

2.1.x Procedure**ADMINISTRATION OF NATURAL AREA PROTECTION TAX
EXEMPTION PROGRAM**

Trust Council: September 13, 2002

Amended: March 12, 2004; December 8, 2006 and June 15, 2007

A: PURPOSE:

1. To define policies and procedures that will ensure a fair, effective and coordinated process to implement the *Islands Trust Natural Area Protection Tax Exemption Regulation* in accordance with related policies of Islands Trust Council.

B: REFERENCES:

1. *Islands Trust Act* (7.1)
Islands Trust Natural Area Protection Tax Exemption Regulation
2. Policy Manual:
 - 2.1. Protocol Agreement Process: Government (2.1.iv)
 - 2.2. Administrative Fairness Principles (7.1.i.)
 - 2.3. Trust Fund Board Natural Area Protection Policy (Ref No. TFB02008)
3. Protocol Agreements:
 - 3.1 SCRD Protocol Agreement and Memorandum of Understanding
 - 3.2 CRD agreement (in development)

C: DEFINITIONS:

(Note: The following definitions are based on the Islands Trust Natural Area Tax Exemption Regulation)

1. **eligible natural area property** means land that meets all the following requirements:
 - (a) it must be in an area designated under section 49.2 of the *Islands Trust Act*;
 - (b) it must be land in relation to which there is one or more natural area values or amenities prescribed under section 53(2)(k) of the *Islands Trust Act*;
 - (c) it must be subject to a covenant under section 219 of the *Land Title Act* that relates to the protection of values or amenities referred to in paragraph (b) of this definition;
 - (d) the Trust Fund Board must be a covenantee in whose favour the protection covenant is made; and
 - (e) any other requirements prescribed under section 53(2)(k) of the *Islands Trust Act*.

2. **natural area exemption certificate** means a certificate under section 49.3 of the *Islands Trust Act* that is in effect.
3. **protection covenant** means a covenant referred to in paragraph (c) of the definition of eligible natural area property.

D. POLICY and PROCEDURES

GENERAL

1. Trust Council will consider the issuance of natural area exemption certificates in parts of the Trust Area that have been designated pursuant to section 49.2 of the *Islands Trust Act*, following an application by a landowner, provided an assessment by Trust Fund Board staff confirms eligibility for NAPTEP and the Trust Fund Board is willing to hold the required protection covenant.

APPLICATION PROCESS

2. Staff will use the following process for applications for natural area exemption certificates:
 - a. A property owner or agent submits a complete application form, enclosing the Phase 1 application fee and all information required to assess eligibility for NAPTEP. In order for Trust Council to consider issuing a natural area exemption certificate by October 31st of any year, the applicant must apply by March 1 of that year.
 - b. Trust Fund Board staff will complete an initial assessment of the application to confirm eligibility according to the *Islands Trust Act*, the *Islands Trust Natural Area Protection Tax Exemption Regulation* and any written agreements with the relevant regional district or municipality.
 - c. If staff determines that the application **is not** eligible for NAPTEP, they will advise the applicant, and include reasons for the determination. The applicant will have the option of amending the application or providing additional information.
 - d. If staff determines that the application **is** eligible for NAPTEP, they will send it to the Local Trust Committee and the relevant regional district or municipality for comment, before making recommendations to the Trust Fund Board or Trust Council.
 - e. Trust Fund Board staff will confirm that the Trust Fund Board is willing to hold the required protection covenant, before making recommendations to Trust Council regarding issuance of a natural area exemption certificate.
 - f. Trust Fund Board staff will submit a Request for Decision to Trust Council, with recommendations regarding the issuance of a natural area exemption certificate. Responses from the Local Trust Committee and the relevant regional district or municipality will be included for consideration. If staff recommends in favour of an application, it will recommend that the certificate be issued if and when the applicant has provided an appropriate property baseline assessment (meeting guidelines approved by Islands Trust Council and the Trust Fund Board) and has

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- registered the required protection covenant (meeting guidelines approved by Islands Trust Council and the Trust Fund Board) on the relevant property title.
- g. If Trust Council is in favour of the application, it will normally pass a standard resolution instructing the Secretary to issue a certificate upon receipt of an acceptable baseline assessment and proof of registration of the required protection covenant.
 - h. Within two years of the Trust Council resolution in favour of an application, the applicant must provide an acceptable baseline assessment and register the required conservation covenant against the title of the subject property in order to receive the natural area exemption certificate. If the applicant does not complete these steps within two years, the applicant must reapply for the natural area exemption certificate.
 - i. Once the applicant has registered the required protection covenant, the Islands Trust Secretary will issue the natural area exemption certificate.
 - j. Trust Fund Board staff will notify the Land Titles Office and the area assessor of all natural area exemption certificates issued within 30 days of their issuance.
 - k. Once the exemption certificate is issued, the Trust Fund Board can issue a news release jointly with the Local Trust Committee announcing the certificate.

