years, adding that the Morley’s Soda Factory was “a very natural acquisition” (Heiman 2008f, p. A1).
News of the pending sale was met with exuberance from the community, local heritage groups and the city. Robert Randall, president of the Downtown Residents Association, commented that the purchase signaled good news for the future of an important building (Heiman 2008f). Nick Russell, then-president of the Hallmark Society, added that the sale was not only good news for the Morley’s building but also potentially for the future of Kramer’s other buildings as it represented the first hint of a willingness to sell her properties after years of denying prospective buyers (Heiman 2008f).

While the city joined in the applause of LeFevre’s pending purchase of the Morley’s Soda Factory, until LeFevre took possession of the property, Council faced a difficult decision. Finalization of the sale of the Morley’s building to LeFevre was not expected until the end of July 2008; however, the temporary protection period approved in May 2008 was scheduled to end in early July 2008. In accordance with this timing, staff had brought forward the proposed designation bylaw for the site for 3rd and final readings on June 26, 2008, following the public hearing. The meeting minutes show that discussion surrounding the decision to adopt the designation bylaw for the Morley’s Soda Factory focused on the potential repercussions of designating the structures without the original owner, Kramer’s, consent. Then-Mayor Alan Lowe expressed concern that, if the sale fell through, Kramer would seek financial compensation from the city pursuant to the provisions of Local Government Act. Staff had recommended the designation of the Morley’s building despite not having Kramer’s consent but acknowledged that the risk of a compensation claim was something that Council would have to weigh in their decision. Senior Heritage Planner Steve Barber reported at the meeting that staff had discussed the recommended designation with Kramer’s representatives and had not received any correspondence from them. Council was apparently adequately satisfied with staff’s actions to notify Kramer and her representatives of the pending designation and unanimously approved the adoption of the designation bylaw for the Morley’s Soda Factory.

Ultimately, the sale of Morley’s Soda Factory to LeFevre was completed and the developer began to draw up plans for the building’s rehabilitation and conversion. Submitted to the city in late 2008, LeFevre’s rehabilitation plan proposed the adaptive re-use of the building for
nine residential units. In order to accommodate the proposed units, LeFevre’s plans involved exterior alterations including: closing off the iconic carriageway entrance, and constructing a one-storey addition to the existing 2-storey building (see Figures 6.4). This addition was to be set back from Waddington Alley and finished with standing seam steel panels and cementitious panels accented by wood doors and windows. Units located on the top-floor addition were proposed to include balconies facing Waddington Alley finished with a vertical metal handrails. The proposal also included the retention and rehabilitation of the rear courtyard with seismic upgrading to its freestanding brick walls and a newly landscaped interior.

Figure 6.4  West elevation of the Morley’s Soda Factory, proposed rehabilitation
(Source: City of Victoria 2009a)
The site posed a number of unique challenges for LeFevre’s team in terms of rehabilitation. Upon taking possession of the property, LeFevre had structural engineers and architects assess the building to determine its best possible use and the extent of work necessary to bring the building up to current standards (Heiman 2008f). As a result of a hole in the roof, which had gone unrepaiired for a number of years prior to LeFevre’s purchase of the property, much of the interior wood structure had deteriorated beyond repair, meaning the building had to be essentially gutted in order to facilitate rehabilitation (City of Victoria 2009a). The building also posed significant challenges in terms of servicing with no existing storm drainage or electrical supply to the site. LeFevre also had to contend with a variety of Building Code requirements, including seismic upgrading and fire separation issues, which presented additional obstacles to the feasible rehabilitation of the Morley’s Soda Factory.

In order to undertake the rehabilitation work, LeFevre was required to obtain a Heritage Alteration Permit, prior to a Building Permit, from the city as the building is designated heritage and is within the Old Town and Chinatown Heritage Conservation Area. As such, LeFevre was required to design the rehabilitation in accordance with the Standards and Guidelines for Historic Places in Canada and to recognize the heritage values and character-defining elements of Old Town as outlined in the Statement of Significance for Old Town (see Appendix E). The specific proposal put forth by LeFevre also required a variance to the existing zoning of the property to accommodate residential units on the ground floor. The building’s designation and LeFevre’s plan to convert the structure to residential use, however, afforded LeFevre the ability to apply for financial assistance under the Tax Incentive Program.

In accordance with city procedures, upon receipt of the application, it was processed by staff and presented to the Heritage Advisory Committee in January 2009 before being brought forward to Council. At the February 5, 2009 Committee of the Whole meeting, city staff brought forward a report to Council regarding the Heritage Alteration Permit and proposed variance applications for the Morley’s building. The report recommended Council authorize the issuance of the Heritage Alteration Permit complete with the requested variance, subject
to the conditions outlined in the report, which pertained to specifics of some of the rehabilitation work to be undertaken (City of Victoria 2009a).

In accordance with the city’s approach to heritage conservation, the principal goal for the rehabilitation of the Morley’s building, from the city’s perspective, was the protection of the resource’s heritage value by way of restoration or retention of its character-defining elements. The identification of these values and elements for the Morley’s building is achieved through the SoS tool, employed at the scale of the individual building. The SoS highlights the importance of the Morley’s building to Victoria’s history. Being one of the few surviving industrial buildings from the 1880s boom period, the building’s heritage value is primarily derived from its symbolic associations with Victoria’s evolution during this period “from a Hudson’s Bay Company fort to a well-established city” (City of Victoria 2009a, p. 2). The Morley’s building is cited as being particularly significant in illustrating this piece of Victoria’s history given the fact that “it has retained the key physical elements which identify it as a unique early industrial building…including a carriageway leading through the building to a Klondike-era courtyard at its rear” (City of Victoria 2009a, p. 2-3). The identified ‘character-defining elements’ flow directly from the statement of heritage value and include: the building’s location facing Waddington Alley, it’s vernacular industrial style and 2-storey form, and the integrity of elements relevant to the building’s original design including detailed brickwork, surviving wooden-sash windows, doorways and wooden doors including a large carriage doorway on the front façade (City of Victoria 2009a).

The analysis section of the staff report demonstrates the relevance of broader city policies for land use and economic development to heritage conservation, as well as the application of the Standards and Guidelines for the Conservation of Historic Places in Canada in the evaluation of individual applications. It is evident from the staff report that the proposed one-storey addition to the building posed the most significant challenge in terms of the viability of rehabilitation and the retention of the building’s heritage value and character-defining elements. Although setback from the front façade of the existing building, the proposed addition to Morley’s Soda Factory would be highly visible from the Johnson Street entrance to Waddington Alley and arguably impaired the character-defining element of the building’s
2-storey form. Thus, according to the staff report, the proposed addition was determined not to meet Standard #11 of the *Standards and Guidelines for the Conservation of Historic Places in Canada*, which advocates a fine balance between distinction, compatibility and subordination for additions to historic structures:

Conserve the heritage value and character-defining elements when creating any new additions to an historic place, or any related new construction. Make new work physically and visually compatible with, subordinate to, and distinguishable from, the historic place. (Parks Canada 2010, p. 34).

Staff, however, ultimately recommended in favour of the proposed addition as well as the requested variance to accommodate residential use on the ground floor. The rationale behind these recommendations highlights the roles of the city and the private sector in the rehabilitation of historic resources as well as the relationship between the city’s broader goals for the downtown core and those for heritage conservation. In terms of the requested variance, the concluding remarks of the staff report point to the fact that, to the developer, LeFevre, the residential conversion of the building presented the “most economically viable re-use of the structure” (City of Victoria 2009a, p. 6). Economic viability of the project was also used as a rationale for staff support of the addition of a third storey. Additional floorspace, it was argued, was needed in order to improve the economic feasibility of the rehabilitation due to the state of deterioration of the building’s internal structure (City of Victoria 2009a).

Thus, in order to induce the rehabilitation of the Morley’s Soda Factory by the private sector, the city had to make certain concessions both in terms of its heritage conservation goals as well as its overall goals for the downtown core. While the 1990 *Downtown Plan* identifies increasing the residential population of the downtown core through heritage conversions as a goal, it also seeks to strengthen downtown’s position as the retail heart of the region. Thus, the zoning for Old Town, like many of the city’s conservation initiatives, is designed to promote the conversion of the upper floors of heritage buildings for residential use while maintaining active commercial space on the ground floor. Although the Morley’s building is not located along a lively commercial strip, the inclusion of retail on the ground floor could
have provided a public draw to the alley generating increased foot traffic and enhancing the pedestrian connection between the retailing districts along Yates and Johnson Streets on either end of the alley. The role of commercial activity in the potential revitalization of the area was recognized by the Heritage Advisory Committee, who, at their January 13, 2009 meeting, expressed disappointment at the Morley’s lack of retail space at grade. The accommodation of residential units, as opposed to commercial, on the ground floor also necessitated compromises in terms of the building’s heritage value; in particular, the proposal’s closure and reconfiguration of the iconic carriageway entrance off Waddington Alley (Figure 6.5).

Figure 6.5  The carriageway entrance on Morley’s Soda Factory, post-rehabilitation
Similarly, the addition of the third storey to the building, while necessary to improve the project’s economic viability, had a substantial visual impact on the historic structure (Figure 6.6). Staff clearly wrestled with the treatment of the addition. As previously noted, initially, staff argued in the report to Council on the application that the design of the addition failed to meet the intent of Standard #11 of the Standards and Guidelines for the Conservation of Historic Places in Canada. In the concluding remarks of the same report, however, it is argued that:

The design treatment of the addition distinguishes it from the original through small setbacks and differences in material, yet the original two-storey brick form can still be clearly read by the observer, thus preserving the two-storey form as a character-defining feature. (City of Victoria 2009a, p. 6).

Figure 6.6 The Morley’s Soda Factory and 3rd storey addition, looking from Johnson Street

The economic viability of the project was not only assisted by the approval of the Heritage Alteration Permit in March 2009, but was also enhanced through a successful application for
a 10-year exemption from city property taxes under the city’s Tax Incentive Program. In accordance with the goals of the program, the project was deemed worthy of financial support as it “contributes to the city’s strategic objectives of strengthening the downtown with additional residential development, assisting in the preservation and rehabilitation of heritage buildings and improving public safety through the seismic upgrading of an unreinforced masonry building” (City of Victoria 2009b, p. 1).

Under the program, an applicant may apply for property tax exemption for a period determined in accordance with the following formula, up to a maximum of 10 years:

\[
\frac{\text{(Estimated Cost of Seismic Upgrading)}}{\text{(Current Year’s Property Taxes)}}
\]

For the Morley’s project, the existing property taxes were $8,903.16 and the estimated cost of seismic upgrading was $149,528.00 (City of Victoria 2009b). Therefore, the project was eligible for an exemption for the maximum period of 10 years. These figures illustrate a crucial point when considering the private sector necessity of creating economic value in the rehabilitation of historic buildings. While the current value of the exemption was clearly less than the anticipated seismic upgrading costs ($8,903.16 \times 10 = $89,031.60), so was the actual value of the exemption based on the BC Assessment Authority’s calculation of anticipated taxes following rehabilitation. Based on the rehabilitation work approved under the Heritage Alteration Permit, BC Assessment Authority estimated the revised property assessment and taxes following rehabilitation to be $2,353,000.00 and $13,976.35 respectively (City of Victoria 2009b). Therefore, the actual value of the exemption was anticipated to be $139,763.50; less than the $149,528.00 anticipated cost of seismic upgrading.

Following completion of the project in 2010, the total construction costs, including those associated with seismic upgrading were reported by the Times Colonist as being in the order of $2.5 million, significantly more than the anticipated total of $1.03 million reported in the staff report on the Tax Incentive Program application (Wilson 2010). In part, this difference
can be attributed to what LeFevre has described as the “unknowns” associated with heritage rehabilitation and conversion projects:

Any of these old buildings you tackle have got unknowns in them, so you can’t fix a price. Until you open up the carcass of the building, you can’t tell the state of the physical improvements (Lennam n.d., para. 17).

In the case of the Morley’s building, the extent of the building’s deterioration presented a particularly challenging set of “unknowns”. In an interview with the Times Colonist in 2010, LeFevre described the state of the building prior to rehabilitation as “basically a complete ruin” (Wilson 2010, p. B1). With a decayed superstructure and collapsed roof, LeFevre has called the Morley’s building “the worst building I’ve ever done. Worse than I’d ever believed it might be” (Lennam n.d., para. 17). Indeed, Senior Heritage Planner Steve Barber has suggested that “[t]he building was in such poor condition that not many developers would be willing to take it on” (Wilson 2009, p. B1).

LeFevre has reported on numerous occasions that he lost money on the Morley’s rehabilitation (see, for example, Wilson 2010; Holmen 2010; Lennam n.d.). When questioned as to why he would undertake such an unprofitable project, LeFevre has responded that, despite there being no money in the project, “[t]here is a lot of satisfaction” (Wilson 2010, p. B1). In a separate interview, LeFevre added that, “[i]f you’re preoccupied with making money, then being involved with heritage conversions is not the way to go” (Lennam n.d., para. 18). LeFevre’s apparent passion for heritage buildings has, however, won him prestige from the Victoria Real Estate Board, who awarded LeFevre with the honour of “Best Residential Rehabilitation” for his work on the Morley’s building at their annual Commercial Building Award Ceremony in 2010 (Holmen 2010).

6.4 Discussion and summary

The rehabilitation of the Morley’s Soda Factory illustrates the complex roles and relationships that exist between the city, private sector owners, developers and the general public in the implementation of Victoria’s heritage conservation program. While generally navigating the waters between regulating and promoting the rehabilitation and conversion of
The importance of the private sector in conservation implementation has significant implications for the historic built environment. Firstly, it means that the property market plays a substantial role in heritage conservation. Rehabilitation projects need to make sense financially in order to be undertaken by the private sector. The city, for its part, has tried to enhance the economic viability of rehabilitation by offering financial incentives for heritage conversion projects under the BIP and TIP programs. The case of the Morley’s project illustrates, however, that despite the city’s incentive programs, rehabilitation is not always viable from a financial perspective. In fact, even with additional floorspace and a variance allowing residential use at grade, LeFevre was still not able to break even on the Morley’s project.

The limited effect of these programs on the economics of the Morley’s project indicates that the uptake of heritage conversion projects in Old Town and Chinatown in the first decade of the 21st century may perhaps more accurately be attributed to the strong market demand for the heritage aesthetic. In an interview with Douglas Magazine, for example, Dale Olsen, owner of Victoria’s Outlooks for Men, a men’s clothing shop located in a rehabilitated heritage building on Yates Street, noted that being located in an old building makes good business sense in downtown Victoria for both commercial and residential real estate:
It’s amazing the attraction of a red brick wall…. People love old buildings. Definitely, it’s a factor in doing business… They sell ridiculously tiny condos and the attraction is one red brick wall. (Lennam n.d., paras. 12 and 14).

The fact that LeFevre was willing to undertake the Morley’s project despite its limited potential for generating profit, signals the second important implication of private sector-led implementation; that is, the attitudes of individual property owners and developers play a significant role in the decision to undertake a rehabilitation project. Representing two different sets of values and motivations, LeFevre’s active involvement in rehabilitation and adaptive re-use projects in downtown Victoria can be contrasted with Clara Kramer’s neglect and disregard for her historic properties. When asked about his decision to undertake the marginally viable Morley’s project, for example, LeFevre has stated that there was “satisfaction” and “goodwill” in the project (Wilson 2010, p. B1).

LeFevre, however, is one of only a handful of developers actively involved in adaptive re-use projects in Victoria, despite the city’s encouragement through the provision of incentive programs. Thus, while Kramer is undoubtedly anomalous in many respects, her dismissive attitude towards the deterioration of her historic properties is not uncommon among other property owners in the downtown core. Lennam (n.d.) reports that, “[t]here are numerous cases of heritage buildings falling into disrepair and sitting empty because the owners know as soon as they renovate, they’ll have to abide by the heritage rules, including paying for seismic work” (para. 53).

Thus, one of the most significant challenges the City of Victoria faces moving forward in realizing its heritage conservation goals for the downtown core is the fact that property owners have apparently become savvy to the city’s difficult position in terms of implementation. Rick Arora, the owner of five historic buildings in the downtown core, for example, commented in an interview with Douglas Magazine, “[i]f I don’t touch it, the city doesn’t say anything” (Lennam n.d., para. 54). Thus, in order to further support its conservation goals and encourage conservation activity in the private sector, the city has had to monitor and adjust its conservation program on a continual basis. Recently, the city has
made moves to address the apparent limited effectiveness of their current incentive programs through the introduction of a new fund to offset the costs of seismic upgrading as well as through the consideration of extending the maximum tax exemption period of the TIP (City of Victoria 2011a).
7 Conclusion

Since the emergence of heritage conservation ideals in the Western world in the late-18th century, the evolution of policies designed to conserve aspects of the historic built environment for future generations has largely coincided with broader processes of urban change. Political, economic and social changes affecting the development, use and perception of the built environment have transformed heritage conservation from an elite concern over the fate of a relatively small group of monumental structures to a broad public interest and planning consideration having ties to land use, urban design, economic development and other concerns. While the case study of Old Town and Chinatown displays broad consistency with this evolution, it also suggests that, at the level of an individual city and district, the particular trajectory of heritage conservation policy is dependent on the social, political and economic context of the locality. Thus, the case of Old Town and Chinatown demonstrates elements of both consistency as well as contrast with the evolution of heritage conservation policy outlined in the literature. In addition, the case study highlights a number of further conclusions regarding the practice of developing heritage conservation policy at the municipal level in Canada.

7.1 The evolution of heritage conservation thought
Initially a product of emerging ideas of the “sublime” and “picturesque” in philosophy, psychology and architecture during the Victorian era, early conservation policies were largely passive in nature focusing predominantly on protecting historically and architecturally significant buildings from harm. Buildings were identified by experts based on a predetermined set of supposedly intrinsic qualities, such as “beauty”. Policy development of this nature continued until the mid-1960s, when the approach to and focus of conservation shifted with the postmodern reaction in urban planning and architecture. Postmodernism reasserted ideas of place, culture and setting in the built environment, and sought to counter the effects of Modernist demolition-based urban renewal and highway construction schemes of the post-war period. With the intention of saving entire neighbourhoods from destruction, area-based approaches to heritage conservation were developed and the subject of conservation began to include more mundane structures. In
addition, the emergence of public participation in planning processes meant greater public involvement in the process of identifying, protecting and rehabilitating historic structures.

During the 1970s and 1980s, processes of deindustrialization in many North American cities introduced the issue of revitalization into conservation policies. It was no longer enough to simply protect historic buildings; they also had to be able to support viable uses to ensure their ongoing maintenance. The heritage image has been mobilized in many postindustrial cities for economic development purposes encouraging the re-use of derelict industrial districts for tourism, housing, shopping and other consumption-oriented uses. Changes in the political economy of cities in the late-20th century have also affected the evolution of heritage conservation policies in the Western world. The move towards “roll-back” and “roll-out” neoliberalism has hollowed out the capacity for governments to initiate large-scale change in the built environment. Thus, cities are increasingly reliant upon the private sector to initiate change and implement heritage conservation goals. Rather than being seen as an alternative to development, then, conservation has become simply one form of development along a spectrum of choice among urban development futures.

While heritage is a form of development, it is also a public good embodying a wide range of community values. Values-based theories of conservation recognize the myriad values ascribed to heritage by various stakeholders and community members in the heritage conservation process. Such theories initially emerged as a reaction to the increasingly apparent void that developed over the course of the 20th century between the technical process of conservation intervention and the purposes and goals underlying conservation actions. Values-based conservation rejects the notion of heritage as having intrinsic value, instead, recognizing value in historic objects and places as socially constructed and contingent on time and place. Decision-making under such a theoretical framework has adopted the move towards public participation seen in the broader planning profession. Indeed, assessing conservation decisions relies on an understanding how and why heritage is valued, and by whom, with interventions aimed at preserving the identified values. This can pose a number of analytical challenges given the wide variety of values and the ethics and epistemologies that underpin them. In addition, the range of values ascribed to a particular
resource can, and often do, conflict with each other and change over time. Nevertheless, today, a values-based theoretical framework is widely regarded as ‘best practice’ in heritage conservation.

More recently, as ideas of sustainable development have come to the forefront in planning and architecture, values associated with the historic built environment have expanded to include considerations of resource conservation, waste minimization and compact development. Thus, many historic cities are now attempting to re-position their heritage conservation policies in terms of sustainable development advocating the re-use of older buildings as an alternative to demolition and redevelopment or development on greenfield sites. In addition, as cities move towards advocating sustainable building practices, heritage conservation goals are being bolstered by academics and heritage advocates, such as Carl Elefante, who has suggested that ‘the greenest building is…one that is already built’ (2007).

Heritage conservation has, therefore, evolved in such a way that it no longer applies solely to buildings of supposed architectural or historical significance but recognizes the historic built environment as having multiple layers of value to society that are deserving of conservation. Heritage resources are identified based on their ‘value’ with the conservation of elements that contribute to this value the ultimate goal of heritage conservation. Thus, a broader range of historic buildings and environments have become the subject of heritage conservation policies in recognition of the fact that the historic built environment is inscribed with meanings which have aesthetic, historic, scientific, cultural and social significance to communities although such environments may be poor examples of architectural design.

7.2 Consistency with the case study of Old Town and Chinatown

The overall trajectory in the development of heritage conservation policies for Old Town and Chinatown is similar to that identified in the literature becoming increasingly broad in scope and application and progressively more integrated into larger planning concerns for the downtown core. In addition, connections to the larger processes of urban change identified in the literature are apparent in the case of Old Town and Chinatown. The Old Town Report prepared by the UBC School of Architecture, for example, has clear postmodern
underpinnings in its arguments for the conservation of Old Town, advocating for the recognition of the human qualities associated with its architecture. Heritage conservation in Old Town and Chinatown initially emerged as a reaction to proposals for large-scale change in the downtown core as growth and development accelerated in the post-war period following decades of industrial decline and economic stagnation. Early heritage conservation programs for Old Town and Chinatown focused on protecting buildings through zoning to discourage redevelopment, identification and designation of historically significant buildings deemed most threatened by demolition, and public realm improvements to encourage investment in the historic core.

The shift to a neoliberal political economy in the late 20th century area removed the city from its initial role in conservation as an active and leading participant championing the virtues of historic buildings through public realm improvements and paint-up programmes. Indeed, by the mid-1980s, the city was no longer active in the rehabilitation process, relying instead on the private sector to initiate change in the historic built environment. The amount, type and particular design of such change became the subject of controversy in the mid-1980s with the development of the Victoria Eaton Centre prompting an expansion in the focus of the city’s conservation program. The Victoria Eaton Centre project effectively called into question the need for adaptation in the historic built environment to accommodate contemporary uses and demonstrated the lack of established conservation standards. As an outcome of the development, Victoria introduced financial incentives and conservation-area development guidelines into its heritage conservation repertoire. Financial incentives were intended to facilitate the rehabilitation and continuing use of downtown heritage buildings by the private sector while the designation of Old Town and Chinatown as a development permit area and the adoption of guidelines for the area established development standards for projects involving historic structures.

More recently, Victoria has adopted a values-based approach to conservation and has repositioned its heritage conservation goals in terms of the role of heritage conservation in a sustainable city. As such, the city’s entire heritage conservation framework, including regulatory tools and incentive programs, is now structured to preserve heritage values and the
character-defining elements that embody those values. As the case of the Morley’s Soda Factory rehabilitation demonstrates, the implementation of conservation goals for Old Town and Chinatown relies on the use of a Statement of Significance as a tool for the identification and elicitation of heritage values and character-defining elements and on the application of the *Standards and Guidelines for the Conservation of Historic Places in Canada* as a set of guidelines against which private sector proposals may be analyzed and assessed. The implication of this approach is that, instead of adopting a protectionist attitude, the city allows for some flexibility in the adaptation of the historic built environment to achieve their heritage conservation goals and the needs of the individual property owner and/or developer. In addition, the city specifically encourages private sector involvement in conservation projects through the provision of financial incentives.

Over the course of the evolution of heritage conservation planning in Old Town and Chinatown, heritage conservation goals have become increasingly integrated with broader planning goals for the core area. While heritage conservation was recognized as being a potential basis for economic revitalization in the core area, early policies and implementation tools did not explicitly consider the implications of retaining historic buildings on the functioning of the core area. The tourist appeal of historic structures was recognized; however, questions of building re-use were largely left unanswered with the focus instead on retention and the external appearance and setting of the buildings. With the Victoria Eaton Centre proposal, however, re-use was identified as a necessary component of implementing the city’s heritage conservation goals and the conservation program was repositioned in terms of strengthening the retail function of Old Town and Chinatown as well as increasing the housing potential of downtown through the conversion of vacant upper floors to residential uses. Emerging policy directions from the City of Victoria are now drawing connections between the city’s heritage conservation goals and its sustainability goals. The rehabilitation of historic buildings is identified as contributing to resource conservation and compact development as well as to green job development and the preservation and enhancement of social capital.
7.3 Contrast with the case study of Old Town and Chinatown

While the overall trajectory of heritage conservation planning for Old Town and Chinatown mirrors that generally outlined in the literature, there are also a number of significant contrasts, which can largely be explained by the city’s distinct context and history. Perhaps the most glaring contrast is in the periodization of the development of heritage conservation policies. Whereas many European cities and some North American cities on the eastern seaboard developed heritage conservation policies in the late 19th century, it was not until the early 1960s that conservation emerged as a concern in the City of Victoria. Victoria, being on the west coast, is relatively young as compared with other cities of the Western world, in particular, European cities where much of the research on heritage conservation originates. Indeed, while the late 19th century marked the beginning of heritage conservation planning in European cities, it marked the City of Victoria’s initial building boom and period of development and expansion. In comparison with other Western cities, however, Victoria began the process of deindustrialization decades earlier as a result of the spectacular growth of Vancouver as the province’s leading economic centre at the turn of the 20th century. As a result of Vancouver’s industrial and commercial development, Victoria was forced to consider post-industrial economic options throughout the first half of the 20th century; a time when most other Western cities were expanding their industrial production capacity. Similarly, Victoria’s early deindustrialization and the need to consider alternative urban futures for the economic basis of the city introduced the goal of downtown revitalization as a justification of heritage conservation as early as the late 1960s. Indeed, revitalization is apparent in the initial stage of heritage conservation development in Victoria with conservation seen as a means of repositioning downtown for economic development through preserving a sense of place for the purposes of tourism. Thus, buildings were not only valued for their historical or architectural significance but for their broader connections to the vision of a future for the downtown core.

7.4 Additional conclusions

Examining the evolution and practice of heritage conservation planning in Old Town and Chinatown also provides a number of additional observations regarding the theory and practice of heritage conservation. Firstly, it is apparent that, in the case of Victoria,
conservation has evolved out of conflict. The building boom of the 1880s and 1890s left Victoria with a legacy of industrial buildings; however, the subsequent shift in the economic centre of the province from Victoria to Vancouver eroded Victoria’s growth momentum. As such, the pace of change slowed, the local economy was largely unable to support the continuing use, as originally intended, of many buildings in Old Town and Chinatown, and growth and development occurred on a smaller scale than in Vancouver. As the controversy surrounding the Reid Centre proposal and the Victoria Eaton Centre development demonstrate, it has been the negative reaction to large-scale transformation that has driven change in Victoria’s conservation program. Thus, the evolution of heritage conservation planning in Victoria highlights the fact that conservation represents a choice among paths of urban change, a choice that Tung (2001) has identified as urban change by destruction of the past or by integration with the past. Tangible connections to the past, in this case, have been integrated into the city’s goals providing a sense of stability and confidence for the future.

Secondly, the case of Old Town and Chinatown suggests that, while policy will necessarily shape the realm of what is possible through conservation actions, it is important to consider the context of implementation. Without a nuanced implementation program, municipalities are challenged to meet their goals for heritage conservation; it is a question of what tools are available for implementation and how effectively they can be deployed. In Victoria, the question of available tools has been connected to the development of provincial enabling legislation for heritage conservation and planning. In this respect, Victoria has been at the forefront of heritage conservation planning in British Columbia lobbying for specific powers from the province to enhance their ability to implement heritage conservation goals. The result has been that, today, the tools and processes used in heritage conservation planning in Old Town and Chinatown, as well as in municipalities throughout the province, reflect a values-based approach to conservation, which is internationally regarded as ‘best practice’. Concepts of heritage values and character-defining elements are enshrined in legislation and tools available to municipalities for the purposes of conservation are designed to conserve these values.
The effective deployment of conservation tools, on the other hand, relies on the skills and dedication of a variety of actors, including the private and public sectors as well as the general public. In Victoria, the initial impetus to conserve Old Town and Chinatown can largely be attributed to the leadership and advocacy of then-Mayor Biggerstaff-Wilson. Responding to the threat of wholesale change in the historic core, however, it was the awareness and advocacy among a broad public that supported the initial political will and led to the development of a planning direction for the downtown core based on principles of heritage conservation. At the level of the individual building, city planners and private sector owners and developers play a substantial role in supporting the higher-level implementation goals expressed by political officials and the public. The survival and rehabilitation of the Morley’s Soda Factory, for example, is unlikely to have occurred in the absence of the skills and dedication of both the City of Victoria’s heritage planning staff and of developer Chris LeFevre.

The wide range of groups, often with competing agendas, involved in the implementation of heritage conservation goals introduces a significant degree of variability in potential outcome. Compounding this fact, the Morley’s project suggests that there are significant connections between the realization of heritage conservation goals and the operation of the property market. Developers are looking to create a marketable product that generates the most substantial potential returns on the site. Where the development options for a site are limited by heritage conservation controls and building code requirements associated with rehabilitation work, developers are increasingly challenged to produce a financially viable project. If the rehabilitation of the building is considered to be too much of a financial risk, the owner or developer is likely to let the building sit until such a time that the economic climate is favorable for development of the site, undermining the heritage conservation goals of the public sector.

