

**TO:** CHAIR AND MEMBERS  
FINANCIAL MANAGEMENT COMMITTEE **DATE:** 2019 December 04

**FROM:** DIRECTOR FINANCE **FILE:** 7810-03

**SUBJECT:** PERMISSIVE TAX EXEMPTION POLICY

**PURPOSE:** To seek approval of the proposed Permissive Tax Exemption policy.

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**RECOMMENDATION:**

1. **THAT** the Financial Management Committee recommend Council approve the proposed Permissive Tax Exemption Policy commencing for the 2021 property taxation year as outlined in this report.

**REPORT****1.0 INTRODUCTION**

Section 224 of the Community Charter authorizes Council to provide Permissive Tax Exemptions (PTEs) for land and improvements owned or held by charitable, philanthropic and not-for-profit organizations providing services within the community that further the objectives of Council. This section of the Charter provides for permissive exemptions for land and improvements, at the discretion of Council which are in addition to the Statutory Exemptions provided under Section 220, such as church halls and/or land surrounding places of public worship, and privately run schools.

On an annual basis, the City's Finance Department is responsible for assessing, evaluating and processing applications for PTEs. In carrying out this responsibility, and as a point of reference, the department relies on Council approved Guidelines for Permissive Exemptions from Taxation that were developed in the mid 1980's. This report proposes a consolidated policy document encompassing the established guidelines, as well as outlines administrative updates to improve the overall governance of the process.

## **2.0 POLICY SECTION**

### **Goal**

- A Connected Community
  - Social connection –  
Enhance social connections throughout Burnaby
- A Thriving Organization
  - Organizational culture –  
Ensure that our core values are reflected in our policies, programs and service delivery

## **3.0 BACKGROUND**

The Finance Department is responsible for making recommendations to Council on the acceptance and/or denial of permissive exemption applications through the Financial Management Committee. In doing so, staff rely on the City's guidelines (Part 1 and 2).

Part 1 - Detailed Guidelines for Permissive Exemptions from Taxation, dated July 19, 1986 stipulate that before being considered for an exemption, properties must comply with current legislation, and their use must be:

- a) Consistent with municipal policies, plans, bylaws, codes and regulations;
- b) Not-for-profit and not for commercial gain;
- c) Complementary extensions to municipal services;
- d) Accessible to the public; and,
- e) Used primarily by Burnaby residents.

In 1974, Council phased out tax exemptions on seniors housing; in 1988, Council further extended these guidelines to exclude community care and similar facilities due to the considerable number of these facilities located in Burnaby, which gave rise to Part 2 of the guidelines. Part 2 - The Policy on Seniors Housing and Community Care Facilities dated July 11, 1988 stipulate that exemptions are not provided to:

- a) Seniors housing;
- b) Community care facilities;
- c) Licensed group homes;
- d) Private hospitals; and,
- e) Assisted family housing.

## **4.0 PROPOSED PERMISSIVE TAX EXEMPTION POLICY**

The proposed Permissive Tax Exemption Policy combines Part 1 and Part 2 of previous guidelines established by Council. Staff have also completed a review of municipal policies and guidelines used across a number of neighbouring municipalities to identify areas of best practice for incorporation into the City of Burnaby Permissive Tax Exemption Policy document. In addition, staff have identified a number of areas for clarification that have arisen out of years of managing the application and award process. This report sets out the key areas proposed for inclusion in the policy document. The proposed Permissive Tax Exemption Policy is included as Attachment 1 to this report. The key provisions for inclusion in the policy document are outlined below:

### **4.1 ELIGIBILITY CRITERIA**

In addition to the criteria established in Part 1 and Part 2 of the previous established guidelines, the following clarifications have been added:

- Principle Use - Eligibility for exemption shall be based on ownership and principal use of the property by the organization rather than just the charitable service of the organization.
- Area in Use - Only that part of the property used for not-for-profit activities will be considered. Properties under construction are not considered in use.
- For-profit organizations engaged in retail/commercial activities will not be eligible.
- Not-for-profit organizations or the proportionate area where the organization is conducting retail and/or commercial business activity and charging rates or fees at market value will be considered as competing with for-profit businesses and will not be eligible for an exemption.

### **4.2 DURATION OF PERMISSIVE TAX EXEMPTIONS:**

Several municipalities have permissive exemption cycles greater than the typical one year term; the objective being to streamline the application process for applicants where there is no change in status. Those Cities using exemption cycles of greater than one year limit the number of years given to a new application to those outstanding in the current bylaw cycle. In such instances, an amended Permissive Tax Exemption Bylaw is submitted to Council for approval prior to October 31<sup>st</sup> for the newly added organization. Of those municipalities who provide terms greater than one year, the practice varies. Some provide terms greater than one (1) year to specific groups such as Places of Worship, Private Schools and Hospitals, whereas others provide the extended term to all eligible applicants; and some will further require the submission of an annual statutory declaration to certify that no changes have occurred, whereas others do not.

