



## REQUEST FOR DECISION

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**To:** Regional Planning Committee      **For the Meeting of:** May 24, 2024

**From:** Anthony Fotino, Island Planner      **Date Prepared:** May 15, 2024

**SUBJECT:** Bylaw Compliance and Enforcement Review

### RECOMMENDATIONS:

1. That Regional Planning Committee request staff to amend the deliverables of the project to include the development and review of a Local Trust Committee Bylaw Compliance and Enforcement Policy
2. That Regional Planning Committee request staff to complete the draft Local Trust Committee Bylaw Compliance and Enforcement Policy template for review at the September regular business meeting.

**DIRECTOR COMMENTS:** The proposed amendments to the Bylaw Compliance and Enforcement project will permit Local Trust Committees to more effectively direct bylaw compliance and enforcement activities while achieving the Bylaw Compliance and Enforcement Review project goals. The overall project is on track as per the adopted timeline and RPC members will be able to review and comment on draft policies and procedures at their next regular meeting in September 2024.

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### 1. PURPOSE:

The current Project Charter and work plan address trust wide policies and procedures. Staff propose to include a new deliverable – a Local Trust Committee (LTC) Bylaw Compliance and Enforcement Policy template. This addition to the project will provide greater clarity to each LTC on how to implement best practices and to direct bylaw compliance and enforcement activities within their local trust area.

The rest of the report provides a summary of current policy revisions and background information.

### 2. BACKGROUND

The Islands Trust Council (Trust Council) received a report from staff in March 2023, describing the bylaw enforcement process and authorities, the current authorities of local trust committees, trustees and Trust Council, the number and nature of open files; the issues and number and nature of complaints by citizens on how the service is being delivered, including charges of bias, diversity, bullying and proportionality. Following the report was a presentation from staff of the Office of the

Ombudsperson and the Attorney General's office who spoke to current best practices and any issues with the Islands Trust.

The Ombudspersons Report drew on numerous resources to evaluate how administrative fairness may be enhanced including providing examples of other jurisdictions. The report outlines the best practice to have a bylaw complaints policy that provides direction to staff and information for the public. Most substantively, the report provides detailed recommendations how to improve policy and procedure content including how to improve a general complaints policy (ex: complaints from the public against staff performance).

At the September 2023 meeting, Trust Council received a presentation and report from the Office of the Ombudsperson reviewing and providing recommendations on bylaw enforcement policies and practices. Trust Council adopted the following resolutions:

“THAT Trust Council direct that the recommendations from the Office of Ombudsperson Report titled: “Voluntary Consultation on Bylaw Enforcement Policies and Practices within the Islands Trust”, dated August 2023, be implemented, and that staff develop an associated work plan and project charter and refer to the Regional Planning Committee.”

“THAT the work plan and project charter for implementing the recommendations from the Office of Ombudsperson Report titled: “Voluntary Consultation on Bylaw Enforcement Policies and Practices within the Islands Trust”, dated August 2023 be brought back to Trust Council with recommendations from the RPC for review within the next six months.”

At the February 16th meeting, Regional Planning Committee (RPC) received, amended, and endorsed a Project Charter and Work Plan. RPC also amended its work program to identify this project as a Top Priority. The current scope of work is to review, assess and implement the recommendations of the Ombudsperson's report through changes to Trust Council policies, Bylaw Enforcement practices and procedures, and implement changes through staff training and regular communications. The project timeline anticipates three meetings for RPC to deliberate and review revisions to policy and procedures and final recommendations for policy amendments to Trust Council in December. At the March 2024 Trust Council meeting, a Request for Decision (RFD) was brought forward that recommended that That Trust Council approve Bylaw Compliance and Enforcement Review Project Charter V1.

One of the directions from the RPC was to create a webpage for the Bylaw Enforcement project and once completed, include links to all of the relevant documents, policies, and previous reports that can be easily accessed by the community. This direction has been completed and the webpage has been created. It can be found in the following link: <https://islandstrust.bc.ca/island-planning/general-resources/bylaw-compliance-and-enforcement/bylaw-enforcement-review-project/>. The page can be accessed from the homepage under 'What's Happening' or from the individual LTC pages through the 'Bylaw Compliance' tab.

### **3. POLICY ANALYSIS**

This section is to provide an overview of policies and documents that are currently in effect with regards to bylaw compliance and enforcement.

#### *Islands Trust Act*

Section 28 of the islands Trust Act legislates how Local Trust Committees can handle bylaw enforcement issues. S. 28 states:

- 1) For the purposes of enforcing its bylaws and section 32 of this Act, a local trust committee has all the power and authority of a regional district board.

(1.1) Division 1 [*Bylaw Enforcement and Related Matters*] of Part 12 [*Regional Districts: Bylaw Enforcement and Challenge of Bylaws*] of the *Local Government Act*, other than section 413 (2) and sections 421 to 424, applies to a local trust committee in relation to subsection (1).

(2) Fines and other penalties imposed and collected under or because of a bylaw of a local trust committee must be paid to the trust council.

