

A. RESTRICTIVE COVENANTS

For a more detailed explanation of planning policies in Calgary go to the link, “Planning and Development”.

To see a sample of a Restrictive Covenant go to the link, “Sample Restrictive Covenant”.

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1. What is a Restrictive Covenant?

A restrictive covenant (RC) is a private contract between neighbours that is registered against their land titles. The primary goal of the restrictive covenant is to limit properties to one home plus a secondary suite and to prevent the subdivision of lots. The contents of an RC depend on the agreement made between the neighbours. The restrictive covenant creates a private property right that runs with the land. Signing onto a restrictive covenant is voluntary.

Restrictive covenants are not new and have been around for over 100 years in Calgary. Before zoning bylaws became the norm, RCs were used to identify architectural guidelines and what types of land uses and buildings could be built on each street in a community.

Restrictive covenants are a way for neighbours to preserve the distinct residential character of their area of Varsity and restrict the type of development on their local streets. Many people feel that blanket rezoning and other planning policies are putting this character at risk. Residents who elect to apply a restrictive covenant to their property are helping their neighbours and themselves by protecting the features they enjoy in their community.



Streetscape in Varsity

2. Why is There a Growing Interest in Restrictive Covenants?

Restrictive covenants were very common in the 1950's and earlier when there were no zoning bylaws controlling development. There has been a dramatic shift in planning policies in Calgary over the past few years to increase density in established neighbourhoods.

The most notable change was the blanket rezoning of all residential properties in 2024 to R-CG which allows rowhouses in addition to single family and semi-detached homes. Since rowhouses have a much larger building envelope they can overwhelm and overshadow neighbouring homes, reduce trees and soft landscaping, and significantly change the character of a street. The addition of 8-12 dwelling units on one lot increases intensity of use and can create parking problems. The bylaw also now allows both secondary suites and backyard or laneway suites on each parcel of land.

For a more detailed discussion of these issues, refer to the tab "Planning and Development".



Rowhouse (R-CG) under construction

3. Restrictive Covenant Details

A restrictive covenant is a contract registered on a land title for a property that restricts its future use or redevelopment. It is attached to the property's title and passed on to subsequent property owners.

All signatories to the restrictive covenant would be both a Burdened Party and a Benefitting Party:

- i) A “Burdened Party” means that their property would have restrictions placed on it as to the type of development that could take place on it (i.e. only a single family home could be built on their property), and
- ii) A “Benefitting Party” means that they can enforce the restrictive covenant against other properties with the RC registered (i.e. enforcing the rule that only a single family home can be built on neighbouring properties).

The restrictive covenant in Varsity would restrict the future redevelopment of the property to a single detached dwelling (also referred to as a single family home) which has a maximum of 45% lot coverage under the current Calgary Land Use Bylaw. Townhouses and rowhouses (4-plex or 8-plex) developments with 60% lot coverage would not be permitted. The restrictive covenant would also prevent the subdivision of the lot.

Where appropriate for the area, RCs could also allow basement secondary suites, back yard or laneway suites, or semi-detached or duplex homes (2 dwelling units) in addition to single-family homes. Those decisions will be made by the affected homeowners at the time they draft the RC for their area.

Only the landowner(s) can sign to register a restrictive covenant on the title to their property. Restrictive covenants are very difficult to remove or modify after registration. The landowner can apply to have an RC removed or altered, which requires a court application and the written consent of 75% of the owners of the properties participating in the RC. The restrictive covenant has a 75 year lifespan.

Implementing restrictive covenants in Varsity will help preserve the single-family residential character and urban tree canopy of specific areas within the community where residents wish to participate.

For a sample of a restrictive covenant for Varsity, please [click here](#).

4. What Things Can be Included in a Restrictive Covenant?

A number of items can be included in an RC but the more things that are included, the more work is involved in monitoring the properties for non-compliance. A more complex RC might result in fewer homeowners wishing to participate.

The advice of our legal team is to keep the RC relatively simple and straight-forward and primarily focus on limiting properties to a single family home. As an example, the RC for the pilot project limits buildings to a single family home, prohibits the subdivision of lots, prohibits backyard suites and lodging houses, and permits secondary suites in the basement of the main dwelling. Each area will determine what they want to include in their RC. For example, some areas with back lanes may wish to allow laneway suites. Therefore, it was decided not to include other issues such as lot coverage, building height, and setbacks in the RCs.

In Varsity an RC can include anywhere from a few homes in close proximity to each other or larger areas of over 100-200 homes.



Laneway Suite (also known as a backyard suite) built in Varsity Acres in 2024

5. Why Would Homeowners Want a Restrictive Covenant?

Homeowners would register a restrictive covenant on their land titles to benefit their neighbours and themselves by ensuring the preservation of the character of their street.

