



Islands Trust

# APPLICATION GUIDE

## Rezoning Property

### *What is the Trust Area?*

The Islands Trust Area covers the islands and waters between the British Columbia mainland and southern Vancouver Island, including Howe Sound and as far north as Comox (excluding Texada Island). The area is approximately 5200 square kilometres in size and includes 13 major islands and more than 450 smaller islands.

### *What is the Islands Trust?*

In 1974, in recognition of the special nature of the islands in the Strait of Georgia and Howe Sound, the Government of British Columbia enacted the Islands Trust Act to protect this unique part of the world. This remarkable area is home to an exceptional variety of species of birds, fish, intertidal life, wildlife and plants. Outstanding scenery and recreational resources include panoramic viewpoints, sheltered bays with secluded beaches, protected marine waterways and anchorages and pastoral vistas. The legislation created the Islands Trust, which is responsible for preserving and protecting the unique amenities and environment of the Islands Trust Area through planning and regulating land use, development management, education, cooperation with other agencies, and land conservation

### *Our Mandate*

The reasons the province created the Islands Trust as a land use and planning agency 36 years ago are still valid today — to preserve and protect the trust area and its unique amenities and environment for the benefit of the residents of the trust area and of the province generally, in cooperation with municipalities, regional districts, improvement districts, other persons and organizations and the Government of British Columbia. This mandate underlies the work of the Islands Trust, including the development of official community plans, zoning and other land use bylaws in each of the local trust areas or island municipalities.

### *What we do*

The trust is a unique federation of independent local governments that represents some 25,000 people living within the Islands Trust Area. Like other communities in British Columbia, island communities elect their local representatives every three years. Two local trustees are elected for each group of islands designated as a local trust area or island municipality. For a local trust area, the two trustees, together with an appointed chair from the Executive Committee, are responsible for land use decisions within their respective local trust area, excluding First Nation reserves. For an island municipality, the responsibility for land use decisions is shared among the two trustees and the other council members. This guide deals only with local trust areas.

## ***What does this have to do with rezoning my property?***

Your local trust committee makes land use decisions for your local trust area. The local trust committee has a duty to ensure that its decisions about land use comply with the legislated mandate to “preserve and protect the trust area.”

## ***How do I rezone my property?***

Rezoning property requires an application to change or amend a land use bylaw and, in some cases, the official community plan. An amendment to either of these bylaws must be consistent with the Islands Trust Policy Statement, which includes direction and advice for local trust committees when amending official community plans and land use bylaws. You can find the Islands Trust Policy Statement at: <http://www.islandstrust.bc.ca/tc/polstatement.cfm>

An official community plan is developed in consultation with the people who live in the community. It contains goals, objectives and policies that guide future land use development. It may also state conditions that a local trust committee must consider when examining applications for bylaw amendments.

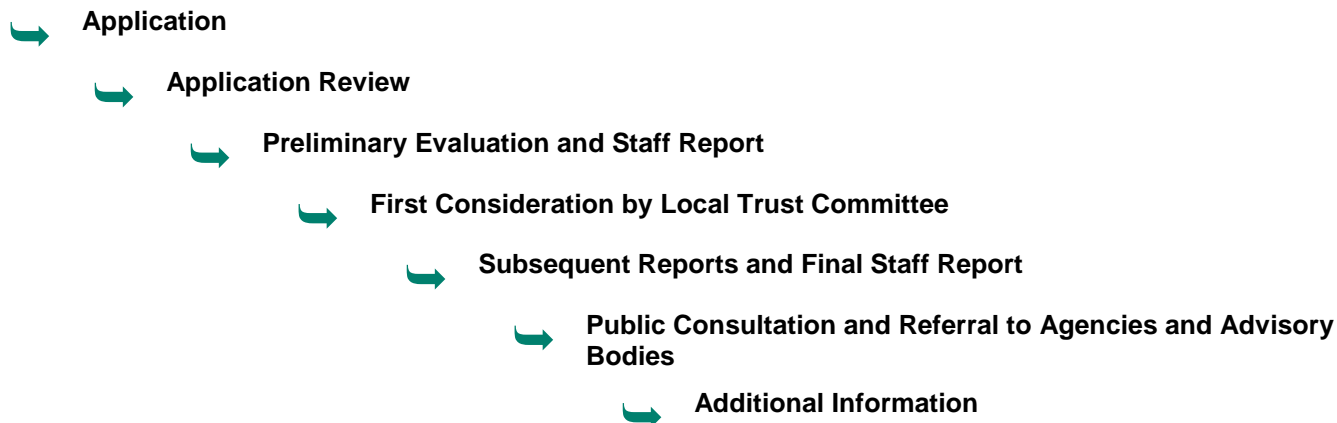
Before developing a rezoning proposal you should examine the official community plan of your local trust area. Official Community Plans can be viewed on our website [www.islandstrust.b.ca](http://www.islandstrust.b.ca) under the relevant Local Trust Committee links. If your proposal is inconsistent with the official community plan, you must apply for an official community plan amendment in addition to applying for a land use bylaw amendment. An application for an official community plan amendment may be made at the same time as your application to amend the land use bylaw. Application forms are available for download from our website [www.islandstrust.bc.ca](http://www.islandstrust.bc.ca) under the “Land Use Application Form” link.

