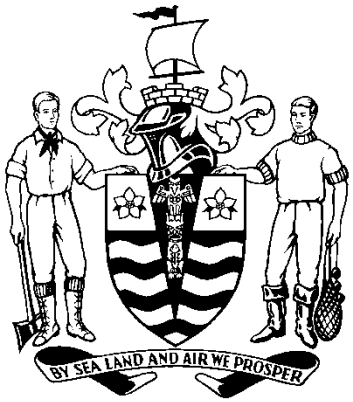
CITY OF VANCOUVER
BRITISH COLUMBIA



HERITAGE PROCEDURE
BY-LAW NO. 11350

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(Consolidated for convenience only to March 8, 2016)

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BY-LAW NO. 11350

A By-law in relation to heritage property to authorize withholding of permits, to delegate the powers and duties of Council under Part XXVIII of the *Vancouver Charter* and to establish procedures for applications under Part XXVIII of the *Vancouver Charter*

**[Consolidated for convenience only,
amended to include By-law No. 11470,
effective March 8, 2016]**

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

PART 1
INTERPRETATION

Name of by-law

1.1 The name of this by-law, for citation, is the "Heritage Procedure By-law".

Conflict with Heritage By-law

1.2 In the event of a conflict between this by-law and Heritage By-law No. 4837, the provisions of this by-law will prevail.

Definitions

1.3 In this by-law:

"architectural features" means siding, wall facings, corner boards, brackets, columns, pilasters, windows, doors, window and door surrounds or architraves, projections, cornices, pediments and balustrades and their paints, finishes and colours, architectural hardware and all other similar exterior or interior features;

"alter" and "alteration" mean respectively "to change in any manner" and "any change" and, without limiting the generality of the foregoing, include:

a) the making of an improvement, as defined in the *Builder's Lien Act*; and

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

"approvals" mean permits, licences or other authorizations required under a by-law or the *Vancouver Charter*;

"building" means "building" as defined in section 304 of the *Vancouver Charter*;

"building permit" means a permit issued under the Building By-law;

"Chief Building Official" means the city official appointed as such by Council and includes the authorized representatives of the Chief Building Official;

"construction" means "construction" as defined in section 304 of the *Vancouver Charter*;

"development permit" means a permit issued under the Zoning & Development By-law;

"Director of Planning" means the city official appointed as such by Council and includes the authorized representatives of the Director of Planning;

"designated heritage property" means property that has been designated as protected heritage property pursuant to a heritage designation by-law under section 594 of the *Vancouver Charter*;

"features" includes architectural and landscape features;

"heritage alteration permit" means a permit authorized under the Heritage By-law or this by-law;

"heritage character" means the overall effect produced by traits or features which give property or an area a distinctive quality or appearance;

"heritage conservation area" means an area designated as a heritage conservation area under section 561(2)(iv) of the *Vancouver Charter* by an official development plan;

"heritage inspection" means the physical examination of property pursuant to an order under section 583 of the *Vancouver Charter* or pursuant to an order of the Director of Planning in accordance with this by-law 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 property" means property that:

a) in the opinion of a person or body authorized to exercise a power under the *Vancouver Charter* or this by-law 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;

"impact assessment" means information or studies regarding the possible effects on protected heritage property of an activity or action enabled by the approval of a permit under this or another by-law;

"landscape features" means any fence, retaining wall, fountain, patio, terrace, statuary or similar feature or garden of significance that is located on a site and outside the exterior walls of a building;

"occupier" means the person who occupies or lives in a building or premises and includes a tenant;

"ODP" means an official development plan that designates a heritage conservation area;

"owner" means a registered owner of real property or a person in possession of real property and includes the agent or representative of a person owning or in possession of real property or in receipt of the rents or profits therefrom whether on his own account or as agent or trustee for any other person;

"property" means "real property" as defined in section 2 of the *Vancouver Charter*;

"protected heritage property" means "protected heritage property" as defined in the *Vancouver Charter*;

"routine building maintenance" means ordinary maintenance or repair and does not include removal or replacement, or a change in design, materials, finishes or appearance;

"routine garden maintenance" means ordinary maintenance, and includes weeding, mowing lawns, planting, and pruning shrubs and trees in compliance with the Protection of Trees By-law.

