

ISLANDS TRUST COUNCIL

BYLAW NO. 162

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A bylaw to designate the Bowen Island Municipality as an area for which Natural Area Protection Tax Exemptions may be provided.
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WHEREAS pursuant to Section 49.2(1) of the Islands Trust Act the Islands Trust Council may, for the purpose of carrying out the object of the Trust, designate all or part of a local trust area or municipality as an area for which tax exemptions may be provided under Part 7.1 of the Act; and

WHEREAS pursuant to Section 49.2(2) of the Islands Trust Act, the Greater Vancouver Regional District passed a resolution on April 3, 2013 consenting to implementation of the Natural Area Protection Tax Exemption Program on Islands Trust islands within the Greater Vancouver Regional District, and enabling the Council of Bowen Island Municipality to implement, at its discretion, the Natural Area Protection Tax Exemption Program on Bowen Island; and

WHEREAS the Bowen Island Municipal Council on July 27, 2015 endorsed the concept of designating lands within the Bowen Island Municipality for natural area protection tax exemptions;

NOW THEREFORE the Islands Trust Council, in open meeting assembled, enacts as follows:

Citation

- 1. This bylaw may be cited for all purposes as "Islands Trust Council Designation of Natural Area Protection Tax Exemption Areas Bylaw No. 162, 2015".

Area

- 2. All of the Bowen Island Municipality is designated as an area for which tax exemptions may be provided pursuant to Part 7.1 of the Islands Trust Act, provided that the property meets the criteria defined in the Letter of Understanding between Bowen Island Municipality and the Islands Trust Council.

Severability

- 3. If any section, subsection, sentence, clause or phrase of this bylaw is for any reason held to be invalid by a decision of a court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of the bylaw.

READ A FIRST TIME THIS 16TH DAY OF SEPTEMBER, 2015
READ A SECOND TIME THIS 16TH DAY OF SEPTEMBER, 2015
READ A THIRD TIME THIS 16TH DAY OF SEPTEMBER, 2015
ADOPTED THIS 8TH DAY OF OCTOBER, 2015

SECRETARY

CHAIR

**Amended Sept 14, 2015**

**LETTER OF UNDERSTANDING  
between  
BOWEN ISLAND MUNICIPALITY  
and  
ISLANDS TRUST COUNCIL  
concerning**

**THE ADMINISTRATION OF THE NATURAL AREA PROTECTION TAX EXEMPTION  
PROGRAM (NAPTEP)**

Further to the Protocol Agreement between the Islands Trust Council ('the Trust') and Bowen Island Municipality, this Letter of Understanding outlines a consultative process between the Trust and Bowen Island Municipality to co-ordinate the administration of the Natural Area Protection Tax Exemption Program ("NAPTEP") for conservation of private lands within Bowen Island Municipality.

This Letter of Understanding refers to and uses terms from the *Islands Trust Natural Area Protection Tax Exemption Regulation* ("the Regulation") and Islands Trust Council Administrative Policy 2.1.x - *Administration of Natural Area Protection Tax Exemption Program* — see Schedule 1 ("The Administrative Policy").

1.0 **PURPOSE**

- 1.1 To establish processes for the administration of those aspects of the NAPTEP that affect both Bowen Island Municipality and the Trust, including the application and approval process, consultation, promotion, enforcement, evaluation, costs and the duration of the program.

2.0 **PRINCIPLES**

- 2.1 Both parties acknowledge that the Trust has a provincial mandate from the *Islands Trust Act* to preserve and protect the environment and unique amenities of the Islands Trust Area.
- 2.2 Both parties acknowledge that Bowen Island Municipality is responsible for the delivery of services in its part of the Islands Trust Area.
- 2.3 Both parties recognize that cooperation and the sharing of information is essential to the success of the NAPTEP.
- 2.4 Both parties recognize that Bowen Island Municipality may wish to exclude specific classes or zones from eligibility and/or define additional criteria for approving new NAPTEP applications than those used in the rest of the Islands Trust Area. Those excluded zones and approval criteria will be defined in this agreement and will be described in program promotion materials distributed to eligible Bowen Island property owners.
- 2.5 ~~The Trust will not approve any NAPTEP certificates on Bowen Island until the Minister of Finance has confirmed that recaptured charges under 6.7 would be distributed to the applicable taxing authorities.~~
- 2.6 Nothing in this Agreement alters the legislatively mandated roles, responsibilities and duties of any of the parties.