The land use bylaw consists of text and maps that regulate specific uses within zones. The land use bylaw also regulates the siting, size and dimensions of buildings for each zone, and the standards required in creating lots by subdividing, such as minimum lot size. The maps show the different locations and boundaries of the zones described in the text. The bylaws are in effect over all land areas of an island as well as the water surfaces of lakes and the surrounding sea. Some islands have zoning bylaws and subdivision bylaws or a rural land use bylaw.

## ***The Bylaw Amendment Process***

The major steps in the bylaw amendment process are:

### **Pre Application**



## **Step 1 — Pre-Application**

Before submitting an application, a potential applicant should first discuss the proposal with an Islands Trust planner to gather information on processes, policy and regulation interpretation, and potential impacts and constraints on the proposal. Maps, plans and other documents that identify site details or issues that might be relevant to bylaw amendment proposals may be available at the Islands Trust offices, which are listed at the end of this document, and on our website at [www.islandstrust.bc.ca](http://www.islandstrust.bc.ca). Staff can also provide information on related land use processes such as variances, road and parkland dedications, restrictive covenants or development permits that might be needed at the time of an application.

The planner may also direct you to contact federal or provincial ministries or agencies, the regional district or First Nations to identify any interests they may have in your application. The planner may also discuss fees and potential cost recovery agreements, depending on the complexity of your application.

Once you have examined the information on issues relevant to the proposal, you will have a better understanding of the official community plan and of whether the proposal is appropriate to proceed as a bylaw amendment application.

You should also examine your State of Title Certificate to the property to see if any restrictive covenants or rights-of-way (easements) affect the proposed development. Property titles can be obtained through Government Agents offices, provincial Land Title Offices, private Title Service agencies or law offices. A recent State of Title Certificate (dated within 30 days of submission of bylaw amendment application) is to be submitted with your application.

### Public Consultation Sponsored by an Applicant.

Prior to submitting an application an applicant (or their agents or consultants) may wish to approach property owners who may be affected by a proposal to gather input, solicit support or identify potential negative impacts, as perceived by these individuals. These contacts may lead to an “open house” or a “public meeting” sponsored by the proponent to display and discuss the proposal. The following points should be observed should you decide to take this step:

- Any private notification or meeting cannot substitute for the statutory processes that are required by law.
- Any written material must not contain any endorsement from a local trust committee or its staff, although any bylaw requirements or approvals from other agencies can be made public.
- A written record of the meeting should be included in your application.

## **Step 2 —Application**

You should submit a completed application form, fee, title, plans and any supporting reports, letters, maps or photos to the Islands Trust office. Staff will ensure that the application includes all of the information required, including the relevant fee, and will contact you if additional information is needed. If you have not already done so, you should contact staff for the current fee for your type of application.

Once staff determines that the application is complete, it will be entered into our tracking system and assigned to a planner. A copy of the application is also forwarded to the local trust committee for its early information. You will be advised in writing that a file has been opened and a planner has been assigned

to your file. Please note that while we attempt to keep one planner assigned to a file throughout the process, this is not always possible, especially if the rezoning application is lengthy. If it is necessary to reassign your file, you will be advised of this change.

### ***Step 3 — Preliminary Evaluation and Staff Report***

Planning staff will now examine the application and the development proposal and prepare a preliminary report for the local trust committee. The purpose of this report is to present the application to the local trust committee and ask for direction on how to proceed. The preliminary report will identify any issues that your application raises and make recommendations to the local trust committee with respect to whether the local trust committee should consider the application further. Where the planner recommends that the application proceed, the report will provide recommendations with respect to the process that should be undertaken and any additional information or reports that may be required.

During the initial assessment and drafting of the preliminary report, staff may contact the applicant and/or various government agencies to identify any concerns or interests or to allow the planner to provide advice to the local trust committee.

As long as the proposal is consistent with the official community plan, the planner may decide that a draft bylaw will assist the local trust committee in making its determination on the application at the preliminary stage. While the planner may provide advice and may make certain recommendations with respect to the application, such representation is no guarantee that the local trust committee will agree with the staff position. The local trust committee has complete unfettered authority to provide direction, and that direction may be contrary to staff advice.