Rehabilitations in Old Town and Chinatown have recently benefitted from the emergence of strong consumer demand for the heritage image as well as incentives provided by the city designed to offset the financial burden associated with seismic upgrading requirements under the building code. The property market is, however, in continual flux necessitating ongoing
monitoring and adjustment to achieve the same goals. The city has already experienced a decline in the number of rehabilitation projects in Old Town and Chinatown, for example, as market fluctuations have increased the price of land in the area and as the supply of buildings with a favorable location, typology and condition have diminished. Luckily, from the perspective of the city’s heritage conservation goals, the demand for historic living quarters and commercial spaces remains strong.

Despite the volatility of the property market in a capitalist economic system, individual values clearly play a strong role in the realization of heritage conservation goals. According to LeFevre, developer of the Morley’s Soda Factory, rehabilitation favours “gutsy, passionate visionaries, who have lots of patience” (Lennam n.d., para. 18). The relatively small group of private sector developers responsible for the vast majority of recent rehabilitation and conversion projects in Old Town and Chinatown indicate that these qualities may be rare among developers and property owners in Victoria. Indeed, a more common sentiment appears to be that noted by Matt MacNeil, owner of two historic buildings in Old Town, who, in an interview with Douglas Magazine, said “I love heritage, but the numbers have to work” (Lennam n.d., para. 59).

7.5 Summary
While there are contextual variations in the development and implementation of heritage conservation planning, there appears to be consensus in theory and practice now that it is not enough to simply preserve architecturally beautiful or historically significant buildings. Conservation is now about much more. It has linkages to the property market, economic development, cultural values, social capital, land use planning, waste management and urban design. Thus, the development and realization of heritage conservation goals increasingly involves a wide variety of actors within a complex set of relationships. A review of the literature as compared with the case of Old Town and Chinatown in Victoria B.C. reveals a broad concurrence in the development of heritage conservation ideas and the increasing interaction between heritage conservation and planning. The case study also highlights the significance of both the property market and individual values in the realization of heritage conservation goals in a neoliberal state operating within the capitalist system. Within this
context, this work has found the implementation and monitoring process to be a greater determinant of the ultimate success of heritage conservation planning than the development of regulations and policies to protect structures.
References


City of Victoria (1977). *Community Plan for the City of Victoria* (City of Victoria Archives Publication No. CD 121).


City of Victoria (1986). *City of Victoria Official Community Plan* (City of Victoria Archives Publication No. CD 125).


http://proquest.umi.com/pqdweb?did=1448014421andFmt=3andclientId=6993andRQT=309a
ndVName=PQD

http://proquest.umi.com/pqdweb?did=1446820541andFmt=3andclientId=6993andRQT=309a
ndVName=PQD

http://proquest.umi.com/pqdweb?did=1447414291andFmt=3andclientId=6993andRQT=309a
ndVName=PQD

http://proquest.umi.com/pqdweb?did=1447414201andFmt=3andclientId=6993andRQT=309a
ndVName=PQD


Victoria Civic Heritage Trust. (2010). *City grant received summary checklist*.

http://proquest.umi.com/pqdweb?did=266850191andFmt=3andclientId=6993andRQT=309andVName=PQD


http://proquest.umi.com/pqdweb?did=1677560531andFmt=3andclientId=6993andRQT=309andVName=PQD

http://proquest.umi.com/pqdweb?did=2021992151andFmt=3andclientId=6993andRQT=309andVName=PQD


Appendices

Appendix A  Section 714A of the Municipal Act, as adopted in 1973

(1) The Council may, by by-law, subject to the approval of the Lieutenant-Governor in Council, designate any buildings, structures, or lands, in whole or in part, as heritage buildings, structures or lands for the purpose of preserving evidences of the municipality’s history, culture and heritage for the education and enjoyment of present and future generations.

(2) A building, structure, or land designated by the Council shall not be demolished or built upon, as the case may be; nor shall the façade or exterior of the building or structure be altered, except with the approval of the Council.

(3) In exercising the power under this section, the Council shall have due regard for the following considerations:

a. The need for preserving heritage buildings, structures, or lands which collectively represent a cross-section of all periods and styles in the municipality’s historic and cultural evolution:

b. The costs and benefits of the preservation:

c. The compatibility of preservation with other lawful uses of the buildings, structures, or lands

(4) The Council may, by by-law adopted by an affirmative vote of at least two-thirds of all the members thereof, establish a Heritage Advisory Committee, whose members shall serve without remuneration and who shall advise the Council on those matters coming within the scope of this section as may from time to time be referred to the Heritage Advisory Committee by the Council and, in particular, may make recommendations to Council respecting designation of heritage buildings, structures, and lands and the demolition, preservation, alteration, or renovation of those buildings, structures, and lands.

(5) In the by-law establishing the Heritage Advisory Committee there shall be set out

a. The composition of the Heritage Advisory Committee and the manner in which Council shall appoint the members, and
b. The procedures governing the Heritage Advisory Committee.

(6) The Council shall include in its annual budget such sums as may be necessary to defray the expenses of the Heritage Advisory Committee.
Appendix B  Part III of the *Heritage Conservation Act*, as adopted in 1977

MUNICIPAL HERITAGE CONSERVATION

**Interpretation**

10. In this Part

(a) “municipality” include the City of Vancouver,

(b) “building, structure, or land” means building, structure, or land within the municipality, and

(c) a council shall follow the practices and procedures applicable to it under the *Municipal Act* or the *Vancouver Charter*, as the case may be.

**Designation**

11.(1) A council may, by by-law, designate a building, structure, or land, in whole or in part, as a municipal heritage site.

(2) No by-law under subsection (1) shall be adopted by the council unless notice of its intention to consider the by-law is

(a) mailed by registered mail or delivered to the owner of the building, structure, or land, at least 10 days before the date of consideration by council of the motion to adopt the by-law, advising him how he may object, and

(b) published in not less than 2 consecutive issues of a newspaper of general circulation within the municipality with the last publication appearing not less than 3 days, or more than 10 days, before the date described in paragraph (a).

(3) Notice under subsection (2)(a) shall be deemed to have been given 3 days after having been sent by registered mail addressed to the owner at his last known address.

(4) Where designation under subsection 91) decreases the economic value of the building, structure, or land, the council
may, by by-law, provide a grant, loan, tax relief, or other compensation to the owner.

(5) Compensation provided under subsection (4) shall be deemed full and fair compensation for loss or damage suffered by the owner through the designation.

Prohibition

12. No person shall
(a) demolish a building or structure, or
(b) alter the façade or exterior of a building or structure, or
(c) build on land
designated under this Part without the prior approval, by resolution, of the council.

Powers

13. For the purposes of this Part, a council may
(a) include provision for municipal heritage conservation in its annual budget, or
(b) enter into agreements with any person including the Government of the Province or of Canada, or
(c) acquire covenants or easements, or
(d) acquire or dispose of property.

Temporary delay of work

14.(1) Notwithstanding a permit or enactment to the contrary
(a) where a building, structure, or land having possible heritage significance to a municipality may, in the opinion of the council, be altered, damaged, or destroyed, the council may, by resolution, order that, for a period not exceeding 30 days, no person shall alter, damage, or destroy the building, structure, or land,
(b) where a by-law is introduced in council pursuant to section 11, no person shall alter, damage, or destroy the building, structure, or land under consideration unless the council rejects the by-law or 60 days pass after the making of the motion and it has not been adopted, and
(c) the alteration, damage, or destruction of a building, structure, or land may be delayed under paragraphs (a) and (b) for a total period not exceeding 90 days.

(2) Property shall be deemed not to be taken or injuriously affected by an order under subsection (1)(a) or the making of a motion described in subsection (1)(b).

Municipal Heritage Advisory Committee 15.(1) A council may, by by-law, establish a municipal heritage advisory committee to advise the council on any matter under this Part.

(2) The by-law establishing a municipal heritage advisory committee shall set out

(a) the number of members of the committee and the manner of their appointment, and

(b) the rules of practice and procedure regulating the business of the committee.

(3) Where a council establishes a municipal heritage advisory committee, the council may budget for and pay the expenses of the committee.
Appendix C  Heritage Conservation Statutes Amendment Act, 1994

BILL 21 -- 1994
HERITAGE CONSERVATION STATUTES
AMENDMENT ACT, 1994

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Assessment Act

1 Section 26 of the Assessment Act, R.S.B.C. 1979, c. 21, is amended by adding the following subsection:

(4.2) Notwithstanding any requirement of this section respecting actual value, if, on October 31 following the valuation date under section 25.1, land and improvements, or a portion of the land and improvements, is
(a) designated under section 4 of the Heritage Conservation Act,
(b) designated under section 1022 of the Municipal Act or section 593 of the Vancouver Charter, or
(c) included under section 945 (7) (b) of the Municipal Act in a schedule to an official community plan, the actual value shall be determined by taking into consideration the terms and conditions of the heritage protection of the property.

British Columbia Buildings Corporation Act

2 Section 4 (2) of the British Columbia Buildings Corporation Act, R.S.B.C. 1979, c. 35, is amended by adding the following paragraph:

(d.1) conserve heritage property; .

Capital Commission Act

3 Section 9 (1) of the Capital Commission Act, R.S.B.C. 1979, c. 42, is amended by adding the following paragraph:
(c.1) acquire and conserve heritage property and cooperate with any local government in the conservation of heritage property;

Coal Act
4 Section 1 of the Coal Act, R.S.B.C. 1979, c. 51, is amended by adding the following definitions:
   "cultural heritage resource" means a cultural heritage resource as defined in the Mineral Tenure Act;
   "protected heritage property" means protected heritage property as defined in the Mineral Tenure Act;

5 Section 4 is amended by adding "or a Provincial heritage property established under section 9.1 of the Heritage Conservation Act" after "park created under an Act" and by adding "or Provincial heritage property" after "responsible for the park".

6 Section 5 is amended by adding "or has contravened the protection of a protected heritage property," after "this Act or the regulations".

7 Section 7 is amended
   (a) in subsection (1.1) by adding the following paragraph:
   (b.1) protected heritage property except as authorized by the minister or local government responsible for the protection of the heritage property, , and
   (b) in subsection (1.2) by adding "is or contains a cultural heritage resource or" after "considers that the surface area".

College and Institute Act
8 Section 12 (2) of the College and Institute Act, R.S.B.C. 1979, c. 53, is amended by adding the following paragraph:
   (g.1) provide for the conservation of any heritage property that is owned by, assigned to or in the possession of the institution;

Forest Act
9 Section 1 (1) of the Forest Act, R.S.B.C. 1979, c. 140, is amended by adding the following definition:
"cultural heritage resource" means an object, a site or the location of a traditional societal practice that is of historical, cultural or archaeological significance to the Province, a community or an aboriginal people; .

10 Sections 5 (4) (d), 11 (4) (d), 16.1 (3) (d), 27 (5) (d) and 27.1 (3) (d) are amended by striking out "fisheries and wildlife" and substituting "fisheries, wildlife and cultural heritage".

11 Section 28 (1) (d) (i) is amended by striking out "fisheries and wildlife" and substituting "fisheries, wildlife and cultural heritage".

12 Section 92 (1) (b) (i) is amended by adding "or cultural heritage resources" after "the natural environment".

Heritage Conservation Act

13 Section 1 of the Heritage Conservation Act, R.S.B.C. 1979, c. 165, is amended

(a) by repealing the definitions of "council", "heritage", "municipal heritage site" and "trust",

(b) by repealing the definitions of "designate", "heritage object", "heritage site" and "Provincial heritage site" and substituting the following:

"designate" means to designate under section 4;

"heritage object" means, whether designated or not, personal property that has heritage value to British Columbia, a community or an aboriginal people;

"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;

"Provincial heritage site" means a heritage site designated under section 4 or a Provincial heritage property established under section 9.1; , and

(c) by adding the following definitions:

"alter" means to change in any manner and, without limiting this, includes

(a) the making of an improvement, as defined in the Builders Lien Act, and

(b) any action that detracts from the heritage value of a heritage site or a heritage object;

"conservation" includes any activity undertaken to protect, preserve or enhance the heritage value of heritage property;
"first nation" means, as the context requires, an aboriginal people sharing a common traditional territory and having a common traditional language, culture and laws, or the duly mandated governing body of one or more such people;
"heritage inspection" means a physical examination and other research necessary
   (a) to identify the heritage value of property or a portion of it, and
   (b) to establish, if the property is a heritage site or heritage object,
       (i) the need for protection and conservation, or
       (ii) conformance with heritage protection requirements;
"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;
"Heritage Trust" means the British Columbia Heritage Trust continued under section 16 (1);
"heritage value" means the historical, cultural, aesthetic, scientific or educational worth or usefulness of a site or object;
"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 this Act;
"local government" includes the council of a municipality, the board of a regional district, and the Trust Council and a local trust committee established under the Islands Trust Act;
"Provincial heritage object" means a heritage object designated under section 4; .

14 Section 3 is repealed and the following substituted:

Provincial heritage register
3 (1) The minister must establish and maintain one or more registers, to be known collectively as the Provincial heritage register, for the recording of the following:

(a) Provincial heritage sites;
(b) Provincial heritage objects;
(c) heritage sites and heritage objects that are included in a schedule under section 3.1 (4) (a);
(d) other known heritage sites and heritage objects that are, in the opinion of the minister, protected under section 6;
(e) buildings, structures and sites for which the minister has received notice from a local government under section 1032 (1) of the Municipal Act or section 602 (1) of the Vancouver Charter;
(f) other prescribed heritage property.

(2) Subject to subsections (3) and (4), information in the Provincial heritage register must be available for inspection by any person during regular business hours.

(3) Despite the Freedom of Information and Protection of Privacy Act, the minister may refuse to disclose information in the Provincial heritage register and other information obtained in the administration of this Act or the Museum Act if any of the following apply:

(a) disclosure of the information could, in the opinion of the minister, result in damage to or interfere with the conservation of a heritage site or heritage object;
(b) disclosure of the information would violate an agreement made under section 3.1;
(c) anthropological information that is of traditional social, spiritual or other cultural importance to a living community
   (i) was obtained under conditions of confidentiality, or
   (ii) is confidential at the request of representatives of the community whose heritage is represented by the information.

(4) The inspection of information in the Provincial heritage register is subject to reasonable conditions the minister may impose and, without limiting the generality of the foregoing, the minister may require payment of a prescribed fee to inspect the information.

(5) Protection of a heritage site or heritage object is not affected by an error or omission in the Provincial heritage register or, except for a Provincial heritage site or Provincial heritage object, by a failure to register property in the Provincial heritage register.
The following sections are added to Part 1:

**Agreements with first nations**

3.1 (1) The Province may enter into a formal agreement with a first nation with respect to the conservation and protection of heritage sites and heritage objects that represent the cultural heritage of the aboriginal people who are represented by that first nation.

(2) An agreement under subsection (1) must be in writing and must be approved by the Lieutenant Governor in Council.

(3) Subsection (2) does not apply to an agreement that is entered into under section 8.3 (1) (b) or 20 (1) (b).

(4) Without limiting the generality of subsection (1), an agreement made under this section may include one or more of the following:

(a) a schedule of heritage sites and heritage objects that are of particular spiritual, ceremonial or other cultural value to the aboriginal people for the purpose of protection under section 6 (2) (h);

(b) a schedule of heritage sites and heritage objects of cultural value to the aboriginal people that are not included in a schedule under paragraph (a);

(c) circumstances under which the requirements of sections 6 (1) and (2) and 7 (1) do not apply with respect to heritage sites and heritage objects, or to types of heritage sites and heritage objects, for which the first nation administers its own heritage protection;

(d) policies or procedures that will apply to the issuance of or refusal to issue a permit under section 5 or 7 with respect to

(ii) other sites and objects or types of sites and objects identified in the agreement;

(e) provisions with regard to the delegation of ministerial authority under sections 5 and 7 (4);

(f) any other provisions the parties agree upon.

(5) For the purpose of section 6 (2), if an agreement includes a schedule under subsection (4) (a), the agreement must identify actions which would constitute a desecration or which would
detract from the heritage value of scheduled sites and objects, and different actions may be identified for different sites or objects or for different classes of sites or objects.

**Act is binding on the government**

3.2 Notwithstanding section 14 (2) of the Interpretation Act, this Act and the regulations and orders made under it are binding on the government.

**Act prevails over conflicting legislation**

3.3 If, with respect to any matter affecting the conservation of a heritage site or heritage object referred to in section 6 (2), there is a conflict between this Act and any other Act, this Act prevails.

**Provincial heritage policies**

3.4 The minister may, with the approval of the Lieutenant Governor in Council, establish policies and standards for the identification, conservation, management and disposition of any heritage site or heritage object owned or managed by the government.

**No derogation of aboriginal and treaty rights**

3.5 For greater certainty, no provision of this Act and no provision in an agreement entered into under section 3.1 abrogates or derogates from the aboriginal and treaty rights of a first nation or of any aboriginal peoples.

**16** Sections 4 to 7 are repealed and the following substituted:

**Heritage designation**

4 (1) The Lieutenant Governor in Council may

(a) designate land as a Provincial heritage site, or

(b) designate an object as a Provincial heritage object.

(2) A designation under subsection (1) (a) may apply to land that does not have heritage value if, in the opinion of the Lieutenant Governor in Council, designation is necessary or desirable for the conservation of heritage property that is

(a) designated under this section,

(b) protected under section 6 (2),

(c) protected heritage property under the Municipal Act or the Vancouver Charter, or

(d) established under section 9.1.

(3) A designation made under this section may do one or more of the following:

(a) apply to a single property or to part of a property;
(b) apply to more than one property including properties owned by different persons;
(c) establish policies or procedures regarding the provision of financial or other support for the conservation of a heritage site or heritage object;
(d) specify types of alterations to the property which may be made without a permit under section 5;
(e) specify policies or procedures concerning the issuing of permits under section 5 with respect to a property.

Designation procedure

4.1 (1) Before a designation is made under section 4, the minister must serve notice of the proposed designation on the following persons:

(a) in the case of land,

(i) all persons who, according to the records of the land title office, have a registered interest in the land to be designated,
(ii) the local government or local governments having jurisdiction over the land to be designated, and
(iii) the first nation or first nations within whose traditional territory the land to be designated lies;

(b) in the case of objects,

(i) the person who has possession of the object,
(ii) all parties who, according to the records of the personal property registry established under the Personal Property Security Act, have a registered interest in the object, and
(iii) any other person or party who, in the opinion of the minister, is or may be the owner of the object or has or may have a proprietary interest in the object;

(c) any other prescribed person.

(2) A person or party served with notice under subsection (1) may serve the minister with a notice of objection to the proposed designation within 30 days after receiving the notice of the proposed designation.

(3) On receiving a notice of objection, the minister must review the objection and may then amend or cancel the proposed designation as the minister considers appropriate.
(4) Before a designation is made, the minister must advise the Lieutenant Governor in Council if any notice of objection to the proposed designation has been received and, if so received, provide the Lieutenant Governor in Council with a copy of each notice of objection received, the results of the review of the notice or notices of objection and the terms and conditions of any amendment to the proposed designation.

(5) Within 30 days after

(a) the minister cancels a proposed designation,
(b) the Lieutenant Governor in Council makes a designation, or
(c) the Lieutenant Governor in Council decides not to make a designation, the minister must serve notice on the persons entitled to notice under subsection (1) that a designation has or has not been made.

(6) Within 30 days after a designation is made, the minister must register a description of the designated property in the Provincial heritage register established under section 3 (1) and,

(a) in the case of land, file a notice of the designation in the land title office in the manner provided under section 27, or
(b) in the case of personal property, file a notice of the designation in the personal property registry under the Miscellaneous Registrations Act, 1992.

(7) No designation is invalid because of inadvertent and minor non-compliance with this section.

Compensation for heritage designation

4.2 (1) If a designation under section 4 causes, or will cause at the time of designation, a reduction in the market value of the designated property, the government must compensate an owner of the designated property who makes an application under subsection (2), and the compensation must be in an amount or in a form the minister and the owner agree on or, failing an agreement, in an amount or in a form determined by binding arbitration under subsection (4).

(2) The owner of a designated property may apply to the minister for compensation for the reduction in the market value of the designated property.

(3) An application under subsection (2)

(a) must be made, in order for the owner to be entitled to compensation under this section, no later than one year after the designation under section 4, and
(b) may be made before the designation under section 4.

(4) If the minister and the owner are unable to agree
   (a) that the owner is entitled to compensation under subsection (1), or
   (b) on the amount or form of compensation, then either the minister or the owner may
   refer the matter to binding arbitration under the Commercial Arbitration Act.

(5) An arbitration under this section must be by a single arbitrator unless the minister and the
   owner agree to the appointment of an arbitration panel.

(6) The arbitrator or arbitration panel, in determining whether the owner is entitled to
   compensation and the amount or form of compensation, must consider
   (a) eligibility for financial and other support for conservation of the heritage site or
       heritage object, and
   (b) any other benefits that are available because of the designation of the property.

(7) Compensation must not be paid, and an arbitration must not continue, if
   (a) the minister cancels the proposed designation, or
   (b) the Lieutenant Governor in Council does not make the designation.

(8) Nothing in this section authorizes the government to give any financial or other benefit to
   an owner except that which is commensurate with the reduction in market value of the
   designated property as caused by that designation.

(9) This section does not apply to property that, immediately before its designation under
   section 4, is
   (a) designated as a Provincial heritage site,
   (b) designated as a heritage object,
   (c) protected under section 6 (2), or
   (d) designated under section 1022 of the Municipal Act or section 593 of the
       Vancouver Charter.

Permits
5 (1) In this section, except subsection (6), and in sections 6 (4) and 7 (4), "minister" includes
a person authorized in writing by the minister for the purposes of the section.

(2) The minister may
   (a) issue a permit authorizing an action referred to in section 6, or
(b) refuse to issue a permit for an action that, in the opinion of the minister, would be inconsistent with the purpose of the heritage protection of the property.

(3) Upon receipt of an application for a permit that would, in the opinion of the minister, affect a site or object referred to in subsection (4), the minister must provide an opportunity for consultation by informing the appropriate first nation.

(4) Subsection (3) applies in respect of the following:

(a) a heritage site or heritage object that is included in a schedule under section 3.1 (4) (a) or (b);
(b) a heritage site or heritage object for which the first nation has requested an opportunity for consultation under this section;
(c) a site of aboriginal origin protected under section 6 (2) (b), (c), (d) or (f);
(d) other circumstances the minister considers advisable.

(5) A permit issued under subsection (2) (a) may include requirements, specifications and conditions that the minister considers appropriate and, without limiting the generality of this, the permit may

(a) be limited to a specified period of time or to a specified location,
(b) require the holder of the permit to consult with or obtain the consent of one or more parties whose heritage the property represents or may represent,
(c) require the holder of the permit to provide the minister with reports satisfactory to the minister, and
(d) specify a repository for heritage objects that are removed from the heritage property.

(6) Notwithstanding any other enactment, a permit issued under subsection (2) (a) may specify the siting, dimensions, form, exterior design and finish of new construction or renovations to a building or structure.

(7) The minister may, with the concurrence of the holder of the permit, amend, suspend or cancel a permit issued under subsection (2) (a).

(8) The minister may, by order, without the concurrence of the holder of the permit,

(a) amend or suspend a permit issued under subsection (2) (a) if the minister has information that was not considered when the permit was issued respecting the
heritage value of heritage property that would be materially affected by an action authorized by the permit, or
(b) cancel a permit issued under subsection (2) (a) if the minister has reasonable and probable grounds to believe that
   (i) the application for the permit included information that was false or misleading with respect to a material fact, or that omitted to state a material fact the omission of which makes information in the application false or misleading,
   (ii) the holder has contravened or is in default of a requirement or condition of the permit, whether or not the holder is charged with an offence under this Act, or
   (iii) the holder has contravened a provision of this Act, whether or not the holder is charged with an offence under this Act.

(9) A permit does not authorize the holder of the permit to enter property, or to make any alteration to property, without the permission of the owner or occupier.

**Heritage protection**

6 (1) Except as authorized by a permit issued under section 5 or 7, a person must not remove, or attempt to remove, from British Columbia a heritage object that is protected under subsection (2) or which has been removed from a site protected under subsection (2).
(2) Except as authorized by a permit issued under section 5 or 7, or an order issued under section 7, a person must not do any of the following:
   (a) damage, desecrate or alter a Provincial heritage site or a Provincial heritage object or remove from a Provincial heritage site or Provincial heritage object any heritage object or material that constitutes part of the site or object;
   (b) damage, desecrate or alter a burial place that has historical or archaeological value or remove human remains or any heritage object from a burial place that has historical or archaeological value;
   (c) damage, alter, cover or move an aboriginal rock painting or aboriginal rock carving that has historical or archaeological value;
(d) damage, excavate, dig in or alter, or remove any heritage object from, a site that contains artifacts, features, materials or other physical evidence of human habitation or use before 1846;

(e) damage or alter a heritage wreck or remove any heritage object from a heritage wreck;

(f) damage, excavate, dig in or alter, or remove any heritage object from, an archaeological site not otherwise protected under this section for which identification standards have been established by regulation;

(g) damage, excavate, dig in or alter, or remove any heritage object from, a site that contains artifacts, features, materials or other physical evidence of unknown origin if the site may be protected under paragraphs (b) to (f);

(h) damage, desecrate or alter a site or object that is identified in a schedule under section 3.1 (4) (a);

(i) damage, excavate or alter, or remove any heritage object from, a property that is subject to an order under section 7 (4) or 7.2.

(3) The Lieutenant Governor in Council may make regulations respecting the following:

(a) defining the extent of types of sites protected under subsection (2), except heritage sites or objects protected under subsection (2) (h);

(b) identifying types of features, material or evidence for which the requirements of subsection (2) (d) and (g) do not apply, and these may be different for different types of sites;

(c) establishing identification standards for archaeological sites to be protected under subsection (2) (f);

(d) identifying actions that shall be deemed to derogate from the heritage value of a site or object, or class or sites or objects, protected under subsection (2), except with respect to sites protected under subsection (2) (h).

(4) The minister may, after providing an opportunity for consultation with the first nation whose heritage site or object would be affected,

(a) define the extent of a site protected under subsection (2), or
(b) exempt a site or object from subsection (2) on any terms and conditions the minister considers appropriate if the minister considers that the site or object lacks sufficient heritage value to justify its conservation.

(5) Subsection (4) does not apply to a site or object protected under subsection (2) (h).

(6) Except as authorized by a permit issued under section 5, a person must not damage, alter or remove

(a) a notice erected under section 8, or

(b) a plaque or marker installed under section 8.1.

**Heritage inspection and heritage investigation**

7 (1) A person must not excavate or otherwise alter land for the purpose of archaeological research or searching for artifacts of aboriginal origin except under a permit or order issued under this section.

(2) The minister may, by permit, authorize a heritage inspection or heritage investigation of any property.

(3) A permit issued under subsection (2) does not authorize entry onto land or into a building without the permission of the owner or occupier.

(4) The minister may order that a heritage inspection or heritage investigation be conducted if the minister considers that any one or more of the following apply:

(a) land may contain a heritage site or heritage object protected under section 6;

(b) land that may have heritage value, or that may include a heritage site or heritage object, may be subject to subdivision;

(c) the property may be subject to alienation from government ownership;

(d) property that may have heritage value, or land that may include heritage property, may be subject to alteration by natural or human causes;

(e) an object that may have heritage value may be subject to removal from British Columbia.

(5) The provisions of section 5 (2), (3), (4), (5), (7) and (8) apply to permits and orders under this section.

(6) A heritage inspection or heritage investigation ordered under subsection (4)

(a) must state the purpose of the heritage inspection or heritage investigation,

(b) must specify how long the order is to remain in effect,
(c) must require that the heritage inspection or heritage investigation be carried out in an expeditious manner,
(d) may provide that property covered by the order is subject to protection under section 6 while the order remains in effect,
(e) may require the owner to undertake actions to preserve the integrity and condition of property covered by the order while the order remains in effect, and
(f) may include any terms, conditions or specifications that the minister considers appropriate for the purpose of the heritage investigation.

(7) If an order for a heritage inspection or heritage investigation made under subsection (4) relates to
   (a) alienation of Crown owned property,
   (b) a public work authorized to be undertaken by or under an Act,
   (c) the extraction or harvesting of resources from land,
   (d) the subdivision of land, or
   (e) changes in use or development of land, the minister may require the person purchasing, subdividing, developing or using the property to undertake or pay for the heritage inspection or heritage investigation.

(8) A person must not interfere with a heritage inspection or heritage investigation ordered under subsection (4).

(9) A person whose property is damaged during the course of a heritage inspection or heritage investigation ordered under subsection (4) is entitled to have the damage repaired at the expense of the government or, if the damage cannot be repaired, to compensation from the government.

Entry authority for heritage inspection and heritage investigation orders

7.1 (1) An order made under section 7 (4) authorizes the person or persons conducting the heritage inspection or heritage investigation to enter land identified in the order at any reasonable time for the purposes of the heritage inspection or heritage investigation.
(2) Prior to or when entering land under subsection (1), the person conducting the heritage inspection or heritage investigation must make a reasonable attempt to notify the owner or occupier of the land and, if requested, present proof of his or her authorization.
(3) Except as provided in subsection (4), nothing in this section or in an order made under section 7 (4) authorizes entry into a building without the permission of the owner or occupier.

(4) A justice may issue a warrant authorizing a person to enter land or a building to conduct a heritage inspection or heritage investigation ordered under section 7 (4) if the justice is satisfied that

   (a) there are reasonable grounds to believe that entry is required to achieve the purposes of the order, and
   (b) there are reasonable grounds to believe that

      (i) an emergency exists,

      (ii) the person conducting the heritage inspection or heritage investigation has been unable to notify the owner or occupier after making a reasonable attempt to do so,

      (iii) the admission has been refused or refusal is anticipated, or

      (iv) the notification may defeat the object of the entry.