While many of the organizations that are asked to renew their application in Burnaby have had long standing PTEs, the City has traditionally awarded PTEs on a one year term. Any consideration of extending the current term for PTEs must take into account the potential impact upon the tax base from inclusion of each organization. In Burnaby's case, the value of PTEs granted annually is in the region of approximately \$1.1 million.

The proposed policy recommends a simple declaration be sent to all existing PTE recipients on an annual basis to identify if there have been any material changes in either property ownership or usage. Only new applications or cancelled exemptions (due to change of use or ownership) will be incorporated into an annual bylaw amendment. New applications will be limited to the number of years remaining in the existing bylaw. For the 2021 taxation year, applications in 2020 will indicate to applicants that they are applying for a three (3) year term. The City will retain the option of shortening the term given to any one organization when the need arises.

#### **4.3 APPLICATION DUE DATE**

An application due date of June 30<sup>th</sup> is being proposed in the policy document. A due date allows for timely completion of the application review process.

#### **4.4 APPLICATION REVIEW**

In order to provide structure and transparency to the application review process, it is proposed that a formal notification process be established, whereby Finance staff are required to write to all ineligible applicants within thirty (30) days following receipt of their application. In cases whereby applications are deemed ineligible based on the established criteria, a further fourteen (14) days may be granted in order for applicants to submit additional information in support of their application for additional consideration. These timelines will provide for an opportunity to communicate with the applicant well in advance of the statutory deadlines and allow applicants to plan accordingly.

#### **4.5 SUMMARY OF POLICY**

The proposed policy outlines the following:

- Clear policy statement on the goals and objectives of Council;
- Clear definitions for determination of applicant eligibility;
- Eligibility and ineligibility Criteria; and,
- Application process and term.

To: Financial Management Committee  
From: Director Finance  
Re: Permissive Tax Exemption Policy  
2019 December 11.....Page 5

## 5.0 ROLLOUT OF PROPOSED POLICY

Following endorsement of the proposed Permissive Tax Exemption Policy as provided in Attachment 1, the policy will come into force for the 2021 renewal season (January to June 30 2020). Exemptions recommended for the 2020 taxation year will be unaffected by the new policy. Application forms for the 2021 property taxation year will be updated to reflect the proposed policy once approved by Council and will be issued to existing PTE recipients in 2020 January, with updated information published on the City's website. The PTEs will apply for a 3 year period (2021 – 2023) through a bylaw adopted by Council in late October 2020.

## 6.0 RECOMMENDATION

It is requested that the Committee recommend Council approve the proposed Permissive Tax Exemption Policy, as a replacement to the existing guidelines contained in Part 1 - Detailed Guidelines for Permissive Exemptions from Taxation, dated July 19, 1986 and Part 2 - The Policy on Seniors Housing and Community Care Facilities dated July 11, 1988, commencing for the 2021 property taxation year as outlined in this report.



Noreen Kassam, CPA, CGA  
DIRECTOR FINANCE

NK:RR / md

Attachment: 1 - Permissive Tax Exemption Policy

Cc: City Manager  
Director Parks Recreation and Cultural Services  
City Clerk  
City Solicitor



## Statement of Policy

Department:	Finance Department	Division:	Revenue Services Division
Policy area:	Revenue Management		
Subject:	Permissive Tax Exemptions		
Issued date:	2019 November 28		
Effective date:	2020 January 01		
Approved by:			

## 1 POLICY

- 1.01 Permissive Tax Exemptions as permitted under Section 220 [*General Statutory Exemptions*] provide a means of supporting Charitable Organizations, Philanthropic Organizations and Not-for-Profit Organizations that provide spiritual, educational, social, cultural and physical well-being within the community.

Council shall consider requests for Permissive Tax Exemptions for certain categories of land and/or improvements that are permitted under Section 224 [*General Authority for Permissive Tax Exemptions*] of the Community Charter, subject to the provisions as outlined in this Policy.

## 2 PURPOSE

- 2.01 The purpose of this Policy is to set the parameters under which Council shall consider applications for permissive tax exemptions from organizations which qualify under the Community Charter. The purpose of these parameters are to ensure that charitable and not-for-profit community organizations providing services for the benefit of Burnaby residents who may apply for permissive tax exemption are dealt with consistently and receive equal and fair treatment and consideration.

## 3 SCOPE

### 3.01 Statutory Permissive Tax Exemptions

Statutory property tax exemptions are provided under Community Charter Section 220 for a range of properties including those being held or used by the Province, municipalities, regional districts, libraries, schools, public hospitals, cemeteries and buildings set apart for public worship. Statutory exemptions are administered through BC Assessment.

### 3.02 Council Provisions for Permissive Tax Exemptions

Council Provisions for Permissive Tax Exemptions are provided under Community Charter Section 224 for not-for-profit and charitable organizations. This section provides Council the discretionary authority to provide permissive exemptions for some properties which are additional to statutory exemptions under Section 220, such as church halls or land surrounding places for public worship and privately run schools used for parking lots, playgrounds etc.