Table of contents

1.4 The table of contents for this by-law is for convenient reference only, and is not for assistance in interpreting or enforcing this by-law.

Severability

1.5 A decision by a court that any part of this by-law is illegal, void, or unenforceable severs that part from this by-law and is not to affect the balance of this by-law.

PART 2
DELEGATION OF COUNCIL AUTHORITY

Authority of the Chief Building Official

2.1 Subject to the conditions and limitations set out in this by-law, the Chief Building Official is authorized to carry out the powers and duties of Council in respect to withholding of demolition permits under section 588 of the *Vancouver Charter*.

Authority of the Director of Planning

2.2 Subject to the conditions and limitations set out in this by-law, the Director of Planning is authorized to carry out the powers and duties of Council in respect to:

a) heritage inspections under sections 583 and 584 of the *Vancouver Charter*;

b) impact assessments under section 585 of the *Vancouver Charter*;

c) withholding of approvals under section 587 of the *Vancouver Charter*;

d) making agreements as to terms and conditions to prevent or mitigate circumstances that may detract from the heritage value or heritage character of property under section 587(5)(b) of the *Vancouver Charter*; and

e) heritage alteration permits under sections 597 and 598 (1) to (3) of the *Vancouver Charter*.

PART 3
HERITAGE CHARACTER OR VALUE

Factors to consider in determining heritage character or value

3.1 For the purpose of determining whether a building, feature, property, site or area may have heritage character or heritage value under this by-law, the Director of Planning may consider the following:

a) the aesthetic, historic, scientific, cultural, social or spiritual importance or significance of the building, feature, property, site or area;

b) the age of a building;

c) the builder or architect;

d) the architectural composition of a building;

e) the definitions and application of "heritage value" and "character-defining elements" in the Parks Canada "Standards and Guidelines for the Conservation of Historic Places in Canada" © Her Majesty the Queen in Right of Canada, 2003, as amended and updated in 2010; and

f) all applicable Council policies and guidelines.

Factors to consider in determining whether work detracts from heritage character or value

3.2 For the purpose of determining whether proposed alterations or maintenance that require a heritage alteration permit would detract from the heritage character or heritage

value of protected heritage property or property within a heritage conservation area, the Director of Planning may consider the following:

a) the proposed type and quality of construction materials and finishes;

b) the impact of a proposed interior alteration on architectural features;

c) whether proposed maintenance work would affect or change a feature; and

d) whether proposed garden maintenance would affect mature trees, existing gardens or landscape design.

PART 4
HERITAGE ALTERATION PERMITS

Authority of the Director of Planning

4.1 The Director of Planning is authorized to issue heritage alteration permits for:

a) protected heritage property;

b) property within a heritage conservation area, if the permit application relates to a feature or characteristic identified in an ODP as contributing to the heritage character or heritage value of the area;

c) property subject to a heritage revitalization agreement or other agreement that requires that a heritage alteration permit be obtained; and

d) property subject to a covenant under section 219 of the Land Title Act that requires that a heritage alteration permit be obtained.

Heritage alteration permits

4.2 In issuing a heritage alteration permit, the Director of Planning is authorized, in relation to protected heritage property or property within a heritage conservation area, to vary or supplement provisions of:

a) a subdivision by-law;

b) a development cost levy by-law;

c) a zoning by-law, except for regulations regarding use and density;

d) a development permit; or

e) a by-law or heritage alteration permit under Part XXVIII of the *Vancouver Charter*.

Requirement for heritage alteration permit for designated heritage property

4.3 Except as otherwise provided in this by-law, a person must not do any of the following to designated heritage property, without having first obtained a heritage alteration permit:

a) alter the exterior of a building that is designated heritage property;

b) make a structural change to a building that is designated heritage property;

c) move a building that is designated heritage property;

d) alter, remove or take action that would damage an interior architectural feature or fixture that is designated heritage property;

e) alter, remove or take an action that would damage a landscape feature that is designated heritage property; or

f) alter, excavate or build on land that is designated heritage property.

Requirement for heritage alteration permit within a heritage conservation area

4.4 Except as otherwise provided in this by-law, a person must not do any of the following within a heritage conservation area, without having first obtained a heritage alteration permit:

a) subdivide land;

b) start the construction of a building or structure or an addition to an existing building or structure;

c) alter a building, structure or land; or

d) alter a feature that is protected heritage property.

