

Memo



Date: June 23, 2010
File: 0280-70
To: City Manager
From: George L King, Revenue Manager
Subject: Council request to re-examine criteria #8 from the Permissive Tax Exemption Policy No.327

Recommendation:

THAT Council receives the report from the Revenue Manager, dated June 23, 2010 regarding Council's request to re-examine criteria #8 from the Permissive Tax Exemption policy No. 327;

AND THAT the permissive exemption conditions remain as previously approved by Council.

Purpose:

To ensure that Criteria #8 from the permissive tax exemption policy No. 327 still meets with current Council objectives.

Background:

In the fall of 2005, Council instructed staff to undertake a detailed review of the City's permissive exemption policy.

This policy is intended to provide clarity, consistency and certainty to the municipality, the public and prospective applicants. Given that many of the organizations are one of a kind, and provide specialized, often unique services, it is difficult to measure to what extent, if at all, property use conforms to the Permissive Tax Exemption Policy.

To address this, Council resolved on October 25, 2005:

- That a process be developed to review the merits of all exemptions prior to the adoption of the 2007 Tax Exemption Bylaw in the fall of 2006 and,
- That a committee be formed to undertake the review process.

This resolution led to the formation of the Permissive Exemption Task Force which was appointed by Council for a 3 month term, March to May 2006.

In order to provide representation from the Community, the Task Force was composed as follows:

- 1 Council member (Carol Gran - chaired the Task Force)
- 2 Business representatives

A handwritten signature in blue ink, located in the bottom right corner of the page.

- 2 Residents Association representatives
- 2 Non-Profit Organization representatives

The objective of the Task Force was to amend Council Policy #327 in order to clarify the Permissive Tax Exemption Eligibility Criteria as defined in said policy. This amended policy, when adopted by Council, contains fair, consistent and unified permissive exemption eligibility criteria. It would provide staff and Council with an adopted framework to follow when reviewing permissive tax exemption applications. When staff and Council adhere to this framework, the result will be the granting of exemptions to non-profit organizations that are clear, consistent and certain.

During the 3 month term, Task Force members undertook a variety of meeting activities which included a 2 hour public meeting and a full day workshop. The goal of this workshop was to determine fair criteria for acceptance and/or denial of tax exemption applications. The Task Force reviewed previous bylaws and historical data in order to understand past practices, address ambiguities in the current policy criteria and strive for clarity in interpretation.

At this meeting the Task Force debated a number of topics that appeared “open to interpretation” under the existing criteria. Amongst some of the more challenging issues discussed was non-profit housing residences where the length of residency is longer than 1 year.

Throughout this time the Task Force remained committed to their original mandate, focusing on clarity, fairness and consistency. Although the members made a number of decisions that they found difficult, and in some cases painful, in the end they were unanimous in believing that they had established clear and fair guidelines, and that the amended policy would facilitate the application of these guidelines without prejudice or unfair advantage to any type of organization.

On May 15, 2006 City Council approved the revised policy 327 (Appendix A), which amongst other changes, clarification, or additions to the Original Policy established new eligibility criterion such as criterion #8 with regards to short term housing with lengths of stay longer than 1 year:

“Exemptions will not be granted for housing with stays longer than two years. Exemptions will be permitted for short term housing with stays up to a maximum of two years. This would include: emergency shelters, transitional housing, supportive housing for people with special needs, and group homes.”

Rationale for Change:

The City would not normally provide long term housing, and housing provided for periods longer than 2 years is not deemed to be emergency type housing.

Past Practice:

The City had used a length of stay of one year as the criteria. This was lengthened by the Task Force to two years based on generally accepted industry practice.” Currently defined by BC Housing¹as:

Short-Term Housing:

- Emergency Housing: Short-stay housing of 30 days or less. Includes emergency shelters that provide single or shared bedrooms or dorm-type sleeping arrangements, with varying levels of support to individuals.
- Emergency Shelter: Short-stay housing of 30 days or less. Emergency shelters provide single or shared bedrooms or dorm-type sleeping arrangements, with varying levels of support to individuals.

