



<b>Policy:</b>	5.5.1
<b>Approved By:</b>	Trust Council
<b>Approval Date:</b>	March 11, 1995
<b>Amendment Date(s):</b>	June 6, 1997; June 6, 1998; June 13, 2003; December 5, 2003; December 10, 2004; June 17, 2005; March 10, 2006; March 13, 2019, December 2, 2021: XXXX, 2025
<b>Policy Holder:</b>	Director of Planning Services

## BYLAW COMPLIANCE AND ENFORCEMENT

### Purpose

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 committee bylaws.

### Guiding Principles

The following principles are intended to align with the mandate of the Islands Trust, adhere to the best practices outlined by the BC Office of the Ombudsperson, and ensure procedural fairness in all enforcement actions:

1. **Fairness and Impartiality:** Apply bylaws consistently, ensuring decisions are unbiased and equitable for diverse island communities.
2. **Transparency and Communication:** Provide clear, accessible information about enforcement policies, processes, and outcomes with understandable and meaningful reasons for the decision(s) made throughout the bylaw investigation and enforcement process to foster trust and understanding.
3. **Focus on Education and Compliance:** Emphasize public education and voluntary compliance with bylaws.
4. **Procedural Fairness:** Ensure timely notification of alleged infractions, offer opportunities to Respondents to be heard throughout the process, and guarantee unbiased decision-making.
5. **Proportionality and Discretion:** Tailor enforcement actions to the severity and context of the infraction, with a focus on voluntary compliance.
6. **Efficiency:** Prioritize significant violations that impact environmental sustainability or community safety, while streamlining processes for minor cases.
7. **Engagement and Inclusivity:** Collaborate with island communities to ensure enforcement practices reflect local values and consider marginalized populations.
8. **Accountability and Oversight:** Regularly review enforcement activities and maintain oversight to uphold public confidence and encourage local trust committees to update and align bylaws and to identify opportunities to make bylaws clear and coherent.
9. **Respect for Privacy:** Safeguard the confidentiality of Complainants and individuals involved in enforcement actions, in compliance with privacy laws.
10. **Administrative Fairness:** Ensure that standards of conduct complaints are addressed in a fair, equitable, and timely manner in accordance with the principles of administrative fairness.
11. **Cultural Safety:** Demonstrate a commitment to cultural safety for all those involved in bylaw compliance and enforcement.

### Roles and Responsibilities

**Islands Trust Council** provides overall policy direction, approves budgets, and reviews performance through regular reporting.

**Executive Committee** provides oversight of enforcement across all local trust areas, and approving funding for litigation when requested by local trust committees.

**Local trust committees** (LTC) adopt and amend bylaws and are authorized to direct enforcement of their bylaws, ensuring that bylaws reflect community values through adoption of specific LTC enforcement policies and direction to staff on significant cases and potential litigation.

**Local Trustees** represent the interests and concerns of their constituents and may be asked to provide information to Complainants or Respondents, but are not directly involved in bylaw enforcement investigations.

**Members of the public and Complainants** are encouraged to submit accurate complaints in good faith, engage respectfully with staff, and uphold the confidentiality of enforcement processes.

**Bylaw Compliance and Enforcement Officers** (Officers) are responsible for investigating complaints, communicating clearly with Respondents, determining if there is a contravention, and applying progressive enforcement actions proportionally, with an emphasis on education and compliance.

**The Manager of Bylaw Compliance and Enforcement** (Manager) is responsible for the overall administration of the bylaw enforcement program, including supervising bylaw compliance and enforcement officers, ensuring adherence to policies and procedures, and providing expertise on complex or sensitive cases. The Manager coordinates with other departments, ensures alignment with legal and regulatory requirements, and reports on enforcement activities to senior management and elected officials.

**Senior Management** ensures staff have the resources and training needed for effective enforcement, facilitates communication among interested and affected parties, oversees adherence to policy, and reviews complaints regarding the conduct of Bylaw Compliance and Enforcement Officers.

