



## COUNCIL POLICY

<b>RCRS Secondary:</b>	GOV-02	<b>Effective Date:</b>	
<b>Policy Number:</b>		<b>Amendment Date/s:</b>	
<b>Title:</b>	Permissive Tax Exemption Policy	<b>Repeal Date:</b>	
<b>Department:</b>	Finance	<b>Approval Date:</b>	

### PURPOSE:

The purpose of this policy is to outline permissive tax exemptions that are available to recognize the significant value that volunteers, volunteer groups and agencies contribute to the spiritual, educational, social, cultural, and physical well-being of the community. The policy:

1. Provides guidance for the evaluation of applications for exemption from property taxes pursuant to the Community Charter; and
2. Sets out requirements for recipients to continue to receive support from permissive tax exemption.

### DEFINITIONS:

In this Policy, unless the context otherwise requires:

Applicant(s)	means the organization or corporation applying for an exemption
Application(s)	means a Comprehensive Exemption Application or a Renewal Application
City	means the City of Nanaimo
Community Care Facility	means long-term care facilities for people having difficulty coping with activities of daily living because of health-related problems, disability, or a life-threatening illness.
Council	means the Council of the City of Nanaimo
Exemption(s)	means a Permissive Property Tax Exemption
Exemption Period	means the period of five (5) years for which the application is valid for.
Finance Department	means the City's Finance Division of the Corporate Services Department.
Non-Market Housing	means a range of housing options, where the cost of housing is lower than the average cost of market housing due to some level of subsidization. Non-market housing includes shelters, supportive housing and social housing but excludes Community Care Facilities providing licensed care services, warming centres and rooming houses.

Non-Profit Organization	means a charitable, philanthropic or other society engaged in not-for-profit activities, which is incorporated under the BC Societies Act, or a Registered Charity that is formally registered with the Canada Revenue Agency.
Place of Worship	means “public worship” as defined in the Community Charter.
Principal Use of the Property	means the use related directly to the principal purpose of the organization owning or leasing the property.
Registered Charity	means charitable organization that use their resources for charitable activities; and have charitable purposes that relieve poverty, advance religion, or other purposes that benefit the community and are formally registered with the Canada Revenue Agency.
Shelters	means temporary beds offering emergency and support services for people who are homeless or at risk of becoming homeless; leaving physically, psychologically or sexually abusive relationships; or immediate post-acute phase of recovery from drug and alcohol dependency or addiction. Stays are temporary ranging from one night to longer depending on a person’s individual needs. Shelters include Permanent Year-Round Shelter Beds, Temporary Year-Round Shelter Beds, Temporary Winter Response Shelters, Extreme Weather Response Shelters, Transition Houses and Recovery Centres.  Warming Centres, rooming houses and halfway houses in conjunction with the administration of justice for the purpose of shelter and support of persons serving or on parole from any part of a sentence (including unconditional sentence) imposed by a court are not considered shelters.
Social Housing	means permanent housing that is subsidized to be lower than the average cost of private-market housing. Individuals and families live independently with no on-site supports. Social housing can include below-market rental, below-market ownership, co-ops, co-housing and temporary modular housing, which are demountable structures, not permanently affixed to land and assembled within months. Social housing excludes Supportive Housing and Shelters.
Supportive Housing	means permanent housing that is subsidized to be lower than the average cost of private-market housing and has on-site supports for people to transition out of homelessness. This includes temporary modular housing, which are demountable structures, not permanently affixed to land and assembled within months.

**SCOPE:**

The *Community Charter* provides that on or before October 31 in any year, *Council* may, by bylaw, exempt land and/or improvements from municipal property taxes. In addition to the *Community Charter* requirements, those organizations applying for *Exemption(s)* must comply with the guidelines set out in this policy.

This policy is not applicable to Heritage Properties or Revitalization Properties that receive tax exemptions that are governed by separate *Council* bylaws.

## **EXTENT AND CONDITIONS**

- 1) The extent of permissive tax exemptions granted is dependent on the discretion of Council. Council, at its discretion, may:
  - (a) Cancel any or all exemptions within a given year; or
  - (b) Place a cap on the dollar value and/or pro-rate exemptions granted on individual properties, properties in any one category, or all categories
- 2) Council may designate that only a portion of the land or improvements are exempted

## **PROCESS:**

*Council* will consider permissive tax exemption applications annually for an exemption period of five (5) years. However, the *City* reserves the right to review permissive tax exemptions for any *Applicant* at any point in time during the *Exemption Period*.