### ***Trust Council Bylaw Compliance and Enforcement Policy***

The purpose of the bylaw compliance and enforcement program is to support the object of the Islands Trust to preserve and protect the trust area and its unique amenities and environment for the benefit of residents of the trust area and of the province generally by ensuring compliance with Local Trust Committees' bylaws.

The Trust Council Enforcement policy document provides policies on a number of bylaw enforcement related topics. These include:

- Compliance
- Best practices manual
- Commencing Investigations
- Closing Investigations
- Priority of Investigations
- Mediation
- Legal Action
- Bylaw Notice Debt
- Confidentiality
- Local Trust Committees, Trust Council, and Trustees

The Trust Council Enforcement policy can be found in the following link: [Trust Council Bylaw Compliance and Enforcement Policy 5.5.1](#)

### ***Bylaw Compliance & Enforcement Best Practices & Procedures***

This document guides staff and outlines the purpose of Islands Trust Bylaw Compliance & Enforcement program and the process for the initiation and closure of bylaw enforcement case files. Moreover, it summarizes what is and isn't a complaint, how compliance is achieved, and how enforcement files are closed. It also provides information on the following:

- General enforcement best practices
- File management best practices
- Communication best practices
- Bylaw Enforcement Notices and Dispute Adjudication System
- Collection of BVN penalties
- Civic claims; and
- Issues

[The Bylaw Compliance and Enforcement Best Practices and Procedures](#) may be found in the hyperlink.

### ***Handling of Administrative Fairness Complaints Policy***

Trust Council policies 7.1.1 ([Administrative Fairness Principles](#)) and 7.1.2 ([Handling of Administrative Fairness Complaints](#)) guides trustees, staff, LTC's and other Islands Trust bodies through a fair, equitable and timely process when an individual complains that they have been treated unfairly by the organization. It is designed to uphold principles of transparency, accountability, and fairness within the Islands Trust, ensuring that individuals have recourse if they believe their rights have been violated or

administrative processes have been mishandled. These policies will be updated to more clearly distinguish between administrative fairness complaints and complaints about staff.

### ***Bylaw Infractions Investigations Bylaws***

Each Local Trust Area has their own Bylaw Infractions Investigations Bylaw by which each LTC establishes the authority to inspect alleged infractions and to enforce on land use bylaw violations.

### ***Bylaw Enforcement Notification Bylaw***

Islands Trust participates in a Bylaw Notice Adjudication Dispute System as permitted by the *Local Government Bylaw Notice Enforcement Act*. There are ten Local Trust Committees that have adopted Bylaw Enforcement Notification (BEN) Bylaws: Lasqueti and Saturna LTCs have not opted in. This system was introduced in 2005 by the Provincial government and it provides an alternative to the court system where non-judicial adjudicators hear ticket disputes. Penalties for contraventions cannot exceed \$500.00 but there are proposals to have the penalties raised to \$1000.00.

BEN bylaws establish local trust area regulations for the issuance of bylaw notices, determining when compliance agreements can be offered, and the authorities of screening officers to either enter into compliance agreements or cancel bylaw notices.

### ***Land Use Bylaws***

Land Use Bylaws (LUBs) are used as a regulatory tool that specify permitted uses for different areas of the community and assign specific regulations to these areas to guide development. Local Trust Area LUBs also include Bylaw Enforcement provisions, which are typically found in the administration sections of the LUBs. Generally, inspection, violation, and penalties are defined in each of the LUBs. Only Thetis and Denman deviate from using these consistent terms. In terms of consistency of definitions, there is inconsistency of how each of the terms are defined. There could be some merit to amend definitions to ensure consistency across the Trust. This may be considered in the implementation phase of this project.

### ***Standing Resolutions***

Standing resolutions are motions passed by a Local Trust Committee, some of which provide specific direction to bylaw enforcement staff on specific enforcement matters and amount to LTC policy. Resolutions remain in this list until they are rescinded or expire if specified. Each LTC has a list of standing resolutions, some pertaining to Bylaw Enforcement issues or options, which is reported in each LTC agenda.

Examples of standing resolutions can be found below:

1.	June 26, 2018	DE-2018-056	Proactive enforcement of Short-term Vacation Rentals	It was <b>MOVED and SECONDED</b> , that the Denman Island Local Trust Committee adopt the following standing resolution: "That Bylaw Enforcement staff undertake proactive enforcement of Short-term Vacation Rentals on Denman Island".
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*Denman Island Bylaw Enforcement Standing Resolutions on STVRs*

8.	November 6, 2020	HO-2020-074	Proactive Enforcement of Year-Around Unlawful Housing	<b>It was MOVED and SECONDED,</b> that the Hornby Island Local Trust Committee adopt the following Standing Resolution: That enforcement on unlawful permanent dwellings be deferred until such time that the Local Trust Committee can review the critical housing supply issue on Hornby Island or until December 31, 2021.
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Figure 1 Hornby Island Bylaw Enforcement Standing Resolution on Unlawful Housing

A comprehensive table of 24 standing resolutions can be found in Attachment 1.

