

# *Reference Guideline #4*

## Covenants



Ministry of  
Community, Sport and  
Cultural Development

# Reference Guideline #4

## Covenants

### SAMPLE 1

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This is a sample document for the convenience of subdivision proponents. It is strongly recommended that restrictive covenants be prepared by a lawyer.

- ▶ Insert Form C and D

### TERMS OF INSTRUMENT – PART 2

#### WHEREAS:

- A. The Grantor is the registered owner in fee simple of:

**P I D** (the “Land”)

- B. The Grantee is the Vancouver Coastal Health Authority with offices at \_\_\_\_\_
- C. The Grantee has been designated by the Minister of Sustainable Resource Management under section 219 (3) (c) of the *Land Title Act*;
- D. The Grantee has agreed to register this covenant under Section 219(4) of the *Land Title Act* to facilitate approval of the subdivision of the Land and to effect the filing, prior to construction of a sewerage system required under Section 8 of the Sewerage System Regulation of the *Public Health Act* (the “Regulation”), and
- E. The Agricultural Land Commission has consented to the registration of this Agreement. (delete if not applicable).

**NOW THEREFORE**, in consideration of the premises and the covenants herein contained and for other valuable consideration, receipt and sufficiency of which is hereby acknowledged by the parties, the parties hereto covenant and agree with the other as follows:

1. The Grantor covenants and agrees that
  - a. The part of the Land shown outlined in black or otherwise designated as “sewerage system and discharge area” on Reference Plan [insert Land Title Office plan number] referred to as the “Covenant Area” will be used for sewerage system purposes only;
  - b. The Grantor’s use of the Covenant Area is further restricted to installation, repair and replacement of a Type 1 sewerage system, as defined in the Regulation, which accommodates limited sewage flow from no more than one single family dwelling, to a maximum of a three bedroom dwelling;
  - c. The use of the Covenant Area will continue to be restricted as set out in subparagraph (b) despite permission given to the Grantor by other authorities having jurisdiction to construct or occupy more than one dwelling on the Land;



8. The Grantor shall pay the legal fees of the Grantee in connection with the preparation and registration of this Agreement and shall provide the Grantee with a registered copy of it.
9. The Grantor covenants and agrees for itself, its heirs, executors, successors and assigns, that it will at all times perform and observe the requirements and restrictions herein before set out and they shall be binding upon the Grantor as personal covenants only during the period of its respective ownership of any interest in the Land.
10. The restrictions and covenants herein contained shall be covenants running with the Land and shall be and shall be perpetual, and shall continue to bind all of the Lands when subdivided, and shall be shall be registered in the Victoria Land Title Office pursuant to Section 219 of the *Land Title Act* as covenants in favour of the Grantee as a first charge against the Land.
11. This Agreement shall ensure to the benefit of the Grantee and shall be binding upon the parties hereto and their respective heirs, executors, successors and assigns.
12. Wherever the expressions "Grantor" and "Grantee" are used herein, they shall be construed as meaning the plural, feminine or body corporate or politic where the context or the parties so require.
13. The Grantor agrees to do or cause to be done all things and execute all other documents and provide all other assurances necessary to give effect to the covenants contained in this agreement.
14. This Agreement will be interpreted according to the laws of the Province of British Columbia.
15. \_\_\_\_\_, the registered holder of a charge by way of \_\_\_\_\_ against the within described property which said charge is registered in the Land Title Office at Victoria, British Columbia, under number\_\_ for and in consideration of the sum of One Dollar (\$1.00) paid by the Grantee to the said Chargeholder (the receipt whereof is hereby acknowledged), agrees with the Grantee, its successors and assigns, that the within Section 219 Covenant shall be an encumbrance upon the within described property in priority to the said charge in the same manner and to the same effect as if it had been dated and registered prior to the said charge.
16. This Agreement will not be modified or discharged except in accordance with the provisions of Section 219 of the *Land Title Act*.

**AND IT IS UNDERSTOOD AND AGREED** by and between the parties hereto that the words "Grantee" and "Grantor" wherever used in this Agreement shall include the parties hereto and their respective heirs, executors, administrators, successors and assigns.

This is the instrument creating the condition of covenant entered into under Section 219 of the *Land Title Act* by the registered owner preferred to herein and shown on the print of the plan annexed hereto and initialed by me. Plans are to include the subdivision plan and any applicable reference plans.

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Approving Officer

**IN WITNESS WHEREOF** the parties hereto hereby acknowledge that this Agreement has been duly executed and delivered by the parties executing Form C (page(s) 1 and 2) attached hereto.

## **SAMPLE 2**

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**THIS INDENTURE** made the \_\_\_\_ day of \_\_\_\_\_ A.D. \_\_\_\_\_.