(5) A warrant issued under subsection (4) continues in force until the purpose for which the entry is required has been satisfied.

(6) If a heritage inspection or heritage investigation conducted under the authority of a warrant under subsection (4) requires entry into a building, the person conducting the heritage inspection or heritage investigation must be accompanied by a peace officer.

(7) Upon completion of a heritage inspection or heritage investigation ordered under section 7 (4), if the owner of land was not notified under subsection (2), the person undertaking the heritage inspection or heritage investigation must mail a notice informing the owner that a heritage inspection or heritage investigation has been conducted.

Temporary protection orders

7.2 If the minister considers that property has or may have heritage value and is likely to be altered for any reason, the minister may issue, to a person or class of persons, a stop work order that prohibits any alteration of the property for a period of up to 120 days, subject to any requirements and conditions the minister considers appropriate.

17 The following sections are added:

Promotion of heritage value
8.1 The minister may acknowledge the heritage value of any heritage site or heritage object by issuing a certificate or, with the permission of the owner, by installing a commemorative plaque or marker.

Unclaimed objects in heritage collections

8.2 (1) A public museum, archive or other heritage conservation organization that has possession of an object that it does not own, or is uncertain as to whether it owns, may apply to the Supreme Court for an order vesting ownership of the object in the museum, archive or organization if one of the following applies:

(a) a reasonable attempt has been made to locate the owner of the object and
   
   (i) at least 25 years have passed since the making of a written agreement with the owner of the object for custody of the object, or
   
   (ii) at least 10 years have passed since the making of an oral agreement with the owner of the object for custody of the object and there is no known written custody agreement;

(b) at least 2 years have passed since the museum, archive or organization gave to the owner of the object a notice of the termination of a custody agreement with respect to the object;

(c) the owner of the object cannot be identified or the circumstances of the acquisition of the object are not known;

(d) the object was acquired from a person who may not have been the true owner.

(2) On application under subsection (1), the court may, with respect to the object that is the subject of the application, make an order vesting ownership of the object in

(a) the museum, archive or organization that made the application, or

(b) any other party the court considers is the most appropriate to own the object having regard to any heritage value the object may possess.

(3) Before making an order under subsection (2), the court must be satisfied that

(a) a requirement of subsection (1) has been met,

(b) the limitation in subsection (6) does not apply,

(c) a reasonable attempt has been made to notify any other parties who may have an interest in the application, and
(d) all parties the court considers to have an interest in the application have been
given a reasonable opportunity to be heard.

(4) An order under subsection (2) may include any terms or conditions that the court
considers appropriate.

(5) If an order vesting ownership is made under this section, the previous owner has no
further claim to ownership of the object or to compensation for the object.

(6) This section does not apply to an object that has cultural heritage value to an aboriginal
people.

**Powers of the minister**

8.3 (1) To further the objects of this Act, the minister may do one or more of the following:

(a) acquire, manage and conserve property or acquire an interest in property;
(b) enter into agreements with a person, organization, local government, first nation
or the government of Canada or of a province;
(c) conduct and arrange exhibits or activities to inform and stimulate the interest of
the public in any matter related to the purposes of this Act;
(d) subject to a trust or agreement under which a property was obtained, dispose of
the property and execute instruments required to effect the disposal;
(e) receive, by donation, public subscription, devise, bequest or otherwise, money or
property;
(f) assist in or undertake research, study or publication respecting heritage
conservation;
(g) provide grants, advice and services to other parties having aims and objectives
consistent with the purposes of this Act;
(h) establish and maintain one or more inventories of heritage sites and heritage
objects, including a list of heritage buildings for which the Alternate Compliance
Methods of the British Columbia Building Code may apply.

(2) Property acquired by the minister under this Act is the property of the government and
title to the property may vest in the name of the government.

(3) Despite the Land Act, property acquired by the minister under this Act may be dealt with
by the minister under this Act.

**Preservation intervention**
8.4 (1) If the minister considers that property protected under section 6 (2) is subject to damage or deterioration, the minister may order the owner, on terms and conditions that the minister considers appropriate, to preserve the property at the expenses of the government.

(2) If the minister considers that property protected under section 6 (2) is subject to damage or deterioration and is being unreasonable neglected by the owner, the minister may order the owner, on terms and conditions and to specifications that the minister considers appropriate, to preserve the property at the expense of the owner or at the expense of the owner and the government on a cost sharing basis.

18 Section 9 is repealed and the following substituted:

Advisory committees

9 (1) The minister may establish or authorize one or more committees to act in an advisory capacity on matters relating to this Act or to the conservation of heritage sites, heritage objects and other heritage resources.

(2) The minister may appoint, or provide for the manner of appointment of, the members of any committee established under this section and may set the terms of reference for the committee.

(3) The members of any committee established or authorized under this section must be paid reasonable and necessary travelling and incidental expenses incurred in the discharge of their duties under this Act, and may be paid remuneration for services in an amount determined by the Lieutenant Governor in Council.

Provincial heritage properties

9.1 (1) The Lieutenant Governor in Council may, by order, designate a heritage site on Crown land as a Provincial heritage property and the Provincial heritage property includes the collection of accessioned artifacts associated with that heritage site.

(2) The Lieutenant Governor in Council may, by regulation, provide that any provision of the Park Act applies to a Provincial heritage property designated under subsection (1), and all authorities, rights, duties and other matters under these provisions will apply in relation to

(a) the minister as though he or she were the minister under the Park Act,

(b) any branch or agency assigned by the minister to administer a Provincial heritage property as though it were the Parks Branch under the Park Act,
(c) the director and staff of a branch or agency referred to in paragraph (b) as though they were the directors and officers respectively of the Parks Branch, and
(d) the Provincial heritage property as though it were a Class A park established under the Park Act.

(3) If a park use permit applies in respect of land when that land is established as a Provincial heritage property under subsection (1), that permit is deemed to have been issued under this section by the minister, and subsection (2) applies for the purpose of interpretation of that permit.

19 Parts 2.1 and 3 are repealed.

20 Part 4 is repealed and the following substituted:

Part 4 -- British Columbia Heritage Trust

Heritage Trust continued

16 (1) The British Columbia Heritage Trust is continued as a corporation.

(2) The Heritage Trust is for all purposes an agent of the government and the powers of the Heritage Trust may be exercised only as an agent of the government.

(3) Subject to the other provisions of this Part, the Heritage Trust has the power and capacity of a natural person of full capacity.

(4) The Company Act does not apply to the Heritage Trust but the Lieutenant Governor in Council may, by order, direct that one or more provisions of the Company Act apply to the Heritage Trust.

Objects of Heritage Trust

17 The objects of the Heritage Trust are as follows:

(a) to conserve and support the conservation of heritage sites and heritage objects;
(b) to gain further knowledge about British Columbia's heritage;
(c) to increase public awareness, understanding and appreciation of British Columbia's heritage;
(d) to undertake such other activities related to British Columbia's heritage as the minister may authorize.

Directors

18 (1) The Lieutenant Governor in Council must appoint a board of directors of the Heritage Trust.
(2) The Lieutenant Governor in Council must designate one of the directors as chair and one or more of the directors as vice chair of the board.

(3) The directors must be paid reasonable and necessary travelling and incidental expenses incurred in the discharge of their duties under this Act, and may be paid remuneration for services in an amount determined, on the recommendation of the board, by the Lieutenant Governor in Council.

(4) The board may

(a) determine its own procedure and provide for the regulation and conduct of its meetings,
(b) delegate any of the powers, functions and duties of the Heritage Trust to a committee of directors, to an officer or employee of the Heritage Trust or of the ministry or to any other person, and
(c) establish rules or policies governing the powers, functions or duties delegated under paragraph (b).

**Officers and employees**

19 (1) The board may appoint officers and employees of the Heritage Trust as it considers necessary.

(2) The power of appointment under subsection (1) is subject to the Public Service Act, and employees of the Heritage Trust shall be deemed to be employees and the Heritage Trust shall be deemed to be an employer in respect to those employees for the purposes of the Public Service Act, the Public Service Labour Relations Act and the Pension (Public Service) Act.

(3) The minister may authorize an employee of the ministry to provide services to the Heritage Trust, with or without compensation from the Heritage Trust.

(4) The Lieutenant Governor in Council may make an order to transfer one or more employees of the ministry to the Heritage Trust, and such an order must

(a) identify by name each employee of the ministry who is to be transferred to the Heritage Trust,
(b) specify a transfer date for each employee who is to be transferred, and
(c) establish conditions for the transfer that the Lieutenant Governor in Council considers advisable to preserve the rights and benefits of the employees to be transferred.

(5) On the transfer date specified by an order under subsection (4), an employee of the ministry named in the order ceases to be an employee of the ministry and becomes an employee of the Heritage Trust as if he or she were appointed under subsection (1), subject to any conditions established under subsection (4) (c).

**Powers of Heritage Trust**

20 (1) To further the objects of this Part, the Heritage Trust may do one or more of the following:

(a) acquire, manage and conserve property or acquire an interest in property;

(b) enter into agreements with a person, organization, local government, first nation or the government of Canada or of a province;

(c) conduct and arrange exhibits or activities to inform and stimulate the interest of the public in any matter related to the purposes of this Part;

(d) subject to a trust or agreement under which a property was obtained, dispose of the property and executive instruments required to effect the disposal;

(e) receive money or property by donation, public subscription, devise, bequest or otherwise;

(f) charge fees for any service that is provides including fees for the use of or admission to any of the facilities that it operates;

(g) assist in or undertake research, study or publication respecting heritage conservation;

(h) provide grants, advice and services to other parties having aims and objectives consistent with the purposes of this Part;

(i) subject to terms and conditions it may choose to apply, lend money from the trust fund continued under section 21 or guarantee loans made by a financial institution for the acquisition, management, conservation or development of heritage property by a party referred to in paragraph (b);

(j) do such other things as the Lieutenant Governor in Council may authorize.
(2) Subject to the approval of the Lieutenant Governor in Council, the Heritage Trust may, for the purpose of engaging in a commercial, industrial or business undertaking,
   (a) incorporate a corporation,
   (b) acquire shares in a corporation, or
   (c) enter into a partnership or joint venture.
(3) Subject to the approval of the Lieutenant Governor in Council, the Heritage Trust may borrow money in accordance with regulations made under section 59 of the Financial Administration Act.

**Heritage Trust Fund**

21 (1) The fund maintained under section 22 (1) of the Heritage Conservation Act as it read immediately before the coming into force of this section, is continued as the British Columbia Heritage Trust Fund.

(2) The Heritage Trust must pay any money received by it into the fund.

(3) The Heritage Trust may pay money out of the fund for
   (a) remuneration, expenses and compensation referred to in sections 18 and 19,
   (b) operation and administration expenses of the Heritage Trust,
   (c) investments referred to in subsection (4), and
   (d) any other expenses incurred in the exercise of its powers.

(4) Money of the fund may be invested in
   (a) the acquisition, management, conservation and development of property under section 20 (1) (a),
   (b) loans made under section 20 (1) (h), and
   (c) investments approved by the Minister of Finance and Corporate Relations.

**Financial administration**

22 (1) The Heritage Trust must establish and maintain an accounting system satisfactory to the Minister of Finance and Corporate Relations, and must render detailed accounts of its revenues and expenditures as required by that minister.

(2) The Minister of Finance and Corporate Relations may direct the Comptroller General of the Province to examine and report on any or all of the financial and accounting operations of the Heritage Trust.
(3) The accounts of the Heritage Trust must, at least once every year, be audited and reported on by an auditor appointed by the board.

(4) The Heritage Trust must annually, within 120 days of the end of its fiscal year, submit to the minister

(a) a report of the Heritage Trust and its operations for the preceding fiscal year,
(b) a financial statement showing the assets and liabilities of the Heritage Trust at the end of the preceding fiscal year, and
(c) the annual report of the auditor referred to in subsection (3).

(5) The report and financial statement referred to in subsection (4) must be laid before the Legislative Assembly by the minister during the next session of the Legislative Assembly following the submission of the report and financial statement to the minister.

(6) The Financial Information Act applies to the Heritage Trust.

(7) The fiscal year of the Heritage Trust ends on March 31.

**Property of the Heritage Trust**

23 (1) Property acquired by the Heritage Trust under this Part is the property of the government and title to the property may vest in the name of the government or in the name of the Heritage Trust.

(2) Despite the Land Act, property acquired by the Heritage Trust under this Part may be dealt with by the Heritage Trust under this Act.

(3) Property vested in the Heritage Trust is exempt from taxation, levies and all other charges, except insofar as the government is liable.

21 Part 5 is repealed and the following substituted:

**Part 5 -- General Provisions**

**Notice of heritage status on land title**

27 (1) The minister must file a written notice in the land title office with respect to land that is designated under section 4.

(2) The minister may file a written notice in the land title office with respect to land

(a) for which a notice has been given under section 4.1 (1),
(b) that, in the opinion of the minister, is protected under section 6 (2),
(c) for which an order is in effect under section 7, 7.2 or 8.4, or
(d) that, in the opinion of the minister, has been altered in contravention of section 6 (2).

(3) On receipt of a notice under subsection (1) or (2) in which the affected land is described sufficiently to be identified in the records of the land title office, the registrar must make a note of the filing on the title of the land.

(4) If the basis on which notice was filed under subsection (1) or (2) no longer applies to the land, the minister must notify the land title office.

(5) On receipt of a notice under subsection (4), the registrar must cancel the note made under subsection (1) or (2).

(6) Notification to the land title office under subsections (1), (2) or (4) must be made in a form satisfactory to the registrar of the land title district.

(7) The protection of property under this Act is not affected by
   (a) an error or omission in a notice given by the minister to the registrar,
   (b) an error or omission in a note made by the registrar under this section, or
   (c) a failure by the registrar to make or cancel a note on a land title.

(8) In the event of any omission, mistake or misfeasance by the registrar or the staff of the registrar in relation to the making or cancelling of a note under this section,
   (a) the registrar is not liable nor is the government vicariously liable, and
   (b) the assurance fund or the Attorney General as a nominal defendant is not liable under Part 20 of the Land Title Act.

Service of documents

28 (1) Where this Act requires service of a document on a person, other than service in relation to a court application under section 8.2, the document is sufficiently served on a person if
   (a) it is served personally on the person,
   (b) it is sent by registered mail, or a method of delivery that provides proof of delivery, to the person's actual or last known address, or
   (c) in the circumstances described in subsection (2), it is published in accordance with that subsection.

(2) If a document cannot be served personally on a person and the person's actual or last known address cannot be determined after reasonable steps for the purpose have been taken,
the document may be served by publishing a notice in the prescribed form in 2 issues, at least one week apart, of a newspaper having general circulation

(a) in the area where the person to be served was last known to reside or carry on business according to the information available to the person serving the document, or

(b) in the area in which the land is situated if the document relates to land owned by the person to be served.

(3) A document served under subsection (1) (b) is deemed to be received on the earlier of

(a) the date the person to whom it is sent actually receives the document, and

(b) the expiry of 10 days after the date on which the document was sent.

Civil remedies respecting contraventions

29 (1) The minister may apply to the Supreme Court for an injunction restraining a person from committing, or continuing to commit, a contravention of this Act or the regulations.

(2) The minister may apply to the Supreme Court for a restoration or compliance order if a person

(a) fails to comply with or contravenes the requirements or conditions of a permit issued under section 5 or 7,

(b) fails to comply with or contravenes an order made under section 7 or 8.4,

(c) removes property, or attempts to remove property, from British Columbia in contravention of section 6 (1),

(d) moves, removes, damages, desecrates, alters, excavates or digs in property, or removes objects from property in contravention of section 6 (2), or

(e) contravenes a regulation made under section 9.1 (2) or 32 (2) (e).

(3) An order of the court in respect of an application under subsection (2) may include one or more of the following:

(a) a requirement that the person restore the property to which the matter relates to its condition before the contravention on terms and conditions the court specifies;

(b) a requirement that the person undertake, as the court considers appropriate, compensatory conservation work on the property that was affected or on other heritage property, or that conservation work be performed by others at the expense of that person;
(c) an authorization that the minister may undertake conservation work at the expense of the person;
(d) any other requirements the court considers advisable.

(4) This section applies whether or not a person is charged with an offence under this Act.

**Indemnity**

30 (1) Except as provided in section 4.2 or 7 (9), no compensation is payable to a person for any loss or damage, or for any reduction in the value of property, that results from the operation of this Act, the performance in good faith of any duty under this Act or the exercise in good faith of any power under this Act.

(2) No action for damages shall be brought against the minister, an employee of the government, the Heritage Trust, a director, officer or employee of the Heritage Trust, a member of a committee established or authorized under section 9 or a person who is subject to the direction of the minister or the board of directors of the Heritage Trust, because of anything done or omitted to be done in good faith in the performance or intended performance of a duty or in the exercise or intended exercise of a power under this Act or the regulations.

(3) Subsection (2) does not absolve the government from vicarious liability for an act or omission of a person referred to in that subsection for which an act or omission the government would be vicariously liable if the subsection were not in force.

**Offence and penalty**

31 (1) A person who does any of the following commits an offence:

(a) contravenes section 6 (6), 7 (1) or (8) or a provision of the Park Act referred to in section 9.1 (2) as it applies to a Provincial heritage property;
(b) fails to comply with or contravenes a requirement or condition of an order or permit under section 5 (2) (a), 7 (2) or (4), 7.2, 8.2 (2), 9.1 (2) or 29 (3);
(c) contravenes a regulation made under section 9.1 (2) or 32 (2) (e);
(d) contravenes section 6 (1) or (2).

(2) A person convicted of an offence under subsection (1) (a) to (c) is liable to a fine of not more than $2 000 or to imprisonment for a term of not more than 6 months or to both.

(3) A person convicted of an offence under subsection (1) (d) is liable,
(a) if the person is an individual, to a fine of not more than $50 000 or to imprisonment for a term of not more than 2 years or to both, or
(b) if the person is a corporation, to a fine of not more than $1 000 000.

(4) If a corporation commits an offence under this Act, an employee, officer, director or agent of the corporation who authorized, permitted or acquiesced in the offence also commits the offence and is liable,
(a) if it is an offence under subsection (1) (a) to (c), to the penalty set out in subsection (2), or
(b) if it is an offence under subsection (1) (d), to the penalty set out in subsection (3) (a).

(5) Section 5 of the Offence Act does not apply to this Act or the regulations.

Regulations
32 (1) The Lieutenant Governor in Council may make regulations.
(2) Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations as follows:
(a) respecting the form, content and manner of giving notice in relation to this Act;
(b) respecting the form, content and manner of giving information for registration in the Provincial heritage register under section 3;
(c) respecting the administration and conservation of Provincial heritage properties;
(d) prescribing fees for a service, or for use of or admission to a facility, under this Act;
(e) respecting the maintenance of order at Provincial heritage properties;
(f) respecting heritage property that may be recorded in the Provincial heritage register under section 3 (1) (f);
(g) prescribing persons entitled to notice under section 4.1 (1) (c);
(h) prescribing the manner in which a notice of designation under section 4.1 (6) (b) is to be filed in the personal property registry;
(i) respecting the conduct of a heritage inspection or heritage investigation under section 7.

Continuation of former designations
33 (1) In this section "former Act" means
(a) the Archaeological and Historic Sites Protection Act, S.B.C. 1972, c. 4,
(b) the Archaeological and Historic Sites Protection Act, R.S.B.C. 1960, c. 15, or
(c) the Historic Objects Preservation Act, R.S.B.C. 1948, c. 145.

(2) All heritage designations made under a former Act that have not been rescinded are hereby continued as if they were designated by the Lieutenant Governor in Council under section 4, but a continuance under this subsection does not entitle any person to compensation under section 4.2.

Hospital Act

22 Section 45 of the Hospital Act, R.S.B.C. 1979, c. 176, is amended by renumbering the section as section 45 (1) and by adding the following subsection:

(2) Nothing in this section prohibits the protection of a heritage site or heritage object under the Heritage Conservation Act, the Municipal Act or the Vancouver Charter.

Institute of Technology Act

23 Section 5 (1) (b) of the Institute of Technology Act, R.S.B.C. 1979, c. 199, is amended by adding "and respecting the conservation of heritage property" after "acquired by the institute".

Islands Trust Act

24 Section 8 (2) (g) of the Islands Trust Act, S.B.C. 1989, c. 68, is repealed and the following substituted:

(g) engage in activities to gain knowledge about the history and heritage of the trust area and to increase public awareness, understanding and appreciation of that history and heritage,
(g.1) conserve heritage property,
(g.2) support and give financial assistance to activities referred to in paragraphs (g) and (g.1) that are undertaken by others,
(g.3) recommend to a regional district board that it exercise its tax exemption authority under section 819.1 of the Municipal Act in relation to heritage property in the trust area, and .

25 Section 14 (1) is amended
(a) by striking out "Where a bylaw is referred to the trust council under section 25 (3) or 34 (3)," and substituting "If a bylaw is referred to the trust council under section 25 (3), 27.1 (3) or 34 (3),"., and
(b) by repealing paragraph (c) and substituting the following:
(c) notify the local trust committee or municipal council, as the case may be, of its decision within 60 days from the date on which the secretary received the request under section 25(3), 27.1 (3) or 34 (3), and .
26 The following section is added:

Heritage conservation

27.1 (1) Subject to this section, each local trust committee has, in respect of its local trust area, all the powers and authority of a local government under Part 30 of the Municipal Act.
(2) For the purposes of subsection (1), Part 30 of the Municipal Act, as it applies to regional district boards, applies to local trust committees subject to this section.
(3) As an exception to section 25 in relation to a heritage designation bylaw under section 1022 of the Municipal Act of a local trust committee,
   (a) the local trust committee must, by request delivered to the secretary, refer the bylaw to the trust council for approval in accordance with section 14, and
   (b) the bylaw has no effect until it is approved by the trust council.
(4) For a heritage designation bylaw of a local trust committee, the temporary protection of section 1018 (2) of the Municipal Act applies for
   (a) a period of 60 days beginning on the date of the first reading of the bylaw, and
   (b) if the bylaw is referred to the trust council under subsection (3), a further period of 60 days beginning on the date the bylaw is referred, subject to the limit that, if the bylaw is refused by the trust council, the protection ends on the date of that refusal.
(5) A local trust committee may order a heritage inspection under section 1011 of the Municipal Act only if the order is approved by the executive committee.
(6) Sections 1015, 1016 and 1035 of the Municipal Act apply to an officer or employee of a regional district all or part of which is within a local trust area as though that person were an officer or employee of the local trust committee for the local trust area.
27 Section 33 is repealed and the following substituted:

Transfer of authority from regional districts

161
33 (1) A regional district board shall not exercise within the trust area the power and authority given to the trust council under section 8 (2) (g) or to a local trust committee under section 27, 27.1 or 30 (2).

(2) Despite section 781 of the Municipal Act, a regional district director who represents an electoral area that is entirely within the trust area shall not vote
   (a) on resolutions and bylaws under Part 29 of the Municipal Act for which the power and authority have been given to a local trust committee under section 27 (1) (a) of this Act, or
   (b) on resolutions and bylaws under Part 30 of the Municipal Act for which the power and authority have been given to a local trust committee under section 27.1 (1) of this Act.

Land Act

28 Section 13 of the Land Act, R.S.B.C. 1979, c. 214, is repealed and the following substituted:

Conditional withdrawal

13 (1) The minister may, if the minister considers it advisable in the public interest, designate a portion of Crown land for a particular use or for the conservation of natural or heritage resources.

(2) If a portion of Crown land is designated under subsection (1), that portion of land is withdrawn from disposition under this Act for any purpose that is not, in the opinion of the minister, compatible with the purpose for which the land has been designated.

(3) The minister may amend or cancel a designation made under subsection (1).

Land Title Act

29 Section 86 (1) (c) (vi) of the Land Title Act, R.S.B.C. 1979, c. 219, is amended by adding "or the conservation of heritage property" after "the natural environment".

Local Services Act

30 Section 2 of the Local Services Act, R.S.B.C. 1979, c. 247, is amended (a) by adding the following paragraph:
(g.1) the conservation of heritage property; , and
(b) in paragraph (j) by striking out "and" at the end of subparagraph (i), by adding "and" at the end of subparagraph (ii) and by adding the following subparagraph:

(iii) conservation of heritage property by the application of Part 30 of the Municipal Act, .

Mineral Tenure Act
31 Section 1 of the Mineral Tenure Act, S.B.C. 1988, c. 5, is amended by adding the following definitions:
"cultural heritage resource" means an object, a site or the location of a traditional societal practice that is of historical, cultural or archaeological significance to British Columbia, a community or an aboriginal people;
"protected heritage property" means land or an object that is
(a) protected under section 6 of the Heritage Conservation Act,
(b) designated under section 1022 of the Municipal Act or section 593 of the Vancouver Charter, or
(c) included under section 945 (7) (b) of the Municipal Act in a schedule to an official community plan; .

32 Section 8 (1) is amended by striking out "this Act or the regulations," and substituting "this Act or the regulations or has contravened the protection of a protected heritage property,".

33 Section 9 (2) is amended by adding the following paragraph:
(e.1) protected heritage property, except as authorized by the local government or minister responsible for the protection of the protected heritage property, .

34 Section 13 (1) is amended by striking out "and" at the end of paragraph (a), by adding ", and" at the end of paragraph (b) and by adding the following paragraph:
(b.1) is not protected heritage property .

35 Section 15 (1) is amended by adding "is or contains a cultural heritage resource or that the surface area" after "considers that the surface area".
36 Section 17 is amended by adding "or in an area of land established as a Provincial heritage property under section 9.1 of the Heritage Conservation Act" after "or of Canada" and by adding "or the area of land" after "responsible for the park".

37 Section 49 (1) is amended by striking out "this Act or the regulations," and substituting "this Act or the regulations or contravenes the protection of a protected heritage property,".

Mines Act

38 Section 1 of the Mines Act, S.B.C. 1989, c. 56, is amended by adding the following definition:
"cultural heritage resource" means a cultural heritage resource as defined in the Mineral Tenure Act; .

39 Section 10 is amended
(a) in subsection (1) by adding "conservation of cultural heritage resources and the" after "a program for the", and
(b) in subsection (4) (b) by adding "and cultural heritage resources" after "watercourses".

40 Section 34 (2) is amended by adding the following paragraph:
(d.1) respecting the conservation of cultural heritage resources, .

Municipal Act

41 Section 1 of the Municipal Act, R.S.B.C. 1979, c. 290, is amended by adding the following definitions:
"conservation" includes any activity undertaken to protect, preserve or enhance the heritage value or heritage character of heritage property or an area;
"heritage character" means the overall effect produced by traits or features which give property or an area a distinctive quality or appearance;
"heritage property" means property that
(a) in the opinion of a body or person authorized to exercise a power under this Act in relation to the property, has sufficient heritage value or heritage character to justify its conservation, or
(b) is protected heritage property;
"heritage value" means historical, cultural, aesthetic, scientific or educational worth or usefulness of property or an area;

"protected heritage property" means property that is

(a) protected under section 6 (2) of the Heritage Conservation Act,
(b) included under section 945 (7) (b) in a schedule to an official community plan, or
(c) designated as protected under section 1022; .

42 Section 269 is amended by renumbering the section as section 269 (1) and by adding the following subsections:

(2) The council of a city, town or district may, in accordance with Part 6, borrow money to enable aid to be granted under subsection (1) (a), (b) or (j).

(3) Despite section 292, a council may, by a vote of at least 2/3 of the votes cast, provide, subject to any terms and conditions the council considers appropriate, financial and other assistance for the conservation of property that is

(a) protected heritage property,
(b) subject to a heritage revitalization agreement under section 1021, or
(c) subject to a covenant under section 215 of the Land Title Act that relates to the conservation of heritage property.

43 Section 269.1 (1) is amended in the definition of "business promotion scheme" by striking out "and" at the end of paragraph (b) and by adding the following paragraph:

(b.1) the conservation of heritage property in one or more business improvement areas, and .

44 The following section is added:

**General conservation authority**

270.1 (1) A council may engage in activities or expend money for one or more of the following purposes:

(a) to acquire, conserve and develop heritage property and other heritage resources;
(b) to gain knowledge about the community's history and heritage;
(c) to increase public awareness, understanding and appreciation of the community's history and heritage;
(d) for any other activities that it considers necessary or desirable with respect to the conservation of heritage property and other heritage resources.
(2) Despite section 292, a council may support and give financial assistance to activities referred to in subsection (1) when the activities are undertaken by others.

45 Section 271 is repealed.

46 Section 400 (2) (a) is repealed.

47 The following sections are added:

**Exemptions for heritage properties**

400.1 (1) In this section and section 400.2 "eligible heritage property" means property that is

(a) protected heritage property,

(b) subject to a heritage revitalization agreement under section 1021, or

(c) subject to a covenant under section 215 of the Land Title Act that relates to the conservation of heritage property.

(2) Despite section 292 but subject to subsection (3) of this section, for the purposes of supporting the conservation of an eligible heritage property, on or before October 31 in any year a council may, by bylaw adopted by at least 2/3 of the votes cast, do one or more of the following:

(a) exempt all or part of the eligible heritage property from taxation under section 273 (a), (b), (b.1) and (c);

(b) if eligible heritage property exempted under paragraph (a) is a building or other improvement so affixed to the land as to constitute real property, exempt an area of land surrounding the exempted property from taxation under one or more of section 273 (a), (b), (b.1) and (c) for the same period of time as the exemption is made under paragraph (a) of this subsection;

(c) limit an exemption under paragraph (a) or (b) to a specified portion of the net taxable value of the property to which the exemption applies;

(d) make an exemption under this subsection subject to specified conditions.