#### 4. ANALYSIS AND OPTIONS IDENTIFICATION

A table outlining both the recommendations from the Office of the Ombudsperson report and the Organizational options can be found in the table below. The table provides the recommendations of the Ombudsperson Report, which policy/document the recommendation pertains to, what are the options/actions, and what would be the result.

Recommendations	Applicable Policy/Document	Options/Actions	Result
<b>Recommendations for Trust Council Policy</b>			
<b>Make policies, best practices and procedures publically available</b>	Trust Council Policy (5.5.1) Best Practices & Procedures	Both available <a href="#">online</a> (open folder 5 – Other Information in the Project Library)	The result of making these changes would be a higher level of transparency through providing the public
<b>Update policy to reflect best practices and procedures document</b>	Trust Council Policy (5.5.1)	The adopted Trust Council project will update best practices and attach them to an updated Trust Council policy.	comprehensive information about the Bylaw Enforcement process.
<b>Include a policy to assist staff in exercising discretion</b>	Trust Council Policy (5.5.1)	Office of the Ombudsperson has a quick tips guide on exercising discretion fairly. The policy should be consistent with the guide.	
<b>Recommendations specific to Bylaw Compliance &amp; Enforcement Best Practices &amp; Procedures</b>			
<b>Revise Purpose Statement for Bylaw Complaints Policy</b>	Bylaw Compliance & Enforcement Best Practices & Procedures	Updated Document will now reflect wording that has been provided on page 5/6 of the Ombudsperson report.	The result of making these changes will help to fairness and transparency within the policies and procedures for bylaw enforcement by the Islands Trust.
<b>Update Guiding Principles</b>	Bylaw Compliance & Enforcement Best Practices & Procedures	This section is being added to the document. An example is provided on page 6 of the Ombudsperson report.	
<b>Inclusion of a Comprehensive List of Definitions and Terms Used in the Policy</b>	Bylaw Compliance & Enforcement Best Practices & Procedures	Comprehensive list of definitions and terms section is being added to the	

		document before the "Introduction" section.	
<b>Clearly State Roles and Responsibilities of all Staff and Trustees of the Organization in Relation to Bylaw Enforcement</b>	Bylaw Compliance & Enforcement Best Practices & Procedures	Document is being updated to clearly define roles and responsibilities in its own section. Recommendation to further define LTC role via LTC's considering a Bylaw compliance and Enforcement Policy Template (attachment 2)	
<b>Include a Confidentiality Statement in the Policy</b>	Bylaw Compliance & Enforcement Best Practices & Procedures	Confidentiality Statement is being expanded to encompass the responsibility of staff to maintain confidentiality.	
<b>Update the Best Practices &amp; Procedures Document to Include Informational Sub-Sections.</b>	Bylaw Compliance & Enforcement Best Practices & Procedures	The Ombudsperson report provides sub-sections on pages 7 and 8. These sections should be added to the document.	
<b>Recommendation for Handling of Administrative Fairness Complaints Policy</b>			
<b>Review and Amend "Handling of Administrative Fairness Complaints" Policy to Reflect its Actual Function as a General Complaints Policy</b>	Handling of Administrative Fairness Complaints (7.1.2)	The Ombudsperson report recommended amending the policy title and contents to reflect its function as a general complaints policy. Included in Trust Council approved project charter.	A more accurate representation of what the policy provides.

Staff are in the process of drafting the new Bylaw Compliance & Enforcement Best Practices & Procedures document and are preparing a blackline version for the RPC to review.. The new policy document would integrate all of the recommendations from the Ombudsperson report to make a more robust and transparent document as per Trust Council's approved Project Charter.

In addition to the table above, staff have drafted an LTC policy template (Attachment 2). It is envisioned that each LTC could adopt a version of this policy template; this would consolidate all existing LTC policies adopted by standing resolution, provide different policy options for different LTCs, and would provide for more consistency as the same template would be used for the LTC policies. Implementing this type of policy document would provide the opportunity for each LTC to consider tailoring bylaw compliance and enforcement policies specifically to each LTA. The policy document would still be within the overall framework of the Trust Council policy, bylaw enforcement bylaws, legislation, and case law. This type of policy document has already been requested by various LTCs and this project provides an opportune time to include into best practices. As it currently exists, the scope of the project does not include the development and review of a LTC Bylaw Enforcement policy template. Because of this, staff have included a recommendation to expand the project scope to include the development and review of the attached template.

The policy template would be comprised of a purpose statement and ten (10) policies including:

1. Application
2. Definitions
3. References
4. Priorities

5. Notice of Inspection
6. Enforcement Procedures
7. Closing Files

8. Frivolous, Repeat or Vexatious Complaint
9. Communications
10. Reporting

**5. ATTACHMENT(S):**

- 1) Consolidated Standing Resolution Table
- 2) LTC Bylaw Enforcement Policy Template
- 3) Project Charter v.2

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**RESPONSE OPTIONS**

**Recommendations:**

1. That Regional Planning Committee request staff to amend the deliverables of the project to include the development and review of a Local Trust Committee Bylaw Compliance and Enforcement Policy
2. That Regional Planning Committee request staff to complete the draft Local Trust Committee Bylaw Compliance and Enforcement Policy template for review at the September regular business meeting.