¹ <http://www.bchousing.org/glossary>

- Transitional Housing: Housing from 30 days to two or three years that includes the provision of support services, on- or off-site, to help people move towards independence and self-sufficiency. Transitional housing is often called second-stage housing, and includes housing for women fleeing abuse.

Long-Term Housing:

- Supportive Housing: There is no limit on the length of stay. Provides ongoing supports and services to residents who cannot live independently and who are not expected to become fully self-sufficient. This form of housing may be located in a purpose-designed building or scattered site apartments.
 - Assisted Living: Assisted living units are self-contained apartments for seniors or people with disabilities who need some support services to continue living independently, but do not need 24-hour facility care. Services provided include daily meals, social and recreational opportunities, assistance with medications, mobility and other care needs, a 24-hour response system and light housekeeping.
 - Non-Profit Housing: Rental housing that is owned and operated by community-based non-profit societies. The mandates of these societies are to provide safe, secure, affordable accommodation to households with low to moderate incomes. Most non-profit housing societies receive some form of financial assistance from government to enable them to offer affordable rents. Each society operates independently under the directions of a volunteer board of directors.

Survey:

Sixteen non-profit organizations that currently own and operate 30 properties that do fall under the permissive tax exemption policy criteria #8 were asked to complete the following survey questions:

1. Has the organization been negatively impacted by the Permissive Tax Exemption policy? Yes/No

If yes, please complete the following two questions:

1. What has been the impact to the organization?
2. How has the organization dealt with the impact?

Eighty three percent of respondents have indicated that they were not negatively impacted by the Permissive Tax Exemption policy. Appendix B provides the responses to the survey.

Impact of Changing:

The impact of changing criteria #8 now was articulated best by former Councillor Gran in her email to Mayor and Council dated October 25, 2009:

"...The Mayor gave me the responsibility of chairing a committee to develop a policy for Permissive Taxes, quite out of my comfort zone and I told her so. To her credit she appointed the exact right people to this committee, most from the Social Services Sector of our community. We deliberated, assisted by the staff of the Finance Department, we disagreed, we argued, some cried, and in the end we all agreed on the policy that exists today. I as the Chair took complete ownership of that policy which meant that I had to explain too many organizations why they were losing their tax exemption status. Those same organizations are in the final year of the Phase Out and to change the rules now regarding two years would be disrespectful to them and to the tax payers..."

There are a lot of people in our community that are providing excellent services but giving all of them a tax exemptions will mean shifting costs to other taxpayers. The Task Force did make compromises for many of the sectors within the review, so by changing one part now may create a ripple effect with other organizations.

Legal/Statutory Authority:

Council may, by bylaw in accordance with sections 220, 224 and 225 of the Community Charter exempt land or improvements, or both, from taxation to the extent, for the period and subject to the conditions provided in the bylaw.

Considerations not applicable to this report:

Internal Circulation:

Legal/Statutory Authority:

Legal/Statutory Procedural Requirements:

Existing Policy:

Financial/Budgetary Considerations:

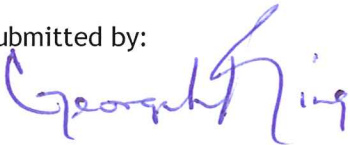
Personnel Implications:

External Agency/Public Comments:

Community & Media Relations Comments:

Alternate Recommendation:

Submitted by:



G. King, CMA, Revenue Manager

Approved for inclusion:



Keith Grayston, CGA, Director, Financial Services



City of Kelowna
 1435 Water Street
 Kelowna, BC V1Y 1J4
 250 469-8500
 kelowna.ca

Council Policy

Permissive Tax Exemption Policy

APPROVED August 8, 2005

RESOLUTION: R375/10/04/26
 REPLACING: R446/06/05/15; R759/05/08/08
 DATE OF LAST REVIEW: April 2010

A. PREAMBLE

The City of Kelowna recognizes the significant value of volunteers, volunteer groups and agencies to the spiritual, educational, social, cultural, and physical well-being of the community. A permissive tax exemption is a means for Council to support organizations within the community that further Council's objective to enhance the quality of life while delivering services economically to the citizens of Kelowna.