(3) A bylaw under subsection (2) may provide a tax exemption

(a) for the next calendar year, or

(b) if the bylaw receives the assent of the electors or is approved by the electors in accordance with subsection (4), for a specified period not greater than 10 years.

(4) Approval of the electors to a bylaw under subsection (2) is deemed to have been given if all the following requirements are met:
(a) at least 30 days before adopting the bylaw, a notice is published in at least 2 issues of a newspaper
   (i) identifying the eligible heritage property that would be subject to the bylaw,
   (ii) describing the exemption that would be made for the eligible heritage property, and
   (iii) stating that the bylaw may be adopted by the council after 30 days unless more than 1/20 of the electors petition the council to obtain the assent of the electors to the bylaw;

(b) from the date on which the notice is first published under paragraph (a), it is posted for public inspection in the municipal hall during its regular office hours;

(c) by the end of 30 days after the notice is first published under paragraph (a), 1/20 or fewer of the electors have petitioned the council to obtain the assent of the electors to the bylaw.

(5) Within 30 days after adopting a bylaw under this section, the council must give notice of the bylaw to the minister responsible for the Heritage Conservation Act in accordance with section 1032.

Repayment requirement in relation to heritage exemptions

400.2 (1) A bylaw under section 400.1 may provide that, if any of the following circumstances as specified in the bylaw occur, the council may require the owner of the eligible heritage property at that time to pay to the municipality an amount equivalent to the total taxes exempted under the bylaw plus interest from the time at which the exempt taxes would otherwise have been payable, compounded annually at the rate referred to in section 428 for taxes in arrear:
   (a) if the eligible heritage property is destroyed, whether with or without proper authorization under the requirements of the heritage protection of the property;
   (b) if the eligible heritage property is altered by or on behalf of the owner without proper authorization under the requirements of the heritage protection of the property;
   (c) if any other circumstances specified in the bylaw occur.
(2) A bylaw under section 400.1 that includes a provision under subsection (1) may not be adopted without the consent of the owner of the eligible heritage property to which the bylaw applies.

(3) If a bylaw under section 400.1 includes a provision under subsection (1), within 30 days after the bylaw is adopted the council must have notice of the bylaw filed in the land title office in accordance with section 1031.

(4) If a bylaw under section 400.1 includes a provision under subsection (1) and a circumstance referred to in the provision occurs, the council may, by bylaw adopted by at least 2/3 of the votes cast, either

   (a) require the owner to pay the amount referred to in subsection (1), or
   
   (b) waive the obligation of the owner to pay all or part of the amount referred to in subsection (1).

(5) If a council does not adopt a bylaw under subsection (4) (a) within one year after it becomes aware of the circumstance in relation to which the bylaw could be adopted, the council is deemed to have waived all obligation of the owner to pay the amount referred to in subsection (1).

(6) If a council adopts a bylaw under subsection (4) (a) within the time period referred to in subsection (5), the council may

   (a) add the amount referred to in subsection (1) to the taxes for the current year payable to the municipality in relation to the eligible heritage property, or
   
   (b) make an agreement with the owner regarding payment of the amount referred to in subsection (1) as a personal debt to the municipality.

48 Section 401 is repealed and the following substituted:

Exemption details

401 (1) An exemption under section 400 or 400.1 may apply to the whole or a part of the taxable assessed value of land or improvements or both.

(2) An exemption under section 400 (1) (b) or (c) may, in the discretion of the council, be made applicable to property the registered owner of which is a trustee for an organization that in the opinion of council would otherwise qualify for exemption.

(3) A council may, by bylaw, exempt in whole or in part an owner or operator of premises described in section 400 or 400.1 from business tax under section 493.
(4) A bylaw under section 400 or 400.1 or this section ceases to apply to property the use or ownership of which no longer conforms to the conditions necessary to qualify for exemption and, after this, the property is liable to taxation.

49 Section 409 (1) is repealed and the following substituted:

(1) Subject to this section, land and its improvements are liable to taxation if the land is

   (a) owned in fee simple by the Crown or some person or organization on behalf of the Crown, and
   (b) held or occupied other than by or on behalf of the Crown.

(1.1) This section does not make the following liable to taxation:

   (a) land or improvements otherwise exempt under section 398 (1) (b) to (l);
   (b) land or improvements otherwise exempt under the municipal portion of section 398 (1) (a);
   (c) land or improvements exempted by a bylaw under section 400, 400.1 or 401;
   (d) a highway occupied by a utility company referred to in Part 14.

50 Section 410 (1) is amended by striking out "section 409 (1)," and substituting "section 409 (1), (1.1),".

51 The following section is added:

Conservation of heritage property

530.1 In this Part and in Division (1) of Part 13, conservation of heritage property is included as a municipal or public purpose.

52 Section 531 is repealed and the following substituted:

Power to accept property

531 (1) The council may accept any property devised, bequeathed, conveyed or otherwise transferred to the municipality, subject to any trusts on which the property is transferred.

(2) If the sale of property is necessary to carry out the terms of a trust under which it was transferred, the council may sell the property despite any limitations or restrictions in this Act.

(3) All money held by a municipality subject to a trust, until required for the purposes of the trust, must be invested in the manner provided for the investment of sinking funds.
(4) If, in the opinion of the council, the terms or trusts imposed by a donor, settlor, transferor or testator are no longer in the best interests of the municipality, the council may apply to the Supreme Court for an order under subsection (5).

(5) On an application under subsection (4), the Supreme Court may vary the terms or trusts as the court considers will better further both the intent of the donor, settlor, transferor or testator and the best interests of the municipality.

(6) Section 89 of the Trustee Act applies to an order under subsection (5).

53 The following section is added:

**Effect of reservation and dedication**

533.2 (1) A reservation bylaw under section 532 or a dedication bylaw under section 533 does not commit or authorize a local government to proceed with implementation of the purpose for which the property is reserved or dedicated.

(2) All bylaws enacted or works undertaken by a local government directly affecting property that is reserved under section 532 or dedicated under section 533 must be consistent with the purpose for which the property is reserved or dedicated.

54 Section 570 (2) is repealed and the following substituted:

(2) On property acquired or held for any purpose mentioned in subsection (1), the council may construct, maintain, conserve, operate and use buildings and improvements and provide necessary accommodation, facilities and equipment for them.

55 Section 679 (1) is repealed and the following substituted:

(1) A council may, by bylaw, do one or more of the following:

   (a) acquire, accept and hold any property in the municipality for pleasure, recreation or community uses of the public, including

      (i) public library, art gallery, museum, arena and exhibition buildings, and

      (ii) heritage property and land to be used for the conservation of heritage property;

   (b) make rules and regulations regarding the management, maintenance, improvement, operation, conservation, control and use of property referred to in paragraph (a);

   (c) lease or rent property referred to in paragraph (a) that is owned or held by the municipality;
(d) despite sections 320 to 323, make agreements for any term with other municipalities or with regional districts for the joint undertaking of any of the matters referred to in paragraph (b) in relation to property referred to in paragraph (a) that is owned or held by any party to the agreement;

(e) for the purpose of giving effect to an agreement under paragraph (d), establish joint boards or committees in conjunction with the other parties to the agreement;

(f) close to free use by the public all or part of any property referred to in paragraph (a) at the times and for the periods considered advisable and, in relation to this, set and charge fees for admission to or for the use of the facilities that are closed.

56 Section 682 (1) and (2) is repealed and the following substituted:

(1) For any purpose referred to in section 679 (1) (a), the council may, on property owned or held by the municipality,

(a) construct, maintain, operate, improve and use buildings and other improvements,

(b) conserve heritage property, and

(c) provide accommodation, facilities or equipment.

(2) The council may, by bylaw, enter into an agreement with one or more of the public authorities referred to in subsection (2.1)

(a) for the purposes of jointly constructing, conserving, maintaining, operating or using facilities for community uses referred to in section 679 (1) (a) that are on a site owned or held by a party to the agreement or that are on a site leased from the Province by a party to the agreement, or

(b) for the purposes of contributing to the cost of construction, conservation, maintenance, operation or use of facilities referred to in paragraph (a).

57 Sections 683 and 684 are repealed and the following substituted:

**Grants of parks and heritage property**

683 (1) The Lieutenant Governor in Council may grant and convey in trust to a municipality any public park, pleasure ground or heritage property set apart or reserved out of Crown land for the recreation and enjoyment of the public, to maintain, preserve and conserve it for the use, recreation and enjoyment of the public.

(2) If property is granted or conveyed under subsection (1),
(a) the municipality may hold the property on the trusts and for the purposes for which it is granted, and
(b) the council may manage, conserve and maintain the property in accordance with the trust, and may exercise in relation to it all the powers and authorities conferred on the trustees of the public park, pleasure ground or heritage property by any Act of the Legislature.

(3) A council that has been granted or conveyed a public park, heritage property or other place for the use and enjoyment of the public must operate, maintain, conserve and develop it subject to any trusts on which it is granted or conveyed.

58 Section 751 is repealed and the following substituted:

**Municipality may restrain breach of Act or bylaw**

751 (1) If a building is erected, altered or used, or land is altered or used, in contravention of this Act or a bylaw under this Act, the municipality may commence a court proceeding at its own instance to restrain the contravention.

(2) The authority under subsection (1) is in addition to any other remedy or penalty provided by or under this Act.

59 Section 755.1 (2) (d) is amended by striking out "or" at the end of subparagraph (i), by adding "or" at the end of subparagraph (ii) and by adding the following subparagraph:

(iii) a community heritage commission under section 1008,

60 Section 788 is amended

(a) in subsection (1) (e) by adding "historic sites," after "museums," and
(b) by repealing subsection (6) and substituting the following:

(6) Where the board adopts a bylaw under subsection (1) (d), section 683 in relation to public parks and pleasure grounds and sections 684 to 687, 690 and 691 apply.

61 Section 789 is amended

(a) in subsection (1) by adding the following paragraph:

(f.3) services relating to heritage conservation; , and
(b) by adding the following subsection:

(4) Where the board adopts a bylaw under subsection (1) (f.3), sections 269 (3), 270.1, 531, 532, 533, 533.1 and 683 in relation to heritage property and Part 30 apply.

62 Section 790 is amended
(a) by repealing subsection (2) (d), and
(b) in subsection (6) by striking out "section 789 (1) (f.1) or (f.2)," and substituting "section 789 (1) (f.1) to (f.3)."
63 Section 819.1 (4) (c) is repealed.
64 The following sections are added:

**Exemptions for heritage properties**

819.2 (1) In this section "eligible heritage property" means property in an electoral area that is

(a) protected heritage property,
(b) subject to a heritage revitalization agreement under section 1021, or
(c) subject to a covenant under section 215 of the Land Title Act that relates to the conservation of heritage property.

(2) Despite section 292 but subject to subsection (3) of this section, for the purposes of supporting the conservation of an eligible heritage property, on or before October 31 in any year a board may, by bylaw adopted by at least 2/3 of the votes cast, do one or more of the following:

(a) exempt all or part of the eligible heritage property from taxation under this Part;
(b) if eligible heritage property exempted under paragraph (a) is a building or other improvement so affixed to the land as to constitute real property, exempt an area of land surrounding the exempted property from taxation under this Part for the same period of time as the exemption is made under paragraph (a) of this subsection;
(c) limit an exemption under paragraph (a) or (b) to a specified portion of the net taxable value of the property to which the exemption applies;
(d) make an exemption under this subsection subject to specified conditions.

(3) A bylaw under subsection (2) may provide a tax exemption

(a) for the next calendar year, or
(b) if the bylaw receives the assent of the electors or is approved by the electors in accordance with subsection (4), for a specified period not greater than 10 years.

(4) Approval of the electors to a bylaw under subsection (2) is deemed to have been given if the following requirements are met:
(a) at least 30 days before adopting the bylaw, a notice is published in at least 2 issues of a newspaper
   (i) identifying the eligible heritage property that would be subject to the bylaw,
   (ii) describing the exemption that would be made for the eligible heritage property, and
   (iii) stating that the bylaw may be adopted by the board after 30 days unless more than 1/20 of the electors petition the board to obtain the assent of the electors to the bylaw;
(b) from the date on which the notice is first published under paragraph (a), it is posted for public inspection in the regional district offices during their regular office hours;
(c) by the end of 30 days after the notice is first published under paragraph (a), 1/20 or fewer of the electors have petitioned the board to obtain the assent of the electors to the bylaw.
(5) Within 30 days after adopting a bylaw under this section, the board must give notice of the bylaw to the minister responsible for the Heritage Conservation Act in accordance with section 1032.

Repayment requirement in relation to heritage exemptions
819.3 (1) A bylaw under section 819.2 may provide that, if any of the following circumstances as specified in the bylaw occur, the board may require the owner of the eligible heritage property at that time to pay to the regional district an amount equivalent to the total taxes exempted under the bylaw plus interest from the time at which the exempt taxes would otherwise have been payable, compounded annually at the rate referred to in section 428 for taxes in arrear:
   (a) if the eligible heritage property is destroyed, whether with or without proper authorization under the requirements of the heritage protection of the property;
   (b) if the eligible heritage property is altered by or on behalf of the owner without proper authorization under the requirements of the heritage protection of the property;
   (c) if any other circumstances specified in the bylaw occur.
(2) A bylaw under section 819.2 that includes a provision under subsection (1) may not be adopted without the consent of the current owner of the eligible heritage property to which the bylaw applies.

(3) If a bylaw under section 819.2 includes a provision under subsection (1), within 30 days after the bylaw is adopted the board must have notice of the bylaw filed in the land title office in accordance with section 1031.

(4) If a bylaw under section 819.2 includes a provision under subsection (1) and a circumstance referred to in the provision occurs, the board may, by bylaw adopted by at least 2/3 of the votes cast, either

   (a) require the owner to pay the amount referred to in subsection (1), or
   (b) waive the obligation of the owner to pay all or part of the amount referred to in subsection (1).

(5) If a board does not adopt a bylaw under subsection (4) (a) within one year after it becomes aware of the circumstance in relation to which the bylaw could be adopted, the board is deemed to have waived all obligation of the owner to pay the amount referred to in subsection (1).

(6) If a board adopts a bylaw under subsection (4) (a) within the time period referred to in subsection (5), the board may

   (a) require the Surveyor of Taxes to add the amount referred to in subsection (1) to the taxes payable on the eligible heritage property, in which case section 636 (2) and (3) applies, or
   (b) make an agreement with the current owner regarding payment of the amount referred to in subsection (1) as a personal debt to the regional district.

**65 Section 945 is amended**

(a) by repealing subsection (4) (c), and

(b) by adding the following subsections:

(6) For the purposes of heritage conservation, a community plan may designate an area as a heritage conservation area to which section 1026 (1) applies, in which case the plan must

   (a) describe the special features or characteristics that justify the designation,
   (b) state the objectives of the designation, and
(c) specify guidelines respecting the manner by which the objectives are to be achieved.

(7) If a heritage conservation area is designated under subsection (6), the community plan may do one or more of the following:

(a) specify conditions under which section 1026 (1) does not apply to property within the area and different conditions may be specified for different properties or classes of properties;
(b) include a schedule listing buildings, structures, land or features within the area that are to be protected heritage property under this Act;
(c) for the purposes of section 1026 (3), identify features or characteristics that contribute to the heritage value or heritage character of the area.

(8) At least 10 days before the public hearing on a community plan that includes a schedule under subsection (7) (b), the local government must give notice in accordance with section 1029 to the owner of each property included in the schedule that is not already included in the schedule.

(9) Within 30 days after the adoption of a bylaw that includes a property in or deleting a property from a schedule under subsection (7) (b) to an official community plan, the local government must

(a) file a notice in the land title office in accordance with section 1031, and
(b) give notice to the minister responsible for the Heritage Conservation Act in accordance with section 1032.

66 Section 952 (1) (b) is amended by adding the following subparagraph:
(i.2) the conservation of an area considered by the board to have heritage value or heritage character,

67 Section 954 is repealed and the following substituted:

**Development approval procedures**

954 (1) A local government that has adopted an official community plan, a zoning bylaw or a rural land use bylaw must, by bylaw, define procedures under which an owner of land may apply for an amendment to the plan or bylaw or for the issue of a permit under this Part.

(2) A local government must consider every application for

(a) an amendment to a plan or bylaw referred to in subsection (1), or
(b) the issue of a permit under this Part that requires a resolution of a council or board.

(3) If a bylaw under subsection (1) establishes a time limit for reapplication, the time limit may be varied in relation to a specific reapplication by an affirmative vote of at least 2/3 of the local government members eligible to vote on the reapplication.

**Public information**

954.1 (1) A local government must maintain a current list of the following:

(a) every bylaw in effect under this Part and Part 30 and a general description of the purpose of each such bylaw;

(b) every bylaw under this Part and Part 30 that has been given first reading, a general description of each such bylaw and its current status;

(c) every permit issued under this Part and Part 30.

(2) A list under subsection (1) must be available for public inspection at the local government offices during their regular business hours.

(3) Non-compliance with subsection (1) or (2), or any inaccuracy in a list, does not affect the validity of any bylaw or permit referred to in subsection (1).

**Procedures manual**

954.2 (1) A local government may prepare and provide to the public, on request, a procedures manual describing the procedures by which

(a) permits and approvals under this Part and Part 30 are obtained, and

(b) amendments to bylaws under this Part and Part 30 are initiated.

(2) The procedures manual must include the following:

(a) separate provisions respecting each type of permit, approval and amendment, with each separate provision specifying

(i) in general, the steps that must be followed and, for each step, the requirements to be met by the applicant,

(ii) the applicable authority,

(iii) the responsibility of each official involved, and

(iv) the office location of these officials;

(b) sample application forms that clearly indicate all the types of information and the degree of detail required, including an explanation of these forms;
(c) a statement of the fees required for each application.

(3) If there is a conflict between a bylaw under section 954 or 1005 and a description in a procedures manual under this section, the bylaw prevails.

68 Section 957 (1) is amended by adding "and, in the case of a public hearing on a community plan that includes a schedule under section 945 (7) (b), section 1029" after "in accordance with this section".

69 Section 962 (4) is repealed and the following substituted:

(4) The board of variance shall not make an order under subsection (2) that would do any of the following:

(a) be in conflict with a covenant registered under section 215 of the Land Title Act or section 24A of the Land Registry Act, R.S.B.C. 1960, c. 208;
(b) deal with a matter that is covered in a permit under Division (5) or covered in a land use contract;
(c) deal with a flood plain specification under section 969 (2);
(d) apply to a property
   (i) for which an authorization for alterations is required under Part 30,
   (ii) that is scheduled under section 945 (7) (b) or contains a feature or characteristic identified under section 945 (7) (c), or
   (iii) for which a heritage revitalization agreement under section 1021 is in effect.

70 Section 963 (3) is amended by adding the following paragraph:
(f) different protected heritage properties.

71 Section 963.1 (2) (a) is amended by adding "conservation or" after "conditions relating to the".

72 Section 970 (9) is repealed and the following substituted:

(9) If the use and density of buildings and structures conform to a rural land use bylaw or a bylaw under this Division but

(a) the siting, size or dimensions of a building or structure constructed before the bylaw was adopted does not conform with the bylaw, or
(b) the siting, size, dimensions or number of offstreet parking or loading spaces constructed or provided before the bylaw was adopted does not conform with the
bylaw, the building or structure or spaces may be maintained, extended or altered to the extent authorized by subsection (10).

(10) A building or structure or spaces to which subsection (9) applies may be maintained, extended or altered only to the extent that

(a) the repair, extension or alteration would, when completed, involve no further contravention of the bylaw than that existing at the time the repair, extension or alteration was started, and

(b) in the case of protected heritage property, the repair, extension or alteration is permitted or authorized in accordance with the provisions governing the heritage protection of the property.

(11) Subsections (5) and (8) do not apply to alterations, additions, repairs or reconstruction of a protected heritage property if the alteration, addition, repair or reconstruction is authorized by a heritage alteration permit under section 1027.

73 Section 976 is amended
(a) in subsection (1) (d) by striking out "section 945 (4) (a), (b) or (c)" and substituting "section 945 (4) (a) or (b)", and

(b) in subsection (6) by striking out "section 945 (4) (c),(d)" and substituting "section 945 (4) (d)".

74 Section 988 (1) (a) is repealed and the following substituted:
(a) application fees for

(i) an application to initiate changes to the provisions of a plan or bylaw under Division (1), (2), (4) or (7) of this Part or under Part 30,
(ii) the issue of a local government permit under Division (5) of this Part or a permit under section 1027,
(iii) an amendment to a land use contract or to a heritage revitalization agreement under section 1021, or
(iv) an application to a board of variance; .

75 The following Part is added:

Part 30 -- Heritage Conservation

Division (1) -- General

Definitions
1002 (1) The definitions in section 943 (1) apply to this Part.

(2) In addition to the definitions made applicable by subsection (1), in this Part "alter" means to change in any manner and, without limiting this, includes

(a) the making of an improvement, as defined in the Builders Lien Act, and

(b) any action that detracts from the heritage value or heritage character of heritage property;

"approval" means a permit, licence or other authorization required under this or any other enactment administered by the local government or a delegate;

"delegate" means, in relation to a power or duty, a person given authority under section 1006 to exercise that power or duty;

"heritage alteration permit" means a permit under section 1027;

"heritage conservation area" means an area designated under section 945 (6) in an official community plan;

"heritage designation bylaw" means a bylaw under section 1022;

"heritage inspection" means the physical examination of property and the research necessary to assess the heritage value and the heritage character of the property or to determine the need for conservation of the property;

"heritage revitalization agreement" means an agreement under section 1021;

"real property" includes buildings, structures and other improvements affixed to the land.

(3) A regional district does not have authority under this Part and its board does not come within the definition of "local government" for the purposes of this Part unless it has adopted a bylaw to establish and operate a service under section 789 (1) (f.3).

(4) A provision of this Part that applies to an officer or employee of a local government may apply to an officer or employee of another government with the approval of that government.

**Limits on the use of this Part**

1003 (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 the local government, necessary for the conservation of adjacent or proximate real property that is protected heritage property, or
(b) with respect to
   (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.
(2) This Part must not be used to restrict a forest management activity relating to the
    production and harvesting of timber on land that is
    (a) classified as managed forest land under the Assessment Act, or
    (b) located within a licence area under the Forest Act, so long as the land continues to
        be used only for that purpose.
(3) This Part must not be used to prevent a use of real property that is permitted under the
    applicable zoning bylaw for the property or to prevent the development of land to the density
    allowed in respect of that permitted use under the applicable zoning bylaw, except with
    regard to property that
    (a) is designated by a heritage designation bylaw, or
    (b) is subject to temporary heritage protection under this Part.
(4) If there is a conflict between a provision of this Part, or a permit or order made under this
    Part, and the Heritage Conservation Act, or a permit or order made under that Act, the
    Heritage Conservation Act, or the permit or order made under it, prevails.

Limit on compensation
1004 Except as provided in sections 1011 (7) and 1024, no person is entitled to compensation
   for
   (a) any loss or damage, or
   (b) any reduction in the value of property that results from the performance in good
       faith of any duty under this Part or the exercise in good faith of any power under this
       Part.

Bylaw and permit procedures
1005 (1) A local government may, by bylaw, define procedures under which a person may
   apply for an amendment to a bylaw under this Part or for the issue of a permit under this Part.
(2) If a bylaw under subsection (1) establishes a time limit for reapplication, the time limit may be varied in relation to a specific reapplication by an affirmative vote of at least 2/3 of the votes cast.

(3) Every application for a heritage alteration permit or the amendment of a bylaw under this Part must be considered by the local government or, if applicable, its delegate under section 1006.

(4) The applicant or owner of property subject to a decision made by a delegate under section 1006 is entitled to have the local government reconsider the matter without charge.

**Delegation of local government authority**

1006 (1) A local government may, by bylaw adopted by at least 2/3 of the votes cast, delegate to an officer or employee its powers and duties under one or more of the following, subject to any limits or conditions established by the local government:

   (a) section 1011 respecting heritage inspections;

   (b) section 1013 respecting

      (i) the requirement for an impact assessment,

      (ii) the establishment of specifications regarding an impact assessment,

      (iii) the undertaking of an impact assessment under subsection (1) (b) of that section, and

      (iv) the determination of whether the information required under that section has been provided;

   (c) section 1015 (5) (b) respecting the making of agreements as to terms and conditions to prevent or mitigate an alteration;

   (d) section 1019 respecting the identification of heritage property in a heritage control area;

   (e) subject to the limits in section 1026 (3), section 1027 respecting

      (i) the issuance or refusal of heritage alteration permits,

      (ii) the establishment of requirements and conditions of a heritage alteration permit, and

      (iii) the determination of whether the requirements and conditions of a heritage alteration permit have been met.

(2) A bylaw under subsection (1) must
(a) establish procedures regarding applying for and dealing with a reconsideration under section 1005 (4),

(b) establish guidelines with regard to the exercise of this authority if the bylaw authorizes a delegate to vary or supplement a bylaw under section 1027 (2), and

(c) establish guidelines with regard to the circumstances under which security is to be required from applicants, and how the amount of security is to be determined, if the bylaw authorizes a delegate to require an applicant to post a security deposit under section 1028 (2) (c).

Ombudsman review of local government decisions

1007 (1) The Ombudsman appointed under the Ombudsman Act may investigate complaints about decisions made by a local government under this Part or procedures used by a local government under this Part.

(2) Subsection (1) does not authorize the Ombudsman to investigate an issue involving compensation for reduction in the market value of real property caused by a designation under section 1022.

(3) The Ombudsman Act, other than section 11 (1) (a) of that Act, applies to investigations under this section and, for that purpose, the local government is deemed to be an authority as defined in that Act.

(4) During an investigation under this section and for up to 6 months after the completion of the investigation if the Ombudsman considers the matter to be unresolved, the Ombudsman may direct that the local government or the complainant, or both, must not take any action on matters specified by the Ombudsman.

(5) If the Ombudsman makes a recommendation under section 22 or 23 of the Ombudsman Act regarding an investigation under this section and no action that the Ombudsman believes adequate or appropriate is taken by the local government within a reasonable time, the Ombudsman may make a report to the Lieutenant Governor in Council of the recommendation and such additional comments as the Ombudsman considers appropriate.

(6) On receipt of a report from the Ombudsman, the Lieutenant Governor in Council may make an order that the Lieutenant Governor in Council believes is in the public interest, and the order is binding on the local government.
(7) Nothing in this section diminishes the authority of the Ombudsman under the Ombudsman Act.

Division (2) -- Heritage Review

Community heritage commissions

1008 (1) A local government may, by bylaw, do one or more of the following:

(a) establish one or more community heritage commissions, which may be different for different areas and different purposes;
(b) authorize existing organizations to act as community heritage commissions;
(c) establish one or more joint community heritage commissions with one or more other local governments.

(2) A bylaw under subsection (1)

(a) must establish the terms of reference for the community heritage commission, and

(b) must, if the bylaw establishes a community heritage commission under subsection (1) (a) or (c), establish

(i) the composition of the community heritage commission,

(ii) the manner by which the members of the community heritage commission are to be appointed, and

(iii) the procedures governing the conduct of the community heritage commission or the manner by which these procedures are to be established.

(3) A community heritage commission under subsection (1) may do the following:

(a) advise the local government on any matter that is included in its terms of reference;

(b) advise the local government on matters referred to it by the local government;

(c) undertake or provide support for such activities as are included in its terms of reference or otherwise authorized by the local government.

(4) Subject to section 221, meetings of a community heritage commission must be open to the public except for those meetings or portions of meetings at which the commission considers matters for which the local government has authorized the commission to meet in private.

Community heritage register
1009 (1) A local government may, by resolution, establish a community heritage register that identifies real property that is considered by the local government to be heritage property.

(2) The community heritage register
   
   (a) must indicate the reasons why property included in a community heritage register is considered to have heritage value or heritage character, and
   
   (b) may distinguish between heritage properties of differing degrees and kinds of heritage value or heritage character.

(3) Within 30 days after including a property in a community heritage register or deleting property from a community heritage register, the local government must give notice of this
   
   (a) to the owner of the heritage property in accordance with section 1029, and
   
   (b) to the minister responsible for the Heritage Conservation Act in accordance with section 1032.

(4) The protection of heritage property is not affected by an error or omission in a community heritage register.

**Heritage recognition**

1010 (1) A local government may recognize the heritage value or heritage character of a heritage property, an area or some other aspect of the community's heritage.

(2) The local government may have a plaque or other marker installed to indicate recognition under subsection (1), subject to the requirement that permission for this must be obtained from the owner of the property on which the marker is installed.

**Heritage inspection may be ordered**

1011 (1) For the purposes of assessing the heritage value, heritage character or the need for conservation of real property, a local government or its delegate may order a heritage inspection of the property in any of the following circumstances:

   (a) the property is or may be protected heritage property;
   
   (b) the property is identified as heritage property in a community heritage register;
   
   (c) the property is or may be heritage property according to criteria that the local government may, by bylaw, establish for the purposes of this Part.

(2) An order under subsection (1)

   (a) must state the purpose of the heritage inspection,
   
   (b) must specify how long the order is to remain in effect,
(c) must require the heritage inspection to be carried out in an expeditious manner,
(d) may provide that the property covered by the order is subject to temporary
protection as provided in section 1020 until the applicable time under subsection (3)
or section 1012 (4), and
(e) may include terms, conditions and specifications that the local government or
delegate considers appropriate.

(3) Temporary protection under subsection (2) (d) applies until the earliest of the following,
subject to an extension of this time under section 1012 (4):
   (a) the day after a report of the results of the heritage inspection is delivered to a
       regular meeting of the local government;
   (b) the day the local government or its delegate informs the owner that the heritage
       inspection is completed or is no longer required;
   (c) 30 days after the day on which the heritage inspection was ordered.

(4) A person must not interfere with the conducting of a heritage inspection.