### ***Step 4 — First Consideration by the Local Trust Committee***

The preliminary staff report will be presented to the local trust committee at a regularly scheduled meeting that is open to the public. Staff will advise you of the meeting date and location in advance. At the meeting, the local trust committee will ask staff to present the staff report. The local trust committee will allow you or your representative, if in attendance, to speak on any aspect of the application. Note that the format for this presentation is up to the chair of the local trust committee. The local trust committee may then direct questions about the application to you or your representative.

After reviewing the application and preliminary staff report, the local trust committee may, by resolution:

1. adopt the recommendations of staff;
2. adopt some of the recommendations of staff;
3. adopt none of the recommendations of staff, instead directing staff to undertake work on an alternative;
4. direct staff to request more information from the applicant or government agencies or First Nations;
5. direct staff to undertake a community meeting or other means of obtaining community feedback;
6. direct staff to send the application to the advisory planning commission for comment;
7. direct staff to prepare a draft bylaw or, if a draft bylaw is already provided, direct staff to make revisions to the draft bylaw and/or give 1st reading to the draft bylaw;
8. table the application;
9. direct staff to ask if the applicant would be willing to consider an amendment to the application; or
10. reject the application.

If the application is rejected at this stage, a portion of the application fee will be refunded according to the relevant fee bylaw. Your local planner can provide you with information about the fee bylaw.

Generally, local trust committee fee bylaws prohibit the same or a similar application for the same property within 12 months of the rejection. The local trust committee may waive this requirement at the request of an applicant.

### ***Step 5 — Subsequent Reports and Final Staff Report***

The local trust committee may require additional information, or new information may come to light that should be considered by the local trust committee, or the local trust committee may request staff to undertake research or draft a bylaw. In all these situations, staff will draft a subsequent staff report to introduce and analyze the new information or provide the rationale for recommended bylaw amendments. Depending on the complexity of the application, there may be several subsequent staff reports. The staff report that includes a draft bylaw ready for consideration of first reading is generally considered to be a final staff report.

### ***Step 6 — Public Consultation and Referrals to Agencies and Advisory Bodies***

If the application proposes an amendment to the official community plan, the local trust committee is required to conduct a consultation process involving a set of referrals that are independent of any public hearing process. The local trust committee may also choose to hold a community information meeting or conduct other consultation processes as part of the review process.

The application fee covers one community meeting, as well as the public hearing, and all referrals to federal and provincial agencies, regional districts, adjacent municipalities, First Nations and other referral agencies. Significant changes to the application (either as a requirement of the local trust committee or by the applicant) that necessitate further referrals or community meetings or application complexities that require more involved consultation will result in additional fees being levied to cover the cost of additional consultation. Applicants are required to pay the additional costs associated with these processes through a cost recovery agreement. The planner can assist you in estimating these costs.

If the local trust committee refers a bylaw amendment application to the advisory planning commission in your local trust area, you will be informed by the commission about when and where they will meet. If in attendance, you or your representative will be given an opportunity to present the proposal to the advisory planning commission and respond to questions. You will also be able to observe the advisory planning commission's deliberations and resolution.

The advisory planning commission can only offer recommendations and suggestions to the local trust committee on the application. The advisory planning commission cannot deny or approve the application. It is the prerogative of the local trust committee to decide whether or not to send an application to the advisory planning commission for comment.

### ***Step 7 — Additional information***

If further information is required or if the local trust committee wishes the applicant to consider any amendments to the application, the planner will contact you to obtain the information or determine whether you are interested in considering any amendments to the application.

### ***Step 8 — Further Consideration by the Local Trust Committee***

Once additional information and any recommendations from staff or referral agencies have been received, the local trust committee can proceed with further decisions on the application. The options outlined under Stage 4 earlier in this guide apply. The local trust committee may consider the application as many times as needed until it is satisfied and ready to move forward by giving readings to a draft bylaw, or until it decides to reject the application. You may withdraw the application at any time during the process.

## **Step 9 — First Reading and Beyond**

Once the local trust committee is satisfied with draft bylaws, it may give first reading to the bylaw which formally introduces it as a proposed legal enactment. It is possible that first reading can occur at Stage 4 of this guide, but in most instances first reading occurs in Stage 9.

### **BYLAW REFERRAL**

Following first reading, staff will refer bylaws to agencies and First Nations according to protocol agreements, letters of understanding, Islands Trust policies and provincial legislation. The local trust committee may also adopt a resolution for any bylaw amendment to be referred to certain government bodies or other identified agencies to allow them to comment on how the bylaw and the proposed development might affect their area of jurisdiction.