**Planners and Regional Planning Managers** assist in the interpretation of bylaws and ensuring consistency with planning objectives. They support enforcement officers by providing information on the intent and application of bylaws, and contribute to resolving compliance issues by providing compliance options to Respondents and local trust committees.

**Legal Counsel** supports local trust committees and staff by providing legal opinions on interpretation, advice on potential litigation, and representation in cases of litigation.

#### **A. Definitions**

1. *Bylaw Notice* means a ticket, with penalty, issued under the *Local Government Bylaw Notice Enforcement Act*.
2. *Determination Letter* means written decision provided to respondents on the outcome of an investigation summarizing supporting evidence, actions to achieve voluntary compliance, consequences of non-compliance, and information on the Respondent's rights to respond or dispute the determination.
3. *Discretion in Administrative Decision-making* means the application of the power to choose between two or more possible courses of action using professional judgment and expertise
4. *Frivolous complaint* means a complaint not having any serious purpose or value, often lacking in merit.
5. *Long-form information* means a complaint sworn before a Provincial Court judge by a bylaw

compliance and enforcement officer.

6. *Notice Letter* means a written document sent to a Respondent once an investigation file is opened summarizing the potential violation and providing contact information for the assigned officer.
7. *Respondent* means those responding to allegations of bylaw contraventions.
8. *Vexatious complaint* means a complaint made for retaliatory reasons or in bad faith and intended to cause harassment, or otherwise forms part of a pattern of conduct by the Complainant that amounts to an abuse of the complaint process.

## **B. Policy**

### **1. OBJECTIVE**

- 1.1 The objective of this policy is to establish clear procedures, expectations and standards for Islands Trust's bylaw compliance and enforcement program. The goal of the bylaw compliance and enforcement program is to achieve bylaw compliance through a combination of education, mediation and enforcement techniques. Bylaw compliance is primarily sought through an attempt to achieve voluntary compliance by a commitment to corrective action as soon as reasonably possible, and the cessation of bylaw contravention.

### **2. COMMENCING INVESTIGATIONS**

- 2.1 Complaint-based investigations are commenced as follows:
  - 2.1.1 Complaints must be made in writing by email, through an on-line complaint form or portal, by mail, or delivered in-person. Staff can assist individuals who may need assistance with writing a complaint.
  - 2.1.2 Anonymous complaints are not accepted.
  - 2.1.3 Complaints meeting the definition of a frivolous, repeat, or vexatious complaint are not accepted.
  - 2.1.4 All written complaints will be acknowledged in writing by the administrative assistant within 2 to 10 business days and recorded.
- 2.2 Where a written complaint has not been received, investigations may be commenced in one or more of the following circumstances:
  - 2.2.1 By direction of a local trust committee;
  - 2.2.2 Bylaw contraventions appear to occur in setbacks from water bodies or in development permit areas;
  - 2.2.3 Bylaw contraventions appear to cause health and safety issues;
  - 2.2.4 Bylaw contraventions appear to occur as part of a building permit process or other permitting process administered by a local government or Islands Trust siting and use permit applications;
  - 2.2.5 A referral is received from a permitting agency that identifies alleged bylaw contraventions; or
  - 2.2.6 Advertising of unlawful uses.

### **3. INVESTIGATION AND PROGRESSIVE ENFORCEMENT**

- 3.1 After receiving a complaint, it will be reviewed to determine whether or not it potentially