(5) A person conducting a heritage inspection may perform tests and remove material
samples that are necessary for the purposes of the heritage inspection, but must do this in
such a manner that any alterations are as minor and inconspicuous as reasonably possible
given the requirements of the heritage inspection.

(6) Upon completion of a heritage inspection, the local government must
   (a) notify the owner of the property that a heritage inspection has been conducted if
       the owner was not notified of the heritage inspection before the heritage inspection,
       and
   (b) make a report to the owner of what was done if, as a part of a heritage inspection,
       an alteration is made or material is removed.

(7) A person whose property is damaged by a heritage inspection under section 1011 (1) is
entitled to have the damage repaired at the expense of the local government or, if the damage
cannot be repaired, to compensation from the local government.

**Entry authority for a heritage inspection**

1012 (1) An order under section 1011 (1) authorizes a person conducting the heritage
inspection to enter land or premises identified in the order at any reasonable time for the
purposes of the heritage inspection.
(2) Prior to or when entering land under subsection (1), the person conducting the heritage inspection or heritage investigation must make a reasonable attempt to notify the owner or occupier of the land and, if requested, present a copy of the order to the owner or occupier. (3) Except as provided in subsection (4), nothing in this section or an order made under section 1011 authorizes entry into a building without the permission of the owner or occupier.

(4) A justice may issue a warrant authorizing a person to enter land or a building to conduct a heritage inspection ordered under section 1011 (1) if the justice is satisfied that

(a) there are reasonable grounds to believe that entry is required to achieve the purposes of the heritage inspection, and

(b) there are reasonable grounds to believe that

(i) an emergency exists,

(ii) the person conducting the heritage inspection or heritage investigation has been unable to notify the owner or occupier after making a reasonable attempt to do so,

(iii) admission has been refused or refusal is anticipated, or

(iv) notification may defeat the object of the entry.

(5) A warrant under subsection (4) may extend the time period for which the property is protected under section 1011 (2) (d) and continues in force until the purpose for which the entry is required has been satisfied.

(6) If a heritage inspection is conducted under a warrant under subsection (4), the person conducting the heritage inspection must be accompanied by a peace officer.

**Impact assessment may be required**

1013 (1) If, in the opinion of the local government or its delegate, an approval may affect protected heritage property, the local government or delegate may require the applicant for the approval, before the approval is issued,

(a) to provide the local government or delegate, at the expense of the applicant, with information regarding the possible effects that the activity or action enabled by the approval may have on the heritage property, or
(b) to permit the local government or delegate to undertake, at the expense of the local government, studies regarding the matters referred to in paragraph (a) provided that such studies are undertaken promptly.

(2) A requirement under subsection (1) must be communicated to the applicant in writing and include specifications of the information to be provided and of the qualifications of any persons undertaking studies to produce the information.

(3) Specifications referred to in subsection (2) must not be changed by the local government or its delegate without the agreement of the applicant.

**Local government requests for Provincial protection**

1014 (1) If, in the opinion of a local government, real property owned by the Crown has heritage value or heritage character, the local government may, by resolution, request that the Lieutenant Governor in Council consider protection of the property under the Heritage Conservation Act.

(2) Within 5 days after a resolution under subsection (1) is adopted, the local government must notify the minister responsible for the Heritage Conservation Act of the request.

(3) Once a request has been made under subsection (1), the property for which the protection is requested is subject to temporary protection in accordance with section 1020 until the earlier of the following:

   (a) the end of 30 days after the resolution authorizing the request was adopted;
   (b) the minister responsible for the Heritage Conservation Act notifies the local government in writing that the temporary protection is ended.

(4) Despite section 14 (2) of the Interpretation Act, subsection (3) applies to the Crown.

(5) No more than one request may be made under subsection (1) with respect to any particular building, structure or site during any one 10 year period.

**Division (3) -- Temporary Protection**

**Withholding of approvals**

1015 (1) A local government may, by bylaw, direct or authorize the officers or employees of the local government who issue approvals to withhold the issuance of any approval for an action which, in the opinion of the person responsible for issuing the approval, would alter or cause an alteration to any of the following:

   (a) protected heritage property;
(b) property subject to temporary heritage protection under another section of this Part;

(c) property in a community heritage register.

(2) A bylaw under subsection (1) may establish restrictions, limits or conditions on the duty or power to withhold approvals.

(3) If an approval is withheld under subsection (1), the matter must be referred to the local government at its next regular meeting after the approval is withheld.

(4) If an approval is referred to the local government with regard to property referred to in subsection (1) (a) or (b), the local government may authorize that the approval continue to be withheld until an action referred to in subsection (5) occurs.

(5) An approval must not be withheld under this section if one or more of the following occurs:

(a) a heritage alteration permit is issued authorizing the alteration to which the approval applies;

(b) the applicant agrees to terms and conditions satisfactory to the local government or its delegate to prevent or mitigate circumstances that may detract from the heritage value or heritage character of the property;

(c) in the case of property subject to temporary heritage protection, the protection expires;

(d) in the case of property that appears to the person responsible for issuing the approval to be protected under the Heritage Conservation Act, the local government is notified by the minister responsible for that Act that the requirements of that Act have been met or do not apply.

(6) Except as provided in subsection (4), nothing in this section authorizes the withholding of an approval to which an applicant would otherwise be entitled beyond the time of the meeting at which the matter is referred to the local government under subsection (3).

**Withholding of demolition permits pending other approvals**

1016 (1) Without restricting section 1015, a local government may, by bylaw, direct or authorize the officers or employees of the local government who issue permits for demolition to withhold approval for demolition in the following circumstances:
(a) in the case of protected heritage property, until a heritage alteration permit and any other necessary approvals have been issued with respect to alteration or redevelopment of the site;

(b) in the case of real property identified in a community heritage register established under section 1009, until a building permit and any other necessary approvals have been issued with respect to the alteration or redevelopment of the site.

(2) A local government may establish restrictions, limits or conditions on a duty or power under subsection (1).

(3) Nothing in this section authorizes the withholding of any approvals other than permits for demolition of heritage property.

Orders for temporary protection

1017 (1) A local government may order that real property is subject to temporary protection in accordance with section 1020 if the local government considers that

(a) the property is or may be heritage property, or

(b) protection of the property may be necessary or desirable for the conservation of other property that is heritage property.

(2) An order under subsection (1)

(a) must specify the time period during which the temporary protection applies, which may not be longer than 60 days unless the owner of the property agrees to a longer time period, and

(b) must not be made more than once in a 2 year period without the agreement of the owner of the property.

(3) An order under subsection (1) may do one or more of the following:

(a) identify landscape features that are subject to the order;

(b) specify types of alterations to property that are allowed without obtaining a heritage alteration permit;

(c) establish policies regarding the issuance of a heritage alteration permit in relation to the property.

Temporary protection by introduction of a continuing protection bylaw
1018 (1) For a period of 120 days beginning on the date of first reading of a bylaw to adopt an official community plan that designates a heritage conservation area, section 1026 (1) applies to all properties in the area as if the bylaw had already been adopted.

(2) For a period of 60 days beginning on the date of first reading of a bylaw under section 1022, subsection (1) of that section applies to the property that would be protected on a continuing basis under that subsection once the bylaw was adopted.

(3) If the owner of property to which subsection (2) applies agrees, the local government may, by bylaw, extend the protection referred to in that subsection for a specified period longer than the 60 days referred to in that subsection.

(4) If the issue of compensation for designation is submitted to arbitration under section 1024 before the heritage designation bylaw is adopted, the time period under subsection (2) is extended by the time between the submission of the matter to arbitration and the delivery of the arbitration report to the local government.

(5) If a local government defeats or decides not to proceed with a bylaw, the protection under this section ends.

**Heritage control periods for temporary protection**

1019 (1) For the purposes of heritage conservation planning for an area identified in the bylaw, a local government may, by bylaw, declare a heritage control period with respect to the area.

(2) A bylaw under subsection (1) must specify the length of the heritage control period, which may not be longer than one year from the date of adoption of the bylaw.

(3) A bylaw under subsection (1) may do one or more of the following:

   (a) identify types of landscape features that are included in the protection under this section;
   
   (b) specify types of alterations to property that are allowed without obtaining a heritage alteration permit;
   
   (c) establish policies regarding the issuance of a heritage alteration permit in relation to property within the area covered by the bylaw.

(4) During a heritage control period under subsection (1), property within the area covered by the bylaw is subject to temporary protection in accordance with section 1020.
(5) A heritage control period under this section may be declared once only during any 10 year period for an area or portion of an area.

**Temporary protection**

1020 (1) While property is subject to temporary protection in accordance with this Division, except as authorized by a heritage alteration permit or as referred to in subsection (2), a person must not do any of the following to the property:

(a) alter the exterior of a building or structure;
(b) make a structural change to a building or structure;
(c) move a building or structure;
(d) alter, move or take an action that would damage a fixture or feature identified in the authorizing resolution, order or bylaw for the temporary protection;
(e) alter, excavate or build on the property.

(2) The prohibition under subsection (1) does not apply to alterations that are allowed by the authorizing resolution, bylaw or order for the temporary protection to be made without a heritage alteration permit.

**Division (4) -- Continuing Protection**

**Heritage revitalization agreements**

1021 (1) A local government may, by bylaw, enter into a heritage revitalization agreement under this section with the owner of heritage property.

(2) A heritage revitalization agreement may do one or more of the following:

(a) include provisions regarding the phasing and timing of the commencement and completion of actions required by the agreement;
(b) vary or supplement provisions of
   (i) Part 2 of a rural land use bylaw under section 952 (1) (b),
   (ii) a bylaw under Division (4), (6) or (7) of Part 29,
   (iii) a permit under Division (5) of Part 29, or
   (iv) a bylaw or heritage alteration permit under this Part;
(c) include such other terms and conditions as may be agreed upon by the local government and the owner.

(3) A heritage revitalization agreement prevails over a bylaw or permit referred to in subsection (2) (b) to the extent of any conflict.
(4) A heritage revitalization agreement may only be amended by bylaw with the consent of the owner.

(5) A local government must not require an owner to enter into or consent to the amendment of a heritage revitalization agreement as a condition of issuing any permit, licence or other authorization that may be required to enable the heritage property to be used or developed in accordance with the applicable bylaws.

(6) A local government must not enter into or amend a heritage revitalization agreement unless the agreement or amendment is approved

   (a) by the Minister of Environment, Lands and Parks if the agreement or amendment varies a bylaw under section 969,
   (b) by the Minister of Transportation and Highways if the agreement or amendment covers land subject to section 57 (2) of the Highway Act, or
   (c) by the minister if circumstances prescribed under subsection (7) apply.

(7) The minister may, by regulation, prescribe circumstances in which approval under subsection (6) (c) is required.

(8) A local government must hold a public hearing on the matter before entering into or amending a heritage revitalization agreement if the agreement or amendment would permit a change to the use or density of use that is not otherwise authorized by the applicable zoning of the property and, for these purposes, sections 956 to 959 apply.

(9) Within 30 days after entering into or amending a heritage revitalization agreement, the local government must

   (a) file a notice in the land title office in accordance with section 1031, and
   (b) give notice to the minister responsible for the Heritage Conservation Act in accordance with section 1032.

(10) If a notice is filed under subsection (9) (a), the heritage revitalization agreement and any amendment to it is binding on all persons who acquire an interest in the land affected by the agreement.

**Heritage designation protection**

1022 (1) A local government may, by bylaw, on terms and conditions as it considers appropriate, designate real property in whole or in part as protected under this section if the local government considers that
(a) the property has heritage value or heritage character, or
(b) designation of the property is necessary or desirable for the conservation of a protected heritage property.

(2) A heritage designation bylaw may do one or more of the following:
   (a) apply to a single property or to part of a property;
   (b) apply to more than one property, including properties owned by different persons;
   (c) apply to affixed interior building features or fixtures identified in the bylaw;
   (d) apply to landscape features identified in the bylaw;
   (e) establish policies or procedures regarding the provision of financial or other support for the conservation of the heritage property;
   (f) specify types of alterations to the property that are allowed without a heritage alteration permit;
   (g) establish policies regarding the issuance of heritage alteration permits in relation to property covered by the bylaw.

(3) Except as authorized by a heritage alteration permit or allowed under subsection (2) (f), a person must not do any of the following:
   (a) alter the exterior of a building or structure protected under this section;
   (b) make a structural change to a building or structure protected under this section;
   (c) move a building or structure protected under this section;
   (d) alter, remove or take an action that would damage an interior feature or fixture that is identified under subsection (2) (c);
   (e) alter, remove or take an action that would damage a landscape feature that is identified under subsection (2) (d);
   (f) alter, excavate or build on land protected under this section.

**Heritage designation procedure**

1023 (1) Before a heritage designation bylaw is adopted, the local government must hold a public hearing on the proposed bylaw for the purpose of allowing affected parties and the general public to make representations respecting matters contained in the proposed bylaw.

(2) Sections 956 (2), (3) and (5) to (9) and 959 apply with respect to the public hearing and enactment of the heritage designation bylaw.
(3) At least 10 days before the public hearing, a notice in the prescribed form must be given in accordance with section 1029 to
   (a) all persons who, according to the records of the land title office, have a registered interest in real property that would be designated, and
   (b) all occupiers of real property that would be designated.

(4) A notice in the prescribed form must also be published in at least 2 consecutive issues of a newspaper, with the last publication to be at least 3 days but not more than 10 days before the public hearing.

(5) The local government must have prepared a report regarding the property to be designated that includes information respecting the following matters:
   (a) the heritage value or heritage character of the property;
   (b) the compatibility of conservation with the official community plan and any other community planning objectives in the area in which the property is located;
   (c) the compatibility of conservation with lawful uses of the property and adjoining lands;
   (d) the condition and economic viability of the property;
   (e) the possible need for financial or other support to enable appropriate conservation.

(6) At least 10 days before the public hearing, the report under subsection (5) must be available for public inspection at the local government office during its regular office hours.

(7) No heritage designation bylaw is invalid for inadvertent and minor non-compliance with this section or Division (6), or for an error or omission in the report required under subsection (5).

(8) Within 30 days after a local government adopts or defeats a heritage designation bylaw or determines not to proceed with the bylaw, the local government must give notice of this in the prescribed form to the owners entitled to notice under subsection (3) (a).

(9) Within 30 days after adopting a heritage designation bylaw, the local government must give notice of this
   (a) to the land title office in accordance with section 1031, and
   (b) to the minister responsible for the Heritage Conservation Act in accordance with section 1032.

**Compensation for heritage designation**
1024 (1) If a designation by a heritage designation bylaw causes, or will cause at the time of designation, a reduction in the market value of the designated property, the local government must compensate an owner of the designated property who makes an application under subsection (2), in an amount or in a form the local government and the owner agree on or, failing an agreement, in an amount or in a form determined by binding arbitration under subsection (4).

(2) The owner of a designated property may apply to the local government for compensation for the reduction in the market value of the designated property.

(3) An application under subsection (2)

(a) must be made, in order for the owner to be entitled to compensation under this section, no later than one year after the heritage designation bylaw is adopted, and

(b) may be made before the heritage designation bylaw is adopted.

(4) If the local government and an owner are unable to agree

(a) that the owner is entitled to compensation, or

(b) on the amount or form of compensation, then either the local government or the owner may require the matter to be determined by binding arbitration under the Commercial Arbitration Act.

(5) An arbitration under this section must be by a single arbitrator unless the local government and the owner agree to the appointment of an arbitration panel.

(6) The arbitrator or arbitration panel, in determining whether the owner is entitled to compensation and the amount or form of compensation, must consider

(a) financial and other support available for conservation of the designated property, and

(b) any other benefits that are available because of the designation of the property.

(7) Compensation must not be paid, and an arbitration must not continue, if the local government defeats, or decides not to proceed with, the designation bylaw.

(8) Nothing in this section authorizes the local government to give any financial or other benefit to an owner except that which is commensurate with reduction in the market value of the designated property as caused by that designation.
(9) This section does not apply with respect to property that, immediately before the adoption of the heritage designation bylaw, is already designated under a heritage designation bylaw or under section 4 of the Heritage Conservation Act.

**Heritage site maintenance standards**

1025 (1) The local government may, by bylaw, establish minimum standards for the maintenance of real property that is

(a) designated as protected by a heritage designation bylaw, or

(b) within a heritage conservation area.

(2) Different standards may be established under subsection (1) for different areas or for different types or classes of property.

**Heritage conservation areas**

1026 (1) If an official community plan designates a heritage conservation area, a person must not do any of the following unless a heritage alteration permit authorizing the action has been issued:

(a) subdivide land within the area;

(b) start the construction of a building or structure or an addition to an existing building or structure within the area;

(c) alter a building or structure or land within the area;

(d) alter a feature that is protected heritage property.

(2) Subsection (1) does not apply if conditions established under section 945 (7) (a) apply.

(3) If a heritage alteration permit is required by subsection (1), a delegate under section 1006 may only act in relation to such a permit if

(a) the property is protected heritage property, or

(b) the permit relates to a feature or characteristic identified under section 945 (7) (c).

**Division (5) -- Heritage Alteration Permits**

**Heritage alteration permits**

1027 (1) A local government or its delegate may issue a heritage alteration permit authorizing alterations or other actions if such authorization is required by

(a) this Act or by a bylaw or order under this Act,

(b) a heritage revitalization agreement, or

(c) a covenant under section 215 of the Land Title Act.
(2) The heritage alteration permit may, in relation to protected heritage property or property within a heritage conservation area, vary or supplement provisions of

(a) Part 2 of a rural land use bylaw under section 952 (1) (b),
(b) a bylaw under Division (4), (6) or (7) of Part 29,
(c) a permit under Division (5) of Part 29, or
(d) a bylaw or heritage alteration permit under this Part.

(3) A permit issued under this section prevails over a bylaw or permit referred to in subsection (2) to the extent of any conflict.

(4) The following restrictions apply to subsection (2):

(a) the use or density of use may not be varied;
(b) a flood plain specification under section 969 (2) may not be varied;
(c) in relation to property within a heritage conservation area, the permit must be in accordance with the guidelines established under section 945 (6) (c) for the heritage conservation area.

(5) A local government or its delegate may refuse to issue a heritage alteration permit for an action that, in the opinion of the local government or delegate, would not be consistent with the purpose of the heritage protection of the property.

(6) If the refusal to issue a heritage alteration permit prevents the use of land that is allowed under the applicable zoning bylaw or the development of land to the density that is allowed under the applicable zoning bylaw in respect of that permitted use, the local government or delegate must inform the applicant of the requirements or conditions under which a use or density proposed by the applicant in accordance with section 1003 (3) would be allowed.

**Requirements and conditions in a heritage alteration permit**

1028 (1) A heritage alteration permit may be made subject to such terms, requirements and conditions as the local government or its delegate considers consistent with the purpose of the heritage protection of the property.

(2) Without limiting the generality of subsection (1), a heritage alteration permit may include one or more of the following:

(a) conditions respecting the sequence and timing of construction;
(b) conditions respecting the character of the alteration or action to be authorized, including landscaping and the siting, form, exterior design and finish of buildings and structures;

(c) if the permit is required by this Part or a bylaw or order under this Part, a requirement that the applicant provide a specified amount of security, in a form satisfactory to the local government, to guarantee the performance of the terms, requirements and conditions of the permit.

(3) Interest earned on security under subsection (2) (c) becomes part of the amount of the security.

(4) If the local government considers that the holder of a heritage alteration permit has contravened or failed to comply with a term, requirement or condition of the permit, the local government may undertake and complete the works required to satisfy the term, requirement or condition, or to ameliorate the effects of the contravention or noncompliance, at the cost of the holder of the permit.

(5) The local government may recover the cost of the work undertaken under subsection (4) and the cost of incidental expenses incurred by the local government by applying the security under subsection (2) (c) in payment for the cost of the works and incidental expenses, with any excess to be returned to the holder of the permit.

(6) If there is no security deposit or the amount of security is insufficient, the local government may add the cost of works undertaken and incidental expenses, or the remaining costs, to the taxes payable to the local government with respect to the property for the year in which the work is performed.

(7) When a permit lapses or the actions it authorizes are completed, the local government must, subject to subsection (5), return any security provided under subsection (2) (c) to the person who provided it.

Division (6) -- Notices under this Part

Giving notice to owners and occupiers

1029 (1) If notice is required to be given to an owner or occupier under section 945 (8) or this Part, the notice must be given to the owner or occupier in accordance with this section.

(2) A notice to an owner is sufficiently given to the owner if

(a) it is served personally on the owner,
(b) it is sent by registered mail, or a method of delivery that provides proof of
delivery, to the person's actual or last known address,
(c) in the circumstances described in subsection (4), it is published in accordance with
that subsection, or
(d) it is given as authorized by regulation under section 1033.

(3) A notice to an occupier is sufficiently given to the occupier if
   (a) the notice is given individually to each occupier in accordance with subsection (2),
   or
   (b) the notice is posted on or near the property in accordance with section 1030.

(4) If a notice cannot be served personally on an owner or occupier and the person's actual or
last known address cannot be determined after reasonable steps for the purpose have been
taken, the notice may be given by publication in 2 issues, at least one week apart, of a
newspaper having general circulation
   (a) in the area where the owner or occupier to be given notice was last known to
reside or carry on business according to the information available to the person giving
the notice, or
   (b) in the area where the land to which the notice relates is situated.

(5) A notice given in accordance with subsection (2) (b) is deemed to be received on the
earlier of
   (a) the date the person to whom it is sent actually receives the not
ice, and
   (b) the end of 10 days after the date on which the notice was sent.

Posting notice on protected heritage property

1030 (1) A local government may authorize a person to post one or more notices on or near
(a) protected heritage property, or
(b) real property subject to temporary heritage protection under section 1011, 1014,
   1017, 1018 or 1019.

(2) Before or upon entering land to post a notice, the local government must make a
reasonable effort to inform the owner or occupier of the land.

(3) Except as authorized by the local government, a person must not alter or remove a notice
posted under the authority of this section.

Notice on land titles
1031 (1) A local government must file a written notice in the land title office with respect to the following real property:

(a) property that is subject to a provision under section 400.2 (1) or 819.3 (1);
(b) property that is subject to a heritage revitalization agreement;
(c) property designated by a heritage designation bylaw.

(2) On receipt of a notice under subsection (1), the registrar must make a note of the filing on the title of the affected land.

(3) If a provision, agreement or bylaw referred to in subsection (1) no longer applies to property for which a notice was filed under this section, the local government must notify the land title office.

(4) On receipt of a notice under subsection (3), the registrar must cancel the note made under subsection (2).

(5) Notification to the land title office under subsection (1) or (3) must be made in a form satisfactory to the registrar.

(6) The protection of property under this Act is not affected by

(a) an inadvertent and minor error or omission in a notice given by a local government to the registrar in relation to a note on a land title,
(b) an error or omission in a note on a land title, or
(c) a failure by the registrar to make a note on a land title.

(7) In the event of any omission, mistake or misfeasance by the registrar or the staff of the registrar in relation to the making or cancelling of a note under this section,

(a) the registrar is not liable nor is the Crown vicariously liable, and
(b) the assurance fund or the Attorney General as a nominal defendant is not liable under Part 20 of the Land Title Act.

(8) The Lieutenant Governor in Council may prescribe fees for the filing of notices under this section, and section 315 of the Land Title Act applies in respect of those fees.

**Notice to minister responsible for the Heritage Conservation Act**

1032 (1) A local government must notify the minister responsible for the Heritage Conservation Act with respect to the following real property:

(a) heritage property for which a tax exemption is provided under section 400.1 or 819.2;
(b) heritage property included under section 945 (7) (b) in a schedule to an official
community plan;
(c) heritage property identified in a community heritage register under section 1009;
(d) heritage property that is subject to a heritage revitalization agreement;
(e) property designated by a heritage designation bylaw.

(2) If the provisions that require that notice must be given under subsection (1) no longer
apply to any real property, the local government must notify the minister responsible for the
Heritage Conservation Act.

(3) Notices to the minister under subsections (1) and (2) of this section or section 1014 (2)
must be made in a form satisfactory to that minister.

(4) The protection of property under this Act is not affected by an error or omission in a
notice given under this section.

Regulations regarding notices

1033 (1) The Lieutenant Governor in Council may make regulations respecting the form,
content and means of giving notice under this Part or under section 400.1 (5), 819.2 (5) or
945 (8) or (9).

(2) Regulations under subsection (1) may be different for different types of notices and for
different types of properties.

Division (7) -- Remedies and Offences

Civil remedies in relation to heritage property

1034 (1) A local government may apply to the Supreme Court for an order for compliance or
restoration if a person does one or more of the following:

(a) does anything for which a heritage alteration permit is required by or under this
Act without the authority of a heritage alteration permit;
(b) fails to comply with the requirements and conditions of a heritage alteration
permit;
(c) fails to comply with a direction of the Ombudsman under section 1007 (4);
(d) fails to bring property up to the standards established under section 1025.

(2) An order under subsection (1) may include one or more of the following:

(a) a requirement that, on terms and conditions the court specifies, the person restore
the property to which the matter relates to its condition before the contravention;
(b) a requirement that the person undertake compensatory conservation work as the court considers appropriate on the property that was affected or on other property, or that conservation work be performed by others at the expense of that person;
(c) a requirement that the person comply with a direction under section 1007 (4) or with the requirements and conditions of a heritage alteration permit;
(d) a requirement that the person carry out measures specified by the court to ameliorate the effects of the contravention or non-compliance;
(e) an authorization that the local government may, by its employees or others at the expense of the owner, perform work regarding a matter referred to in this subsection;
(f) any other requirement the court considers advisable.

(3) If an order is made under subsection (2) (e), the court may specify how and when the person will reimburse the local government for the cost of the work performed and the cost of incidental expenses accruing under the order.

(4) Without limiting the generality of subsection (3), the court may authorize the local government to add the cost of the work undertaken and the cost of incidental expenses under the order to the taxes payable to the local government with respect to the property for the year in which the work is performed.

(5) An order may be made under this section whether or not a person is charged with an offence under section 1036 in relation to the matter.

**Notice of contravention may be filed in land title office**

1035 (1) An officer or employee of a local government may recommend to the local government that a notice be filed in the land title office if the officer or employee discovers in the course of duties that any of the following has occurred:

(a) something for which a heritage alteration permit is required by or under this Act has been done without the authority of a heritage alteration permit;
(b) a person has failed to comply with the requirements and conditions of a heritage alteration permit;
(c) the terms and conditions of a heritage revitalization agreement have been contravened;
(d) a covenant registered by the local government under section 215 of the Land Title Act in relation to heritage property has been contravened.
(2) Section 750.1 (2) to (11) applies for the purposes of this section as though the person making the recommendation under subsection (1) of this section were a building inspector making a recommendation under section 750.1 (1).

(3) The authority under subsection (1) is in addition to any other action the person or local government is authorized to take in relation to the matter.

**Offences and penalties**

1036 (1) A person who does any of the following commits an offence:
   
   (a) without the authority of a heritage alteration permit, does anything for which a heritage alteration permit is required by or under this Act;
   
   (b) fails to comply with the requirements and conditions of a heritage alteration permit;
   
   (c) alters property in contravention of a heritage revitalization agreement.

(2) A person convicted of an offence under subsection (1) is liable,

   (a) if the person is an individual, to a fine of not more than $50 000 or to imprisonment for a term of not more than 2 years, or to both, or
   
   (b) if the person is a corporation, to a fine of not more than $1 000 000.

(3) If a corporation commits an offence under subsection (1), an employee, officer, director or agent of the corporation who authorized, permitted or acquiesced in the offence also commits the offence and is liable to the penalty set out in subsection (2) (a) whether or not the corporation is convicted of the offence.

*Municipal Aid Act*

**76** Section 1 of the Municipal Aid Act, R.S.B.C. 1979, c. 291, is amended in the definition of "Provincial land" by repealing paragraph (b) and substituting the following:

(b) that is a park, monument or historic site; .

**77** Section 2 is amended by adding the following subsection:

(4) The Lieutenant Governor in Council may specify a portion of any land or improvements to be a park, monument or historic site under paragraph (b) of the definition of "Provincial land" in section 1.

*Park Act*
78 Section 6 (1) of the Park Act, R.S.B.C. 1979, c. 309, is amended 
(a) by repealing paragraph (c) and substituting the following: 
   (c) Crown land is a heritage site under the Heritage Conservation Act; , and 
(b) by adding the following paragraph: 
   (e.1) land is owned by a person who has entered into an agreement with the Crown or 
a person who has entered into an agreement with the Crown or 
an agent of the Crown respecting the conservation, preservation or protection of the 
land or an amenity in relation to it; .

Taxation (Rural Area) Act
79 Section 13 (1) (u) of the Taxation (Rural Area) Act, R.S.B.C. 1979, c. 400, is amended by 
adding "or 819.2 (2)" after "section 819.1 (3)".

University Act
80 Section 27 of the University Act, R.S.B.C. 1979, c. 419, is amended by adding the 
following paragraph: 
(d.1) in consultation with the senate, to provide for conservation of the heritage sites of the 
university, including any heritage buildings, structures and land of the university; .
81 Section 36 is amended by adding the following paragraph: 
(l.1) to establish policies regarding the conservation of heritage objects and collections that 
are owned by or in the possession of the university or any of its faculties, divisions, 
departments or other agencies; .

University Endowment Land Act
82 Section 9.1 of the University Endowment Land Act, R.S.B.C. 1979, c. 420, is amended 
(a) in subsection (1) (a) by adding "and the conservation of heritage sites" after "land, 
buildings and structures", and 
(b) in subsection (2) by adding the following paragraph: 
   (a.1) include any provision that could be enacted by a local government under Part 30 
of the Municipal Act, .