Exemptions from heritage alteration permit requirement

4.5 Despite the provisions of this by-law, a heritage alteration permit is not required;

a) in a heritage conservation area for:

i) painting of buildings or structures, if the proposed colours are the same as the existing colours;

ii) interior alterations to a building or structure that do not:

A) increase floor area,

B) affect the external appearance of the building or structure, or

C) affect any interior feature that has been designated pursuant to a heritage designation by-law or the Heritage Conservation Act, or that is specifically listed as protected heritage property pursuant to an ODP;

iii) routine building maintenance; or

iv) routine garden maintenance; and

b) for protected heritage property for:

i) painting of buildings or structures, if the proposed colours are the same as the existing colours;

ii) interior alterations to a building or structure that do not:

A) increase floor area,

B) affect the external appearance of the building or structure, or

C) affect any interior feature that has been designated pursuant to a heritage designation by-law or the Heritage Conservation Act, or that is specifically listed as protected heritage property pursuant to an ODP;

iii) routine building maintenance;

iv) routine garden maintenance; or

v) alterations to designated heritage property that are authorized without a heritage alteration permit in accordance with a heritage designation by-law.

Heritage alteration permit conditions

4.6 The Director of Planning is authorized to issue heritage alteration permits subject to such terms, requirements or conditions as, in the opinion of the Director of Planning, are consistent with the purpose of the heritage protection of the property, including without limitation, conditions:

a) respecting the sequence and timing of construction;

b) respecting the character of the alteration or action to be authorized, including landscaping and the siting, form, massing, exterior design, materials and finishes of building and landscape features;

c) respecting the sequence and timing of occupancy; and

d) requiring that the applicant provide security in accordance with this by-law.

Security deposits

4.7 The Director of Planning may require, as a condition of issuance of the heritage alteration permit, that the owner provide security in the form of a letter of credit or cash, in an amount equal to 120% of the estimated cost of the work authorized by the heritage alteration permit, in order to ensure compliance with terms, requirements or conditions of the heritage alteration permit with respect to:

a) the sequence and timing of construction;

b) occupancy prior to completion;

c) landscaping; and

d) the proposed alteration or action, including siting, form, exterior design and finish of buildings

Failure to comply with heritage alteration permit conditions

4.8 If, in the opinion of the Director of Planning, the holder of a heritage alteration permit has failed to comply with a term, requirement or condition of the permit, the Director of Planning may refer the matter to Council requesting:

a) that Council make a determination as to whether the holder of a heritage alteration permit has failed to comply with a term, requirement or condition of the permit; and

b) that Council undertake and complete the works required to satisfy the term, requirement or condition or to ameliorate the effects of the contravention or non-compliance, at the cost of the holder of the permit.

Refusal of heritage alteration permit

4.9 The Director of Planning may refuse to issue a heritage alteration permit if, in the opinion of the Director of Planning, the proposed action authorized by the permit would not be consistent with the purpose of the heritage protection of the property, and in making that determination, the Director of Planning may consider the following factors:

a) whether the applicant has failed to provide an impact assessment when ordered to do so;

b) whether the applicant has failed to comply with the specifications set out in a notice of impact assessment;

c) whether the proposed action would detract from the heritage value or heritage character of protected heritage property or property in a heritage conservation

area, and, in making that determination, the Director of Planning may consider the criteria in section 3.1 of this by-law.

d) whether the property is subject to an order for temporary heritage protection under section 589 of the *Vancouver Charter*;

e) whether the property is subject to temporary protection by introduction of a continuing protection by-law under section 589A of the *Vancouver Charter*; and

f) whether the property is subject to a by-law declaring a heritage control period under section 590.

PART 5
DEVELOPMENT PERMITS

Refusal of development permit

5.1 The Director of Planning may refuse to issue a development permit if, in the opinion of the Director of Planning, the proposed action authorized by the permit would detract from the heritage value or heritage character of protected heritage property and, in making that determination, the Director of Planning may consider the criteria in section 3.1 of this by-law.