If at any point during the *Exemption Period* the property is sold or title is transferred, the new owners will be required to make a new application for an exemption, which will be evaluated in accordance with this policy.

Each year, *City* staff will contact all organizations with expiring *Exemptions* to invite them to reapply. Completed forms for new applications or renewal applications must be received by the *City* by June 30.

### **1. Application**

Applications must be submitted in the form prescribed by the *City* along with all required supporting documentation. *Applicants* are required to:

- a) declare under which policy category they are claiming exemption;
- b) provide a full description of the organization, its purposes and programs;
- c) provide a copy of the lease agreement for the space that is being leased (if applicable);
- d) provide a drawing or map that shows the square footage of leased space versus the square footage of the overall building (if applicable);
- e) provide a signed copy of any operating agreements or funding agreements (if applicable);
- f) provide all necessary documentation to support the status of their claim; and
- g) provide an audited financial statement for the most recent fiscal year, or where audited financial statements are not available, the applicant will supply a financial statement for the most recent fiscal year that has been verified as correct by two signing officers from the organization.

Unless all required information is supplied by the deadline, or a suitable explanation is offered as to why this information cannot be supplied, the *Application* will not be considered.

## 2. Administration

- a) The *Finance Department* will review all applications for completeness and contact the applicant if additional information is necessary.
- b) Each year, the *Finance Department* will prepare a summary report of applications for presentation to *Council*.
- c) After *Council* considers the applications, staff will be directed to draft the exemption bylaw which will be presented to *Council* for consideration on or before October 31 annually.
- d) Before the adoption of the bylaw, public notice will be provided for as outlined in Section 227 of the *Community Charter*.
- e) Once the bylaw has been approved, BC Assessment Authority will be provided with a copy of the bylaw before the October 31 legislated due date.

## 3. Annual Timeline

June 30	Application deadline
July – August	Internal review of Applications
September	Council approval or denial of Applications
September – October	First 3 readings of bylaw and public notice of bylaw
October 31 or earlier	Bylaw adoption

### **GENERAL ELIGIBILITY CRITERIA**

To be eligible for a permissive tax exemption, an organization must comply with the eligibility criteria outlined below.

1. The applicant qualifies for an exemption under the provisions of the *Community Charter*, as one of the following:
  - (i) Local authority;
  - (ii) Independent school;
  - (iii) Place of Worship;
  - (iv) Charitable, philanthropic, or other not-for-profit organization;
  - (v) Athletic or service club or association; or a
  - (vi) Community Care Facility.
2. The use of the property must be consistent with and in compliance with all applicable municipal policies, bylaws and legislation (i.e. business licensing, zoning).
3. The *Applicant* must not be in arrears with the *City*.
4. The *Applicant* is a *Non-Profit Organization*. Tax exemptions will only be granted to organizations that are a *Registered Charity* or *Non-Profit organization*. The intent of this requirement is to ensure that municipal support is not used to further activities of an organization or individual that, if not for its not-for-profit status would otherwise be considered a business.

Non-profit organizations conducting retail and/or commercial activity and charging rates or fees at market value are considered to be in competition with for-profit business and will not be eligible for property tax exemption.

5. Only that part of the property used for non-profit activities will be considered for *Exemption*. Society administration is considered to be part of the non-profit's program delivery. Parking is considered to be part of the non-profit's program delivery. The sale of any alcoholic beverages or legalized drugs is not considered to be part of program delivery.
6. The *Applicant* must own or lease the subject property. In the case of a lease, the lease agreement must require the payment of property taxes by the *Applicant*. The Lessor must submit a letter in writing confirming that the benefit of the Exemption would be passed on to the Lessee.
7. Land or improvements, or portions thereof, used by a for-profit entity do not qualify for an exemption.
8. The *Applicant* provides services or programs that are compatible or complementary to those offered by the *City*. When a service or program is offered by a non-profit group or club, the Community may benefit from a more cost effective provision of services. An example of this is low-cost facility rentals.  
  