**Alternatives:**

1. That Regional Planning Committee request staff for more information [list requested information]. Or,
2. That Regional Planning Committee not amend the Project Charter (no resolution required).

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**Prepared By:** Anthony Fotino, Island Planner

**Reviewed By/Date:** Stefan Cermak, Director, Planning Services / May 16, 2024

LTC	Standing Resolution No.	Issue	Policy/Standing Resolution
Denman	DE-2023-080		that the Denman Island Local Trust Committee adopt a Standing Resolution that Bylaw Enforcement personnel give a minimum of 24 hours notice before conducting a site visit and that they schedule a time with the property owner.
Denman	DE-2023-012		that the Denman Island Local Trust Committee adopt the following Standing Resolution: That the Local Trust Committee acknowledges and affirms its commitment to the human right to housing as laid out by the United Nations Declaration of the Human Right to Adequate Housing.
Denman	DE-IC-2021-007		that the Denman Island Local Trust Committee adopt the following Standing Resolution: That the Denman Island Local Trust Committee clarify that the reference to a 45 day limit for visitor accommodation means 45 days for one client and that otherwise there are no limits on how many days per year a visitor accommodation home occupation can operate; and that this temporary policy remain in place until this regulation is reviewed.
Denman	DE-2021-015		that the Denman Island Local Trust Committee adopt the following standing resolution: 'The Denman Island Local Trust Committee directs Bylaw Compliance and Enforcement staff to temporarily withhold enforcement against unlawful dwellings upon receipt of a written complaint, unless any of the following conditions apply: a) The complaint is received from at least two sources, one being the owner, occupant or title holder of a neighbouring property; b) It appears that there is more than one unlawful dwelling on a lot; c) An unlawful dwelling appears to be larger than 90 square meters; or d) An unlawful dwelling appears to be located within a Development Permit Area. And nothing in this enforcement policy should be interpreted as giving permission to violate the Denman Island Land Use Bylaw and the Local Trust Committee may change this policy or give direction to expand enforcement activities at any time.' This Standing Resolution will be reviewed in one year's time
Denman	DE- 2018-100	Bylaw Enforcement on Unlawful STVRs	That the Denman Island Local Trust Committee adopt the following standing resolution: That the Denman Island Local Trust Committee direct Bylaw Enforcement to use the following priority in dealing with unlawful short-term vacation rentals (STVRs): <ol style="list-style-type: none"> <li>1. Unlawful STVRs that have been the subject of substantiated complaints;</li> <li>2. Unlawful STVRs that are operated by persons who normally do not reside on Denman Island;</li> </ol>



			<ol style="list-style-type: none"> <li>3. Unlawful STVRs operated by persons who do not reside on the same property as the STVR;</li> <li>4. Unlawful STVRs operated by persons who reside on the same property as the STVR</li> </ol>
<b>Denman</b>	DE-2018-056	Proactive Enforcement of STVRs	It was MOVED and SECONDED, that the Denman Island Local Trust Committee adopt the following standing resolution: "That Bylaw Enforcement staff undertake proactive enforcement of Short-term Vacation Rentals on Denman Island
<b>Gabriola</b>	GB-2019-038	Enforcement of Limited Public Market Provisions in the Land Use Bylaw	that the Gabriola Island Local Trust Committee adopt the following standing resolution with respect to limited public markets: a) Islands Trust Bylaw Enforcement Staff are directed to not enforce Section B.6.2 of Gabriola Island Land Use Bylaw No. 177, 1999 when limited public markets are operated indoors, but rather to inform the operators of the applicable land use regulations; b) This enforcement policy does not permit violation of the Land Use Bylaw and the Gabriola Island Local Trust Committee may at any time, by resolution, modify or rescind this policy or give direction to expand enforcement activities.
<b>Galiano</b>	GL-2020-041	Unlawful Land Uses and Planning Applications	<p>that the Galiano Island Local Trust Committee adopt the following policy on unlawful land uses and planning applications:</p> <ol style="list-style-type: none"> <li>a. Where an application is received and a use is continuing in contravention of a land use bylaw, staff are directed to request that the applicant cease the use prior to processing the application, and that staff are directed to continue with enforcement until the use is ceased.</li> <li>b. The applicant may request that the Local Trust Committee proceed with consideration of the application while the use is continuing; and, where the Local Trust Committee considers there is a community need to process the application while the prohibited use is continuing, the Local Trust Committee may direct that bylaw enforcement actions, including the issuing of notices, cease.</li> <li>c. Where the Local Trust Committee does not consider that there is a community need, or the applicant has not made such a request of the Local Trust Committee; bylaw enforcement actions, including the issuing of notices, will continue.</li> <li>d. In deciding whether to grant land use approval for a use that was commenced in contravention of a land use bylaw, the Local Trust Committee may consider whether the applicant has suspended the prohibited land use pending a decision on the application.</li> </ol>
<b>Galiano</b>	GL-2014-000		On properties where there is an open bylaw enforcement file, planning staff should refer planning applications to the Bylaw

