

# PROPOSED

## Local Trust Committee Bylaw Compliance & Enforcement Policy

Bylaw Compliance & Enforcement Policy No. 1, effective \_\_\_\_XXX\_\_\_\_\_, 2024

### Version No. 1

#### Purpose

To establish policies and procedures for bylaw compliance and enforcement in the [\[name\]](#) Local Trust Area in accordance 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 to ensure that policies and procedures are efficient, transparent, reasonable, and consistent with local community standards.~~

## PART A

### 1.0 Application

This policy will apply to the [\[name\]](#) Local Trust Area and the enforcement of all applicable regulatory bylaws.

### 2.0 Definitions & Abbreviations

BEN – bylaw enforcement notice [\(as defined in the Local Government Bylaw Enforcement Act\)](#)

LUB – Land Use Bylaw

LTC – Local Trust Committee

Minor structure – any structure that does not require a building permit, and that is not located in a development permit area or located within any other environmentally sensitive area

Respondent – a property owner whose property is subject to a bylaw enforcement complaint

Health & Safety concerns – fire, unsafe construction, hazards relating to steep slopes or cliffs

Approved septic system – one that has been registered with the Vancouver Island Health Authority

### 3.0 References

[This section will cite references to the relevant LTC bylaws that are affected by the compliance and enforcement policies.](#)

### 4.0 Priorities

**4.1** [This section will contain the priorities established by LTC standing resolutions on bylaw enforcement or the deferrals established in the adopted resolutions.](#)

## 5.0 Inspection

- 5.1 Bylaw Enforcement Officers are authorized under the Land Use Bylaw to enter any lot at any reasonable time to determine if regulations are being observed.
- 5.2 At the start of any investigation, Bylaw Enforcement Officers will determine if entry is necessary to investigate the alleged contravention or if the investigation can be conducted from a public road or other lands.
- 5.3 Bylaw Enforcement Officers are encouraged to request mutually agreeable times to arrange site inspections and provide 24 hours notice if appropriate.
- 5.4 Investigations into health and safety issues and matters that may cause adverse environmental impact and result in irreversible damage are a priority and may be investigated without notice.
- 5.5 Enforcement on non-compliant short-term vacation rentals is a priority and inspections may be investigated without notice.
- 5.6 Holders of temporary use permits will be held accountable for any violations of their Permit. Bylaw Enforcement Officers may enter properties between the hours of 9:00 am and 5:00 pm, on any day, without prior consultation with the holder of a Temporary Use Permit for the purpose of investigating a complaint.
- 5.7 If a respondent has indicated that they will work towards compliance, and have agreed on a time to comply, a site inspection is only required to confirm compliance.
- 5.8 If a respondent provides photographic evidence, a survey, or a professional report that confirms compliance, a site inspection is not required.

## 6.0 Enforcement Procedures

- 6.1 If a bylaw contravention is confirmed, ~~r~~there will be notice in writing, and Respondents will be given a minimum of 90 days to comply with the relevant LUBregulatory bylaw.
- 6.2 Bylaw Enforcement Officers can use their discretion to consider any reasonable time to comply request from Respondents but the term cannot be for more than one year.
- 6.3 If there are contraventions in environmentally sensitive areas, or development permit areas, or if there is a risk to health and safety, there will be a demand for the respondent to cease the use or activity immediately.
- 6.4 If the Respondent wishes to consider a planning application that will bring the property into compliance, the Bylaw Enforcement Officer will advise planning staff and they will arrange a meeting to discuss together the feasibility of such an application.
- 6.5 If there is no agreement on time to comply, a Respondent will be provided written notice that enforcement action will be escalated and this may include a request for legal action or the use of the BEN system.
- 6.6 Respondents will be given a Bylaw Warning Notice with a minimum of 45 days to comply before a Bylaw Violation Notice is issued, unless there are health and safety concerns, or contraventions in environmentally sensitive areas, that may require more immediate action.
- 6.7 Bylaw Violation Notices will not be issued more than once per week unless authorized by the Manager of Bylaw Compliance and Enforcement.

## 7.0 Closing Files

- 7.1 If the identity of a complainant cannot be confirmed during the course of an investigation, or if a complainant used a false name, the file will be closed.
- 7.2 If the contravention is for a minor structure that has only received one written complaint from one person, the file can be closed.
- 7.3 If it is unreasonable for a Respondent to comply, whether due to specific circumstances or finances, Bylaw Enforcement Officers or the Manager of [Bylaw](#) Compliance and Enforcement can use their discretion to close the file.
- 7.4 If a contravention has been identified that is subject to deferred enforcement by the LTC, the file can be closed unless there are contraventions that exist in environmentally sensitive areas or there are concerns about health and safety.
- 7.5 If it is determined during an investigation that the complaint was frivolous, repeat, or vexatious in nature, the Manager of Bylaw Compliance and Enforcement can use their discretion to close the file unless there is work in a development permit area, or work in an environmentally sensitive area, or there are health and safety concerns.

~~The LTC will be notified when any file is closed.~~

## 8.0 Frivolous, Repeat or Vexatious Complaints

- 8.1 Complaints that are made in bad faith, false, or made for retaliatory purposes may be considered vexatious.
- 8.2 Repeated complaints that form a part of a pattern of conduct by the complainant that amounts to an abuse of the complaint process may be considered frivolous or vexatious.
- 8.3 Frivolous, repeat or multiple complaints about the same issue or a matter that has been investigated with no offence found may be considered vexatious.
- 8.4 If a decision is made to not act upon a complaint that is considered frivolous, repeat, or vexatious, the complainant will be advised of the decision, the reason for it, and may be advised of the circumstances under which it may be reconsidered.

## 9.0 Communications

- 9.1 When a file is opened and an investigation commenced, ~~r~~Respondents will be advised of the Trust Council Policy that authorized the opening of the file and that an investigation has commenced.
- 9.2 Respondents will receive as much information about complaints against their properties as possible without revealing the identity of the complainant.
- 9.3 If there are questions or concerns regarding individual files, Trustees or the LTC will communicate with the Manager of [Bylaw](#) Compliance and Enforcement.
- 9.4 The Manager of [Bylaw](#) Compliance and Enforcement will arrange public information and education sessions regarding bylaw enforcement when appropriate and time permitting.

## 10.0 Reporting

**10.1** The LTC will receive regular reporting on open files where investigations have been completed, and the reporting will state whether or not enforcement or legal action of any kind is recommended.

**10.2** The Manager of [Bylaw](#) Compliance and Enforcement will report to the LTC any concerns, trends, or issues with enforcement that they believe the LTC needs to be aware of.

**10.3** The Manager of [Bylaw](#) Compliance and Enforcement will maintain ~~the Bylaw~~ [the Bylaw Compliance and Enforcement Policy](#) and will report to the LTC if amendments are recommended or required.