Services provided by an organization should fulfill some basic need or otherwise improve the quality of life for the residents of Nanaimo.
9. Principal use of property meets Council's objectives. Permissive tax exemptions will be based on the principal use of the property, not on the non-profit or charitable services of the organization as a whole.
10. Services and activities should be equally available to all residents of the City. Nanaimo residents must be the primary beneficiaries of the organization's services. The service provided on the property must be accessible to the public. In the case of recovery or support provided specifically to men or women, this type of categorization will apply as being available to all residents.
11. Organizations that disparage others are not eligible for permissive tax exemption.

### **CATEGORY SPECIFIC ELIGIBILITY CRITERIA**

1. An organization may apply for an *Exemption* under one (1) of the following categories with the following eligibility criteria and limitations:
  - a. **Local Authority**
    - (i) *Council* may exempt from taxation land or improvements that are owned or held by a municipality, regional district or other local authority
    - (ii) Eligibility Criteria
      - a. *Council* considers the use of the property to be used for a purpose of the local authority
  - b. **Independent School**
    - (i) *Council* may exempt from taxation land owned by an incorporated institution of learning where the property was partially exempted under the *Community Charter*.

- (ii) Eligibility Criteria
  - (A) the property must receive a statutory exemption (independent schools) for a portion of the land and/or improvements; and
  - (B) the property must be suitably zoned for Parks, Open Space, and Schools.

**c. Place of Worship**

- (i) *Council* may exempt from taxation land or improvements where the property was partially exempted under the *Community Charter*
- (ii) Eligibility Criteria
  - (A) the property must receive a statutory exemption (buildings for public worship) for a portion of the land and/or improvements; and
  - (B) the *Applicant* must be either a Registered Charity or Society, and provide proof of good standing.
- (iii) Limitations
  - (A) the land surrounding a building receiving a statutory exemption may be exempted, up to 5.0 acres;
  - (B) a hall may be exempted to the extent that *Council* consider the hall necessary to the exempt building; and
  - (C) a residence (manse) located on the same property as the building used for public worship, and the land upon which the residence (manse) stands, is not exempt and will be assessed and taxed as a residential property.

**d. Non-Profit Organization**

- (i) *Council* may exempt from taxation, land and/or improvements that are owned or held by a charitable, philanthropic organization or other Not-For-Profit organization and the *Council* considers they are used for a purpose that is directly related to the purposes of the organization
- (ii) Eligibility Criteria
  - (A) the *Applicant* must be either a Registered Charity or Society, and provide proof of good standing; and
  - (B) the *Applicant's* services or programs must benefit the residents of the *City*. In the *Application*, *Applicants* will be asked to identify the percentage of total services and programs offered at the subject property that are used or received by residents of the *City*. The *Finance Department* may validate submissions by reviewing an itemized listing of services, programs and/or donations dedicated to activities that build community for the greater good of all residents in the *City*, as provided by the *Registered Charity* or *Society*. This review may include reference to the Non-Profit Organization's most recent fiscal year financial statements and/or charity return published prior to June 30 each year.

(C) The maximum *Exemption* amount determined based on the following ranges:

Percentage of total services or programs benefiting residents of the <i>City</i> :	
Greater than or equal to 75%	100% Exemption
Greater than or equal to 25% and less than 75%	50% Exemption
Less than 25%	No Exemption

(D) Not-For-Profit organizations that provide *Non-Market Housing*, in addition to the above, must meet the criteria in one of the categories below:

**Non-Market Housing: Legacy Properties**

- Non-profit organizations providing housing services with properties that were included in the “Property Tax Exemption Bylaw, 2023 No. 7368” for the 2024 taxation year will continue to receive permissive tax exemptions until the property is either sold or there is a change in use of the property and housing services are no longer provided.
- If the property is sold or housing services are no longer provided, and an exemption is requested, a new permissive tax exemption application will be required to be completed, and it will be evaluated against the currently enacted policy.

**Non-Market Housing: Temporary Housing**

- The *Applicant* must be providing *Temporary Housing Services* on a year-round basis.
- The housing provider and/or operator must provide an active (not expired) funding or operating agreement where the signatory is a government agency.
- Property tax costs must not be otherwise provided for in any funding or operating agreements with BC Housing or any other government entity.
- The City may require that future negotiations of funding or operating agreements allow for the funding of municipal property taxes.

**Non-Market Housing: Supportive Housing**

- The *Applicant* must be providing Supportive Housing Services on a year-round basis.
- The housing provider and/or operator must provide an active (not expired) funding or operating agreement where the signatory is a government agency.
- Property tax costs must not be otherwise provided for in any funding or operating agreements with BC Housing or any other government entity.
- The City may require that future negotiations of funding or operating agreements allow for the funding of municipal property taxes.