**Comment [JC1]:** At its Council meeting held Monday, April 25th, 2016 Bowen Island Municipal Council resolved to waive condition 2.5 of the September 14, 2015 Natural Area Protection Tax Exemption Program Letter of Understanding.

3.0 APPLICATION AND APPROVAL PROCESS FOR NATURAL AREA EXEMPTION CERTIFICATES

- 3.1 The Administrative Policy describes the NAPTEP application and approval process the Trust will use. Islands Trust Council may modify or refine the Administrative Policy from time to time. It will not change those parts of the Administrative Policy that affect Bowen Island Municipality without the agreement of both parties to this Letter of Understanding.
- 3.2 Bowen Island Municipality and the Trust will accept NAPTEP applications at their offices by mail or hand delivery. Bowen Island Municipality will forward any applications and application fees received to the Trust's Victoria office for initial evaluation.
- 3.3 Upon receipt of an application completed under Phase 1 of the Administrative Policy, Islands Trust Fund staff will conduct an initial evaluation to confirm eligibility for the NAPTEP program according to the Regulation. If staff determine that the application may be eligible for the NAPTEP, they will refer the application and the initial evaluation to Bowen Island Municipality for further review and comment.
- 3.4 Bowen Island Municipality will provide comments on the application to the Islands Trust Fund's Victoria office within 30 days of Bowen Island Municipality's receipt of the referred application.
- 3.5 The Municipality may reject an application if the area being considered:
  - a) is in a BC Assessment class other than "1";
  - b) is smaller than 2 hectares;
  - c) has an assessed land value of less than \$200,000;
  - d) is within the ALR or PMFL; or
  - e) does not contain at least 1 hectare of a sensitive ecosystem.
- 3.6 The Municipality may not reject an application for any other reasons than those defined in 3.5 unless it amends this agreement to define the new criteria (see 9.2).
- 3.7 NEW: If the Municipality rejects the application, Trust staff will notify the applicant of the reason and of the process for seeking further consideration by the Municipality. Trust staff will not forward the application to the Islands Trust Council.
- 3.8 Trust staff will prepare a report to Islands Trust Council regarding each NAPTEP application that is determined to be eligible, including comments received from the Municipality.
- 3.9 On the basis of staff recommendations and comments from Bowen Island Municipality, Islands Trust Council will decide whether to issue a natural area exemption certificate in regards to each application it receives.
- 3.10 The Trust will notify Bowen Island Municipality of all natural area exemption certificates it issues within the Bowen Island Municipality within two weeks of issuance.

#### 4.0 CONSULTATION

- 4.1 Both parties will use their best efforts to achieve interagency co-operation with mutually agreeable terms and periods.
- 4.2 Responsibility for the coordination of this Agreement by the respective parties is assigned to the Chief Administrative Officers of Bowen Island Municipality and the Trust.
- 4.3 Either party may request a meeting to discuss outstanding concerns. Such a meeting will occur within 15 working days of the request or within another period that the parties agree to.
- 4.4 Where anything is to be delivered, or otherwise sent to the parties it will be delivered to:

Islands Trust Council            #200 - 1627 Fort Street  
Victoria BC V8R 1H8  
Attention: Chief Administrative Officer

Bowen Island Municipality: 981 Artisan Lane  
Bowen Island, BC V0N 1G2  
Attention: Chief Administrative Officer

#### 5.0 PROMOTION

- 5.1 Bowen Island Municipality will approve all publications used to promote the NAPTEP within the Municipality.
- 5.2 The Trust will cover all the costs of promoting the NAPTEP within Bowen Island Municipality.
- 5.3 The Municipality will make NAPTEP promotional materials produced by the Trust available to the public from its offices and through links on its website.