The Permissive Tax Exemption Policy is intended to:

- Provide clarity, consistency and certainty to the municipality, the public and prospective applicants.

B. EXTENT, CONDITIONS, AND PENALTIES

1. Council may designate only a portion of land/improvements as exempted where the following circumstances exist:
 - a. A portion of the land/improvements is used by private sector and/or organization not meeting Council's exemption criteria.
 - b. The applicant already receives grant in aid from the municipality, provincial or federal government.
 - c. The applicant meets all eligibility criteria, however Council may at its discretion grant a partial exemption.
2. 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 field/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 field/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)
3. Council may impose penalties on an exempted organization for knowingly breaching conditions of exemption, including but not limited to:
 - a. Revoking exemption with notice
 - b. Disqualifying any future application for exemption for specific time period
 - c. Requiring repayment of monies equal to the foregone tax revenue.

C. PROCESS

Council will consider permissive tax exemption applications from Places of Worship, Private Schools and Hospitals for a period of up to 5 years. Other Non-Profit organizations will be considered annually.

The opportunity to apply for a permissive tax exemption will be advertised in the local newspaper once in the month of June. Application forms can be downloaded from the City of Kelowna website, or picked up at City Hall in the Revenue Branch of the Financial Services Department.

Application Forms

Places of Worship, Private Schools and Hospitals are required to complete the Place of Worship, Private School, and Hospital 5 Year Application. The City of Kelowna will administer these applications on a 5 year cycle. If the application is approved the organization will be exempt for the number of years remaining in the cycle. At the end of the 5 year cycle all organizations must complete an application for the next 5 years. It is the organization's responsibility to notify the City of Kelowna of any changes in property ownership and/or use of the property.

For example:

Application Period	Number of Years Exempt	Application Due Date
2011 – 2015	5 Years	July 15, 2010
2012 – 2015	4 Years	July 15, 2011
2013 – 2015	3 Years	July 15, 2012
2014 – 2015	2 Years	July 15, 2013
2015	1 Year	July 15, 2014

Other Non-Profit Organizations will be required to complete a Comprehensive Non-Profit Application. If the application is approved for the next tax year, the organization will be required to submit a short renewal application every year for the next 4 tax years. The renewal application is confirmation that ownership and use of property has not changed and will be reviewed and approved before a permissive tax exemption is granted.

The Place of Worship, Private Schools and Hospital applications and the Comprehensive Non-Profit applications must have the following information attached before consideration of a 5 year permissive tax exemption:

Copy of last Registered Charity Information Return or Non-Profit Organization Information Return submitted to the CCRA

Copy of most current Audited Financial Statements

Financial Budget (pro-forma Balance Sheet and Income Statement) for the current 12 months

Scale Drawing of Property, that includes buildings, parking lots, landscaping, playgrounds, fields, etc.

Copy of Lease Agreement if applicable

Applications with required supporting information must be submitted prior to July 15th of each year to be considered for the next permissive tax exemption year or cycle.

Additional Information

Council may request a presentation from applying organization.

The City of Kelowna may request additional information.

The City of Kelowna reserves the right to review records and/or property to verify information provided in support of application.

Successful applicants may be asked to publicly acknowledge the exemption.

Council may, at its discretion, reject any or all applicants in any given year.

This policy does not apply to permissive tax exemptions for heritage revitalization, riparian, and other special exemption authority.

