

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

Trust Council: September 13, 2002

Amended: March 12, 2004, December 8, 2006, June 15, 2007 and March 7, 2013

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)
 - 2.4. Trust Fund Board Disposition of Land Policy (Ref. No. TFB03001)
3. Protocol Agreements:
 - 3.1 SCRD Protocol Agreement and Memorandum of Understanding

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 April 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 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 register the natural area exemption certificate in the Land Title Office and notify the area assessor of the natural area exemption certificate within 30 days of its 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, Islands Trust Fund staff will notify the appropriate local trust committee to determine if it is

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willing and has the capacity to hold and monitor the required protection covenant. If the local trust committee advises Trust Council that it would like to hold the required protection covenant and has the resources to administer and enforce the covenant, Trust Council will consider this information when deciding whether or not to issue the natural area exemption certificate.

9. If neither the Trust Fund Board nor the 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 Trust Council as to whether it is willing to hold the required protection covenant.
10. If Trust Council or the local trust committee hold the required protection covenant, all responsibilities of the Trust Fund Board under this policy area assumed by Trust Council or the local trust committee.
11. Protection covenants may be held jointly with other eligible organizations.

PROGRAM COSTS AND FEES

12. Applicants will bear the costs of the required baseline, survey, and personal legal and financial advice.
13. The application fees are set out in Bylaw 115.
14. 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 NATURAL AREA EXEMPTION CERTIFICATES

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

15. Trust Council intends that protection covenants related to NAPTEP are to be permanent.
16. Where a contravention of a protection covenant takes place, the Trust Fund Board will give notice of the contravention to the owner and require that the contravention be rectified.
17. Where a contravention of a protection covenant takes place that is not rectified or cannot be rectified, Trust Council will consider cancellation of the related natural area exemption certificate, according to regulations in the *Islands Trust Natural Area Exemption Regulation*.
18. Trust Council will seek agreements with the Minister of Finance to distribute to Trust Council any recaptured taxes related to the cancellation of natural area exemption certificates. Any such funds will be used for the conservation of natural areas in the trust area.

CHANGES TO EXISTING NATURAL AREA EXEMPTION CERTIFICATES

19. Where a landowner wishes to enlarge an area protected through NAPTEP, they may apply to do so by following the application process set out above for new applications.
20. A modification to an existing NAPTEP covenant and natural area exemption certificate to enlarge the protected area will be approved only if it increases the conservation value of the covenant, as determined by the Trust Fund Board.
21. A modification will require both an approval from the Trust Fund Board to modify or replace the covenant, and an approval by Trust Council to direct the Secretary to re-issue the natural area exemption certificate to cover the enlarged protection area. In instances where NAPTEP covenants are co-held with other organizations, their approval will also be required prior to proceeding with modifications.
22. Where a modification to enlarge the area is approved, the Trust Fund Board will decide, in consultation with the applicant and any co-covenantor, whether to amend the existing covenant by registering a covenant amending agreement, or to discharge the existing covenant and register a replacement covenant. Staff will prepare the covenant amending agreement or new covenant, as the case may be. Where a new covenant will replace an existing covenant, staff will ensure that the existing covenant is not discharged until after the new covenant is registered.
23. On receipt of confirmation of the registration of the covenant amending agreement or the registration of a new covenant, the Islands Trust Secretary will re-issue the natural area exemption certificate referencing the new or amended covenant. Staff will register the new natural area exemption certificate and discharge the existing natural area exemption certificate.

CHANGES TO EXISTING PROTECTION COVENANTS

24. Where a landowner or the Trust Fund Board wishes to amend a NAPTEP covenant in a manner that would not alter the area protected by the covenant, the Trust Fund Board will determine whether the proposed amendment would diminish the conservation value of the covenant.
25. If the Trust Fund Board determines that the proposed covenant amendment would not diminish the conservation value of the covenant, the Trust Fund Board may approve the amendment without consulting Trust Council. An amendment to a protection covenant that does not alter the area protected and does not diminish the conservation value does not affect a natural area exemption certificate, which remains valid and effective.
26. If the Trust Fund Board determines that the proposed covenant amendment may reduce its conservation value, Trust Fund Board will consult Trust Council. If Trust Council determines that the proposed amendment would not result in a change to the natural area exemption certificate, Trust Council will advise the Trust Fund Board that it may approve the amendment.

RECORD KEEPING AND REPORTS

27. Trust Fund Board staff will maintain a digital record of all natural area exemption certificates in the Trust Area Property Information System (TAPIS) or equivalent application.
28. Trust Fund Board staff will provide an annual report to Trust Council regarding natural area exemption certificates as part of the Trust Fund Board's contribution to the Islands Trust's annual report to the minister.

PROGRAM MONITORING

29. 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.
30. Trust Fund Board staff will send copies of monitoring reports to land owners and co-covenant holders.
31. 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

32. Trust Council will enter into agreements with the Trust Fund Board, local trust committees, regional districts, and provincial and federal agencies as necessary to ensure the effective implementation of the NAPTEP.

PROGRAM ASSESSMENT

33. 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.