PROTECTION COVENANTS

3. All NAPTEP protection covenants must be in the Trust Fund Board's standard form, subject to changes approved by the Trust Fund Board.
4. Covenants will be monitored annually by the Trust Fund Board, following guidelines approved by Islands Trust Council and the Trust Fund Board at no cost to the land owner.
5. Where Trust Council issues a natural area exemption certificate in regards to public access features, the protection covenant will require that the property owner maintain public access.
6. Trust Council will consider developing a process whereby existing conservation covenants can be transferred into NAPTEP, provided the conservation covenant meets the required standards, or the coventor is willing to make the necessary amendments. Where an existing covenant is being transferred into NAPTEP, application fees may be reduced.

COVENANT HOLDERS

7. The Trust Fund Board is the only party authorized to hold covenants related to applications for natural area exemption certificates, until other Islands Trust bodies have a similar capacity to administer and enforce protection covenants.
(Note: The Trust Fund Board has adopted a policy indicating its willingness to hold covenants on lands that are qualified in categories 2(a) through 2(d) of the Natural Area Protection Tax Exemption Regulation, subject to the availability of resources and an acceptable covenant)
8. If the Trust Fund Board is unwilling to hold the required protection covenant, Trust Fund staff will notify the relevant Local Trust Committee to determine if it is willing

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- and has the capacity to hold and monitor the required protection covenant. The final decision on the capacity lies with Trust Council.
9. If neither the Trust Fund Board nor the relevant Local Trust Committee is willing or able to hold the required protection covenant, and if the applicant still wishes to proceed, Trust Fund Board staff will request a decision from the Islands Trust Council as to whether it is willing to hold the required protection covenant.
 10. Protection covenants may be held jointly with other eligible organizations.

PROGRAM COSTS AND FEES

11. Applicants will bear the costs of the required baseline, survey, personal legal and financial advice.
12. Application fees are governed by Bylaw 115
13. Trust Council will direct staff to allocate all application fees received to the processing and assessment of applications, including the retention of contract staff, as necessary. The Chief Administrative Officer is to manage these funds.

CANCELLATION OF TAX EXEMPTION CERTIFICATES

Note: Cancellation of tax exemption certificates is regulated by sections 49.4 through 49.5 of the Islands Trust Natural Area Tax Exemption Regulation

14. Trust Council intends that protection covenants related to NAPTEP are to be permanent.
15. Where a contravention of a protection covenant takes place, Trust Council may consider cancellation of the tax exemption certificate until the contravention has been rectified.
16. Where a contravention of a protection covenant takes place and cannot be rectified, Trust Council will consider cancellation of the related tax exemption certificate, according to regulations in the *Islands Trust Natural Area Exemption Regulation*.
17. Trust Council will seek agreements with the Minister of Finance to distribute to Trust Council any recaptured taxes related to the cancellation of tax exemption certificates. Any such funds will be used for the conservation of natural areas in the trust area.

RECORD KEEPING AND REPORTS

18. Trust Fund Board staff will maintain a record of all natural area tax exemption certificates in the Trust Area Property Information System (TAPIS).
19. Trust Fund Board staff will provide an annual report to Trust Council regarding natural area exemption certificates.

PROGRAM MONITORING

20. Trust Fund Board staff will notify holders of natural area exemption certificates of the timing of annual monitoring visits in relation to their protection covenant.
21. Trust Fund Board staff will send copies of monitoring reports to land owners and co-covenant holders.

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22. Trust Fund Board staff will advise Trust Council of any irreparable contraventions of protection covenants, including failures to provide the required annual monitoring report.

AGREEMENTS WITH OTHER AGENCIES

23. Trust Council will enter into agreements with the Trust Fund Board, the Local Trust Committee, regional districts, and provincial and federal agencies as necessary to ensure the effective implementation of the NAPTEP.

PROGRAM ASSESSMENT

24. Trust Council will monitor NAPTEP to ensure the fair and efficient administration of the program, and will assess staff and financial resources for possible expansion to additional Local Trust Areas.