Eligibility Criteria

To be eligible for a permissive tax exemption an organization must comply with all of the eligibility criteria outlined below. The application forms and supporting documentation are an integral part of this policy. There is no obligation on the part of Council to grant permissive tax exemptions in any given year.

The applicant(s):

1. qualifies for an exemption under the provisions of the Community Charter, general authority for permissive exemptions. (Part 7, Division 7, Section 224).
2. and/or the property owner is in compliance with municipal policies, plans, bylaws, and regulations (i.e. business licensing, zoning).
3. 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 it's not-for-profit status would otherwise be considered business, i.e. an organization that is operating as a Non-Profit; although it charges market value for services available, and would be comparable in operations and perception to public as a For Profit 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 businesses and will not be eligible for tax exemption.

4. provides services or programs that are compatible or complementary to those offered by the City of Kelowna. 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.

Services provided by an organization should fulfill some basic need, or otherwise improve the quality of life for residents of Kelowna.

5. principal use of property meets Council's objectives. The "principal use of the property" refers to the use related directly to the principal purpose of the organization **owning** the property.

Permissive tax exemptions will be based on the principal use of the property, not on the non-profit or charitable services of the organization.

6. will provide benefits and accessibility to the residents for Kelowna. Specifically, members of the public, within the appropriate age range, are able to join a club or organization and participate in its activities for a nominal rate or fee.

Kelowna residents must be the primary beneficiaries of the organization's services. The services provided on the property must be accessible to the public. Council may at its discretion provide partial exemptions.

7. that provide liquor and/or meal services as their primary function and/or source of revenue will not be eligible for permissive tax exemption.
8. provides short term housing with length of stay up to a maximum of two years.

This would include: emergency shelters, transitional housing, supportive housing for people with special needs, and group homes.

9. that have a residence in the building or on the property will only be exempt if a caretaking function is performed and the property owner (organization) can provide a copy of an agreement demonstrating:

1. rent is not collected on the residence, and
2. there is a caretaker agreement in place.

Administration

The Revenue Branch in the Financial Services Department will review all applications for completeness and contact the applicant if additional information is necessary.

The Revenue Branch will prepare a summary report of applications and bylaw for presentation to Council the first week of October for approval and adoption prior to October 31st of each year.

A public notice will be placed in the local newspaper of proposed bylaw. The notice will include:

Property subject to bylaw

Description of the proposed exemption

Number of years the exemption will be provided

Estimate of the amount of taxes that would be imposed on the property if it were not exempt for the year of exemption and following 2 years.

Public notice will be in accordance with Section 94 of the Community Charter.

Places of Worship, Private Schools, and Hospitals that have been approved for permissive tax exemption will be exempt for up to 5 years.

All other Non-Profit Organizations that have been approved will be exempt for 1 year. To be considered for future years a renewal application must be submitted prior to July 15th of each year of the next 4 tax years. A comprehensive application must be submitted at least every 5 years.

Late Application

Applications received after the deadline for submission will be held until the next scheduled October presentation to Council that meets the application due date. Applicants may, at that time, request Council to consider a refund of the Municipal portion of taxes paid for the property to be exempted the following year.

REASON FOR POLICY

Provide clarity for permissive property tax exemption applications.