Most people purchased their homes on the understanding that their street would remain a single-family area and that other homes on their street would have similar lot coverage and setbacks even after renovations and upgrades. This creates a consistent streetscape and allows for a generous amount of greenery including large trees. It also reduces the potential for overshadowing and overlooking of neighbouring properties which can negatively impact quality of life and property values.

Varsity is a unique community due to its diverse residential and commercial developments, parks, schools, and LRT stations. Varsity has more density than most communities and 55% of dwelling units are multi-family. There are many opportunities within the Varsity community for increased density while still retaining its single family areas.

The single family residential areas of Varsity are characterized with large lots, generous setbacks, pedestrian pathways, small parks, a mature tree canopy, and a quiet residential atmosphere. The homes in Varsity are highly sought after and turnover is relatively low. Many residents are the original homeowners and many are young families who have chosen to live in Varsity including many who were raised here and chose to move back to raise their own families. The desire to own a single family home is very strong in Calgary. As these single family areas become more scarce demand will increase.

The average lot coverage in Varsity varies from 25-35%. The maximum lot coverage for single family homes allowed in the City's Land Use Bylaw is 45% as compared to 60% lot coverage for rowhouses or townhouses. Restrictive Covenants that limit each property to one dwelling unit plus one basement secondary suite would prevent the construction of multi-family infills and apartment buildings which would overshadow adjacent homes and create additional traffic and parking congestion. This ensures similar setbacks along the street and enables the preservation of the mature urban tree canopy and soft landscaping.

Restrictive covenants are one tool to help preserve single-family residential areas. They are enforced by neighbours and have been consistently upheld by the Courts. To assist with enforcement, we are working to establish a legal defence committee and a fund to be held in trust to provide assistance to affected homeowners who wish to enforce restrictive covenants on their street.

Note: For a more detailed explanation of planning policies in Calgary go to the link, "Planning and Development".

6. Pros and Cons of Restrictive Covenants

A restrictive covenant is a “burden” on the land. This means that it restricts what the landowner can do on the property. In this case, it would prevent landowners from subdividing their lands or building anything other than a single-family home, possibly with a basement secondary suite.

This also impacts future owners of your property. For example, a person who buys or inherits the land would be prevented from replacing the house on the property with a higher-density development on that lot or subdividing the lot.

It is difficult to change a restrictive covenant after registration. Removing or modifying one would require an application to the courts.

Restrictive covenants on a street may make these properties more desirable for an individual or family to purchase. It increases certainty for purchasers who want to live on a low-density residential street and want assurances that future developments will follow the same single family development pattern.

Most developers, however, want to increase the density of properties they purchase, so a restrictive covenant would discourage a developer with that intention from purchasing land with a restrictive covenant registered against it. It generally takes several months to apply to get an RC discharged by Court Order, and other property owners subject to the restrictive covenant would likely oppose it. It is a time-consuming and frequently expensive process that is often seen by developers as a reason to buy properties without restrictive covenants.

While many people will want a restrictive covenant on their property, some may choose not to for various reasons. The greater the number of people who sign a restrictive covenant, the more effective the restrictive covenant becomes. Even if there are gaps between properties with restrictive covenants, it would help prevent the accumulation of multiple properties for larger development projects (also known as land assembly).



