

TO: CHIEF ADMINISTRATIVE OFFICER **DATE:** 2023 February 01

FROM: DEPUTY CHIEF ADMINISTRATIVE OFFICER & CHIEF FINANCIAL OFFICER **FILE:** 7815-03

SUBJECT: PERMISSIVE TAX EXEMPTION POLICY REVISIONS FOR 2024

PURPOSE: To seek Council endorsement of the proposed Permissive Tax Exemption Policy changes.

RECOMMENDATION:

- 1. THAT** Council approve the proposed Permissive Tax Exemption Policy, effective 2023 February 7, for all new applications for an exemption from property taxation for the 2024 calendar year and onwards.

REPORT**1.0 INTRODUCTION**

The Burnaby Taxation Exemption Bylaw 2020 grants permissive exemptions from property taxation for eligible properties, covering the years: 2021, 2022 and 2023. Starting in late January of each year staff process new applications for permissive tax exemptions, resulting in an annual report to Council and draft bylaw amendment for new applications and any changes. Amendments to the bylaw must be adopted by October 31 in the year preceding the year in which the change is due to take effect.

In February 2023, Finance staff are due to issue renewal notices to existing recipients of a permissive tax exemption. Applicants will be applying for an exemption under the new 2024 – 2026 bylaw. In preparation for issuance of renewal notices, staff need to consider any change in policy, including any change in eligibility criteria. The deadline for submission of a completed permissive tax exemption application and supporting information is 2023 June 30 for the 2024 calendar year.

Estimated permissive exemptions from taxation for the 2024 calendar year based on 2023 property taxation calculations:

Type	Count	2023 General Tax @3.99%	2023 School & Other Tax @3.00%	2023 Total Tax
Buildings for public worship*	82	\$243,669	\$897,477	\$1,138,826
Not for Profit	58	\$603,513	\$605,148	\$1,202,916
Park	10	\$60,513	\$237,592	\$297,528
School	13	\$292,375	\$269,912	\$559,504
City Facility	6	\$8,568	\$11,710	\$20,197
Grand Total	169	\$1,208,638	\$2,021,839	\$3,218,971

* Area of land surrounding the exempt building/hall necessary for exempt use/or land surrounding the hall

2.0 EXISTING POLICY

In order to be eligible for a permissive exemption from taxation, applicants need to demonstrate compliance to the City of Burnaby’s Permissive Tax Exemption Policy, as published on the City’s website. The policy document in its current form was last revised in November 2019, during which accommodations were made to incorporate multi-year permissive exemptions (three year maximum).

3.0 PROPOSED POLICY CHANGES

Below are the proposed policy changes. Apart from further minor wording edits, the remainder of the policy document remains unchanged.

A. Section 3.03 - Change in Status.

This section has been added in order to provide applicants with a better understanding of how a change in their circumstance may influence their continuing receipt of a permissive tax exemption. Under the Community Charter, a change in circumstance for an existing recipient of an exemption may result in said exemption ceasing to apply.

B. Sections 5.01 and 5.02 – Eligibility Criteria.

Eligibility criteria has been split into two sections. Section 5.01 contains the six MUST HAVE criteria for an application to be considered. These criteria are used to ensure that an applicant complies with legislation, has the correct status, correct ownership rights, and that services are not in any way restricted.

Section 5.02 sets out three key criteria, two of which are existing, and one new. Based on past applications and nature of the services provided, staff have found that often an applicant provides much needed services to the community, but does not necessarily meet both items G and H as set out in Attachment 1. A new provision has therefore been added through which staff will assess how activities provide a positive contribution to delivery of the City of Burnaby Environmental Sustainability Strategy. Applications will be approved if they meet any two of the three criteria in section 5.02.

C. Section 5.03 – Ineligibility Criteria

The ineligibility criteria previously noted that applicants with overdue property taxes payable to the City of Burnaby would be ineligible to receive a permissive exemption from taxation. It is proposed that the ineligibility criteria is amended to include any subsidiary of an applicant with taxes in arrears.

It is proposed that a provision is included for overdue Accounts Receivable. This includes applicants or their subsidiary with an overdue City of Burnaby invoice subject to collection activity.

In both the above cases, staff upon receipt of an application for a permissive tax exemption would work with the applicant in order to find a way to address any outstanding accounts receivable and bring said accounts into good standing.

Finally, it is proposed that the ineligibility criteria now includes the portion of an eligible property used as living quarters. For example, used by a live-in caretaker, priest. This change will reflect current evaluation practice and the City of Burnaby's policy on not granting a permissive tax exemption on any form or portion of residential property.

D. Section 6 - Appeals

The wording contained in Section 6 for allowing an applicant to appeal against an initial rejection of their application has been revised in order to clarify the appeal process and include service level standards for City correspondence to the applicant.

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From: Deputy Chief Administrative Officer & Chief Financial Officer
Re: Permissive Tax Exemption Policy Revision 2023
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4.0 RECOMMENDATION

It is recommended that Council approve the proposed Permissive Tax Exemption Policy, incorporating the changes proposed in this report, effective 2023 February 7, for all new applications for an exemption from property taxation for the 2024 calendar year and onwards.