LEGISLATIVE AUTHORITY

Section 224 – *Community Charter*

PROCEDURE FOR IMPLEMENTATION

Council Resolution

APPENDIX B – SURVEY RESULTS

Organization	1. Has the Organization been negatively impacted by the Permissive Tax Exemption Policy?	2. What has been the impact to the organization?	3. How has the organization dealt with the impact?	Other Comments
Adult Integrated Mental Health Services Society	No Response.			
Bridge Youth & Family Services Society	Yes	We do not have exemption status for a house we own but lease out (at cost) to another charitable organization. 2. We pay the full amount of property tax on a building we have leased for the purpose of providing counselling and support to children, youth and families in the community.	The society must budget to meet its occupancy costs, ultimately resulting in less service to the community.	
Bridges to New Life Society	No	The Bridges to New Life Society has been blessed by the Permissive Tax Exemption, without which we probably would not be able to enjoy property ownership. So thank you very much for this great break that helps struggling community service organizations like ourselves.	Because of Kelowna's Permissive Tax Exemption, Bridges has been able to have more than 4000 contacts with over 500 offenders in the community over each of the last two years. Those services include phone calls, internet access, employment referrals, recreational activities, 12 step programs, one to one mentoring, safe housing and much more. So thank you very much for the Permissive Tax Exemption. We believe the exemption is providing good value to the taxpayers of Kelowna in the area of crime reduction.	
Central Okanagan Emergency Shelter Society	No Response.			

Organization	1. Has the Organization been negatively impacted by the Permissive Tax Exemption Policy?	2. What has been the impact to the organization?	3. How has the organization dealt with the impact?	Other Comments
Good Samaritan Canada	Yes	<p>Our Mountainview Village site in Kelowna was commissioned in 2002. We provide housing, hospitality and support services to over 200 citizens of Kelowna. From 2002 to 2007 our Assisted Living area was tax exempt, and this was incorporated into our annual operating budget. This scenario changed significantly with the 2008 taxation year where we received only partial exemption, and this situation continues to be in effect. For the taxation years of 2008 - 2010 our organization has been required to remit \$91,652.54 in Property Taxes that our budget does not support. We are also unable to request these additional monies from our funding partners. To put this dollar figure in perspective, we would be able to provide two additional full -time Health Care Aides per day to better serve our Residents.</p> <p>Our Complex Care Area opened in 2007 and from inception has been 100% excluded from any property tax exemption. To date we have remitted over \$199,000.00 in taxes for this building. These funds would provide an additional 4 full time Health Care Aides or 3 full time Licensed Practical Nurses for our site. As our society continues to age in place, and resources continue to be in high demand, the allocation of these funds to front line care is essential to maintain the health, safety and dignity of the individuals in our care.</p> <p>The impact of this additional financial requirement directly impacts the front line care services we provide to our Residents. As a non-profit organization, our annual operating budgets do not contain variances to address these situations, and as a result we are required to create efficiencies in all areas to maintain a balanced budget. The overall sustainability of this program will be impacted in the future if situations such as this are not addressed and altered.</p>	<p>At the site level, we have implemented reductions of services where possible, while ensuring that all legislation pertinent to our industry is maintained. At a corporate level, the site operating budget has been supported through allocations from Reserves that are not intended for direct site operations. As indicated above, this corporate support is not sustainable for the future and must be addressed at the site operating level.</p>	

Organization	1. Has the Organization been negatively impacted by the Permissive Tax Exemption Policy?	2. What has been the impact to the organization?	3. How has the organization dealt with the impact?	Other Comments
Howard-Fry Housing Society	Yes	Financial	Significant factor in decision to evict tenant (Okanagan Halfway House Society - 2 years notice) and reclaim the property for use/operation by JHSCSO.	
Kelowna Child Care Society	No			
Kelowna Gospel Mission Society	No			
Lifestyle Equity Society	No Response.			
National Society of Hope	No Response.			
New Opportunities for Women (NOW) Canada Society	No			
Okanagan Halfway House Society Inc	No			The Okanagan Halfway House Society has not noticed any negative impact because of the Permissive Tax Exemption Policy. The application process is very user friendly and is very easy to complete
Okanagan Mental Health Services Society	No			
Orchard City Abbeyfield Soc.	Yes	Less cash to be put towards needed upgrades. Loss of clients due to forced increases in rates.	We have deferred some improvements. We have had to ask other community groups for assistance. The residents have had to pay more out of their already fixed incomes.	
Resurrection Recovery Resource Society Inc.	No			Organization has been positively affected by the exemption.
Society of Vincent De Paul of Central Okanagan	No			