### **PUBLIC HEARING**

The primary purpose of a public hearing is to provide an opportunity for affected individuals to speak directly to the local trust committee on the proposed bylaw(s) and on the comments of others who have provided input. Written submissions are also accepted at the hearing. You are encouraged to attend. **The local trust committee cannot accept any information relating to the proposed bylaw(s) after the adjournment of the hearing.**

### **PUBLIC NOTIFICATION**

A public hearing requires notifying people by means of a minimum of two newspaper advertisements and usually involves mailing a notice to properties surrounding the lands for which rezoning is being considered. The proposed bylaw must be made available to the public. Public hearings and notification are required by provincial legislation. The local trust committee may decide to hold a community information meeting immediately before the public hearing, in addition to any previous information meetings, to allow staff to present the proposed bylaws and answer technical questions.

### **SECOND and THIRD READING**

After the public hearing, within a scheduled local trust committee meeting, the local trust committee may:

1. give second and third reading to the proposed bylaw(s);
2. give second and third reading to the bylaw(s) and require that certain conditions must be completed before the bylaw(s) are finally adopted;
3. amend the bylaw(s), which may require another public hearing; or,
4. defeat the bylaw(s) by failing to pass second or third reading, which effectively denies the application.

After third reading, the local trust committee must submit the bylaw to the Executive Committee of the Islands Trust for approval.



## SUBMISSION TO THE EXECUTIVE COMMITTEE

The Executive Committee is a four person committee of the Islands Trust Council. The Executive Committee must examine the bylaw(s) to ensure that they are consistent with the Trust Policy Statement and the object of the Islands Trust. The Executive Committee may review the administrative implications of adopting the bylaw(s) and any legal issues associated with the bylaw(s). The Executive Committee has the following options:

1. approve the bylaw(s);
2. return the bylaws(s) to the local trust committee for consideration of specified issues; or
3. refuse the bylaw(s) with reasons.

If the Executive Committee refuses the bylaw(s), the local trust committee has the option of appealing to Trust Council for reconsideration.

## SUBMISSION TO MINISTER

A proposed bylaw that would amend an official community plan must also be approved by the Minister of Community Development before it can be adopted by the local trust committee. The minister considers whether the bylaw is contrary to any provincial interest.

## RECONSIDERATION AND FINAL ADOPTION

The local trust committee must adopt the bylaw in order to complete the bylaw amendment process. Final adoption can be withheld until any development requirements are completed (for example, registration of covenants or dedication of land and rights-of-way).

The legal requirements of local trust committee bylaws and provincial legislation for the bylaw amendment process are in the local trust committee's development procedure bylaw, the local trust committee's fees bylaw, the *Islands Trust Act*, S.B.C. 1989, c. 68, and the *Local Government Act*.

### ***How long will a rezoning application take?***

Once an application has been received by the planner, it usually takes 6-8 weeks before a preliminary staff report is placed on the agenda of a local trust committee meeting. The actual timeline for successful rezoning applications varies greatly; typical rezoning applications take a minimum of six months, but could take much longer depending on complexity and community and agency concerns.

### ***For Further Information. . .***

This information is intended to provide guidance only and should not be interpreted as a right to a development approval if the steps indicated are followed. Please consult the Local Government Act and its regulations, as well as the other Islands Trust applicable bylaws for the definitive requirements and procedures. For any further information, please contact your Islands Trust Office (see next page).

## Contact Information

<b>Victoria Office</b>	<b>Salt Spring Office</b>	<b>Northern Office</b>
<i>Email</i> information@islandstrust.bc.ca	<i>Email</i> ssiinfo@islandstrust.bc.ca	<i>Email</i> northinfo@islandstrust.bc.ca
<i>Address</i> 200 1627 Fort St Victoria, BC V8R 1H8	<i>Address</i> 1-500 Lower Ganges Road Salt Spring Island, BC V8K 2N8	<i>Address</i> 700 North Road Gabriola Island, BC V0R 1X3
<i>Telephone</i> 250.405.5151	<i>Telephone</i> 250.537.9144	<i>Telephone</i> 250.247.2063
<i>Fax</i> 250.405.5155	<i>Fax</i> 250.537.9116	<i>Fax</i> 250.247.7514
Galiano Mayne North Pender Saturna South Pender Executive Islands	Salt Spring	Denman Gabriola Gambier Hornby Lasqueti Thetis

### *Calls can be made toll-free via Enquiry BC:*

In Victoria call: 250.387.6121

In Vancouver call: 604.660.2421

Elsewhere in BC call: 1.800.663.7867

### *Bowen Island Municipality*

Bowen Island municipality is located within the Islands Trust Area and operates in compliance with the Islands Trust mandate.

For information on Bowen Island's planning processes, please contact Bowen Island Municipality at:

*Email:* bim@bimbc.ca

*Address:* 981 Artisan Lane, Box 279, Bowen Island, BC, V0N 1G0

*Tel:* 604.947.4255 *Fax:* 604.947.0193