Vancouver Charter
Section 2 of the Vancouver Charter, S.B.C. 1953, c. 55, is amended by adding the following definitions:

"conservation" includes any activity undertaken to protect, preserve or enhance the heritage value or heritage character of heritage property or an area;

"heritage character" means the overall effect produced by traits or features which give property or an area a distinctive quality or appearance;

"heritage property" means property that

(a) in the opinion of a person or body authorized to exercise a power under this Act in relation to the property, has sufficient heritage value or heritage character to justify its conservation, or

(b) is protected heritage property;

"heritage value" means historical, cultural, aesthetic, scientific or educational worth or usefulness of property or an area;

"protected heritage property" means property that is

(a) protected under section 6 (2) of the Heritage Conservation Act, or

(b) designated as protected under section 593; .

The following section is added:

Application of specified municipal enactments

2.1 (1) Sections 25, 237, 514 to 523, 617, 618, 619, 683, 766 to 821, 847, Division (4.1) of Part 28, and sections 932.1 (3) and 988 (6) of the Municipal Act apply to the city.

(2) Despite anything in the Municipal Act to the contrary, the only provisions of that Act that apply to the city are the provisions referred to in subsection (1).

(3) The Municipalities Enabling and Validating Act and the Municipalities Enabling and Validating Act (No. 2) apply to the city.

Section 152 is repealed and the following substituted:

Power to accept property

152 (1) The city may accept any property devised, bequeathed, conveyed or otherwise transferred to it, subject to any trusts on which the property is transferred.

(2) If the sale of property is necessary to carry out the terms of a trust under which it was transferred, the Council may sell the property despite any limitations or restrictions in this Act.
(3) All monies held by the city subject to a trust, until required for the purposes of the trust, must be invested in the manner provided for the investment of sinking funds.

(4) If, in the opinion of the Council, the terms or trusts imposed by a donor, settlor, transferor or testator are no longer in the best interests of the city, the Council may apply to the court for an order under subsection (5).

(5) On an application under subsection (4), the court may vary the terms or trusts as the court considers will better further both the intent of the donor, settlor, transferor or testator and the best interests of the city.

(6) Section 89 of the Trustee Act applies to an order under subsection (5).

86 Section 185 (1) is repealed and the following substituted:

(1) The Council may from time to time make the necessary expenditures for the maintenance, upkeep, conservation, repair and improvement of any property of the city.

87 The following section is added:

**Power to achieve heritage purposes**

193 C. The Council may engage in activities or expend money for one or more of the following purposes:

(a) to acquire, conserve and develop heritage property and other heritage resources;
(b) to gain knowledge about the city's history and heritage;
(c) to increase public awareness, understanding and appreciation of the city's history and heritage;
(d) for any other activities that it considers necessary or desirable with respect to the conservation of the heritage property and other heritage resources.

88 Section 204 is amended

(a) by adding the following paragraph:

**Heritage recognition**

(h.1) recognizing the heritage value or heritage character of a property or area by making awards to the owner of such property or by installing, with the consent of the owner, plaques or other markers on or near the property; and

(b) in paragraph (j) by adding the following:

(vi.1) heritage property or land necessary for the conservation of heritage property;
89 Section 206 is amended by renumbering the section as section 206 (1) and by adding the following subsection:

(2) The Council may, by a vote of at least 2/3 of the votes cast and subject to any terms and conditions the Council considers appropriate, provide financial and other assistance for the conservation of property that is

(a) protected heritage property, or

(b) subject to a covenant under section 215 of the Land Title Act that relates to the conservation of heritage property.

90 Section 292 (1) (d.1) is amended by striking out "heritage significance;" and substituting "heritage value;".

91 Section 294 (4) is amended by adding the following paragraph:

(g.2) a member of a heritage commission under section 581,

92 The following sections are added:

Exemptions for heritage properties

396A (1) In this section and section 396B "eligible heritage property" means property that is

(a) protected heritage property,

(b) subject to a heritage revitalization agreement under section 592, or

(c) subject to a covenant under section 215 of the Land Title Act that relates to the conservation of heritage property.

(2) Despite section 396 but subject to subsection (3) of this section, for the purposes of supporting the conservation of an eligible heritage property, on or before October 31 in any year the Council may, by by-law adopted by at least 2/3 of the votes cast, do one or more of the following:

(a) exempt all or part of the eligible heritage property from real property taxation under this Part;

(b) if eligible heritage property exempted under paragraph (a) is a building or other improvement so affixed to the land as to constitute real property, exempt an area of land surrounding the exempted property from real property taxation under this Part for the same period of time as the exemption is made under paragraph (a);

(c) limit an exemption under paragraph (a) or (b) to a specified portion of the net taxable value of the property to which the exemption applies;
(d) make an exemption under this subsection subject to specified conditions.

(3) A by-law under subsection (2) may provide a tax exemption

(a) for the next calendar year, or

(b) if the by-law receives the assent of the electors or is approved by the electors in accordance with subsection (4), for a specified period not greater than 10 years.

(4) Approval of the electors to a by-law under subsection (2) is deemed to have been given if all the following requirements are met:

(a) at least 30 days before adopting the by-law, a notice is published in at least 2 issues of a newspaper circulating in the city

(i) identifying the eligible heritage property that would be subject to the by-law,

(ii) describing the exemption that would be made for the eligible heritage property, and

(iii) stating that the by-law may be adopted by the Council after 30 days unless more than 1/20 of the electors petition the Council to obtain the assent of the electors to the by-law;

(b) from the date on which the notice is first published under paragraph (a), it is posted for public inspection in the City Hall during its regular office hours;

(c) by the end of 30 days after the notice is first published under paragraph (a), 1/20 or fewer of the electors have petitioned the Council to obtain the assent of the electors to the by-law.

(5) Within 30 days after adopting a by-law under this section, the Council must give notice of the by-law to the minister responsible for the Heritage Conservation Act in accordance with section 602.

Repayment requirement in relation to heritage exemptions

396B (1) A by-law under section 396A may provide that, if any of the following circumstances as specified in the by-law occur, the Council may require the owner of the eligible heritage property at that time to pay to the city an amount equivalent to the total taxes exempted under the by-law plus interest from the time at which the exempt taxes would otherwise have been payable, compounded annually at the rate established under section 415 for delinquent taxes:
(a) if the eligible heritage property is destroyed, whether with or without proper authorization under the requirements of the heritage protection of the property;
(b) if the eligible heritage property is altered by or on behalf of the owner without proper authorization under the requirements of the heritage protection of the property;
(c) if any other circumstances specified in the by-law occur.

(2) A by-law under section 396A that includes a provision under subsection (1) may not be adopted without the consent of the owner of the eligible heritage property to which the by-law applies.

(3) If a by-law under section 396A includes a provision under subsection (1), within 30 days after the by-law is adopted the Council must have notice of the by-law filed in the land title office in accordance with section 601.

(4) If a by-law under section 396A includes a provision under subsection (1) and a circumstance referred to in the provision occurs, the Council may, by by-law adopted by at least 2/3 of the votes cast, either
   (a) require the owner to pay the amount referred to in subsection (1), or
   (b) waive the obligation of the owner to pay all or part of the amount referred to in subsection (1).

(5) If the Council does not adopt a by-law under subsection (4) (a) within one year after it becomes aware of the circumstance in relation to which the by-law could be adopted, the Council is deemed to have waived all obligation of the owner to pay the amount referred to in subsection (1).

(6) If the Council adopts a by-law under subsection (4) (a) within the time period referred to in subsection (5), the Council may
   (a) add the amount referred to in subsection (1) to the taxes for the current year payable to the city in relation to the eligible heritage property, or
   (b) make an agreement with the owner regarding payment of the amount referred to in subsection (1) as a personal debt to the city.

Section 397 (4) is repealed and the following substituted:

(4) Residential property that is only partly exempt from taxation under section 396 (1) or a by-law under section 396A is liable to taxation under section 374.3.
Section 455 is amended in the definition of "business promotion scheme" by striking out "and" at the end of paragraph (b) and by adding the following paragraph:
(b.1) the conservation of heritage property in one or more business improvement areas, and .

Section 565 is amended by adding the following subsection:
(3) The regulations under subsection (1) may be different for different protected heritage property, as specified in the by-law.

Section 565.1 (2) (a) is amended by adding "conservation or" after "conditions relating to the".

Section 565A is amended
(a) by adding the following paragraph:
(d.1) subject to sections 578 (2) and 579 (2), delegating to the Director of Planning, or to any board composed of officials of the city, the power to refuse to issue a development permit if, in the opinion of the delegate, the proposed action would detract from the heritage value or heritage character of protected heritage property; , and
(b) by repealing paragraph (e) (ii) and substituting the following:
(ii) Council determines that the proposed development would make a contribution to conserving heritage property, .

Section 568 is amended by adding the following subsections:

Heritage property
(7) Despite subsection (4), additions or structural alterations to a protected heritage property may be undertaken if they are permitted or authorized in accordance with the provisions governing the heritage protection of the property.
(8) Subsection (5) does not apply to additions or structural alterations made to a protected heritage property if the additions or structural alterations are permitted or authorized in accordance with a heritage alteration permit under section 597.

Section 570 is amended
(a) by repealing subsection (1) and substituting the following:
(1) Before the adoption of a zoning by-law, an official development plan or a by-law under section 593 designating a heritage property, or of an amendment to a zoning by-law or an alteration, addition or extension to an official development plan, the
Council may cause to be withheld the issuance of any development or building permit for a period of 30 days from the date of application for such permit, and

(b) by adding the following subsection:

(4) Despite subsection (1), an owner of property for which a permit has been withheld before the adoption of a by-law designating a heritage property may agree that a permit may be withheld for a period longer than the 30 days referred to in subsection (1) and, in that case, subsection (1) continues to apply during that longer period and subsection (2) is deemed to read as if the longer period applies.

Section 573 is amended by adding the following subsection:

(2.1) The Board shall not allow an appeal that would apply to a property for which an authorization for alterations is required under Part XXVIII.

Part XXVIII is repealed and the following substituted:

Part XXVIII -- Heritage Conservation

Division (1) -- General

Definitions

575 (1) The definitions in section 559 apply to this Part.

(2) In addition to the definitions made applicable by subsection (1), in this Part "adopt" includes amend or repeal;

"alter" means to change in any manner and, without limiting this, includes

(a) the making of an improvement, as defined in the Builders Lien Act, and

(b) any action that detracts from the heritage value or heritage character of heritage property;

"approval" means a permit, licence or other authorization required under this or any other enactment administered by the Council or a delegate;

"delegate" means, in relation to a power or duty, a committee, board or person given authority under section 579 to exercise that power or duty;

"heritage alteration permit" means a permit under section 597;

"heritage designation by-law" means a by-law under section 593;

"heritage inspection" means the physical examination of property and the research necessary to assess the heritage value and the heritage character of the property or to determine the need for conservation of the property;
"heritage revitalization agreement" means an agreement under section 592.

(3) A provision of this Part that applies to an officer or employee of the Council may apply to an officer or employee of another government with the approval of that government.

**Limits on the use of this Part**

576 (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 the Council, necessary for the conservation of adjacent or proximate land, or an adjacent or proximate building, that is protected heritage property, or

(b) with respect to

(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.

(2) This Part must not be used to prevent a use of real property that is permitted under the applicable zoning by-law for the property or to prevent the development of land to the density allowed in respect of that permitted use under the applicable zoning by-law, except with regard to property that

(a) is designated by a heritage designation by-law, or

(b) is subject to temporary heritage protection under this Part.

(3) If there is a conflict between a provision of this Part, or a permit or order made under this Part, and the Heritage Conservation Act, or a permit or order made under that Act, the Heritage Conservation Act, or the permit or order made under it, prevails.

**Limit on compensation**

577 Except as provided in sections 583 (7) and 595, no person is entitled to compensation for

(a) any loss or damage, or

(b) any reduction in the value of property that results from the performance in good faith of any duty under this Part or the exercise in good faith of any power under this Part.

**By-law and permit procedures**
578 (1) Every application for a heritage alteration permit or the amendment of a by-law under this Part must be considered by the Council or, if applicable, its delegate under section 579.

(2) The applicant or owner of property subject to a decision made by a delegate under section 565A (d.1) or 579 is entitled to have the Council reconsider the matter without charge.

Delegation of Council authority

579 (1) The Council may, by by-law adopted by at least 2/3 of the votes cast, delegate to a committee of Council members, a board under section 565A (d) or (d.1), or an officer or employee of the Council, its powers and duties under one or more of the following, subject to any limits or conditions established by the Council:

(a) section 584 respecting heritage inspections;

(b) section 585 respecting

(i) the requirement for an impact assessment,

(ii) the establishment of specifications regarding an impact assessment,

(iii) the undertaking of an impact assessment under subsection (1) (b) of that section, and

(iv) the determination of whether the information required under that section has been provided;

(c) section 587 (5) (b) respecting the making of agreements as to terms and conditions to prevent or mitigate an alteration;

(d) section 590 respecting the identification of heritage property in a heritage control area;

(e) section 597 respecting

(i) the issuance or refusal of heritage alteration permits,

(ii) the establishment of requirements and conditions of a heritage alteration permit, and

(iii) the determination of whether the requirements and conditions of a heritage alteration permit have been met.

(2) A by-law under subsection (1) of this section or section 565A (d.1) must

(a) establish procedures regarding applying for and dealing with a reconsideration under section 578 (2),
(b) establish guidelines with regard to the exercise of this authority if the by-law authorizes a delegate to vary or supplement a bylaw under section 597 (2), and (c) establish guidelines with regard to the circumstances under which security is to be required from applicants, and how the amount of security is to be determined, if the bylaw authorizes a delegate to require an applicant to post a security deposit under section 598 (2) (c).

**Ombudsman review of Council decisions**

580 (1) The Ombudsman appointed under the Ombudsman Act may investigate complaints about decisions made by the Council under this Part or procedures used by the Council under this Part.

(2) Subsection (1) does not authorize the Ombudsman to investigate an issue involving compensation for reduction in the market value of real property caused by a designation under section 593.

(3) The Ombudsman Act, other than section 11 (1) (a) of that Act, applies to investigations under this section and, for that purpose, the Council is deemed to be an authority as defined in that Act.

(4) During an investigation under this section and for up to 6 months after the completion of the investigation if the Ombudsman considers the matter to be unresolved, the Ombudsman may direct that the Council or the complainant, or both, must not take any action on matters specified by the Ombudsman.

(5) If the Ombudsman makes a recommendation under section 22 or 23 of the Ombudsman Act regarding an investigation under this section and no action that the Ombudsman believes adequate or appropriate is taken by the Council within a reasonable time, the Ombudsman may make a report to the Lieutenant Governor in Council of the recommendation and such additional comments as the Ombudsman considers appropriate.

(6) On receipt of a report from the Ombudsman, the Lieutenant Governor in Council may make an order that the Lieutenant Governor in Council believes is in the public interest, and the order is binding on the Council.

(7) Nothing in this section diminishes the authority of the Ombudsman under the Ombudsman Act.
Division (2) -- Heritage Review

Heritage commissions

581 (1) The Council may, by by-law, do one or more of the following:
   (a) establish one or more heritage commissions, which may be different for different areas and different purposes;
   (b) authorize existing organizations to act as heritage commissions;
   (c) establish one or more joint heritage commissions with one or more other local governments.

(2) A by-law under subsection (1)
   (a) must establish the terms of reference for the heritage commission, and
   (b) if the by-law establishes a heritage commission under subsection (1) (a) or (c), must establish
       (i) the composition of the heritage commission,
       (ii) the manner by which the members of the heritage commission are to be appointed, and
       (iii) the procedures governing the conduct of the heritage commission or the manner by which these procedures are to be established.

(3) A heritage commission under subsection (1) may do the following:
   (a) advise the Council on any matter that is included in its terms of reference;
   (b) advise the Council on matters referred to it by the Council;
   (c) undertake or provide support for such activities as are included in its terms of reference or otherwise authorized by the Council.

(4) Meetings of a heritage commission must be open to the public, except for those meetings or portions of meetings at which the commission considers matters for which the Council has authorized the commission to meet in private.

Heritage register

582 (1) The Council may, by resolution, establish a heritage register that identifies real property that is considered by the Council to be heritage property.

(2) The heritage register
   (a) must indicate the reasons why property included in a heritage register is considered to have heritage value or heritage character, and
(b) may distinguish between heritage properties of differing degrees and kinds of heritage value or heritage character.

(3) Within 30 days after including a property in a heritage register or deleting property from a heritage register, the Council must give notice of this

   (a) to the owner of the heritage property in accordance with section 599, and
   (b) to the minister responsible for the Heritage Conservation Act in accordance with section 602.

(4) The protection of heritage property is not affected by an error or omission in a heritage register.

**Heritage inspection may be ordered**

583 (1) For the purposes of assessing the heritage value, heritage character or the need for conservation of real property, the Council or its delegate may order a heritage inspection of the property in any of the following circumstances:

   (a) the property is or may be protected heritage property;
   (b) the property is identified as heritage property in a heritage register;
   (c) the property is or may be heritage property according to criteria that the Council may, by by-law, establish for the purposes of this Part.

(2) An order under subsection (1)

   (a) must state the purpose of the heritage inspection,
   (b) must specify how long the order is to remain in effect,
   (c) must require the heritage inspection to be carried out in an expeditious manner,
   (d) may provide that the property covered by the order is subject to temporary protection as provided in section 591 until the applicable time under subsection (3) or section 584 (4), and
   (e) may include terms, conditions and specifications the Council or delegate considers appropriate.

(3) Temporary protection under subsection (2) (d) applies until the earliest of the following, subject to an extension of this time under section 584 (4):

   (a) the day after a report of the results of the heritage inspection is delivered to a regular meeting of the Council;
(b) the day the Council or its delegate informs the owner that the heritage inspection is completed or is no longer required;
(c) 30 days after the day on which the heritage inspection was ordered.

(4) A person must not interfere with the conducting of a heritage inspection.

(5) A person conducting a heritage inspection may perform tests and remove material samples that are necessary for the purposes of the heritage inspection, but must do this in such a manner that any alterations are as minor and inconspicuous as reasonably possible given the requirements of the heritage inspection.

(6) Upon completion of a heritage inspection, the Council must
   (a) notify the owner of the property that a heritage inspection has been conducted if the owner was not notified of the heritage inspection before the heritage inspection, and
   (b) make a report to the owner of what was done if, as a part of a heritage inspection, an alteration is made or material is removed.

(7) A person whose property is damaged by a heritage inspection under subsection (1) is entitled to have the damage repaired at the expense of the Council or, if the damage cannot be repaired, to compensation from the Council.

**Entry authority for a heritage inspection**

584 (1) An order under section 583 (1) authorizes a person conducting the heritage inspection to enter land or premises identified in the order at any reasonable time for the purposes of the heritage inspection.

(2) Prior to or when entering land under subsection (1), the person conducting the heritage inspection or heritage investigation must make a reasonable attempt to notify the owner or occupier of the land and, if requested, present a copy of the order to the owner or occupier.

(3) Except as provided in subsection (4), nothing in this section or an order made under section 583 authorizes entry into a building without the permission of the owner or occupier.

(4) A justice may issue a warrant authorizing a person to enter land or a building to conduct a heritage inspection ordered under section 583 (1) if the justice is satisfied that
   (a) there are reasonable grounds to believe that entry is required to achieve the purposes of the heritage inspection, and
   (b) there are reasonable grounds to believe that
(i) an emergency exists,
(ii) the person conducting the heritage inspection or heritage investigation has been unable to notify the owner or occupier after making a reasonable attempt to do so,
(iii) admission has been refused or refusal is anticipated, or
(iv) notification may defeat the object of the entry.

(5) A warrant under subsection (4) may extend the time period for which the property is protected under section 583 (2) (d) and continues in force until the purpose for which the entry is required has been satisfied.

(6) If a heritage inspection is conducted under a warrant under subsection (4), the person conducting the heritage inspection must be accompanied by a peace officer.

**Impact assessment may be required**

585 (1) If, in the opinion of the Council or its delegate, an approval may affect protected heritage property, the Council or delegate may require the applicant for the approval, before the approval is issued,

(a) to provide the Council or delegate, at the expense of the applicant, with information regarding the possible effects that the activity or action enabled by the approval may have on the heritage property, or
(b) to permit the Council or delegate to undertake, at the expense of the Council, studies regarding the matters referred to in paragraph (a) provided that such studies are undertaken promptly.

(2) A requirement under subsection (1) must be communicated to the applicant in writing and include specifications of the information to be provided and of the qualifications of any persons undertaking studies to produce the information.

(3) Specifications referred to in subsection (2) must not be changed by the Council or its delegate without the agreement of the applicant.

**Requests for Provincial protection**

586 (1) If, in the opinion of the Council, a building or site owned by the Crown has heritage value or heritage character, the Council may, by resolution, request that the Lieutenant Governor in Council consider protection of the building or site under the Heritage Conservation Act.
(2) Within 5 days after a resolution under subsection (1) is adopted, the Council must notify the minister responsible for the Heritage Conservation Act of the request.

(3) Once a request has been made under subsection (1), the property for which the protection is requested is subject to temporary protection in accordance with section 591 until the earlier of the following:

(a) the end of 30 days after the resolution authorizing the request was adopted;
(b) the minister responsible for the Heritage Conservation Act notifies the Council in writing that the temporary protection is ended.

(4) Despite section 14 (2) of the Interpretation Act, subsection (3) applies to the Crown.

(5) No more than one request may be made under subsection (1) with respect to any particular building or site during any one 10 year period.

**Division (3) -- Temporary Protection**

**Withholding of approvals**

587 (1) The Council may, by by-law, direct or authorize a board, committee, officer or employee who issues approvals to withhold the issuance of any approval for an action which, in the opinion of the board, committee or person responsible for issuing the approval, would alter or cause an alteration to any of the following:

(a) protected heritage property;
(b) property subject to temporary heritage protection under another section of this Part;
(c) property in a heritage register under section 582.

(2) A by-law under subsection (1) may establish restrictions, limits or conditions on the duty or power to withhold approvals.

(3) If an approval is withheld under subsection (1), the matter must be referred to the Council at its next regular meeting after the approval is withheld.

(4) If an approval is referred to the Council with regard to property referred to in subsection (1) (a) or (b), the Council may authorize that the approval continue to be withheld until an action referred to in subsection (5) occurs.

(5) An approval must not be withheld under this section if one or more of the following occurs:
(a) a heritage alteration permit is issued authorizing the alteration to which the approval applies;
(b) the applicant agrees to terms and conditions satisfactory to the Council or its delegate to prevent or mitigate circumstances that may detract from the heritage value or heritage character of the property;
(c) in the case of property subject to temporary heritage protection, the protection expires;
(d) in the case of property that appears to the board, committee or person responsible for issuing the approval to be protected under the Heritage Conservation Act, the Council is notified by the minister responsible for that Act that the requirements of that Act have been met or do not apply.

(6) Except as provided in subsection (4), nothing in this section authorizes the withholding of an approval to which an applicant would otherwise be entitled beyond the time of the meeting at which the matter is referred to the Council under subsection (3).

Withholding of demolition permits pending other approvals
588 (1) Without restricting section 587, the Council may, by by-law, direct or authorize a board, committee, officer or employee who issues permits for demolition may withhold approval in the following circumstances:

(a) in the case of protected heritage property, until a heritage alteration permit and any other necessary approvals have been issued with respect to alteration or redevelopment of the site;
(b) in the case of real property identified in the heritage register established under section 582, until a building permit and any other necessary approvals have been issued with respect to the alteration or redevelopment of the site.

(2) The Council may establish restrictions, limits or conditions on a duty or power under subsection (1).

(3) Nothing in this section authorizes the withholding of any approvals other than permits for demolition of heritage property.

Orders for temporary protection
589 (1) The Council may order that real property is subject to temporary protection in accordance with section 591 if the Council considers that
(a) the property is or may be heritage property, or
(b) protection of the property may be necessary or desirable for the conservation of other property that is heritage property.

(2) An order under subsection (1)
(a) must specify the time period during which the temporary protection applies, which may not be longer than 120 days unless the owner of the property agrees to a longer time period, and
(b) must not be made more than once within a 2 year period.

(3) An order under subsection (1) may do one or more of the following:
(a) identify landscape features that are subject to the order;
(b) specify types of alterations to property that are allowed without obtaining a heritage alteration permit;
(c) establish policies regarding the issuance of a heritage alteration permit in relation to the property.

Heritage control periods for temporary protection
590 (1) For the purposes of heritage conservation planning for an area identified in the by-law, the Council may, by by-law, declare a heritage control period with respect to the area.

(2) A by-law under subsection (1) must specify the length of the heritage control period, which may not be longer than one year from the date of adoption of the by-law.

(3) A by-law under subsection (1) may do one or more of the following:
(a) identify types of landscape features that are included in the protection under this section;
(b) specify types of alterations to property that are allowed without obtaining a heritage alteration permit;
(c) establish policies regarding the issuance of a heritage alteration permit in relation to property within the area covered by the by-law.

(4) During a heritage control period under subsection (1), property within the area covered by the by-law is subject to temporary protection in accordance with section 591.

(5) A heritage control period under this section may be declared once only during any 10 year period for an area or portion of an area.

Temporary protection
591 (1) While property is subject to temporary protection in accordance with this Division, except as authorized by a heritage alteration permit or as referred to in subsection (2), a person must not do any of the following to the property:

(a) alter the exterior of a building;
(b) make a structural change to a building;
(c) move a building;
(d) alter, move or take an action that would damage a fixture or feature identified in the authorizing resolution, order or by-law for the temporary protection;
(e) alter, excavate or build on the property.

(2) The prohibition under subsection (1) does not apply to alterations that are allowed by the authorizing resolution, by-law or order for the temporary protection to be made without a heritage alteration permit.

**Division (4) -- Continuing Protection**

**Heritage revitalization agreements**

592 (1) The Council may, by by-law, enter into a heritage revitalization agreement under this section with the owner of heritage property.

(2) A heritage revitalization agreement may do one or more of the following:

(a) include provisions regarding the phasing and timing of the commencement and completion of actions required by the agreement;
(b) vary or supplement provisions of
   (i) a by-law under section 292,
   (ii) a by-law under Part XXIV-A,
   (iii) a zoning by-law under Part XXVII,
   (iv) a development permit under Part XXVII, or
   (v) a by-law or heritage alteration permit under this Part;
(c) include such other terms and conditions as may be agreed upon by the Council and the owner.

(3) A heritage revitalization agreement prevails over a by-law or permit referred to in subsection (2) (b) to the extent of any conflict.

(4) A heritage revitalization agreement may only be amended by by-law with the consent of the owner.
(5) The Council must not require an owner to enter into or consent to the amendment of a heritage revitalization agreement as a condition of issuing any permit, licence or other authorization that may be required to enable the heritage property to be used or developed in accordance with the applicable by-law.

(6) The Council must not enter into or amend a heritage revitalization agreement unless the agreement or amendment is approved by the Minister of Municipal Affairs if circumstances prescribed under subsection (7) apply.

(7) The minister may, by regulation, prescribe circumstances in which approval under subsection (6) is required.

(8) The Council must hold a public hearing on the matter before entering into or amending a heritage revitalization agreement if the agreement or amendment would permit a change to the use or density of use that is not otherwise authorized by the applicable zoning of the property and, for these purposes, section 566 applies.

(9) Within 30 days after entering into or amending a heritage revitalization agreement, the Council must

(a) file a notice in the land title office in accordance with section 601, and
(b) give notice to the minister responsible for the Heritage Conservation Act in accordance with section 602.

(10) If a notice is filed under subsection (9) (a), the heritage revitalization agreement and any amendment to it is binding on all persons who acquire an interest in the land affected by the agreement.

**Heritage designation protection**

593 (1) Except as authorized by a heritage alteration permit or allowed under subsection (3) (f), a person must not do any of the following:

(a) alter the exterior of a building protected under this section;
(b) make a structural change to a building protected under this section;
(c) move a building protected under this section;
(d) alter, remove or take an action that would damage an interior feature or fixture that is identified under subsection (3) (c);
(e) alter, remove or take an action that would damage a landscape feature that is identified under subsection (3) (d);
(f) alter, excavate or build on land protected under this section.

(2) The Council may, by by-law, on terms and conditions as it considers appropriate, designate real property in whole or in part as protected under this section if the Council considers that

(a) the property has heritage value or heritage character, or
(b) designation of the property is necessary or desirable for the conservation of a protected heritage property.

(3) A heritage designation by-law may do one or more of the following:

(a) apply to a single property or to part of a property;
(b) apply to more than one property, including properties owned by different persons;
(c) apply to affixed interior building features or fixtures identified in the by-law;
(d) apply to landscape features identified in the by-law;
(e) establish policies or procedures regarding the provision of financial or other support for the conservation of the heritage property;
(f) specify types of alterations to the property that are allowed without a heritage alteration permit;
(g) establish policies regarding the issuance of heritage alteration permits in relation to property covered by the by-law.

Heritage designation procedure

594 (1) Before a heritage designation by-law is adopted, the Council must hold a public hearing on the proposed by-law for the purpose of allowing affected parties and the general public to make representations respecting matters contained in the proposed by-law.

(2) Section 566 (3) and (5) applies with respect to the public hearing and enactment of the heritage designation by-law.

(3) At least 10 days before the public hearing, a notice in the prescribed form must be given in accordance with section 599 to

(a) all persons who, according to the records of the land title office, have a registered interest in real property that would be designated, and
(b) all occupiers of real property that would be designated.

(4) A notice in the prescribed form must also be published in at least 2 consecutive issues of a newspaper of general circulation within the city in which the real property that would be
designated is located, with the last publication to be at least 3 days but not more than 10 days before the public hearing.

