

Report to Council



Date: May 2, 2016
File: 0280-40
To: City Manager
From: Lynn Walter, Revenue Manager
Subject: Review of Permissive Tax Exemption Policy 327
Report Prepared by: Matt Friesen, Accountant

Recommendation:

THAT Council receives, for information, the Report from the Revenue Manager dated May 2, 2016 with respect to Permissive Tax Exemption Policy No.327.

Purpose:

To review Permissive Tax Exemption Policy No. 327 prior to forwarding the 2017 permissive tax exemption bylaw in October 2016.

Background:

I. Community Charter

The Community Charter requires that a permissive tax exemption bylaw be considered and adopted by Council annually, prior to October 31st.

The Community Charter provides for tax exemption by:

- General Statutory Exemption, Section 220 includes properties classed and assessed places of worship, private schools and hospitals, this exemption is limited to the buildings and the land beneath the buildings
 - Permissive Exemption, Section 224 for other buildings and land surrounding the main building
- Permissive Exemption, Section 224 includes classes of properties used by non-profit, social, cultural, athletic and recreational organizations.

A permissive tax exemption permits the exemption of a property from all property taxation - municipal, provincial school and all other taxing jurisdictions with the exception of parcel taxes, user fees and other charges that are not based on property assessment.

Permissive exemptions require a bylaw approved by a 2/3 vote of Council.

II. Categories of Permissive Tax Exemptions:

There are eight (8) categories of Permissive Tax Exemptions:

1. Places of Worship
2. Private Schools
3. Hospitals
4. Special Need Housing
5. Social Services
6. Cultural
7. Public Park, Recreational, Athletic
8. Other Non-Profit Societies

III. Permissive Tax Exemption Policy No.327

Refer to Appendix A, Permissive Tax Exemption Policy No.327 which governs the eligibility criteria for each of the categories above.

Staff uses Council Policy No. 327, which was adopted in May, 2006, in conjunction with current legislation to determine the appropriateness of each exemption request.

This policy meets Councils mandate to have fair criteria for acceptance and/or denial of tax exemption applications. Adherence to the eligibility criteria as outlined in the policy results in the granting of exemptions to non-profit organization that are clear, consistent and certain.

IV. Cost of Tax Exemptions

The granting of permissive tax exemptions is seen as a cost¹ effective method of contributing to the social fabric of the community.

The total Permissive Tax Exemptions approved by Council for 2016 is \$1,506,000

- Places of Worship, Public Schools and Hospitals - \$455,000 (30%)
- Special Needs housing - \$56,000 (4%)
- Social Services, Cultural and Other - \$554,000 (37%)
- Park, Recreation and Athletic - \$441,000 (29%)

¹ Refer to Financial/Budgetary Considerations for a description of the “cost” of tax exemptions.

Existing Policy:

Permissive Tax Exemption Policy No. 327

Legal/Statutory Authority:

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

Legal/Statutory Procedural Requirements:

Under section 227 of the Community Charter Council must give notice of a proposed bylaw in accordance with section 94.

Under Division 7 - Permissive Exemptions of the Community Charter a bylaw may only be adopted by an affirmative vote of at least 2/3 of all Council members, and does not apply to taxation in a calendar year unless it comes into force on or before October 31 in the preceding year.

Financial/Budgetary Considerations:

Tax exemptions are not financed through a budgetary line item in the same way as municipal spending, nor do they affect the amount that has to be raised through property taxes. Tax exemptions impose a cost on taxpayers who are not exempt. Tax exemptions reduce the total value of the tax base (i.e. the taxable value of property). Therefore, tax exemptions transfer the burden of taxation from properties that are exempt to properties that are taxable. An increase in the value of tax exemptions increases the taxes paid by properties that are not tax exempt. Efforts to control or limit tax exemptions would generate a tax saving for taxable properties.

Considerations not applicable to this report:

Internal Circulation:

Personnel Implications:

External Agency/Public Comments:

Communications Comments:

Alternate Recommendation:

Submitted by:

M. Friesen, Accountant

Approved for inclusion:



Genelle Davidson, CPA, CMA, Director, Financial Services

cc: Division Director, Corporate and Protective Services

Appendix A, Permissive Tax Exemption Policy No. 327:

POLICY 327



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