			<p>Enforcement Manager for comment where one or more of the following circumstances exist:</p> <ol style="list-style-type: none"> <li>1. There have been significant delays or longer than typical timelines in the enforcement process</li> <li>2. The LTC is considering on-going, relevant policy or regulatory changes that could impact enforcement</li> <li>3. Litigation has been recommended</li> <li>4. Legal counsel has been involved (beyond providing a basic interpretation)</li> <li>5. There has been enforcement action beyond seeking voluntary compliance (e.g. a BEN warning or ticket, adjudication, a compliance agreement negotiated, etc.)</li> <li>6. There has been, or is an expectation of, joint enforcement with other jurisdictions</li> <li>7. There is potential for impact on other related enforcement files.</li> </ol>
<b>Gambier</b>	GM-2023-027	Unlawful land uses and planning applications	<p>that Gambier Island Local Trust Committee adopt the following policy on unlawful land uses and planning applications:</p> <ol style="list-style-type: none"> <li>a) Where an application is received and a use is continuing in contravention of a land use bylaw, staff are directed to request that the applicant cease the use prior to processing the application, and staff are directed to continue with enforcement until the use is ceased.</li> <li>b) The applicant may request that the Local Trust Committee proceed with consideration of the application while the use is continuing; and, where the Local Trust Committee considers there is a community need to process the application while the prohibited use is continuing, the Local Trust Committee may direct that bylaw enforcement actions, including the issuing of notices, cease.</li> <li>c) Where the Local Trust Committee does not consider that there is a community need, or the applicant has not made such a request of the Local Trust Committee, bylaw enforcement actions, including the issuing of notices will continue.</li> <li>d) In deciding whether to grant land use approval for a use that was commenced in contravention of a land use bylaw, the Local Trust Committee may consider whether the applicant has suspended the prohibited land use pending a decision on the application.</li> </ol>
<b>Gambier</b>	GM-2020-006	Rise and Report from In-Camera Meeting of July 23, 2020	<p>That the Gambier Island Local Trust Committee amend GM-2018-035 to add the words "otherwise lawful" after the word "regarding", and that it become a standing resolution.</p> <p>Resolution GM-2018-035 amended now reads:</p> <p>That the Gambier Island Local Trust Committee request Bylaw Enforcement staff to cease investigation and enforcement of complaints on Keats Island regarding</p>

			otherwise lawful accessory uses, buildings and structures on a parcel where no principal use exists if the adjacent parcel has a principal use and both parcels are held under common ownership
<b>Gambier</b>	GM-2020-001	GM-IC-2020-001 Bylaw Enforcement Investigation	that the Gambier Island Local Trust Committee request Bylaw Enforcement staff to cease investigation and enforcement of complaints on Keats Island regarding otherwise lawful accessory uses, buildings and structures on a parcel where no principal use exists if the adjacent parcel has a principal use and both parcels are held under common ownership.
<b>Hornby</b>	HO-2020-013	Vacation Home Rental Review Project	<p>that the Hornby Island Local Trust Committee adopt the following Standing Resolution:</p> <p>Authorize proactive enforcement of the Hornby Island Land Use Bylaw No. 150 regulations for Vacation Home Rentals. Short Term Vacation Rentals that have one or more of the following characteristics, will be subject to proactive enforcement:</p> <ul style="list-style-type: none"> <li>• Non-compliant Short Term Vacation Rentals are advertised on the internet, newspapers or other media.</li> <li>• More than one dwelling on the lot is made available simultaneously for a Short Term Vacation Rental.</li> <li>• While the property is rented, additional persons are staying in tents, trailers or recreational vehicles.</li> <li>• There are issues related to health and safety in accordance with the Land Use Bylaw.</li> <li>• There is more than one complaint from the immediate neighborhood (defined as being within 200 meters of the subject property) regarding</li> <li>• issues related to the Short Term Vacation Rental, such as noise, parking congestion, more than one guest/party in a week, or too many</li> <li>• people.</li> <li>• The residential dwelling being used as a Short Term Vacation Rental does not meet the following criteria for Short Term Vacation Rentals from the Hornby Island Official Community Plan Bylaw No. 149: <ul style="list-style-type: none"> <li>○ that the owner or tenant of the parcel is ordinarily resident on the property and the vacation home rental use is occurring during the temporary absence of the owner or tenant; or</li> <li>○ where the owner or residential tenant of the parcel resides seasonally in the dwelling and the vacation home rental use is occurring during the absence of the owner or tenant; or</li> </ul> </li> </ul>