Drone Photo of Midblock Townhouse (H-GO) Under Construction

7. Does the Restrictive Covenant Conflict with the Land Use Bylaw?

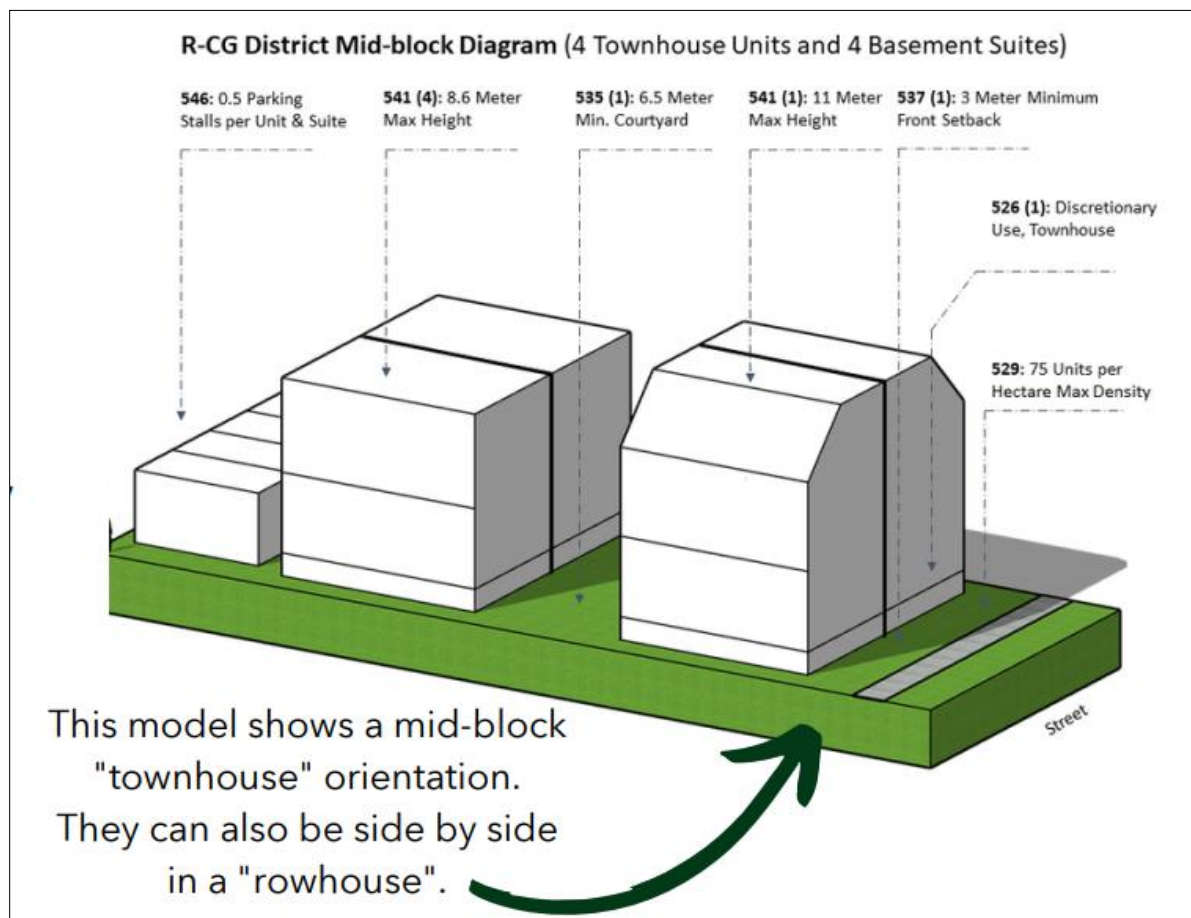
No, the proposed restrictive covenant does not conflict with Calgary's Land Use Bylaw.

The City of Calgary's recent land use bylaw amendment uses permissive wording and allows for several different residential built forms: Single detached dwellings, semi-detached dwellings, duplexes, rowhouses, townhouses, secondary suites, and back yard suites. The restrictive covenant would not conflict with the land use bylaw by limiting redevelopment to single-family dwellings, as that is a use permitted under the new base zoning. The RC would limit the impact of the recent land use bylaw amendment.

8. Does the RC Conflict with the South Shaganappi Local Area Plan?

No, the RC does not conflict with the South Shaganappi Local Area Plan (SSLAP).

The South Shaganappi Local Area Plan is a planning document that guides future redevelopment by identifying areas where increased density should be encouraged over the next 30 years. It does not rezone properties. Accordingly, the restrictive covenant would not conflict with the SSLAP, but it would limit the impact of the Plan.



9. What is the Lifespan of a Restrictive Covenant?

The lifespan of the Restrictive Covenant is 75 years.

10. What is the Cost?

The cost is a one-time non-refundable fee of \$750.00 for each property.

Initially these funds will cover the cost of legal fees and disbursements related to drafting and registering the restrictive covenant. Eventually, as income exceeds expenses, the remainder of the funds will seed a legal defence fund to be held in trust by the Carbert Waite law firm. Eventually, Carbert Waite LLP will transfer the unused funds to the group established to administer the legal defence fund.

It is important to have a legal defence fund to oppose applications to remove restrictive covenants. The cost of legal action is prohibitive for most people and it would take too much time to organize fundraising. It is necessary to vigorously defend the restrictive covenants as it sets a strong precedent and will deter individuals or companies from purchasing homes in RC areas in Varsity if they desire to build anything other than a single family home. If the courts see a community isn't enforcing its RCs they are more likely to allow owners to remove them.

11. Who Can Enforce a Restrictive Covenant?

Any person who has signed the same restrictive covenant can enforce it. Enforcement can be done by a single individual or a group of signatories to the RC.

12. What Happens if an Owner Ignores the Restrictive Covenant or Applies to Remove It?

Those who have signed onto the restrictive covenant can bring an application to the Court to enforce the restrictive covenant. This can include seeking a court injunction against the construction of a building that does not comply.