## 4 DEFINITIONS

### 4.01 Charitable Organizations - are those defined in the Income Tax Act as for:

- Relief of poverty;
- Advancement of religion;
- Advancement of education; and,
- Other purposes of a charitable nature beneficial to the community as a whole.

### 4.02 Philanthropic Organizations - are those defined in the Collins English Dictionary as those showing concern for humanity, especially by performing charitable actions, donating money, etc.

### 4.03 Not-for-Profit Organizations - are those defined by the Institute of Chartered Accountants as: Entities, normally without transferable ownership interests, organized and operated exclusively for social, educational, professional, religious, health, charitable or other not-for-profit purpose. A not-for-profit organization's members, contributors and other resource providers do not, in such capacity, receive any financial return directly from the organization. Not-for-profit organizations can be registered charities or societies who fall under the Society Act which have similar "charitable" criteria as that defined by the Institute of Charter Accountants.

## 5 CRITERIA

### 5.01 Eligibility Criteria

To be eligible for a permissive tax exemption, the organization must meet all of the following criteria:

- Compliance with the Community Charter – The organization must qualify for an exemption under the provisions of the Community Charter (Part 7, Division 7, Section 224);
- Charitable Status – The organization must be a registered charity, philanthropic, or not-for-profit organization;
- Compliance with municipal policies, plans, bylaws, codes and regulations;
- Nature of the service:
  - Complementary extension to municipal services and programs;
  - Services and activities must be equally available to the public at large; and,
  - Burnaby residents must be the primary beneficiaries of the service.
- Principle Use - Eligibility for exemption shall be based on ownership and principal use of the property by the organization rather than just the charitable service of the organization; and,
- Area in Use - Only that part of the property used for not-for-profit activities will be considered.

## 5.02 Ineligibility Criteria

Applications will not be considered for the following:

- For-profit organizations engaged in retail/commercial activities;
- Not-for-profit organizations or the proportionate area where the organization is conducting retail and/or commercial business activity and charging rates or fees at market value will be considered as competing with for-profit businesses and will not be eligible for an exemption.
- Private Social Housing/Health Care Facilities - With the exception of Community Charter Section 220 (1) (i), a permissive tax exemption shall not be considered for:
  - Residential facilities such as seniors' housing;
  - Community care facilities;
  - Licensed group homes;
  - Private hospitals; and,
  - Assisted family housing.
- Properties Under Construction - Property under construction until construction is complete and an occupancy permit is issued. Occupancy must be issued by the City prior to April 30th to be considered for an exemption in the next calendar year.
- Tax Account Standing - Applicants in arrears on property taxes payable to the City.

## 6 APPLICATION PROCESS

- a) **Application Deadline** - The deadline for applications and supporting documents in any year shall be on or before June 30<sup>th</sup> of the year preceding the year of the tax exemption request. Organizations failing to submit a completed application by June 30<sup>th</sup> will be deemed to have not renewed, and will be sent a denied notification. Such organizations will be subject to the Appeal process as set out below. In cases where the City has determined the application on the grounds that it does not adhere to the policy criteria, the applicant will be informed within thirty (30) days of receipt of the application, or the application due date in the case of the failure to submit an application.
- b) **Appeals** - Any applicant wishing to appeal against the initial decision must submit a written request to the Director Finance, setting out their objections to the denial within fourteen (14) days of the notice date sent from the City. Director Finance will review the information provided and only if sufficient, will include the organization in the annual report to the Financial Management Committee. Organizations will be notified in writing on the outcome of their appeal.
- c) **Exemption Term** - Council will consider new applications for permissive tax exemptions annually. Permissive tax exemptions are for the lessor of three years and the expiration date of the current bylaw. As such, when a new permissive exemption is granted, while the normal term will be for a three year period, if only two years remain on the current bylaw, then a bylaw amendment will be recommended for inclusion of the new property for just a two year period.



- d) **Annual Declaration Process** - In place of requiring renewal applications on an annual basis, existing recipients of a permissive tax exemption will be sent an annual declaration, on which they must confirm that there are no material changes to ownership or operation of the property that would require a change in exemption status. Every three years existing recipients will be sent a full application, requiring provision of all supporting information that would otherwise be required on a net new application. Exemptions are not automatically renewed, therefore failure to return an annual declaration may result in cancellation of the permissive tax exemption.
- e) **Notice of Permissive Tax Exemptions and Adoption of Bylaw** - Pursuant to Section 227 of the Community Charter, prior to adoption of a proposed Permissive Tax Exemption Bylaw, by no later than October 31, Council is required to give notice of the bylaw. The notice must:
- Identify the property that would be subject to the bylaw
  - Describe the proposed exemption
  - State the number of years that the exemption may be provided, and
  - Provide an estimate of the amount of taxes that would be imposed on the property if it were not exempt, for the year in which the proposed bylaw is to take effect and the following two (2) years.

Pursuant to Section 94 of the Community Charter, the notice must be published in the local newspaper once each week for two (2) consecutive weeks.