- falls within the local trust committee's jurisdiction.
- 3.2 A complaint that does not fall within the jurisdiction of a local trust committee may be referred to another agency with jurisdiction or the Complainant may be directed to the agency with jurisdiction.
- 3.3 If a complaint involves potential impacts to cultural heritage, all First Nations with rights and title in the consultative areas database will be notified.
- 3.4 If the Manager determines that there is no potential violation, the Complainant will be informed and given the opportunity to provide more information.
- 3.5 If the Manager determines that there is a potential violation, a file is opened, and the Respondent will receive a Notice Letter, providing a summary of the issue, contact details of the assigned officer, and encouraging the Respondent to contact the officer. The Complainant will be notified that a file has been opened.
- 3.6 The Officer will investigate the potential violation, including:
- 3.6.1 Reviewing all relevant bylaws, policies, and procedures.
  - 3.6.2 Arranging a site inspection. Site inspections will be conducted in accordance with the policies in Section 4 below.
  - 3.6.3 Hearing from the Respondent and potentially from the Complainant.
  - 3.6.4 Reviewing evidence, including evidence gathered from a site inspection, the Respondent, relevant bylaws, or other sources.
  - 3.6.5 Reviewing all relevant infraction and legal history.
  - 3.6.6 Consulting with the Manager, planners, and Regional Planning Manager.
  - 3.6.7 Reporting potentially problematic, inconsistent or contentious issues to the LTC.
  - 3.6.8 Seeking legal advice where required.
- 3.7 Based on the outcome of the investigation, the officer will make a determination if there is a contravention.
- 3.8 Respondents will be notified in writing of the determination of an investigation. A Determination letter will include:
- 3.8.1 The purpose of the letter, referencing any relevant investigations or prior communications.
  - 3.8.2 The Respondent's name, address, and the property address involved.
  - 3.8.3 Specific bylaw regulation(s) violated and summarize supporting evidence, including facts and documentation.
  - 3.8.4 Outline actions to achieve voluntary compliance, along with reasonable deadlines and monitoring processes.
  - 3.8.5 Potential consequences of non-compliance and information on the Respondent's rights to respond or dispute the determination.
  - 3.8.6 The Officer's contact details and any resources to assist with compliance.
  - 3.8.7 Copies of supporting evidence.
- 3.9 A Respondent may request that a determination of a contravention be reviewed by the Manager.
- 3.10 Complainants may request a review of a file by the Manager where the investigation has determined that there is no contravention.
- 3.11 If either a Respondent or Complainant is not satisfied with the review of a determination by the Manager, a written complaint may be submitted to the Director of Planning Services. The Director may make a determination singly or in consultation with the relevant Regional Planning Manager and planner.
- 3.12 Voluntary compliance may involve a Respondent requesting time to comply; or requesting that enforcement be paused, subject to local trust committee policies, while proceeding with an application that would have a reasonable likelihood of success in legalizing the contravention.
- 3.13 Where a local trust committee has adopted a Bylaw Enforcement Notification Bylaw, and voluntarily compliance is not forthcoming within a reasonable time, or there is an

immediate threat to health or safety or the natural environment, or an LTC has adopted a relevant enforcement policy, an officer may issue a Bylaw Warning Notice or a Bylaw Violation Notice.

- 3.14 Where Bylaw Enforcement Notices have proven ineffective in achieving compliance, or where a local trust committee has not adopted a Bylaw Enforcement Notification Bylaw, or where a contravention is considered sufficiently egregious, an officer may recommend that a local trust committee undertake legal action to achieve compliance.
- 3.15 Complainants can request information about an open bylaw enforcement file at any time. The Complainant will be updated by the Bylaw Compliance and Enforcement Officer if:
  - 3.15.1 The file is put on hold, along with the reason for this action.
  - 3.15.2 The local trust committee has made a decision regarding the file.
  - 3.15.3 The file has moved to litigation at which time the identity of the Complainant may become public information.
  - 3.15.4 The file is closed.

