



Islands Trust

# Guide to Housing Agreements

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## *Before you Begin*

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Before starting an application for a housing agreement it is important to understand what affordable housing is, including how it is defined in the Local Trust Area where the property is to be located. The Islands Trust Affordable and Special Needs Housing Guide provides further information on the application and approval process for a new development.

(<http://www.islandstrust.bc.ca/trust-council/projects/housing/>)

Localized affordable housing provisions can be found in the Official Community Plan for each island.

As of 2018 the Islands Trust has housing agreements on Denman, Galiano and Salt Spring Islands. These agreements are available on the Islands Trust website however, note that the formatting and terms may have changed since these agreements were finalized.

## Introduction

Housing agreements are a tool to encourage and enforce affordable housing developments. If you are considering an affordable housing development, or even a suite or single unit, this guide will explain the application process and provide important information regarding housing agreements. Information may also be useful for potential tenants or owners interested in learning more about the agreement on the property.

## What is a Housing Agreement?

The primary purpose of a Housing Agreement is to ensure affordability for current and future renters and owners. The property may be a single home, a suite, or multiple rental or strata units. While terms and conditions of the agreement vary between properties, a housing agreement usually serves to limit rental rates or sale prices, and may also stipulate who may reside at, or purchase, the property. Terms of the agreement may also include administrative requirements, property management, and an allowance for monitoring to ensure compliance. Specific terms, such as rental amounts and other charges, are determined individually at the time the Housing Agreement is drafted, with allowable increases. These may be specific rental amounts, rent geared to income, or another amount based on local statistics.

There are three parts to a housing agreement.

1. Bylaw. The Local Trust Committee will establish a bylaw, authorizing them to enter into a housing agreement.
2. Housing Agreement. This is attached to the bylaw, and is a contract between the parties to provide affordable housing. A Notice of Housing Agreement is placed on the title of the property.
3. Covenant. A covenant may also be placed on the title of the property, with additional items that support the housing agreement.

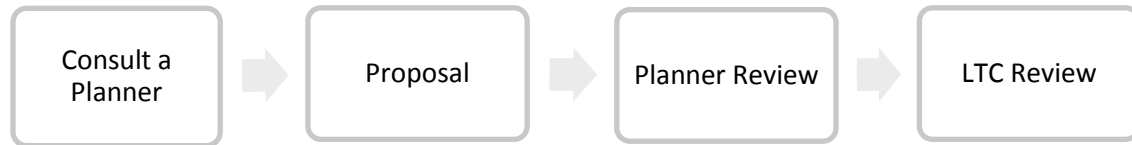
## How long does it take to draft a housing agreement?

A housing agreement can take up to a year to draft, although more complicated agreements or those with multiple revisions can take longer. It is important to realize that no building and no selection of tenants can occur until the

agreement is finalized. The Islands Trust will provide you with a housing agreement template that is designed to minimize the number of edits and revisions required.

## Preliminary process (before the first draft begins)

Drafting a housing agreement can be a long and complicated process. In order to streamline the process the following steps should occur before starting the first draft.



### Step 1 — Consult a Planner

Before you start work on your proposal for a housing agreement, contact the planning office for your island. Contact details are available below, or on the Islands Trust website. Discussing your project with the planner could help to avoid delays or mistakes later on. It will also help you to establish a timeline for the project.

### Step 2 - Proposal

You will be required to provide the planner with a detailed proposal for the affordable housing development which includes items such as: proposed rate structure, calculation of rate increases, and a description of who is considered to be an eligible tenant and how those tenants will be selected. The proposal should include a timeline to completion of the building, and indicate funding that has been secured or is pending. Thought should be given to how the building will be managed, including an estimated budget for ongoing maintenance and repairs. This budget must be shown to be feasible under the proposed rate structure for the units. A checklist for this proposal is provided as Appendix 1.

This proposal establishes the basis for the planner's report to the Local Trust Committee, from which they will decide whether to go forward with the agreement.

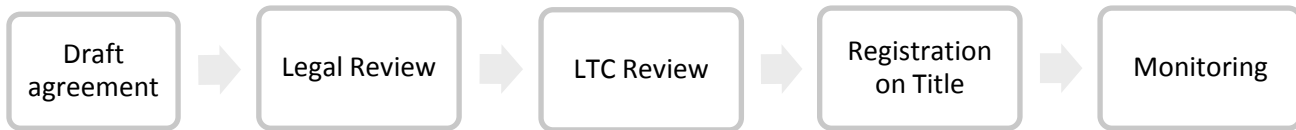
Note: the proposal for a single unit (such as a suite or cottage) may be much more basic than one for a multi-unit building. If you have a single suite, please talk to the planner about what information they require.