PART 6
RECONSIDERATION BY COUNCIL

Request for reconsideration

6.1 The owner or permit applicant may request reconsideration by Council of a decision made by the Director of Planning regarding:

a) the refusal to issue a development permit for protected heritage property under section 5.1 of this by-law;

b) the decision to order a heritage inspection;

c) the decision to require an impact assessment;

d) the issuance or refusal of a heritage alteration permit;

e) the requirements and conditions of a heritage alteration permit; or

f) the determination of whether the requirements and conditions of a heritage alteration permit have been met,

by delivering the request in writing to the City Clerk within 14 days of the decision, setting out the reasons for the request.

Timing of reconsideration

6.2 Council must reconsider the decision within a reasonable time, and may uphold or vary the decision.

PART 7
HERITAGE INSPECTIONS

Order

7.1 The Director of Planning may issue an order for a heritage inspection in 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; or

c) the property is or may be heritage property according to the criteria set out in sections 3.1 and 7.3 of this by-law.

Power of entry of the Director of Planning

7.2 The Director of Planning is authorized to enter land or premises at any reasonable time pursuant to a heritage inspection order, subject to the provisions of Section 584 of the Vancouver Charter, except that the Director of Planning must:

a) make a reasonable attempt to notify the owner or occupier prior to or upon entering the land or premises; and

b) present a copy of the order to the owner or occupier upon request.

Inspection criteria

7.3 The Director of Planning may issue an order for a heritage inspection pursuant to section 7.1 (c) for property that, in the opinion of the Director of Planning:

a) has or may have heritage character or heritage value; and

b) is or may be at risk of deterioration or destruction due to failure to repair or maintain the property.

Content of order

7.4 An order issued under section 7.1:

a) must state the purpose of the heritage inspection;

b) must specify how long the order is to remain in effect;

c) must provide that the inspection is to be carried out in an expeditious manner;

d) may provide for temporary protection in accordance with section 591 of the *Vancouver Charter;* and

e) may include such terms, conditions and specifications regarding safety and access as the Director of Planning considers appropriate to facilitate the heritage inspection.

Tests and samples

7.5 The Director of Planning is authorized to perform tests and remove material samples that, in the opinion of the Director of Planning are necessary for the purpose of the heritage inspection, except that the Director of Planning must ensure that any alterations caused by such tests are as minor and inconspicuous as is reasonably possible given the requirements of the heritage inspection.

Report to owner

7.6 On completion of a heritage inspection, the Director of Planning must:

a) notify any owner who was not previously notified of the heritage inspection; and

b) report to the owner if an alteration was made or materials removed during the heritage inspection.

PART 8
IMPACT ASSESSMENTS

Authority of Director of Planning

8.1 If, in the opinion of the Director of Planning, an approval under this by-law or any other by-law may affect protected heritage property, the Director of Planning may require the applicant for the approval:

a) to provide the Director of Planning with an impact assessment, at the expense of the applicant; or

b) to permit the Director of Planning to obtain an impact assessment.

Impact assessment by Director of Planning

8.2 An impact assessment that is carried out by the Director of Planning pursuant to section 8.1(b) must be:

a) undertaken promptly; and

b) carried out at the expense of the city.

Notice of impact assessment

8.3 A notice or order from the Director of Planning pursuant to section 8.1(a) must:

a) be in writing and directed to the applicant for the approval; and

b) include specifications regarding:

(i) the information that must be provided in the impact assessment, and

(ii) the necessary qualifications of the person or persons undertaking studies to produce the impact assessment.

Change in specifications

8.4 The specifications in a notice or order that has been issued pursuant to section 8.3 may only be changed by the Director of Planning with the consent of the owner or applicant.

Impact assessment analysis

8.5 The Director of Planning is authorized to determine whether the specifications included in a notice or order regarding an impact assessment have been met.

PART 9
TEMPORARY HERITAGE PROTECTION

Authority of the Chief Building Official to withhold approval of demolition permit

9.1 Subject to the provisions of this by-law, the Chief Building Official must withhold approval of a building permit to demolish in the following circumstances:

a) in the case of protected heritage property, until a heritage alteration permit and all 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 of the *Vancouver Charter*, until a building permit and all other necessary approvals have been issued with respect to alteration or redevelopment of the site;

c) if, in the opinion of the Director of Planning, the building permit to demolish would authorize an alteration to protected heritage property;

d) if the property is subject to an order for temporary heritage protection under section 589 of the *Vancouver Charter*;

e) if the property is subject to temporary protection by introduction of a continuing protection by-law under section 589A of the *Vancouver Charter*; or

f) if the property is subject to a by-law declaring a heritage control period under section 590 of the *Vancouver Charter.*

Authority of Director of Planning to withhold approvals

9.2 Subject to the provisions of this by-law, the Director of Planning may withhold approval of a development permit or a heritage alteration permit if, in the opinion of the Director of Planning, the proposed action would alter or cause an alteration to:

a) protected heritage property;

b) property subject to temporary heritage protection; or

c) property in a heritage register.