#### **4. INVESTIGATIVE APPROACH AND CONDUCT**

- 4.1 Bylaw Compliance and Enforcement Officers, staff, and managers will uphold principles of accountability, impartiality, integrity, protection, respectfulness and service, to complement the required skills, education, and behavioral competencies listed in job profiles and within the Oath of Employment.
- 4.2 Bylaw Compliance and Enforcement Officers, staff, and managers shall develop, maintain, and apply skills such as control of non-verbal communications, active listening, and building rapport with constituents.
- 4.3 When determining the appropriate and fair investigative approach and enforcement actions, the Officer should consider each person's unique circumstances. This includes:
  - 4.3.1 Conducting investigations with an understanding of the specific context and circumstances of the individual or property owner involved.
  - 4.3.2 Respecting cultural differences, demonstrate cultural humility, provide accommodations for individuals with disabilities, and ensure accessibility for those facing language barriers during the investigative process.
  - 4.3.3 Ensuring investigations are proportionate to the nature of the complaint and violation, considering factors such as the person's ability to comply, any hardships they may face, and their willingness to cooperate.
  - 4.3.4 Exercising discretion when determining the scope and approach to an investigation, providing flexibility such as extended timelines or alternative solutions when warranted by an individual's circumstances.
  - 4.3.5 Ensuring investigations will be free from bias or discrimination based on race, gender, age, disability, socio-economic status, or other protected characteristics.

#### **5. SITE INSPECTIONS**

- 5.1 **Entry with Notice:** When entry onto private property is required to investigate a bylaw complaint, officers will provide prior written notice to the property owner or occupier, except in cases described below. Notice will include the purpose of the visit, applicable authority under provincial legislation, bylaws and policies, and proposed timing consistent with legislation, bylaws, and policies adopted by the local trust committee.

Entry will occur only during reasonable hours, with efforts to minimize disruption and ensure respect for the property and its occupants. Investigations will focus exclusively on the specific alleged bylaw contraventions outlined in the complaint unless other observations pose an immediate risk to public health, safety, or the environment.

Officers should answer reasonable questions related to the purpose of the visit and the bylaw complaint investigation process.

- 5.2 **Entry without Notice:** In exceptional circumstances, where prior notice is not feasible or where immediate entry is required to address urgent concerns about health, safety, or the environment, officers may enter property as authorized under the *Local Government Act*. Officers will document the justification for entry without notice, specifying the urgency and applicable legal authority, and will notify the property owner or occupier as soon as practicable following the visit.
- 5.3 **Legal Compliance and Fairness:** Property entries will comply with the *Charter of Rights and Freedoms*, applicable provincial legislation, and local trust committee bylaws and policies. To ensure fairness, investigations will be limited to the specific subject matter of the complaint except where the officer observes issues that pose a risk to health, safety or the environment.
- 5.4 **Documentation:** Bylaw Compliance and Enforcement Officers will maintain records of all property entries, including notice provided (or reasons for its omission), observations made, and actions taken.
- 5.5 **Reasonableness and Accountability:** Property entry practices will aim to balance enforcement needs with respect for individual privacy and property rights. Officers will act reasonably and proportionately, prioritizing voluntary compliance and education wherever possible.

## 6. CLOSING INVESTIGATIONS

- 6.1 Bylaw investigation files will be closed in the following circumstances:
  - 6.1.1 It is determined that no contravention exists;
  - 6.1.2 Compliance has been achieved;
  - 6.1.3 On direction of a local trust committee; or
  - 6.1.4 If the Director of Planning Services concurs with the Manager that the contravention is of a minor nature, impacts are minimal, or it is not in the public interest to enforce.
  - 6.1.5 Complainants may request that the closing of a file be reviewed by another Bylaw Compliance and Enforcement Officer or the Manager.
- 6.2 Respondents, Complainants and the local trust committee will be notified in writing when a file has been closed and the reason for closing the file.
- 6.3 Bylaw investigation files will not be reopened once closed. If a similar complaint is made a new investigation will be commenced.

## 7. PRIORITY OF INVESTIGATION

- 7.1 As bylaw enforcement resources are limited, investigations will be prioritized as follows:
  - 7.1.1 By specific direction of a local trust committee;
  - 7.1.2 Where there are health and safety concerns;
  - 7.1.3 Where adverse environmental impact that could result in irreversible damage if not prevented in a timely fashion; and
  - 7.1.4 Other contraventions of land use bylaws and other bylaws.

## 8. VOLUNTARY COMPLIANCE AND MEDIATION

- 8.1 Efforts to gain compliance should be conducted using the principles and techniques employed in mediation in a process to:
  - 8.1.1 Provide full information and exchange of information;
  - 8.1.2 Confirm facts;
  - 8.1.3 Explore opportunities for compliance;
  - 8.1.4 Negotiate a timeline for compliance;
  - 8.1.5 Reach compliance solutions.