Noreen Kassam, CPA, CGA
DEPUTY CHIEF ADMINISTRATIVE OFFICER
& CHIEF FINANCIAL OFFICER

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Copied to: City Solicitor
Director Legislative Services

Attachment: 1 – Permissive Tax Exemption Policy 2023

Statement of Policy

Department:	Finance Department	Division:	Revenue Services Division
Policy area:	Revenue Management		
Subject:	Permissive Tax Exemptions		
Issued date:	2023 February 07		
Last Revision date:	2023 January 26		
Approved By:	City Council		

1 POLICY

- 1.01** Permissive Tax Exemptions provide a means of supporting Charitable, Philanthropic and Not-for-Profit Organizations, that contribute to the spiritual, educational, social, cultural, environmental and physical wellbeing of the community.

Council shall consider requests for a Permissive Tax Exemption in line with the provisions as outlined in this policy document, and the general authority for Permissive Tax Exemptions as outlined in Section 224 of the Community Charter.

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 that 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 Section 220 of the Community Charter 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 Authority to Grant a Permissive Tax Exemption

Section 224 of the Community Charter provides Council the authority to grant a Permissive Tax Exemption. While council may consider an organization as worthy of an exemption, the nature of the organization, land, building occupancy and use, must still adhere to the requirements as interpreted by BC Assessment. Upon receipt of the City's bylaw in October, BC Assessment will inform the City of any exemptions they deem as not eligible under the Assessment Act. In such cases, City of Burnaby staff would work with the applicant to see if alternative grant funding is suitable and available.

3.03 Change in status

Under section 224 (7) of the Community Charter, a Permissive Tax Exemption adopted into bylaw by the City of Burnaby ceases to apply to property, the use or ownership of which no longer conforms to the conditions necessary to qualify for exemption and, after this, the property is liable to taxation. If such a case were to arise, a revised tax notice may be issued to the property owner for the calendar year in question.

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:

- a) 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)
- b) Charitable Status – The organization must be a registered charity, philanthropic, or not-for-profit organization
- c) Compliance with municipal policies - The organization must adhere to City of Burnaby plans, bylaws, codes and regulations; such as but not limited to: Zoning, Building Permit or Business Licencing requirements;
- d) Principle Use - Eligibility for an exemption shall be based on ownership and principal use of the property by the organization rather than just the charitable service of the organization;
- e) Area in Use - Only that part of the property used for not-for-profit activities is included in the application; and
- f) Services and activities must be equally available to the public at large.

5.02 Additional Eligibility Criteria

When an organization has provided supporting information to demonstrate compliance with all of the requirements as outlined in 5.01, City of Burnaby staff will then assess the application based on the following additional criteria. The application must meet at least two of the criteria set out below:

- g) Does the organization provide a complementary extension to municipal services and programs;
- h) Do Burnaby residents make up a majority of beneficiaries (greater than 50%) of the service (a beneficiary may be someone in receipt of direct or indirect services);
- i) Do the activities of the organization through its Burnaby location provide a positive contribution to delivery of the City of Burnaby Environmental Sustainability Strategy.

5.03 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 or non-profit 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;
 - Assisted family housing, and
 - Portion of eligible property used as living quarters.
- Properties Under Construction – issuance of a Demolition or Building Permit through to issuance of an Occupancy Permit. (To be considered for an exemption in the next calendar year, occupancy must be granted by the City of Burnaby prior to the Permissive Exemption application deadline.)
- Property Tax Account Standing – Applicants or their subsidiary in arrears or delinquent on property taxes payable to the City.
- Accounts Receivable – Applicants or their subsidiary with an overdue City of Burnaby invoice subject to collection activity

6 APPLICATION PROCESS

- a) **Application Deadline** - The deadline for receipt of applications and supporting documents is close of business on June 30th in the year immediately preceding the calendar year of the tax exemption request. Organizations failing to submit a completed application by the deadline will be deemed to have not renewed their exemption, and will be sent a denied notification. Such organizations will be subjected to the Appeal process as set out below.
- b) **Appeals** – Applicants will be informed in writing within thirty (30) days of the City receiving an application if it is been determined that an application does not meet the criteria set up on the Community Charter or does not meet the policy criteria listed above. For late or non-submitted applications, a rejection letter will be provided to the current recipient of the Permissive Tax Exemption within thirty (30) days of receipt, or within thirty (30) days of the application due date, as applicable. Any applicant wishing to appeal against the initial decision must submit a written request to the Chief Financial Officer, setting out their objections within fourteen (14) days of the notice date. The Chief Financial Officer will review the information provided and will notify on the outcome of their appeal within 30 days. Appeal information will be provided to Council as part of the annual Permissive Tax Exemption reporting process.

- c) **Exemption Term** - Council will consider new applications for Permissive Tax Exemptions annually. Permissive Tax Exemptions are for the a maximum of three years, or less, based on the expiration date of the current Taxation Exemption Bylaw, which itself will be repealed and replaced every three (3) years. 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 the maximum term for inclusion in the bylaw is limited to two years, after which time a new application will be required. The same process will occur if only one year remains on the current bylaw.
- d) **Annual Renewal 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, property status 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.