**BETWEEN:**

(hereinafter called the "Transferor")

**OF THE FIRST PART**

**AND**

**Approving Officer or Local Government** having an office at (full address and postal code)  
(hereinafter called the "Transferee")

**OF THE SECOND PART**

**WHEREAS** the Transferor is the registered owner in fee simple of all and singular those certain parcels of land situate in the Vernon Assessment Area (or other Assessment Areas), in the province of British Columbia, more particularly known and described as:

That portion of parcel:

Plan:

Section:

Township, Range, Meridian:

District Parcel:

Kamloops Division Yale District or other District having jurisdiction

(hereinafter called the "Transferor's Land")

**AND WHEREAS** the Transferor wishes to subdivide the Transferor's Land.

**AND WHEREAS** portions of the Transferor's Land are necessary for the location of sewage discharge areas on certain of the subdivided parcels, namely,

Parcels:

Plan:

Section:

Township, Range, Meridian:

District Parcel:

Kamloops Division Yale District or other District having jurisdiction

**AND WHEREAS** the Transferee, as a condition of giving a recommendation for subdivision approval, has required the Transferor to specify the location(s) of the sewage discharge area(s) needed for the construction of sewerage systems on certain of the subdivided lots.

**AND WHEREAS** the Transferee, pursuant to the provisions of the *Land Title Act*, has required that this Indenture be entered into as a condition of its consent to the subdivision of the Transferor's Land:

Parcels:

Plan:

Section:

Township, Range, Meridian:

District Lot:

Kamloops Division Yale District or other District having jurisdiction

**NOW THEREFORE** in consideration of the premises and the covenants hereinafter contained and the granting by the Transferee of its approval for subdivision and for other valuable consideration, the Transferor **DOTH HEREBY COVENANT AND AGREE** to and with the Transferee as follows:

1. The "Covenant Area(s)" outlined in heavy black line, as shown on Explanatory Plan No. [X], a copy of which is attached as Schedule: 'A' to this Agreement [The "Covenant Area(s)"], shall remain in perpetuity solely for the use of sewerage systems and the installation of subsurface wastewater infiltration systems for:

District Parcel:

Parcels:

Plan:

Section:

Township, Range, Meridian:

Kamloops Division Yale District or other District having jurisdiction

2. The Transferor will use the house as a single family dwelling and will not allow the daily sewage flow to exceed 1700 litres (375 imperial gallons) which is the estimated minimum daily sewage flow from a four bedroom house as specified in Table 2-1 of the Ministry of Health's "Sewerage System Standard Practice Manual, Version 2, (dated Sept.21, 2007)" [this manual is referenced in the Sewerage System Regulation (BC Reg. 326.04) pursuant to the Public Health Act (SBC 2008)].

3. The Transferor will not do or permit to be done any act or thing which would interfere with or obstruct the use of the Covenant Area for the purpose of sewage discharge and constructing, installing or placing a sewerage system.
4. The Transferor will not do or permit to be done any alteration, removal or disturbance of the soil in the Covenant Area including, without limiting the applicability of the foregoing, the Transferor will not construct, install, place or erect any buildings, structures, fixed term, condition, covenant or other provision of this Agreement or any further or other breach, violation or non performance of any term, condition, covenant or other provision of this Agreement.
5. The terms, conditions, covenants and other provisions of this Agreement will extend to, be binding upon and enure to the benefit of the parties to this Agreement and their respective successors and assigns.
6. In this Agreement unless the context otherwise requires, the singular includes the plural and vice versa.
7. This Agreement will be interpreted according to the laws of the Province of British Columbia.
8. Where there is a reference to an enactment in this Agreement, the reference will include any subsequent enactments of the Province of British Columbia of like effect and all enactments referred to are enactments of the Province of British Columbia.
9. If any part of this Agreement is found to be illegal or unenforceable, that part will be considered separate and severable and the remaining parts will not be affected thereby a will be enforceable to the fullest extent permitted by law.
10. This Agreement runs with the Transferor' Land in perpetuity and will be registered as a charge against the title to the Transferor's Land under Section 219 of the *Land Title Act*.
11. Nothing contained or implied in this Agreement will prejudice or affect the rights, powers and remedies of the Transferee in the exercise of its functions under any public or private statutes, regulations, bylaws or orders or in equity, all of which may be fully and effectively exercised by the Transferee against the Transferor's Land as if this Agreement had not been made.
12. The Transferor will do or cause to be done all things and execute or cause to be execute all documents and give such further and other assurances which may be reasonably necessary reasonably necessary to give proper effect to the intent of this Agreement.
13. This Agreement will not be modified or discharged except in accordance with the provisions of Section 219 (9) of the *Land Title Act*.
14. This covenant shall be registered as a charge on the Transferor's Land in priority to all financial charges.

This is the instrument creating the condition or covenant entered into under Section 219 of the *Land Title Act* by the Transferor(s) referred to herein and shown on the print of the plan annexed hereto and initialed by me.

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Approving Officer