## **9. REVIEWING THE CONDUCT OF BYLAW COMPLIANCE AND ENFORCEMENT OFFICERS**

- 9.1 A person concerned about the conduct of a Bylaw Compliance and Enforcement Officer, who is unable to resolve the concern with the officer or informally with the Manager, may submit a written complaint to the Manager.
- 9.2 If the person is not satisfied with the response of the Manager, or the complaint involves the Manager, a review may be requested by submitting a request in writing to the Director of Planning Services.
- 9.3 Complaints may be submitted by email or mail, setting out the issue or concern, providing any evidence, and any remedies requested. Complaints will be recorded, and confidentiality and privacy protected.
- 9.4 Written complaints will be acknowledged within 10 business days, and acknowledgements will include information about who will be reviewing the complaint, contact information, a summary of the review process, and an estimated timeline.
- 9.5 Complaints will receive a preliminary assessment, the reviewing staff person will contact the Complainant to obtain any additional information, and seek early resolution where possible.
- 9.6 Assessment of complaints will be guided by principles of administrative fairness, as outlined in Policy 7.1.1 (Administrative Fairness Principles) and be conducted in a fair, timely and impartial manner.
- 9.7 Investigation of complaints should: define the issue or concern, gather evidence, maintain confidentiality, notify all affected persons, hear from all relevant persons, adhere to a timeline, and include an assessment of any risks. All steps in the investigation shall be documented, including all evidence gathered and considered.
- 9.8 The staff member conducting the investigation shall provide a written summary of the issues raised by the Complainant, how the investigation was conducted, the evidence considered, analysis in the context of standards and policies, the conclusion, reasons for the conclusion, and any actions taken or proposed to be taken.
- 9.9 The Complainant should be given an opportunity to comment on preliminary conclusions, and be given any information about appeal of the conclusions.
- 9.10 The written summary and conclusions shall be provided to the Complainant, affected staff member(s), and shall be filed.

- 9.11 Resolution of complaints may include:
  - 9.11.1 A more detailed explanation of the officer's actions;
  - 9.11.2 Reconsideration of a decision, cancellation of a penalty, or closing of a file;
  - 9.11.3 Recommended changes to policies and procedures;
  - 9.11.4 Acknowledgement of an error and an apology; and
  - 9.11.5 A conclusion that the officer's conduct was proper.
- 9.12 If the Respondent is not satisfied with the Director's response, a formal administrative fairness complaint may be submitted under the Islands Trust 'Handling of Administrative Fairness Complaints' policy.
- 9.13 The Director may determine that a person who makes repeated, unfounded and vexatious complaints about the conduct of an officer or Manager be notified that no further submissions will be accepted from them on the subject of a specific investigation, and will be directed to other avenues, including but not limited to, the Office of the Ombudsperson.

## **10. BYLAW ENFORCEMENT NOTICES AND DISPUTE ADJUDICATION**

- 10.1 Local trust committees wishing to establish a Bylaw Enforcement Notice and Dispute Adjudication system must adopt a Bylaw Enforcement Notification (BEN) Bylaw which:
  - 10.1.1 Designates the bylaw contraventions that may be dealt with by a bylaw notice;
  - 10.1.2 Establishes the amount of the administrative penalty for each contravention;
  - 10.1.3 Sets the period within which a recipient may pay the administrative penalty or dispute a bylaw notice/request a review;
  - 10.1.4 Establishes a bylaw notice dispute adjudication system; and
  - 10.1.5 Establishes and designates screening officers.