Notice to Council of withheld approval

9.3 If the Director of Planning withholds a development permit or heritage alteration permit in accordance with section 9.2, the Director of Planning must refer the matter to the Council at its next regular meeting after the approval has been withheld and must advise the applicant by registered mail of the following:

a) the reasons for withholding the approval;

b) that the matter has been referred to the Council at its next regular meeting following the withholding of the approval; and

c) the date and time of the next regular Council meeting to which the matter has been referred.

Limits on withholding approvals

9.4 Despite the provisions of sections 9.1 and 9.2, the Chief Building Official or the Director of Planning must not withhold approvals 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 Council or to the Director of Planning 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 ends; and

d) in the case of property that appears to the Chief Building Official or the Director of Planning 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.

PART 10
NOTICES AND ORDERS

Notice of public hearing for proposed ODP with schedule of protected heritage property

10.1 The Director of Planning is authorized to give notice of public hearing, in accordance with this by-law, to each owner and each occupier of property that is to be listed in a schedule of protected heritage property included in a proposed ODP, and the notice must be given at least 10 days before the public hearing.

Service

10.2 A notice or order issued under this by-law shall be sufficiently served:

a) on an owner, by mailing the order by registered mail or by another method that provides proof of delivery, to the owner at the owner's address as shown on the records of the Assessment Authority of British Columbia;

b) on an owner or occupier, by personal service to the owner and to each occupier; or

c) on an owner or occupier, by posting a notice or order in accordance with section 10.3.

Posting of notice or order

10.3 Subject to the provisions of section 10.2, a notice or order issued under this by-law shall be sufficiently served on an owner and on an occupier by posting of the order or notice on or near:

a) protected heritage property;

b) real property subject to temporary heritage protection under sections 583, 586, 589 or 590 of the *Vancouver Charter*; and

c) property listed in a schedule of protected heritage property included in a proposed ODP,

except that this provision is only applicable 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.

Power of entry of the Director of Planning

10.4 The Director of Planning is authorized to enter on to land or premises at any reasonable time for the purpose of posting an order or notice issued under this by-law, except that the Director of Planning must:

a) make a reasonable attempt to notify the owner or occupier prior to or upon entering the land or premises; and

b) present a copy of the order to the owner or occupier upon request.

Notice on title

10.5 If a by-law is adopted that lists or deletes property on a schedule of protected heritage property included in an ODP, the Director of Planning or the Director of Legal Services is authorized to file a notice in the land title office in accordance with section 601 of the *Vancouver Charter*, and the notice must be filed in the land title office within 30 days after the adoption of the by-law.

Notice to minister

10.6 If a by-law is adopted that lists or deletes property on a schedule of protected heritage property included in an ODP, the Director of Planning or the Director of Legal Services is authorized to give notice to the minister responsible for the Heritage Conservation Act in accordance with section 602 of the *Vancouver Charter*, and the notice must be given to the minister within 30 days after the adoption of the by-law.

PART 11
OFFENCES AND PENALTIES

Offences

11.1 A person who:

a) interferes with the posting of an order or notice under this by-law; or

b) removes, alters, defaces or destroys an order or notice posted under this by-law;

is guilty of an offence against this by-law and is liable to the penalties imposed under this by-law.

Fine for offence

11.2 Every person who commits an offence under this by-law is liable on conviction to a fine of not less than $1,000 and not more than $10,000.

Fine for continuing offence

11.3 Every person who commits an offence of a continuing nature under this by-law is liable on conviction to a fine of not less than $1,000 and not more than $10,000 for each day that the offence continues.

PART 12
ENACTMENT

Force and effect

12. This by-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this 29th day of September, 2015

(Signed) "Gregor Robertson"
Mayor

(Signed) "Janice MacKenzie"
City Clerk