			<ul style="list-style-type: none"> <li>○ where the owner or residential tenant is residing in another lawful dwelling on the property while the vacation home rental is occurring.</li> <li>● The Short Term Vacation Rental is not managed locally, or was purpose built to be a Short Term Vacation Rental.</li> <li>● A complaint is made by an official of a government regulatory body or the bylaw enforcement officer and it concerns overuse of water, inadequate septic capacity, or too many buildings on the property.</li> </ul>
<b>Hornby</b>	HO-2017-011	Standing Resolution regarding Bylaw Enforcement	<p>that the Hornby Island Local Trust Committee adopt the following Standing Resolution:</p> <ol style="list-style-type: none"> <li>1. That whereas the Hornby Island Local Trust Committee intends to facilitate a community process to review residential density to address community housing needs, which may result in amendments to the Official Community Plan and Land Use Bylaw, it is resolved that related enforcement actions against properties identified as: a) Lot B, Section 15, Hornby Island, Plan 24652 (1655 Central Road); b) Lot B, Section 6, Hornby Island, Plan 30442 (7205 Central Road); and c) Lot 6, Section 10, Hornby Island, Plan 26332 (2475 St. Johns Point Road) shall be held in abeyance;</li> <li>2. That nothing in this enforcement policy should be interpreted as giving permission to any party to violate Hornby Island Land Use Bylaw No. 150 and the Hornby Island Local Trust Committee may change this policy at any time and may give direction to commence enforcement activities with respect to the identified properties at any time without notice; and</li> <li>3. That unless the Hornby Island Local Trust Committee extends the effective period, this enforcement policy expires on October 31, 2018 or when the residential density review project is complete, whichever is the sooner.</li> </ol>
<b>Mayne</b>	MA-2022.012	Outhouses	that the Mayne Island Local Trust Committee direct Bylaw staff to suspend enforcement on outhouses and that the Bylaw Enforcement Manager be invited to attend a future Local Trust Committee meeting.
<b>Mayne</b>	MA-2017-028	STVR Enforcement Policy	<p>That the Mayne Island Local Trust Committee adopts the following resolution in regards to Bylaw Enforcement of Unlawful Short Term Vacation Rentals (USTVR):</p> <ol style="list-style-type: none"> <li>a) Given finite resources available for enforcement activities and in order to ensure the most effective results for enforcement activities, Unlawful Short Term Vacation Rentals that have one or more of the following characteristics will be subject to proactive enforcement: <ol style="list-style-type: none"> <li>i. they are advertised on the internet, newspapers or other media;</li> </ol> </li> </ol>

			<ul style="list-style-type: none"> <li>ii. they are not managed by an owner of the USTVR property who lives on Mayne Island;</li> <li>iii. more than one dwelling on the lot is simultaneously made available for USTVR;</li> <li>iv. while the property is used as a USTVR, persons are permitted to stay in tents or trailers;</li> <li>v. there are issues related to health and safety on the property;</li> <li>vi. there is a written complaint by owners or residents of two properties about bona fide serious nuisance issues such as noise or parking congestion related to the USTVR;</li> <li>vii. the owner of the property uses more than one property on Mayne Island as a USTVR.</li> </ul> <p>b) Nothing in this enforcement policy should be interpreted as giving permission to violate the Land Use Bylaw and the Mayne Island Trust Committee may change this policy at any time and may give direction to expand enforcement activities at any time</p>
<b>Mayne</b>	MA-2017-027	Unlawful Dwellings	<p>That the Mayne Island Local Trust Committee directs staff to take enforcement action against unlawful dwellings only if one of the following conditions exists:</p> <ul style="list-style-type: none"> <li>1.1. There is a complaint from an immediate neighbor; or,</li> <li>1.2. There is a referral from an agency responsible for health and safety issues that is doing concurrent enforcement.</li> </ul> <p>2. Nothing in this enforcement policy should be interpreted as giving permission to violate the Land Use Bylaw and the Mayne Island Local Trust Committee may change this policy at any time and may give direction to expand enforcement activities at any time.</p>
<b>North Pender</b>	NP-2023-040		<p>That the North Pender Island Local Trust Committee move to suspend bylaw enforcement on the Industrial zoned portion of 4606 Razor Point Road until the completion of Bylaw 224 and 229.</p>
<b>North Pender</b>	NP-2020-010	Bylaw Enforcement Compliance on unlawful uses	<p>that the North Pender Island Local Trust Committee adopt the following policy on unlawful land uses and planning applications:</p> <ul style="list-style-type: none"> <li>a. Where an application is received and a use is continuing in contravention of a land use bylaw, staff are directed to request that the applicant cease the use prior to processing the application, and staff are directed to continue with enforcement until the use is ceased.</li> <li>b. The applicant may request that the Local Trust Committee proceed with consideration of the application while the use is continuing; and, where the Local Trust Committee considers there is a community need to process the application while the prohibited use is continuing, the Local Trust Committee may direct that bylaw enforcement actions, including the issuing of notices, cease.</li> </ul>