### Steps 3 and 4 — Planner and Local Trust Committee Review

The planner will review the proposal and contact you if they have any questions or concerns. The proposal will form the basis for the planner report to the Local Trust Committee.

You will be informed when the report will be going to the Local Trust Committee, and will have the opportunity to attend to answer questions or provide clarity. The Local Trust Committee may ask for revisions to the proposal or request more information, or they may decline to proceed further with the agreement. If the Local Trust Committee is willing to move forward with the agreement they will direct the planner to work with you on the first draft.

# The Housing Agreement Draft Process



## Step 1 — Draft Agreement

When you are ready to begin drafting a housing agreement, a planner will provide you with an agreement template. This document contains the standard terms and wording for Islands Trust housing agreements, and is designed to minimize the need for extensive edits and legal review. Information should be taken directly from your proposal.

You will be responsible for entering the following information into the Housing Agreement:

- **Owner/Society and Site Specific Information** – Follow the template to insert information specific to the owner or management information, as well as site-specifics such as number and type of units etc.
- **Fees and Charges** – Ensure that the housing agreement clearly outlines fees, such as rent amounts, strata or leasehold fees, and additional charges. Include specific information regarding rate increases.
- **Qualified Occupants** – Ensure that a fair practice for determining who is a qualified occupant is clearly defined. Review the Residential Tenancy Act to ensure compliance with current laws.
- **Roles and Responsibilities** – The agreement should define the roles and responsibilities of each party, including external funding sources if applicable.
- **Terms and Conditions** – Most of the terms and conditions of the housing agreement template are standard, and should not be edited or removed. Any questions regarding these terms should be directed to legal counsel.

## Step 2 — Legal Review

Once you have entered the information into the housing agreement template it should be sent to the Islands Trust planner for review. The planner will make any suggestions and provide you with an updated copy.

- It is recommended that you obtain your own legal review of the agreement, after the planner has made any edits. It is important that your lawyer **track changes** on the document and that all edits are made to one copy of the agreement only.
- After legal review send the document, showing any tracked changes, to the planner. The planner will then send it to the Islands Trust lawyers for review. At any time during this process either you or the planner may refer the agreement to the Local Trust Committee for review and comment.
- Once the Islands Trust legal review is complete the planner will send you information about any further changes, for final approval.

## Step 3 — LTC Review

Once the draft agreement is completed the planner will prepare a staff report for the Local Trust Committee. You may be requested to provide additional information. A public hearing is not necessarily required, but may be requested by the Local Trust Committee. If this Local Trust Committee accepts the Housing Agreement they will “read” (or pass) the bylaw portion, and the agreement will be considered complete. No further edits can be made.

## Step 4 — Registration on Title

Upon final approval from the Local Trust Committee you will be required to register the Housing Agreement and associated documents with the Land Title office. Once registration is complete you must provide confirmation and any final copies to the Islands Trust.

## Step 5 — Monitoring and Enforcement

As outlined in the housing agreement, the Local Trust Committee will ask for a completed schedule (form) on an annual basis to ensure compliance with the terms, conditions, and assigned fees. The Islands Trust will also investigate any complaints received about the property, regarding the terms of the Housing Agreement. Should the property be found in a state of non-compliance, the Islands Trust will work with you through methods laid out in the agreement to return the property to compliance.

## For further information:

This information is intended to provide general guidance only and should not be interpreted as a right to a housing agreement if the steps indicated are followed. For further information, please contact the Islands Trust.

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## Appendix 1

### Housing Agreement Proposal Checklist

Before work begins on a draft housing agreement you must provide the Islands Trust planner with the following information. This information will create the basis for the draft agreement, and will be provided to the Local Trust Committee as they make their decisions whether to proceed with the agreement. Further information may be requested by the Islands Trust and/or Local Trust Committee.

#### Items to Include:

- Information regarding previous or ongoing development or rezoning applications
  - Details on availability of water/septic etc. may be required
- Number and type of units
- Proposed rate structure, including calculation of rate increases
- Description of eligible tenants and tenant selection process
- Management plan\*
- Funding (including any special conditions of funding such as time limits)
- Roles and responsibilities list, noting any partner agencies or involved parties (such as BC Housing, Capital Region Housing Corporation, etc.)

\*A management plan indicates who will be running the property in the long-term, whether it is a society, business, or individual. It should also include an estimate of costs associated with ongoing management of the property. It is important to note that a housing agreement will limit the rent or sale prices of each unit, therefore the building must be able to operate within the limits of that income. Operations include, but are not limited to, repairs, insurance, landscaping, general maintenance, employee salaries and reimbursements, and other related expenses.