(5) The Council must have prepared a report regarding the property to be designated that includes information respecting the following matters:

(a) the heritage value or heritage character of the property;
(b) the compatibility of conservation with the community planning objectives in the area in which the property is located;
(c) the compatibility of conservation with lawful uses of the property and adjoining lands;
(d) the condition and economic viability of the property;
(e) the possible need for financial or other support to enable appropriate conservation.

(6) At least 10 days before the public hearing, the report under subsection (5) must be available for public inspection at the City Hall during its regular office hours.

(7) No heritage designation by-law is invalid for inadvertent and minor non-compliance with this section or Division (6), or for an error or omission in the report under subsection (5).

(8) Within 30 days after the Council adopts or defeats a heritage designation by-law or determines not to proceed with the by-law, the Council must give notice of this in the prescribed form to the owners entitled to notice under subsection (3) (a).

(9) Within 30 days after adopting a heritage designation by-law, the Council must give notice of this

(a) to the land title office in accordance with section 601, and
(b) to the minister responsible for the Heritage Conservation Act in accordance with section 602.

**Compensation for heritage designation**

595 (1) If a designation by a heritage designation by-law causes, or will cause at the time of designation, a reduction in the market value of the designated property, the Council must compensate an owner of the designated property who makes an application under subsection (2), in an amount or in a form the Council and the owner agree on or, failing an agreement, in an amount or in a form determined by binding arbitration under subsection (4).

(2) The owner of a designated property may apply to the Council for compensation for the reduction in the market value of the designated property.
(3) An application under subsection (2)
   (a) must be made, in order for the owner to be entitled to compensation under this
   section, no later than one year after the heritage designation by-law is adopted, and
   (b) may be made before the heritage designation by-law is adopted.

(4) If the Council and an owner are unable to agree
   (a) that the owner is entitled to compensation, or
   (b) on the amount or form of compensation, then either the Council or the owner may
   require the matter to be determined by binding arbitration under the Commercial
   Arbitration Act.

(5) An arbitration under this section must be by a single arbitrator unless the Council and the
    owner agree to the appointment of an arbitration panel.

(6) The arbitrator or arbitration panel, in determining whether the owner is entitled to
    compensation and the amount or form of compensation, must consider
    (a) financial and other support available for conservation of the designated property,
    and
    (b) any other benefits that are available because of the designation of the property.

(7) Compensation must not be paid, and an arbitration must not continue, if the Council
    defeats, or determines not to proceed with, the designation by-law.

(8) Nothing in this section authorizes the Council to give any financial or other benefit to an
    owner except that which is commensurate with reduction in the market value of the
    designated property as caused by that designation.

(9) This section does not apply with respect to property that, immediately before the adoption
    of the heritage designation by-law, is already designated under a heritage designation by-law
    or under section 4 of the Heritage Conservation Act.

**Heritage site maintenance standards**

596 (1) The Council may, by by-law, establish minimum standards for the maintenance of
real property that is designated as protected by a heritage designation by-law.

(2) Different standards may be established under subsection (1) for different areas or for
different types or classes of property.

**Division (5) -- Heritage Alteration Permits**

**Heritage alteration permits**
597 (1) The Council or its delegate may issue a heritage alteration permit authorizing alterations or other actions if such authorization is required by

   (a) this Act or by a by-law or order under this Act,
   (b) a heritage revitalization agreement under section 592, or
   (c) a covenant under section 215 of the Land Title Act.

(2) Subject to the limitation that the use or density of use may not be varied, a heritage alteration permit may, in relation to protected heritage property, vary or supplement provisions of

   (a) a by-law under section 292,
   (b) a bylaw under Part XXIV-A,
   (c) a zoning by-law under Part XXVII,
   (d) a development permit under Part XXVII, or
   (e) a by-law or heritage alteration permit under this Part.

(3) A permit issued under this section prevails over a by- law or permit referred to in subsection (2) to the extent of any conflict.

(4) The Council or its delegate may refuse to issue a heritage alteration permit for an action that, in the opinion of the Council or delegate, would not be consistent with the purpose of the heritage protection of the property.

(5) If the refusal to issue a heritage alteration permit prevents the use of land that is allowed under the applicable zoning by-law or the development of land to the density that is allowed under the applicable zoning by-law in respect of that permitted use, the Council or delegate must inform the applicant of the requirements or conditions under which the use or density proposed by the applicant would be allowed.

**Requirements and conditions in a heritage alteration permit**

598 (1) A heritage alteration permit may be made subject to such terms, requirements and conditions as the Council or its delegate considers consistent with the purpose of the heritage protection of the property.

(2) Without limiting the generality of subsection (1), a heritage alteration permit may include one or more of the following:

   (a) conditions respecting the sequence and timing of construction;
(b) conditions respecting the character of the alteration or action to be authorized, including landscaping and the siting, form, exterior design and finish of buildings; 
(c) if the permit is required by this Part or a by-law or order under this Part, a requirement that the applicant provide a specified amount of security, in a form satisfactory to the Council, to guarantee the performance of the terms, requirements and conditions of the permit.

(3) Interest earned on security under subsection (2) (c) becomes part of the amount of the security.

(4) If the Council considers that the holder of a heritage alteration permit has contravened or failed to comply with a term, requirement or condition of the permit, the Council may undertake and complete the works required to satisfy the term, requirement or condition, or to ameliorate the effects of the contravention or noncompliance, at the cost of the holder of the permit.

(5) The Council may recover the cost of the work undertaken under subsection (4) and the cost of incidental expenses incurred by the Council by applying the security under subsection (2) (c) in payment for the cost of the works and incidental expenses, with any excess to be returned to the holder of the permit.

(6) If there is no security deposit or the amount of security is insufficient, the Council may add the cost of works undertaken and incidental expenses, or the remaining costs, to the taxes payable to the Council with respect to the property for the year in which the work is performed.

(7) When a permit lapses or the actions it authorizes are completed, the Council must, subject to subsection (5), return any security provided under subsection (2) (c) to the person who provided it.

Division (6) -- Notices under this Part

Giving notice to owners and occupiers

599 (1) If notice is required to be given to an owner or occupier under this Part, the notice must be given to the owner or occupier in accordance with this section.

(2) A notice to an owner is sufficiently given to the owner if

(a) it is served personally on the owner,
it is sent by registered mail, or a method of delivery that provides proof of delivery, to the person's actual or last known address,
(c) in the circumstances described in subsection (4), it is published in accordance with that subsection, or
(d) it is given as authorized by regulation under section 603.

(3) A notice to an occupier is sufficiently given to the occupier if
(a) the notice is given individually to each occupier in accordance with subsection (2), or
(b) the notice is posted on or near the property in accordance with section 600.

(4) If a notice cannot be served personally on an owner or occupier and the person's actual or last known address cannot be determined after reasonable steps for the purpose have been taken, the notice may be given by publication in 2 issues, at least one week apart, of a newspaper having general circulation
(a) in the area where the owner or occupier to be given notice was last known to reside or carry on business according to the information available to the person giving the notice, or
(b) in the area where the land to which the notice relates is situated.

(5) A notice given in accordance with subsection (2) (b) is deemed to be received on the earlier of
(a) the date the person to whom it is sent actually receives the notice, and
(b) the end of 10 days after the date on which the notice was sent.

**Posting notice on protected heritage property**

**600** (1) The Council may authorize a person to post one or more notices on or near
(a) protected heritage property, or
(b) real property subject to temporary heritage protection under section 583, 586, 589 or 590.

(2) Before or upon entering land to post a notice, the Council must make a reasonable effort to inform the owner or occupier of the land.

(3) Except as authorized by the Council, a person must not alter or remove a notice posted under the authority of this section.

**Notice on land titles**
601 (1) The Council must file a written notice in the land title office with respect to the following real property:

(a) property that is subject to a provision under section 396B (1);
(b) property designated by a heritage designation by-law;
(c) property that is subject to a heritage revitalization agreement.

(2) On receipt of a notice under subsection (1), the registrar must make a note of the filing on the title of the affected land.

(3) If a provision, by-law or agreement referred to in subsection (1) no longer applies to property for which a notice was filed under this section, the Council must notify the land title office.

(4) On receipt of a notice under subsection (3), the registrar must cancel the note made under subsection (2).

(5) Notification to the land title office under subsection (1) or (3) must be made in a form satisfactory to the registrar.

(6) The protection of property under this Act is not affected by

(a) an inadvertent and minor error or omission in a notice given by the Council to the registrar in relation to a note on a land title,
(b) an error or omission in a note on a land title, or
(c) a failure by the registrar to make a note on a land title.

(7) In the event of any omission, mistake or misfeasance by the registrar or the staff of the registrar in relation to the making or cancelling of a note under this section,

(a) the registrar is not liable nor is the Crown vicariously liable, and
(b) the assurance fund or the Attorney General as a nominal defendant is not liable under Part 20 of the Land Title Act.

(8) The Lieutenant Governor in Council may prescribe fees for the filing of notices under this section, and section 315 of the Land Title Act applies in respect of those fees.

**Notice to minister responsible for the Heritage Conservation Act**

602 (1) The Council must notify the minister responsible for the Heritage Conservation Act with respect to the following real property:

(a) heritage property for which a tax exemption is provided under section 396A (2);
(b) heritage property identified in a heritage register under section 582;
(c) heritage property designated by a heritage designation by-law;
(d) heritage property that is subject to a heritage revitalization agreement.

(2) If the provisions that require that notice must be given under subsection (1) no longer apply to any real property, the Council must notify the minister responsible for the Heritage Conservation Act.

(3) Notices to the minister under subsections (1) and (2) of this section or section 586 (2) must be made in a form satisfactory to that minister.

(4) The protection of property under this Act is not affected by an error or omission in a notice given under this section.

**Regulations regarding notices**

603 (1) The Lieutenant Governor in Council may make regulations respecting the form, content and means of giving notice under this Part or under section 396A (5).

(2) Regulations under subsection (1) may be different for different types of notices and for different types of properties.

**Division (7) -- Remedies and Offences**

**Civil remedies in relation to heritage property**

604 (1) The Council may apply to the court for an order for compliance or restoration if a person does one or more of the following:

(a) does anything for which a heritage alteration permit is required by or under this Act without the authority of a heritage alteration permit;
(b) fails to comply with the requirements and conditions of a heritage alteration permit;
(c) fails to comply with a direction of the Ombudsman under section 580 (4);
(d) fails to bring property up to the standards established under section 596.

(2) An order under subsection (1) may include one or more of the following:

(a) a requirement that, on terms and conditions the court specifies, the person restore the property to which the matter relates to its condition before the contravention;
(b) a requirement that the person undertake compensatory conservation work as the court considers appropriate on the property that was affected or on other property, or that conservation work be performed by others at the expense of that person;
(c) a requirement that the person comply with a direction under section 580 (4) or with the requirements and conditions of a heritage alteration permit;
(d) a requirement that the person carry out measures specified by the court to ameliorate the effects of the contravention or non-compliance;
(e) an authorization that the Council may, by its employees or others at the expense of the owner, perform work regarding a matter referred to in this subsection;
(f) any other requirement the court considers advisable.

(3) If an order is made under subsection (2) (e), the court may specify how and when the person will reimburse the Council for the cost of the work performed and the cost of incidental expenses accruing under the order.

(4) Without limiting the generality of subsection (3), the court may authorize the Council to add the cost of the work undertaken and the cost of incidental expenses under the order to the taxes payable to the Council with regard to the property for the year in which the work is performed.

(5) An order may be made under this section whether or not a person is charged with an offence under section 606 in relation to the matter.

**Notice of contravention may be filed in land title office**

605 (1) An officer or employee of the city may recommend to the Council that a notice be filed in the land title office if the officer or employee discovers in the course of duties that any of the following has occurred:

(a) something for which a heritage alteration permit is required by or under this Act has been done without the authority of a heritage alteration permit;
(b) a person has failed to comply with the requirements and conditions of a heritage alteration permit;
(c) the terms and conditions of a heritage revitalization agreement have been contravened;
(d) a covenant registered by the Council under section 215 of the Land Title Act in relation to heritage property has been contravened.

(2) Section 336D (2) to (9) applies for the purposes of this section as though the person making the recommendation under subsection (1) of this section were the City Building Inspector making a recommendation under section 336D (1).
(3) The authority under subsection (1) is in addition to any other action the person or the Council is authorized to take in relation to the matter.

**Offences and penalties**

606 (1) A person who does any of the following commits an offence:

(a) without the authority of a heritage alteration permit, does anything for which a heritage alteration permit is required by or under this Act;

(b) fails to comply with the requirements and conditions of a heritage alteration permit;

(c) alters property in contravention of a heritage revitalization agreement.

(2) A person convicted of an offence under subsection (1) is liable,

(a) if the person is an individual, to a fine of not more than $50 000 or to imprisonment for a term of not more than 2 years, or to both, or

(b) if the person is a corporation, to a fine of not more than $1 000 000.

(3) If a corporation commits an offence under subsection (1), an employee, officer, director or agent of the corporation who authorized, permitted or acquiesced in the offence also commits the offence and is liable to the penalty set out in subsection (2) (a) whether or not the corporation is convicted of the offence.

**Transitional Provisions**

**Existing designations, permits and covenants**

102 (1) Every municipal heritage designation made under Part 3 of the Heritage Conservation Act, section 714A of the Municipal Act, R.S.B.C. 1960, c. 255, or section 564A of the Vancouver Charter, that has not been rescinded, is hereby continued as if it were designated by a bylaw under section 1022 of the Municipal Act or section 593 of the Vancouver Charter, as applicable, but a continuance under this subsection does not entitle any person to compensation under section 1024 of the Municipal Act or section 595 of the Vancouver Charter.

(2) Any requirement or condition of a permit or order made under Part 3 of the Heritage Conservation Act, section 714A of the Municipal Act, R.S.B.C. 1960, c. 255, or section 564A of the Vancouver Charter, with respect to the disposition and protection of objects removed from heritage property, is hereby continued.
(3) The minister responsible for the Heritage Conservation Act may give notice of
designations continued under subsection (1) to the appropriate land title office, and section
1031 (2) to (7) of the Municipal Act and section 601 (2) to (7) of the Vancouver Charter
apply as if notice had been given by the local government.

Existing local government heritage tax exemptions

103 (1) A tax exemption under section 400 (2) (a) of the Municipal Act is deemed to be a tax
exemption under section 400.1 of the Municipal Act, as enacted by this Act, effective the
date on which section 400.1 of the Municipal Act comes into force.
(2) A tax exemption under section 819.1 (4) (c) of the Municipal Act is deemed to be a tax
exemption under section 819.2 of the Municipal Act, as enacted by this Act, effective the
date on which section 819.2 of the Municipal Act comes into force.
(3) Subsections (1) and (2) apply even if the property subject to the exemption does not
qualify as "eligible heritage property" within the meaning of section 400.1 or 819.2 of the
Municipal Act, as applicable.
(4) As an exception to the notice requirements under sections 400.1 (5) and 819.2 (5) of the
Municipal Act in relation to a tax exemption under subsection (1) or (2),
   (a) if the tax exemption under section 400 (2) (a) or 819.1 (4) (c) is for a single
taxation year, no notice to the minister responsible for the Heritage Conservation Act
is required, and
   (b) if the tax exemption is for a period of more than one taxation year, within one year
of the applicable effective date referred to in subsection (1) or (2), the local
government must give notice of the tax exemption to the minister responsible for the
Heritage Conservation Act in accordance with section 1032 of the Municipal Act.

Continuation of heritage development permit areas and optional rollover to designation
as heritage conservation areas

104 (1) Despite the repeal of section 945 (4) (c) of the Municipal Act by this Act, an area
that, on the effective date of the repeal, is designated under that section in an official
community plan continues to be designated for the purposes of section 976 of the Municipal
Act for a period of 3 years after that effective date unless the official community plan is
amended to remove this designation before the end of this period.
(2) For the purposes of converting the protection of an area designated under section 945 (4) (c) of the Municipal Act to protection under the new Part 30 of that Act, a local government may, by bylaw during the 3 year period under subsection (1), amend an official community plan referred to in that subsection to remove the designation under section 945 (4) (c) of the Municipal Act and replace it with a designation as a heritage conservation area under section 945 (6) of that Act.

(3) The authority under subsection (2) is subject to the following limits:

(a) all of the area designated under section 945 (4) (c) of the Municipal Act must be designated under section 945 (6) of that Act;

(b) no area in addition to the area designated under section 945 (4) (c) of the Municipal Act may be designated under section 945 (6) of that Act;

(c) no schedule under section 945 (7) (b) of the Municipal Act may be included for the designated area.

(4) As an exception to the usual requirements regarding the amendment of official community plans, a bylaw under subsection (2) may be adopted without public hearing.

**Existing regional district heritage authority**

105 A regional district that, at the time section 789 (1) (f.3) of the Municipal Act, as enacted by this Act, comes into force, has the authority to provide a service in relation to heritage conservation under section 767 (3) or 790 (2) (d) is deemed for the purposes of the Municipal Act to be providing the service under the authority of an establishing bylaw under section 789 (1) (f.3) of the Municipal Act.

**Existing local government heritage registers**

106 (1) If, at the time section 1009 of the Municipal Act comes into force, a local government has a register, list or other record of properties considered by the local government to have heritage value or heritage character, the record may be adopted by the local government as a community heritage register under that section.

(2) As an exception to the notice requirements under section 1009 (3) of the Municipal Act in relation to a community heritage register adopted under subsection (1), if the register is adopted within 2 years of section 1009 of the Municipal Act coming into force, no notice is required to be given to owners of property listed in the register but notice must be given to
the minister as provided in section 1009 (3) (b) within one year of the date of adoption of the
register.

(3) Subsections (1) and (2) apply to the City of Vancouver in relation to a heritage register
under section 582 of the Vancouver Charter and the notice requirements under that section.

Existing municipal heritage advisory committees

107 (1) Every municipal heritage advisory committee established by a council under section
15 of the Heritage Conservation Act is hereby continued as a community heritage
commission under section 1008 of the Municipal Act or a heritage commission under section
581 of the Vancouver Charter, as applicable.

(2) Terms of reference, if any, of a municipal heritage advisory committee continued under
this section are deemed to be terms of reference established, as applicable, by bylaw under
section 1008 (2) of the Municipal Act or by by-law under section 581 (2) of the Vancouver
Charter.

Commencement

108 This Act comes into force by regulation of the Lieutenant Governor in Council.
Appendix D  Part 27 of the *Local Government Act*

**Part 27 — Heritage Conservation**

**Division 1 — General**

**Definitions**

947  (1) The definitions in section 872 apply to this Part.

(2) In addition to the definitions made applicable by subsection (1), in this Part:

"*alter*" means to change in any manner and, without limiting this, includes

(a) the making of an improvement, as defined in the *Builders Lien Act*, and

(b) any action that detracts from the heritage value or heritage character of heritage property;

"*approval*" means a permit, licence or other authorization required under this or any other enactment administered by the local government or a delegate;

"*delegate*" means, in relation to a power or duty, a person given authority under section 176 (1) (e) [corporate powers — delegation] of this Act or section 154 [delegation of council authority] of the *Community Charter* to exercise that power or duty;

"*heritage alteration permit*" means a permit under section 972;

"*heritage conservation area*" means an area designated under section 970.1 (1) in an official community plan;

"*heritage designation bylaw*" means a bylaw under section 967;
"heritage inspection" means the physical examination of property and the research necessary to assess the heritage value and the heritage character of the property or to determine the need for conservation of the property;

"heritage revitalization agreement" means an agreement under section 966;

"real property" includes buildings, structures and other improvements affixed to the land.

(3) A regional district does not have authority under this Part and its board is not a local government for the purposes of this Part unless the regional district has adopted a bylaw to establish and operate a service under section 800.1 (2) (h) [services related to heritage conservation].

(4) A provision of this Part that applies to an officer or employee of a local government may apply to an officer or employee of another government with the approval of that government.

Limits on the use of this Part

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 the local government, necessary for the conservation of adjacent or proximate real property that is protected heritage property,

(b) with respect to a site that has heritage value or heritage character related to human occupation or use, or

(c) with respect to individual landmarks and other natural features that have cultural or historical value.
(2) [Repealed 2003-80-58.]

(2.1) This Part must not be used to restrict a forest management activity on land that is private managed forest land under the *Private Managed Forest Land Act*.

(3) This Part must not be used to prevent a use of real property that is permitted under the applicable zoning bylaw for the property or to prevent the development of land to the density allowed in respect of that permitted use under the applicable zoning bylaw, except with regard to property that

(a) is designated by a heritage designation bylaw, or

(b) is subject to temporary heritage protection under this Part.

(4) If there is a conflict between a provision of this Part, or a permit or order made under this Part, and the *Heritage Conservation Act*, or a permit or order made under that Act, the *Heritage Conservation Act*, or the permit or order made under it, prevails.

Limit on compensation

949 Except as provided in sections 956 (7) and 969 a person is not entitled to compensation for

(a) any loss or damage, or

(b) any reduction in the value of property

that results from the performance in good faith of any duty under this Part or the exercise in good faith of any power under this Part.

Bylaw and permit procedures

950 (1) A local government may, by bylaw, define procedures under which a person may apply for an amendment to a bylaw under this Part or for the issue of a permit under this Part.
(2) If a bylaw under subsection (1) establishes a time limit for reapplication, the time limit may be varied in relation to a specific reapplication by an affirmative vote of at least 2/3 of the votes cast.

(3) Every application for a heritage alteration permit or the amendment of a bylaw under this Part must be considered by the local government or, if applicable, its delegate.

(4) The applicant or owner of property subject to a decision made by a delegate is entitled to have the local government reconsider the matter.

Repealed

951 [Repealed 1998-34-210.]

Ombudsperson review of local government decisions

952 (1) The Ombudsperson appointed under the Ombudsperson Act may investigate complaints about decisions made by a local government under this Part or about procedures used by a local government under this Part.

(2) Subsection (1) does not authorize the Ombudsperson to investigate an issue involving compensation for reduction in the market value of real property caused by a designation under section 967.

(3) The Ombudsperson Act, other than section 11 (1) (a) of that Act, applies to investigations under this section and, for that purpose, the local government is deemed to be an authority as defined in that Act.

(4) During an investigation under this section and for up to 6 months after the completion of the investigation if the Ombudsperson considers the matter to be unresolved, the Ombudsperson may direct that the local government or the complainant, or both, must not take any action on matters specified by the Ombudsperson.

(5) If the Ombudsperson makes a recommendation under section 23 or 24 of the Ombudsperson Act regarding an investigation under this section and no
action that the Ombudsperson believes adequate or appropriate is taken by the local government within a reasonable time, the Ombudsperson may make a report to the Lieutenant Governor in Council of the recommendation and such additional comments as the Ombudsperson considers appropriate.

(6) On receipt of a report from the Ombudsperson, the Lieutenant Governor in Council may make an order that the Lieutenant Governor in Council believes is in the public interest, and the order is binding on the local government.

(7) Nothing in this section diminishes the authority of the Ombudsperson under the Ombudsperson Act.

Division 2 — Heritage Review

Community heritage commissions

953 (1) In addition to the authority under section 176 (1) (g) of this Act or section 143 of the Community Charter, a local government may designate an existing organization to act as a community heritage commission.

(2) In relation to an organization designated under subsection (1),

(a) when the organization is acting as a community heritage commission, the organization is deemed to be a commission established under the applicable provision referred to in subsection (1), and

(b) when a member of the organization is acting as a member of a community heritage commission, the member is deemed to be a member of a commission established under the applicable provision referred to in subsection (1).

Community heritage register
(1) A local government may, by resolution, establish a community heritage register that identifies real property that is considered by the local government to be heritage property.

(2) The community heritage register

(a) must indicate the reasons why property included in a community heritage register is considered to have heritage value or heritage character, and

(b) may distinguish between heritage properties of differing degrees and kinds of heritage value or heritage character.

(3) Within 30 days after including a property in a community heritage register or deleting property from a community heritage register, the local government must give notice of this

(a) to the owner of the heritage property in accordance with section 974, and

(b) to the minister responsible for the *Heritage Conservation Act* in accordance with section 977.

(4) The protection of heritage property is not affected by an error or omission in a community heritage register.

**Heritage recognition**

(1) A local government may recognize the heritage value or heritage character of a heritage property, an area or some other aspect of the community's heritage.

(2) The local government may have a plaque or other marker installed to indicate recognition under subsection (1), subject to the requirement that permission for this must be obtained from the owner of the property on which the marker is installed.

**Heritage inspection may be ordered**
For the purposes of assessing the heritage value, heritage character or the need for conservation of real property, a local government or its delegate may order a heritage inspection of the property in any of the following circumstances:

(a) the property is or may be protected heritage property;
(b) the property is identified as heritage property in a community heritage register;
(c) the property is or may be heritage property according to criteria that the local government may, by bylaw, establish for the purposes of this Part.

An order under subsection (1)

(a) must state the purpose of the heritage inspection,
(b) must specify how long the order is to remain in effect,
(c) must require the heritage inspection to be carried out in an expeditious manner,
(d) may provide that the property covered by the order is subject to temporary protection as provided in section 965 until the applicable time under subsection (3) or section 957 (5), and
(e) may include terms, conditions and specifications that the local government or delegate considers appropriate.

Temporary protection under subsection (2) (d) applies until the earliest of the following, subject to an extension of this time under section 957 (5):

(a) the day after a report of the results of the heritage inspection is delivered to a regular meeting of the local government;
(b) the day the local government or its delegate informs the owner that the heritage inspection is completed or is no longer required;
(c) 30 days after the day on which the heritage inspection was ordered.

(4) A person must not interfere with the conducting of a heritage inspection.

(5) A person conducting a heritage inspection may perform tests and remove material samples that are necessary for the purposes of the heritage inspection, but must do this in such a manner that any alterations are as minor and inconspicuous as reasonably possible given the requirements of the heritage inspection.

(6) On completion of a heritage inspection, the local government must

(a) notify the owner of the property that a heritage inspection has been conducted, if the owner was not notified of the heritage inspection before the heritage inspection, and

(b) make a report to the owner of what was done if, as a part of a heritage inspection, an alteration is made or material is removed.

(7) A person whose property is damaged by a heritage inspection under subsection (1) is entitled to have the damage repaired at the expense of the local government or, if the damage cannot be repaired, to compensation from the local government.

**Entry authority for a heritage inspection**

957 (1) An order under section 956 (1) authorizes a person conducting the heritage inspection to enter land or premises identified in the order at any reasonable time for the purposes of the heritage inspection.

(2) Before or when entering land under subsection (1), the person conducting the heritage inspection or heritage investigation must make a reasonable attempt to notify the owner or occupier of the land and, if requested, present a copy of the order to the owner or occupier.
(3) Except as provided in subsection (4), nothing in this section or an order made under section 956 authorizes entry into a building without the permission of the owner or occupier.

(4) A justice may issue a warrant authorizing a person to enter land or a building to conduct a heritage inspection ordered under section 956 (1) if the justice is satisfied that

(a) there are reasonable grounds to believe that entry is required to achieve the purposes of the heritage inspection, and

(b) there are reasonable grounds to believe that

(i) an emergency exists,

(ii) the person conducting the heritage inspection or heritage investigation has been unable to notify the owner or occupier after making a reasonable attempt to do so,

(iii) admission has been refused or refusal is anticipated, or

(iv) notification may defeat the object of the entry.

(5) A warrant under subsection (4) may extend the time period for which the property is protected under section 956 (2) (d) and continues in force until the purpose for which the entry is required has been satisfied.

(6) If a heritage inspection is conducted under a warrant under subsection (4), the person conducting the heritage inspection must be accompanied by a peace officer.

**Impact assessment may be required**

958 (1) If, in the opinion of the local government or its delegate, an approval may affect protected heritage property, the local government or delegate may require the applicant for the approval, before the approval is issued,
(a) to provide the local government or delegate, at the expense of the applicant, with information regarding the possible effects that the activity or action enabled by the approval may have on the heritage property, or

(b) to permit the local government or delegate to undertake, at the expense of the local government, studies regarding the matters referred to in paragraph (a) provided that those studies are undertaken promptly.

(2) A requirement under subsection (1) must be communicated to the applicant in writing and include specifications of the information to be provided and of the qualifications of any persons undertaking studies to produce the information.

(3) Specifications referred to in subsection (2) must not be changed by the local government or its delegate without the agreement of the applicant.

Local government requests for Provincial protection

959 (1) If, in the opinion of a local government, real property owned by the Provincial government has heritage value or heritage character, the local government may, by resolution, request that Provincial protection be provided for the property.

(2) Within 5 days after a resolution under subsection (1) is adopted, the local government must convey the resolution to the minister responsible for the Heritage Conservation Act.

(3) Once a request has been made under subsection (1), the property for which the protection is requested is subject to temporary protection in accordance with section 965 until the earlier of the following:

(a) the end of 30 days after the resolution authorizing the request was adopted;
(b) the minister responsible for the *Heritage Conservation Act* notifies the local government in writing that the temporary protection is ended.

(4) Despite section 14 (2) of the *Interpretation Act*, subsection (3) applies to the Provincial government.

(5) No more than one request may be made under subsection (1) with respect to any particular building, structure or site during any one 10 year period.

**Division 3 — Temporary Protection**

**Withholding of approvals**

**960** (1) A local government may, by bylaw, direct or authorize the officers or employees of the local government who issue approvals to withhold the issuance of any approval for an action that, in the opinion of the person responsible for issuing the approval, would alter or cause an alteration to any of the following:

(a) protected heritage property;

(b) property subject to temporary heritage protection under another section of this Part;

(c) property in a community heritage register.

(2) A bylaw under subsection (1) may establish restrictions, limits or conditions on the duty or power to withhold approvals.

(3) If an approval is withheld under subsection (1), the matter must be referred to the local government at its next regular meeting after the approval is withheld.