			<ul style="list-style-type: none"> <li>c. Where the Local Trust Committee does not consider that there is a community need, or the applicant has not made such a request of the Local Trust Committee, bylaw enforcement actions, including the issuing of notices will continue</li> <li>d. In deciding whether to grant land use approval for a use that was commenced in contravention of a land use bylaw, the Local Trust Committee may consider whether the applicant has suspended the prohibited land use pending a decision on the application.</li> </ul>
<b>North Pender</b>	NP-2019-016		that the North Pender Island Local Trust Committee directs bylaw enforcement officers to commence bylaw investigations and enforcement without written complaint if bylaw violations related to disposal or storage of waste or recyclable materials or storage of vehicles or vehicle parts are observed by the bylaw enforcement officer while doing inspections for other issues or if it is reliably reported to the officer that such activity may be taking place.
<b>Salt Spring</b>	SS-2021-111	Portable Sawmills	It was MOVED and SECONDED, That the Salt Spring Island Local Trust Committee adopt the following enforcement policy: Enforcement on portable sawmills will be deferred while the Local Trust Committee considers amendments to the Land Use Bylaw.
<b>Salt Spring</b>	SS-2021-109	Unlawful Dwellings	It was MOVED and SECONDED, That the Salt Spring Island Local Trust Committee adopt the following enforcement policy: Enforcement activities will be deferred for all unlawful dwellings being used for residential purposes except in the following circumstances: <ul style="list-style-type: none"> <li>a. there are concerns regarding health and safety;</li> <li>b. there are concerns that sewage is not being disposed of in an approved septic or sewage disposal system;</li> <li>c. there are concerns that septic or sewage disposal systems are being used in excess of capacity or ability as a result of unlawful dwellings;</li> <li>d. there are concerns of possible contamination of wells or other drinking water sources;</li> <li>e. unlawful dwellings are in environmentally sensitive areas;</li> <li>f. there are non-permitted campgrounds; and that the Salt Spring Island Local Trust Committee may change this policy at any time and may give direction to resume enforcement activities at any time.</li> </ul>
<b>Salt Spring</b>	SS-2010-011	Bylaw Enforcement Reports	That the Salt Spring Island Local Trust Committee directs staff to provide quarterly in-camera and public reports on on-going and current bylaw enforcement investigations and actions in the Salt Spring Local Trust Area.

Saturna	SA-2023-008	Bylaw Notification Requirements	that it be resolved that Clause 2 in Saturna Local Trust Committee Bylaw 30 - A Bylaw to Authorize Inspection of Alleged Infractions Against Regulations - is replaced on an interim basis with the wording of Clause 14.1 from Saturna Local Trust Committee Bylaw 119 - Land Use Bylaws amalgamated. This clause reads 'The Island Trust Bylaw Enforcement Officer or any other person designated by the Saturna Island Local Trust Committee to administer this Bylaw is authorized to enter, at any reasonable time and after having given two-weeks prior notification to the occupier, upon any property that is subject to regulation under this Bylaw, for the purpose of determining whether the regulations are being observed.' This Standing Resolution will remain in place until such time a review of Bylaw No. 30 and Bylaw No. 119 Section 1.4 'Inspection and Enforcement' can be reviewed and re-enacted through public process embodying Bylaw Enforcement Best Practices outlined in the 2022 Ombudsperson of British Columbia report concerning Local Government Bylaw Enforcement Policy and Practice
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## XXXX Island Local Trust Committee Bylaw Enforcement Policy Template

Bylaw Enforcement Policy No. 1, effective \_\_\_\_\_, 2024

### Revision No. 1

#### Purpose

To establish policies and procedures for the enforcement of the XXXX Land Use Bylaw that comply with the adopted Trust Council Policies contained in Policy 5.5.1., ~~and~~ that are within the authority of the Local Trust Committee to enforce, and that will ensure polices and procedures are efficient, transparent, reasonable, and consistent with local community standards.

#### Policy

##### 1.0 Application

*Statement on the scope of the policy. LTCs could have separate policies for the enforcement of each land use bylaw within its Local Trust Area.*

##### 2.0 Definitions

*Any necessary definitions would be included.*

##### 3.0 References

*What legislation or bylaws or polices are referenced within the policy. This would include references to the Local Government Act, Community Charter, Local Government Bylaw Notice Enforcement Act, and the Bylaw Enforcement Notice bylaws.*

##### 4.0 Priorities

*This section should include the direction of LTCs to bylaw staff regarding which contraventions that are of concern to the LTC and require proactive enforcement, and possibly when enforcement on contraventions should be deferred and for what reason. Previous practice has been to adopt policies or priorities by standing resolutions adopted by the Local Trust Committee.*

##### 5.0 Notice of Inspection

*This section would include direction for what notification is required for those subject to enforcement. It may include reference to providing 24 hours notice for the property owner and how that notice is to be given.*

*This section would also include when such notice is not required, such as when enforcing short-term, or if there is work in environmentally sensitive areas, or there are health and safety concerns.*

*Policy on investigating properties without entering property if the work can be done from public property.*



## **6.0 Enforcement Procedures**

*This section would deal with issues such as **time to comply** after a contravention is confirmed, and the time periods for compliance deadlines before a bylaw violation notice is issued.*

*This may also include policies on the number of complaints required to pursue enforcement on minor contraventions or contraventions that are not a priority for the LTC.*