**Non-Market Housing: Social Housing**

- a. *Social Housing* will not be eligible for exemption, except as otherwise provided for in this policy under Legacy Properties.

**e. Athletic Club or Service Club or Association**

- (i) Section 224(2)(i) of the *Community Charter* permits Council, by Bylaw, to exempt from taxation, land and/or improvements owned or held by an athletic or service club or association and used as a public park or recreation ground or for public athletic or recreational purposes.
- (ii) Eligibility Criteria
  - (A) the services or programs offered by the *Applicant* must not be widely available within the *City*;
  - (B) the *Applicant* must be either a *Registered Charity* or Society, and provide proof of good standing; and
  - (C) the *Applicant's* services or programs must be equally available to all residents of the *City*. Any restrictions thereto must be within the framework of the *Constitution Act, 1982, Canadian Charter of Rights and Freedoms (Canada)*.

**f. Community Care Facility**

- (i) Section 224(2)(j) of the *Community Charter* permits Council, by Bylaw, to exempt from taxation, land and/or improvements owned or held by a person or organization and operated as a private hospital licensed under the *Hospital Act* or as a licensed community care facility, or registered assisted living residence, under the *Community Care and Assisted Living Act*.
- (ii) Eligibility Criteria
  - (A) The property is owned or held and operated by a registered *Non Profit Organization* or *Registered Charity* and provide proof of good standing, and
  - (B) Assistance with daily living is provided, and
  - (C) Eligible housing types include: Community Residential Care Facilities for Persons with Disabilities, Group Homes for Adults with Mental/Physical Challenges or Developmental Disabilities, Hospice Care.
- (iii) Residential Care and Assisted Living Facilities for Seniors that do not other meet the criteria above will not be eligible for exemption under this Policy.

**EXTENT, CONDITIONS AND PENALTIES**

- 1. The extent of *Exemptions* approved is dependent on the annual budget set by *Council*. *Council* at its discretion may:
  - a. cancel any or all *Exemptions* within a given year; or
  - b. place a cap on the dollar value and/or pro-rate *Exemptions* granted on individual properties, in any one (1) category, or all categories.
- 2. *Council* may exempt only a portion of the land or improvements in the following circumstances:
  - a. a portion of the land or improvement is used by a private sector and does not meet *Council's* eligibility criteria.
  - b. the applicant already receives a grant-in-aid or other benefit from the municipality, provincial or federal government.
  - c. the applicant meets all eligibility criteria, however, *Council* may, at its discretion, grant a partial exemption.
- 3. *Council* may impose conditions on the exempted land/improvements with the applicant organization, including but not limited to:
  - a. registration of a covenant restricting use of the property.
  - b. an agreement committing the organization to continue a specific service/program.
  - c. an agreement committing the organization to have facilities open for public use for specific times or a total amount of time.
  - d. an agreement committing the organization to offer use of the facility to certain groups free of charge or at reduced rates.
  - e. an agreement committing the organization to immediately disclose any substantial increase in the organization's revenue or anticipated revenue (i.e. receives large operating grant from senior government).



4. *Council* may impose penalties on an exempted organization for knowingly breaching conditions of exemption, including but not limited to:
  - a. revoking an exemption with notice.
  - b. disqualifying any future application for exemption for a specific time period.
  - c. requiring repayment of monies equal to the foregone tax revenue.

#### **APPLICATIONS RECEIVED AFTER THE DEADLINE**

Subject to the provisions of the Community Charter, requests for exemption received after the deadline will only be considered if they meet the following conditions:

1. the application complies with the exemption guidelines as outlined in this policy;
2. the requirement for exemption was not reasonably foreseeable at the date of the deadline for exemptions for the current period;
3. adequate justification is provided for not meeting the deadline for the application for exemption for the current period; and
4. an application form is completed.

Permissive Tax Exemptions are not retroactive and may not be applied for the previous year. Cash grants will not be provided for *Applicants* that have missed the application deadline. All applications must be for the upcoming year.

#### **RELATED DOCUMENTS:**

*Community Charter Division 7 – Permissive Tax Exemptions*

#### **REPEAL or AMENDMENT:**

COU-185 – Grants Policy and Guidelines Policy