#### 6.0 MONITORING, ENFORCEMENT AND CANCELLATION

- 6.1 The Trust will not issue a natural area exemption certificate unless the related property is subject to a protection covenant as outlined in the *Regulation*.
- 6.2 Bowen Island Municipality may wish to consider jointly holding the conservation covenant with the Islands Trust Fund Board, on a case-by-case basis and only at the invitation of the applicant.
- 6.3 The Trust will ensure that a qualified individual annually monitors each property that is subject to a natural area exemption certificate to confirm that there are no contraventions of the protection covenant.
- 6.4 Should either party to the agreement become aware of a contravention or suspected contravention of a covenant related to a natural area exemption certificate in the Bowen Island Municipality, it will notify the other party.

- 6.5 Should there be a contravention of a NAPTEP covenant, Islands Trust staff will develop recommendations to Islands Trust Council and will copy the report to the Municipality. In some cases, the contravention will be remediated. In other cases, Islands Trust Council will decide to cancel the natural area exemption certificate. Cancellation of natural area exemption certificates will follow the requirements of *the Islands Trust Act*, the regulations and the Administrative Policy.
- 6.6 If Trust Council receives a request to cancel a NAPTEP certificate, or is considering the cancellation of a NAPTEP certificate in accordance with S 49.4 of the Islands Trust Act, Trust Council will consult with the Municipality prior to decision.
- 6.7 Should breaches of a NAPTEP covenant lead to cancelling the tax exemption certificate (see s.4.3 of the Regulation and s.18 of Schedule 1 - the Agreement) and assessing penalties on the landowner, each taxing authority will receive its share of the recapture charges received by the Minister of Finance. (From *Islands Trust Act*, Part 7, Section 49.7: "The Minister of Finance may distribute amounts received under this section to the applicable taxing authorities in accordance with the regulations under section 53 (2) (k).")

#### 7.0 EVALUATION OF PROGRAM

- 7.1 Both parties will commit resources and cooperate to evaluate the success and impacts of the NAPTEP. Evaluation will include an assessment of the amount of land protected, the financial impact on Bowen Island Municipality and the identification of external influences on the success of the program.

#### 8.0 RELATED ADMINISTRATIVE ACTIVITIES

- 8.1 Both parties agree to refer inquiries or complaints regarding the NAPTEP to each other, as appropriate.

#### 9.0 TERMS OF AGREEMENT

- 9.1 The key persons responsible for the administration of this Letter of Understanding are the Chief Administrative Officer of the Islands Trust and the Chief Administrative Officer of Bowen Island Municipality.
- 9.2 The parties agree that this Letter of Understanding may be amended at any time by mutual consent and may be terminated at any time by either party upon 90 days' notice. Applicants who have paid fees will receive refunds if an amendment later causes their application to become ineligible.
- 9.3 On an annual basis, the Chief Administrative Officer of the Islands Trust and the Chief Administrative Officer of Bowen Island Municipality will meet to review the implementation of this agreement at the request of either party.
- 9.4 The parties agree to schedule time to discuss the implementation of NAPTEP and any aspects of this agreement during regular meetings between Bowen Island Municipality and the Islands Trust Council or Islands Trust Executive Committee.
- 9.5 The Agreement is not limited to the above signatories and may include other agencies as agreed to by the original signatories.

9.6 Both parties agree to provide reasonable effort within the limits of their resources to implement this agreement on the basis that neither party may assign responsibilities to the other.

**ENDORSEMENTS**

ENDORSED BY RESOLUTION OF THE BOWEN ISLAND MUNICIPAL COUNCIL THIS 14<sup>TH</sup> DAY OF SEPTEMBER, 2015.

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Kathy Lalonde, Chief Administrative Officer

ENDORSED BY RESOLUTION OF ISLANDS TRUST COUNCIL THIS 16<sup>TH</sup> DAY OF SEPTEMBER, 2015.

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Linda Adams, Chief Administrative Officer

SIGNED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2015.

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**Add Schedule 1 to final**

**[Islands Trust Administrative Policy 2.1.x](#)**  
**[Administration of Natural Area Protection Tax Exemption Program](#)**