*Policy for discretion of Bylaw Officers, or the Manager, when it comes to placing files on hold or closing the files. There may be extenuating circumstances when enforcement should not proceed, such as the financial inability to comply when persons are indigent.*

## **7.0 Closing Files**

*Trust Council Policy permits LTCs to close files. This section should establish when LTC wants certain files closed and under what conditions. This could include contraventions that the LTC does not wish to pursue such as unlawful dwellings or other contraventions that they deem to be not in their interest to pursue.*

## **8.0 Frivolous, Repeat or Vexatious Complaint**

*This policy should establish the criteria for when complaints, or complainants, will be considered frivolous or vexatious, and what action staff should be taking if receipt of such complaints or receiving such complaints from individuals.*

## **9.0 Communications**

*This policy may also include direction from the LTC on communicating or messaging with respondents, complainants, or the general public regarding current open files, or realtors.*

## **10.0 Reporting**

*Policy required for when the LTC wants communications or staff reports regarding bylaw enforcement files in general, and reporting on files with completed investigations, and where the LTC may be considering their enforcement options or legal action.*

# Bylaw Compliance and Enforcement Review - Charter v2

Regional Planning Committee (RPC)

RPC Endorsement [\(v1\)](#) Date: 02-16-2024

**Purpose:** To resolve bylaw enforcement matters efficiently and with minimal conflict by reviewing and amending Islands Trust Bylaw Enforcement policies and procedures to be administratively fair, reasonable and transparent with the aim of restoring public confidence.

**Background:** Islands Trust Council requested that the Office of the Ombudsperson undertake a review of enforcement policies and practices and provide recommendations at the March 2023 Trust Council meeting. In August 2023 the Office of the Ombudsperson’s Consultation and Training Team submitted the ‘Voluntary Consultation on Bylaw Enforcement Policies and Practices within the Islands Trust’ report. At the September 2023 Trust Council meeting directed that the recommendations of the report be implemented, that staff develop a work and project charter and was referred to the Regional Planning Committee.

## Deliverables

- Revisions to Bylaw Compliance and Enforcement Policy 5.5.1
- Revisions to the Handling of Administrative Fairness Complaints Policy 7.1.2
- Revisions to Bylaw and Enforcement Best Practices and Procedures Manual (“the Manual”)
- A public Bylaw Complaints and Enforcement document
- Updates and revisions to Bylaw Enforcement forms, templates and documents
- Training and information for Bylaw Enforcement Officers and other relevant staff
- [Communications team work with planning staff to post regular Bylaw Compliance Review project updates to Islands Trust website.](#)
- [Development and review of an LTC Bylaw Enforcement Policy](#)
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## In Scope

- Review the Report, compile recommendations
- Review current Trust Council policies
- Review the Manual
- Compile and review all LTC bylaw enforcement standing resolutions and policies
- Review selected policies of other relevant local governments
- Report to RPC with proposed revisions for direction
- Provide regular updates and recommended revisions to Trust Council
- Implement changes to policies and practices
- A legal review of draft documents

## Out of Scope

- Amendments to bylaws
- Public consultation
- Referrals to LTCs
- External consultants

## IAP2 Public

### Engagement Level:

- Inform
- Consult
- Involve
- Collaborate

## Workplan Overview

Deliverable/Milestone	Target Date
Draft Project Charter to RPC for review and endorsement	Feb 2024
RFD to Trust Council	Mar 2024

<i>RPC review of preliminary policy revisions</i>	May 2024
<i>Briefing to Trust Council</i>	June 2024
<i>Draft policies and manual to RPC for review and changes</i>	Sept 2024
<i>Referral of draft revisions to Ombudsperson's office for comment</i>	Sept 2024
<i>Briefing to Trust Council</i>	Sept 2024
<i>Final RPC review and referral to Trust Council</i>	Nov 2024
<i>Endorsement by Trust Council</i>	Dec 2024
<i>Implementation</i>	Jan – Mar 2025

<b>Project Team</b>	
<i>Stefan Cermak, DPS</i>	Project Champion
<i>Robert Kojima, RPM</i>	Project Manager
<i>Warren Dingman, Manager C &amp; E</i>	Project Manager
<i>Anthony Fotino</i>	RPC Planner
<i>David Marlor, DLS</i>	Advisor
<b>Director Approval:</b> <i>Stefan Cermak</i> <b>Date:</b> 02-16-2024	<b>RPC Endorsement:</b> Resolution #: 2024-001 <b>Date:</b> 02-16-2024

<b>Budget</b>		
<b>Budget Sources: N/A – no budget has been assigned</b>		
<b>*legal review included in scope by RPC 02-16-2024</b>		
Fiscal	Item	Est. Staff hours*
2023-24	Project initiation	20
2024-25	- Preliminary analysis and review	40
	- Drafting of policy revisions	50
	- Final policy	20
	- Updates to manuals and templates	40
	- Implementation	40
	- Contingency	40
	<b>Total</b>	<b>250</b>

\*excludes any admin support, attendance at RPC/TC meetings, staff receiving training