Similarly, if the owner of a property subject to a restrictive covenant applies to the Court to have the covenant removed, other neighbours who have signed onto the covenant can oppose the application. Notice of such a court application must be given to *all* properties subject to the covenant.

If property owners whose properties have restrictive covenants do not defend them, developers may choose to ignore them. Neighbourhoods that vigorously defend their RCs discourage developers from disregarding them and encourage them to invest elsewhere.

The success rate in maintaining restrictive covenants is very high as most RCs are upheld by the courts.

13. How is this Initiative Being Organized?

The Varsity Restrictive Covenant Subcommittee (VRCS) has been established as a subcommittee of the Varsity Civic Affairs Committee. Local volunteer committees and block captains will assist for each area. The Director of Civic Affairs will be the liaison between each committee and legal counsel. The pilot project includes Varsity Estates Grove, Varsity Estates Link, and Valparaiso Place. The program is being expanded to include other streets as requested by residents.

14. What is the Role of the Varsity Community Association?

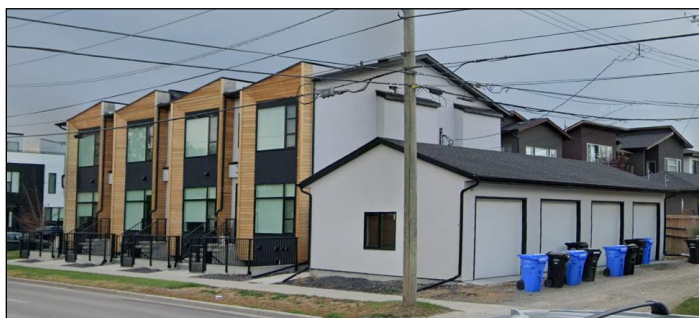
Restrictive covenants are private contracts signed by homeowners. The Varsity Community Association (VCA) makes resources available to Varsity residents wishing to consider RCs but the VCA is not named in the RC and does not sign the RC. Residents may choose to implement restrictive covenants on individual streets or groups of streets, assisted by the Director of Civic Affairs for the Varsity Community Association. The Varsity Community Association supports residents wishing to pursue restrictive covenants but will not contribute funds to the project.

The Varsity Restrictive Covenant Subcommittee of the Varsity Civic Affairs Committee has been set up to facilitate restrictive covenant initiatives throughout Varsity. The Director of Civic Affairs will assist homeowners by providing information, organizing meetings, working closely with volunteers in each area, distributing informational literature, and is available to act as the liaison between residents and legal counsel.

15. What is the Role of the City of Calgary Regarding Restrictive Covenants?

The City cannot enforce the restrictive covenant, nor can it unilaterally vary or remove it. The City has no jurisdiction over restrictive covenants, as they are private contracts.

Property owners must enforce restrictive covenants. To help with this, we are working to establish a legal defence fund. Any funds that are surplus to actual legal costs will be used to establish this defence fund. This fund may have to be topped up from time to time with additional fundraising. The greater the number of homeowners who participate in the RC initiative, the more funds will be available for future court actions.



Corner Block Rowhouse (R-CG)

16. What Other Communities Have Restrictive Covenants?

Some Calgary communities such as Mount Royal, Elboya-Britannia, Scarboro, Elbow Park, Hounsfield Heights, and Mayfair/Bel-Aire have older restrictive covenants that were implemented when their communities were built while others have recently begun to implement restrictive covenants. Here are links to other communities who have or are implementing restrictive covenants:

Brentwood: www.brentwoodrc.ca

Chinook Park, Kelvin Grove, Eagle Ridge: <https://www.ckerc.ca>

Elbow Park:

<https://docs.google.com/document/d/1pyDdH1rbSS2ncV6LMdr5e-k-vLLxx5NN/edit>

Elboya-Britannia: <https://www.elboyabritannia.com/development>

Lakeview: <https://lakeviewwyc.ca/planning-and-developement/>

Mayfair Bel-Aire: <https://mayfairbelaire.ca/restrictive-covenants/>

There are approximately 15 communities in Calgary that are in the process of implementing new restrictive covenants.

17. Next Steps

A website has been created at <https://varsityrestrictivecovenant.com>. If you are interested in participating or would like to volunteer email joanneatkins@shaw.ca.

Signing dates will be organized throughout 2025. Appointments last approximately 15 minutes. Fees must be paid 7 days prior to the appointment to give the legal team time to draw up the paperwork. Detailed instructions will be emailed upon request for those who wish to participate.

Homeowners who register a restrictive covenant will be provided with a sign for their front lawn if desired. The signs will eventually be returned and used in other areas.

18. Contact Information Required



To ensure you are on our mailing list, please send your name(s), address, email address, and other contact information to Jo Anne Atkins at joanneatkins@shaw.ca.