(4) If an approval is referred to the local government with regard to property referred to in subsection (1) (a) or (b), the local government may authorize that the approval continue to be withheld until an action referred to in subsection (5) occurs.
(5) An approval must not be withheld under this section if one or more of the following occurs:

(a) a heritage alteration permit is issued authorizing the alteration to which the approval applies;

(b) the applicant agrees to terms and conditions satisfactory to the local government or its delegate to prevent or mitigate circumstances that may detract from the heritage value or heritage character of the property;

(c) in the case of property subject to temporary heritage protection, the protection expires;

(d) in the case of property that appears to the person responsible for issuing the approval to be protected under the Heritage Conservation Act, the local government is notified by the minister responsible for that Act that the requirements of that Act have been met or do not apply.

(6) Except as provided in subsection (4), nothing in this section authorizes the withholding of an approval to which an applicant would otherwise be entitled beyond the time of the meeting at which the matter is referred to the local government under subsection (3).

Withholding of demolition permits until other approvals issued

961 (1) Without limiting section 960, a local government may, by bylaw, direct or authorize the officers or employees of the local government who issue permits for demolition to withhold approval for demolition in the following circumstances:

(a) in the case of protected heritage property, until a heritage alteration permit and any other necessary approvals have been issued with respect to alteration or redevelopment of the site;
(b) in the case of real property identified in a community heritage register established under section 954, until a building permit and any other necessary approvals have been issued with respect to the alteration or redevelopment of the site.

(2) A local government may establish restrictions, limits or conditions on a duty or power under subsection (1).

(3) Nothing in this section authorizes the withholding of any approvals other than permits for demolition of heritage property.

Orders for temporary protection

962 (1) A local government may order that real property is subject to temporary protection in accordance with section 965 if the local government considers that

(a) the property is or may be heritage property, or

(b) protection of the property may be necessary or desirable for the conservation of other property that is heritage property.

(2) An order under subsection (1)

(a) must specify the time period during which the temporary protection applies, which time period may not be longer than 60 days unless the owner of the property agrees to a longer time period, and

(b) must not be made more than once in a 2 year period without the agreement of the owner of the property.

(3) An order under subsection (1) may do one or more of the following:

(a) identify landscape features that are subject to the order;

(b) specify types of alterations to property that are allowed without obtaining a heritage alteration permit;
(c) establish policies regarding the issuance of a heritage alteration permit in relation to the property.

**Temporary protection by introduction of a continuing protection bylaw**

---

**Temporary protection by introduction of a continuing protection bylaw**

963  (1) For a period of 120 days beginning on the date of first reading of a bylaw to adopt an official community plan that designates a heritage conservation area, section 971 (1) applies to all properties in the area as if the bylaw had already been adopted.

(2) For a period of 60 days beginning on the date of the first reading of a heritage designation bylaw, section 967 (3) applies as if the heritage designation bylaw had already been adopted.

(3) If the owner of property to which subsection (2) applies agrees, the local government may, by bylaw, extend the protection referred to in that subsection for a specified period longer than the 60 days referred to in that subsection.

(4) If the issue of compensation for designation is submitted to arbitration under section 969 before the heritage designation bylaw is adopted, the time period under subsection (2) is extended by the time between the submission of the matter to arbitration and the delivery of the arbitration report to the local government.

(5) If a local government defeats or decides not to proceed with a bylaw, the protection under this section ends.

**Heritage control periods for temporary protection**

---

**Heritage control periods for temporary protection**

964  (1) For the purposes of heritage conservation planning for an area identified in the bylaw, a local government may, by bylaw, declare a heritage control period with respect to the area.
(2) A bylaw under subsection (1) must specify the length of the heritage control period, which period may not be longer than one year from the date of adoption of the bylaw.

(3) A bylaw under subsection (1) may do one or more of the following:

   (a) identify types of landscape features that are included in the protection under this section;

   (b) specify types of alterations to property that are allowed without obtaining a heritage alteration permit;

   (c) establish policies regarding the issuance of a heritage alteration permit in relation to property within the area covered by the bylaw.

(4) During a heritage control period under subsection (1), property within the area covered by the bylaw is subject to temporary protection in accordance with section 965.

(5) A heritage control period under this section may be declared once only during any 10 year period for an area or portion of an area.

**Temporary protection**

965 (1) While property is subject to temporary protection in accordance with this Division, except as authorized by a heritage alteration permit or as referred to in subsection (2), a person must not do any of the following to the property:

   (a) alter the exterior of a building or structure;

   (b) make a structural change to a building or structure;

   (c) move a building or structure;

   (d) alter, move or take an action that would damage a fixture or feature identified in the authorizing resolution, order or bylaw for the temporary protection;

   (e) alter, excavate or build on the property.
(2) The prohibition under subsection (1) does not apply to alterations that are, by the authorizing resolution, bylaw or order for the temporary protection, allowed to be made without a heritage alteration permit.

**Division 4 — Continuing Protection**

**Heritage revitalization agreements**

966 (1) A local government may, by bylaw, enter into a heritage revitalization agreement under this section with the owner of heritage property.

(2) A heritage revitalization agreement may do one or more of the following:

(a) include provisions regarding the phasing and timing of the commencement and completion of actions required by the agreement;

(b) vary or supplement provisions of one or more of the following:

   (i) [Repealed 2000-7-181.]

   (ii) a bylaw under Division 7, 10 or 11 of Part 26;

   (iii) a permit under Division 9 of Part 26;

   (iv) a bylaw or heritage alteration permit under this Part;

(c) include other terms and conditions that may be agreed on by the local government and the owner.

(3) A heritage revitalization agreement prevails over a bylaw or permit referred to in subsection (2) (b) to the extent of any conflict.

(4) A heritage revitalization agreement may only be amended by bylaw with the consent of the owner.

(5) A local government must not require an owner to enter into or consent to the amendment of a heritage revitalization agreement as a condition of issuing any permit, licence or other authorization that may be required to enable the
heritage property to be used or developed in accordance with the applicable bylaws.

(6) A local government must not enter into or amend a heritage revitalization agreement unless the agreement or amendment is approved as follows:

   (a) [Repealed 2003-72-20.]

   (b) by the minister responsible for the administration of the
       Transportation Act, if the agreement or amendment covers land
       subject to section 52 (3) of the Transportation Act;

   (c) by the minister, if circumstances prescribed under
       subsection (7) apply.

(7) The minister may, by regulation, prescribe circumstances in which
approval under subsection (6) (c) is required.

(8) Before entering into or amending a heritage revitalization agreement, a
local government must hold a public hearing on the matter if the agreement or
amendment would permit a change to the use or density of use that is not
otherwise authorized by the applicable zoning of the property and, for these
purposes, sections 890 to 894 apply.

(8.1) Despite section 135 [requirements for passing bylaws] of the
Community Charter, if a public hearing on the matter has been held under
subsection (8), the local government may adopt the bylaw under this section
at the same meeting at which the bylaw passed third reading.

(9) Within 30 days after entering into or amending a heritage revitalization
agreement, the local government must

   (a) file a notice in the land title office in accordance with
       section 976, and

   (b) give notice to the minister responsible for the Heritage
       Conservation Act in accordance with section 977.
(10) If a notice is filed under subsection (9) (a), the heritage revitalization agreement and any amendment to it is binding on all persons who acquire an interest in the land affected by the agreement.

Heritage designation protection

967 (1) A local government may, by bylaw, on terms and conditions it considers appropriate, designate real property in whole or in part as protected under this section if the local government considers that

(a) the property has heritage value or heritage character, or
(b) designation of the property is necessary or desirable for the conservation of a protected heritage property.

(2) A heritage designation bylaw may do one or more of the following:

(a) apply to a single property or to part of a property;
(b) apply to more than one property, including properties owned by different persons;
(c) apply to affixed interior building features or fixtures identified in the bylaw;
(d) apply to landscape features identified in the bylaw;
(e) establish policies or procedures regarding the provision of financial or other support for the conservation of the heritage property;
(f) specify types of alterations to the property that are allowed without a heritage alteration permit;
(g) establish policies regarding the issuance of heritage alteration permits in relation to property covered by the bylaw.

(3) Except as authorized by a heritage alteration permit or allowed under subsection (2) (f), a person must not do any of the following:
(a) alter the exterior of a building or structure protected under this section;

(b) make a structural change to a building or structure protected under this section;

(c) move a building or structure protected under this section;

(d) alter, remove or take an action that would damage an interior feature or fixture that is identified under subsection (2) (c);

(e) alter, remove or take an action that would damage a landscape feature that is identified under subsection (2) (d);

(f) alter, excavate or build on land protected under this section.

**Heritage designation procedure**

**968** (1) Before a heritage designation bylaw is adopted, the local government must hold a public hearing on the proposed bylaw for the purpose of allowing affected parties and the general public to make representations respecting matters contained in the proposed bylaw.

(2) Sections 890 (2) to (3.1) and (5) to (9), 891 and 894 apply with respect to the public hearing and enactment of the heritage designation bylaw.

(3) At least 10 days before the public hearing, a notice in the prescribed form must be given in accordance with section 974 to

(a) all persons who, according to the records of the land title office, have a registered interest in real property that would be designated, and

(b) all occupiers of real property that would be designated.

(4) A notice in the prescribed form must also be published in at least 2 consecutive issues of a newspaper, with the last publication to be at least 3 days but not more than 10 days before the public hearing.
(5) The local government must have a report prepared regarding the property to be designated that includes information respecting the following matters:

(a) the heritage value or heritage character of the property;

(b) the compatibility of conservation with the official community plan and any other community planning objectives in the area in which the property is located;

(c) the compatibility of conservation with lawful uses of the property and adjoining lands;

(d) the condition and economic viability of the property;

(e) the possible need for financial or other support to enable appropriate conservation.

(6) At least 10 days before the public hearing, the report under subsection (5) must be available for public inspection at the local government office during its regular office hours.

(7) No heritage designation bylaw is invalid for inadvertent and minor non-compliance with this section or Division 6 of this Part, or for an error or omission in the report required under subsection (5).

(8) Within 30 days after a local government adopts or defeats a heritage designation bylaw or determines not to proceed with the bylaw, the local government must give notice of this in the prescribed form to the owners entitled to notice under subsection (3) (a).

(9) Within 30 days after adopting a heritage designation bylaw, the local government must give notice of this

(a) to the land title office in accordance with section 976, and

(b) to the minister responsible for the Heritage Conservation Act in accordance with section 977.

**Compensation for heritage designation**
If a designation by a heritage designation bylaw causes, or will cause at the time of designation, a reduction in the market value of the designated property, the local government must compensate an owner of the designated property who makes an application under subsection (2), in an amount or in a form the local government and the owner agree on or, failing an agreement, in an amount or in a form determined by binding arbitration under subsection (4).

(2) The owner of a designated property may apply to the local government for compensation for the reduction in the market value of the designated property.

(3) An application under subsection (2)

(a) must be made, in order for the owner to be entitled to compensation under this section, no later than one year after the heritage designation bylaw is adopted, and

(b) may be made before the heritage designation bylaw is adopted.

(4) If the local government and an owner are unable to agree

(a) that the owner is entitled to compensation, or

(b) on the amount or form of compensation,

then either the local government or the owner may require the matter to be determined by binding arbitration under the Commercial Arbitration Act.

(5) An arbitration under this section must be by a single arbitrator unless the local government and the owner agree to the appointment of an arbitration panel.

(6) The arbitrator or arbitration panel, in determining whether the owner is entitled to compensation and the amount or form of compensation, must consider

(a) financial and other support available for conservation of the designated property, and
(b) any other benefits that are available because of the designation of the property.

(7) Compensation must not be paid, and an arbitration must not continue, if the local government defeats, or decides not to proceed with, the designation bylaw.

(8) Nothing in this section authorizes the local government to give any financial or other benefit to an owner except that which is commensurate with the reduction in the market value of the designated property caused by that designation.

(9) This section does not apply with respect to property that, immediately before the adoption of the heritage designation bylaw, is already designated under a heritage designation bylaw or under section 9 of the Heritage Conservation Act.

Heritage site maintenance standards

970 (1) A local government may, by bylaw, establish minimum standards for the maintenance of real property that is

(a) designated as protected by a heritage designation bylaw, or

(b) within a heritage conservation area.

(2) Different standards may be established under subsection (1) for different areas or for different types or classes of property.

Designation of heritage conservation areas

970.1 (1) For the purposes of heritage conservation, an official community plan may designate an area as a heritage conservation area to which section 971 (1) applies.

(2) If a heritage conservation area is designated under subsection (1),

(a) the official community plan must
(i) describe the special features or characteristics that justify the designation, and

(ii) state the objectives of the designation, and

(b) either the official community plan or a zoning bylaw must specify guidelines respecting the manner by which the objectives are to be achieved.

(3) If a heritage conservation area is designated under subsection (1), the official community plan may do one or more of the following:

(a) specify conditions under which section 971 (1) does not apply to property within the area, which may be different for different properties or classes of properties;

(b) include a schedule listing buildings, structures, land or features within the area that are to be protected heritage property under this Act;

(c) for the purposes of section 971 (3), identify features or characteristics that contribute to the heritage value or heritage character of the area.

(4) At least 10 days before the public hearing on an official community plan that includes a schedule under subsection (3) (b), the local government must give notice in accordance with section 974 to the owner of each property that is to be included in the schedule, unless the property was already included in the schedule.

(5) Within 30 days after the adoption of a bylaw that includes a property in or deletes a property from a schedule under subsection (3) (b) to an official community plan, the local government must

(a) file a notice in the land title office in accordance with section 976, and
(b) give notice to the minister responsible for the *Heritage Conservation Act* in accordance with section 977.

**Heritage conservation areas**

**971** (1) If an official community plan designates a heritage conservation area, a person must not do any of the following unless a heritage alteration permit authorizing the action has been issued:

(a) subdivide land within the area;

(b) start the construction of a building or structure or an addition to an existing building or structure within the area;

(c) alter a building or structure or land within the area;

(d) alter a feature that is protected heritage property.

(2) Subsection (1) does not apply if conditions established under section 970.1 (3) (a) apply.

(3) If a heritage alteration permit is required by subsection (1), a delegate may only act in relation to such a permit if

(a) the property is protected heritage property, or

(b) the permit relates to a feature or characteristic identified under section 970.1 (3) (c).

**Division 5 — Heritage Alteration Permits**

**Heritage alteration permits**

**972** (1) A local government or its delegate may issue a heritage alteration permit authorizing alterations or other actions if the authorization is required by

(a) this Act or by a bylaw or order under this Act,

(b) a heritage revitalization agreement, or

(c) a covenant under section 219 of the *Land Title Act*. 

261
(2) The heritage alteration permit may, in relation to protected heritage property or property within a heritage conservation area, vary or supplement provisions of one or more of the following:

(a) [Repealed 2000-7-184.]
(b) a bylaw under Division 7, 10 or 11 of Part 26;
(c) a permit under Division 9 of Part 26;
(d) a bylaw or heritage alteration permit under this Part.

(3) A permit issued under this section prevails over a bylaw or permit referred to in subsection (2) to the extent of any conflict.

(4) The following restrictions apply to subsection (2):

(a) the use or density of use may not be varied;
(b) a flood plain specification under section 910 (2) may not be varied;
(c) in relation to property within a heritage conservation area, the permit must be in accordance with the guidelines established under section 970.1 (2) (b) for the heritage conservation area.

(5) A local government or its delegate may refuse to issue a heritage alteration permit for an action that, in the opinion of the local government or delegate, would not be consistent with the purpose of the heritage protection of the property.

(6) If the refusal to issue a heritage alteration permit prevents the use of land that is allowed under the applicable zoning bylaw or the development of land to the density that is allowed under the applicable zoning bylaw in respect of that permitted use, the local government or delegate must inform the applicant of the requirements or conditions under which a use or density proposed by the applicant in accordance with section 948 (3) would be allowed.

Requirements and conditions in a heritage alteration permit
973 (1) A heritage alteration permit may be made subject to the terms, requirements and conditions that the local government or its delegate considers consistent with the purpose of the heritage protection of the property.

(2) Without limiting subsection (1), a heritage alteration permit may include one or more of the following:

(a) conditions respecting the sequence and timing of construction;

(b) conditions respecting the character of the alteration or action to be authorized, including landscaping and the siting, form, exterior design and finish of buildings and structures;

(c) if the permit is required by this Part or a bylaw or order under this Part, a requirement that the applicant provide a specified amount of security, in a form satisfactory to the local government, to guarantee the performance of the terms, requirements and conditions of the permit.

(3) Interest earned on security under subsection (2) (c) becomes part of the amount of the security.

(4) If a local government considers that the holder of a heritage alteration permit has contravened or failed to comply with a term, requirement or condition of the permit, the local government may undertake and complete the works required to satisfy the term, requirement or condition, or to ameliorate the effects of the contravention or noncompliance, at the cost of the holder of the permit.

(5) The local government may recover the cost of the work undertaken under subsection (4) and the cost of incidental expenses incurred by the local government by applying the security provided under subsection (2) (c) in payment for the cost of the works and incidental expenses, with any excess to be returned to the holder of the permit.

(6) If there is no security deposit or the amount of security is insufficient, the local government may add the cost of works undertaken and incidental
expenses, or the remaining costs, to the taxes payable to the local government with respect to the property for the year in which the work is performed.

(7) When a permit lapses or the actions it authorizes are completed, the local government must, subject to subsection (5), return any security provided under subsection (2) (c) to the person who provided it.

(8) If a local government delegates the power to require security under subsection (2) (c), the delegation bylaw must include guidelines for the delegate as to how the amount of security is to be determined.

Division 6 — Notices under this Part

Giving notice to owners and occupiers

974 (1) Any notice required to be given to an owner or occupier under section 970.1 (4) [designation of heritage conservation area] or this Part must be given to the owner or occupier in accordance with this section.

(2) A notice to an owner is sufficiently given to the owner if

(a) it is served personally on the owner,

(b) it is sent by registered mail, or by a method of delivery that provides proof of delivery, to the person's actual or last known address,

(c) in the circumstances described in subsection (4), it is published in accordance with that subsection, or

(d) it is given as authorized by regulation under section 978.

(3) A notice to an occupier is sufficiently given to the occupier if

(a) the notice is given individually to each occupier in accordance with subsection (2), or

(b) the notice is posted on or near the property in accordance with section 975.
(4) If a notice cannot be served personally on an owner or occupier and the person's actual or last known address cannot be determined after reasonable steps for the purpose have been taken, the notice may be given by publication in 2 issues, at least one week apart, of a newspaper having general circulation

(a) in the area where the owner or occupier to be given notice was last known to reside or carry on business according to the information available to the person giving the notice, or

(b) in the area where the land to which the notice relates is situated.

(5) A notice given in accordance with subsection (2) (b) is deemed to be received on the earlier of

(a) the date the person to whom it is sent actually receives the notice, and

(b) the end of 10 days after the date on which the notice was sent.

Posting notice on protected heritage property

(1) A local government may authorize a person to post one or more notices on or near

(a) protected heritage property, or

(b) real property subject to temporary heritage protection under section 956, 959, 962, 963 or 964.

(2) Before or when entering land to post a notice, the local government must make a reasonable effort to inform the owner or occupier of the land.

(3) Except as authorized by the local government, a person must not alter or remove a notice posted under the authority of this section.

Notice on land titles
(1) A local government must file a written notice in the land title office with respect to the following real property:

(a) property that is subject to a provision under section 810.1 (1) [repayment requirement in relation to regional district heritage exemptions];

(a.1) property that is subject to a provision under section 225 (6)
(c) [repayment requirements in relation to tax exemptions] of the Community Charter in relation to heritage property;

(b) property that is subject to a heritage revitalization agreement;

(c) property designated by a heritage designation bylaw.

(2) On receipt of a notice under subsection (1), the registrar must make a note of the filing on the title of the affected land.

(3) If a provision, agreement or bylaw referred to in subsection (1) no longer applies to property for which a notice was filed under this section, the local government must notify the land title office.

(4) On receipt of a notice under subsection (3), the registrar must cancel the note made under subsection (2).

(5) Notification to the land title office under subsection (1) or (3) must be made in a form satisfactory to the registrar.

(6) The protection of property under this Act is not affected by

(a) an inadvertent and minor error or omission in a notice given by a local government to the registrar in relation to a note on a land title,

(b) an error or omission in a note on a land title, or

(c) a failure by the registrar to make a note on a land title.
(7) In the event of any omission, mistake or misfeasance by the registrar or the staff of the registrar in relation to the making or cancelling of a note under this section,

(a) the registrar is not liable and neither the Provincial government nor the Land Title and Survey Authority of British Columbia is liable vicariously,

(a.1) the assurance fund or the Land Title and Survey Authority of British Columbia as a nominal defendant is not liable under Part 19.1 of the Land Title Act, and

(b) the assurance fund or the minister charged with the administration of the Land Title Act as a nominal defendant is not liable under Part 20 of the Land Title Act.

(8) The Lieutenant Governor in Council may prescribe fees for the filing of notices under this section, and section 386 of the Land Title Act applies in respect of those fees.

**Notice to minister responsible for the Heritage Conservation Act**

977 (1) A local government must notify the minister responsible for the Heritage Conservation Act with respect to the following real property:

(a) heritage property for which a tax exemption is provided under section 810 [regional district exemptions for heritage properties];

(a.1) heritage property for which a tax exemption is provided under section 225 [municipal exemptions for heritage properties] of the Community Charter by reason of it being heritage property;

(b) heritage property included under section 970.1 (3) (b) in a schedule to an official community plan;

(c) heritage property identified in a community heritage register under section 954;
(d) heritage property that is subject to a heritage revitalization agreement;

(e) property designated by a heritage designation bylaw.

(2) If the provisions that require that notice must be given under subsection (1) no longer apply to any real property, the local government must notify the minister responsible for the *Heritage Conservation Act*.

(3) Notices to the minister under subsections (1) and (2) of this section or section 959 (2) must be made in a form satisfactory to that minister.

(4) The protection of property under this Act is not affected by an error or omission in a notice given under this section.

**Regulations regarding notices**

978 (1) The Lieutenant Governor in Council may make regulations respecting the form, content and means of giving notice

(a) under this Part,

(b) under section 810 (5) *[regional district exemptions for heritage properties]* of this Act, or

(c) under section 225 *[partnering, heritage, riparian and other special exemption authority]* of the *Community Charter* in relation to heritage property.

(2) Regulations under subsection (1) may be different for different types of notices and for different types of properties.

**Division 7 — Remedies and Offences**

**Civil remedies in relation to heritage property**

979 (1) A local government may apply to the Supreme Court for an order for compliance or restoration if a person does one or more of the following:
(a) without the authority of a heritage alteration permit, does anything for which a heritage alteration permit is required under this Act;

(b) fails to comply with the requirements and conditions of a heritage alteration permit;

(c) fails to comply with a direction of the Ombudsperson under section 952 (4);

(d) fails to bring property up to the standards established under section 970.

(2) An order under subsection (1) may include one or more of the following:

(a) a requirement that, on terms and conditions the court specifies, the person restore the property to which the matter relates to its condition before the contravention;

(b) a requirement that the person undertake compensatory conservation work as the court considers appropriate on the property that was affected or on other property, or that conservation work be performed by others at the expense of that person;

(c) a requirement that the person comply with a direction under section 952 (4) or with the requirements and conditions of a heritage alteration permit;

(d) a requirement that the person carry out measures specified by the court to ameliorate the effects of the contravention or non-compliance;

(e) an authorization that the local government may, by its employees or others at the expense of the owner, perform work regarding a matter referred to in this subsection;

(f) any other requirement the court considers advisable.
(3) If an order is made under subsection (2) (e), the court may specify how and when the person will reimburse the local government for the cost of the work performed and the cost of incidental expenses accruing under the order.

(4) Without limiting subsection (3), the court may authorize the local government to add the cost of the work undertaken and the cost of incidental expenses under the order to the taxes payable to the local government with respect to the property for the year in which the work is performed.

(5) An order may be made under this section whether or not a person is charged with an offence under section 981 in relation to the matter.

Notice of contravention may be filed in land title office

980 (1) An officer or employee of a local government may recommend to the local government that a notice be filed in the land title office if the officer or employee discovers in the course of duties that any of the following has occurred:

(a) something for which a heritage alteration permit is required under this Act has been done without the authority of a heritage alteration permit;

(b) a person has failed to comply with the requirements and conditions of a heritage alteration permit;

(c) the terms and conditions of a heritage revitalization agreement have been contravened;

(d) a covenant registered by the local government under section 219 of the Land Title Act in relation to heritage property has been contravened.

(2) Sections 57 [note against land title that building regulations contravened] and 58 [cancellation of note against land title] of the Community Charter apply for the purposes of this section as though the person making the
recommendation under subsection (1) of this section were a building inspector making a recommendation under section 57 (1) of the *Community Charter*.

(3) The authority under subsection (1) is in addition to any other action the person or local government is authorized to take in relation to the matter.

**Offences and penalties**

981 (1) A person who does any of the following commits an offence:

(a) without the authority of a heritage alteration permit, does anything for which a heritage alteration permit is required under this Act;
(b) fails to comply with the requirements and conditions of a heritage alteration permit;
(c) alters property in contravention of a heritage revitalization agreement.

(2) A person convicted of an offence under subsection (1) is liable,

(a) if the person is an individual, to a fine of not more than $50 000 or to imprisonment for a term of not more than 2 years, or to both, or
(b) if the person is a corporation, to a fine of not more than $1 000 000.

(3) If a corporation commits an offence under subsection (1), an employee, officer, director or agent of the corporation who authorized, permitted or acquiesced in the offence also commits the offence and is liable to the penalty set out in subsection (2) (a) whether or not the corporation is convicted of the offence.
Appendix E  Old Town Statement of Significance

BC Register of Historic Places

Old Town District

LOCATION

Jurisdiction  BC
Community  Victoria
Locality  Downtown
District  Capital Regional District
Province  BC

DESCRIPTION

Description
The Old Town District in the City of Victoria, British Columbia, consists of approximately two hundred (200) historic places spread over a quadrant which covers seven city blocks along the north-east side of the Inner Harbour and three to four blocks inland to Douglas Street. The Old Town District is distinguishable by its clusters of buildings and streetscapes which date from the late nineteenth and early twentieth centuries, and encompasses the Chinatown District.

Description of Boundaries
The Old Town District is comprised of an area of land bound by Humboldt, Douglas, Wharf and Chatham Street.

Heritage Value
The Old Town District of Victoria is significant as the historic nucleus of Canada’s first Pacific port city. As a major commercial centre, area of settlement and active port prior to the First World War, the streetscapes of the Old Town District possess valuable association with the early commercial and social growth of Victoria, British Columbia, and western Canada. The location of the Old Town District - around the original site of Fort Victoria – is an important indication of the intentions of the city’s first planners to take advantage of the natural geography and to make the best use of the Inner Harbour waterway. The influence of the British Empire over colonial Victoria is evident in the conventional layout of this historic district and in its various building types. The juxtaposition of law and order (as seen in such buildings as the court house, city hall, and bank structures) with commercial structures such as warehouses and mercantile buildings – laid out within a grid of streets, alleyways and courtyards– is significant as it reflects the British influence on western Canada and the expectation to maintain protocol throughout the Empire. The location and isolation of Chinatown in the northern part of the district is important as it is representative of the imperial norms associated with Canada’s early immigration. The significant architectural styles in the Old Town District embody Victoria’s transformation from a gold rush boom town to a permanent port and centre of trade. The confident styles of the commercial architecture in the late nineteenth century (1870-1900) are valuable as they represent the replacement of the business-minded Hudson’s Bay Company
by the American entrepreneurs of Victoria’s merchant community in this period of rapid growth. This shift to centralized business endeavours in Victoria, which began in the mid-1880s when Vancouver became the terminus of the Canadian Pacific Railway and climaxed in the early twentieth century, is particularly evident in such structures as the warehouses that line Wharf Street, and the retail and wholesale buildings on Government Street. Architectural themes in the Old Town District are valuable indications of the trends occurring in Canada before the First World War. The presence of Victorian Italianate, Edwardian, and Commercial Style structures portrays Victoria as a modern contemporary city (as opposed to a frontier town). Vernacular design elements, such as the adaptation of metropolitan styles to accommodate local building materials and craftsmanship, combined with more traditional elements, form a significant architectural hybrid representative of Victoria as a Canadian outpost of the British Empire.

**Character-Defining Elements**

- the contiguous relationship of the Old Town District with the Inner Harbour;
- the unimpeded views of the Inner Harbour from Wharf Street; the boundaries of Wharf and Store Streets to the west, Douglas Street to the east, Humboldt Street to the south and Chatham Street to the north;
- the original street plan, including alleyways and courtyards, and city blocks of various shapes and sizes;
- the layers of progression as seen in the streets; the identification of the oldest streets closest to the water, as seen in the buildings and streetscapes, and newer streets and buildings farther inland;
- Government Street, the central orienting spine of the Old Town district defined by a streetscape of businesses including historic banks, offices, and shops;
- the historic streetscapes created by the distinct collection of nineteenth and twentieth century (1880-1910) commercial and administrative buildings;
- the average scale of three and four story buildings, including the eclectic range of heights which contribute to the saw-tooth profile of the streetscapes.;
- the situation of the buildings on their lots, some with splayed corners and unimpeded views at the ground floor level, contributing to sight lines at intersection points;
- the size, massing and grouping of 1860s-era warehouse facades on Wharf Street’s commercial streetscape;
- prevailing American commercial architectural styles with economical use of Victorian applied ornament on functional brick structures;
- the prominent use of brick masonry construction, such as the use of arched entryways into brick buildings;
- the evidence of local materials and building techniques in combination with traditional architectural elements;
- prefabricated structural and decorative components of exterior facades of commercial buildings, allowing for shop frontage and streetscapes to be opened up beyond the elements of traditional brick construction;
- the distinction of Chinese buildings along lower Pandora (north side) and Fisgard; -the evidence of wooden block pavers in Waddington Alley.