## **11. LEGAL ACTION**

- 11.1 If a bylaw contravention does not cease or if compliance is not achieved, a Bylaw Compliance and Enforcement Officer may make recommendations to the local trust committee, including taking civil action or closing the investigation without compliance.
- 11.2 Immediate legal action may be recommended to local trust committees if impacts of a bylaw contravention pose serious risk to persons or the environment.
- 11.3 *Offence Act* prosecutions may be recommended to a local trust committee under the following conditions:
  - 11.3.1 Offence Act prosecutions are to be used only for serious land use permit contraventions;
  - 11.3.2 A long-form information may be sworn only after approval by a local trust committee;
  - 11.3.3 Executive Committee has approved legal funding for the prosecution; and
  - 11.3.4 The long-form information has been reviewed and prepared by legal counsel.

## **12. LOCAL TRUST COMMITTEE ENFORCEMENT POLICIES**

- 12.1 Local trust committees may adopt discretionary enforcement policies or procedures applying within a Local Trust Area. LTC policies should be consistent with Trust Council Policy and the legislated authority of the LTC. In adopting an enforcement policy, an LTC

should consider the following:

- 12.1.1 Prioritizing or deferring enforcement based on scarce resources, the impacts of certain types of contraventions, and community priorities;
- 12.1.2 Establishing procedures and timing for property inspections, with LTCs defining the notice period;
- 12.1.3 Enforcement of types of contraventions without complaint;
- 12.1.4 The length of time for Respondents to comply, timing for issuing of Bylaw Warning Notices, and timing for issuance of Bylaw Violation Notices;
- 12.1.5 Discretion in closing files, including the nature and urgency of the complaint or alleged contravention, the circumstances of the Respondent, and the impact of the contravention on the Complainant and community;
- 12.1.6 Regular reporting to the LTC on open files; and
- 12.1.7 Communications between trustees and the Manager.

### **13. BYLAW NOTICE DEBT**

- 13.1 Debts incurred as the result of default on bylaw notices are payable to Trust Council and they may be cancelled if the Director of Planning Services and the Manager of Bylaw Compliance and Enforcement concur that contraventions on the subject property no longer exist, and/or it is not in the interest of Islands Trust to pursue the debt.

### **14. CONFIDENTIALITY**

- 14.1 Information in regards to a Complainant is kept confidential. However, confidentiality cannot be guaranteed should litigation proceed or where a request for information is received under the *Freedom of Information and Protection of Privacy Act*.

### **15. FRIVOLOUS, REPEAT, OR VEXATIOUS COMPLAINTS**

- 15.1 A complaint that is made in bad faith or for vexatious and retaliatory purposes may not be acted upon if the Director of Planning Services and the Manager of Bylaw Compliance and Enforcement concur that it meets the definition of a vexatious complaint.
- 15.2 Complaints that form a pattern of conduct by a Complainant that amounts to an abuse of the complaint process may not be acted upon.
- 15.3 The Manager may refuse to open a file for a complaint considered to be frivolous or repeat complaint about the same issue.
- 15.4 In any of the above instances, the Complainant will be notified that no further submissions will be accepted from them on the subject of the complaint, the reason for it, may be advised of the circumstances under which it may be reconsidered, and that this does not prevent the Complainant from making complaints on different matters.

### **16. LOCAL TRUST COMMITTEES, TRUST COUNCIL, AND TRUSTEES ROLES**

- 16.1 The local trust committee will be notified when a bylaw investigation file is opened, the notification will include the type of contravention and the street name where it is alleged to be occurring, but the name and address of the Complainant and alleged violator will not be included in the notification.

- 16.2 Local trust committees will be notified when a bylaw investigation file has been closed.
- 16.3 Trustees may make a written complaint alleging a bylaw contravention.
- 16.4 Local trust committees and trustees will not be involved in the investigation of a complaint, the preparation of bylaw enforcement reports, the issuance of Bylaw Notices, or in the adjudication process.
- 16.5 Local trust committees may request reports about specific investigations or about general enforcement activity in the Local Trust Area.
- 16.6 Trust Council will be informed of the volume and type of bylaw enforcement files bi-annually.

**17. BEST PRACTICES MANUAL**

- 17.1 The Manager of Bylaw Compliance and Enforcement will maintain a public Best Practices Manual that outlines practices, processes and procedures in accordance with the administrative fairness principles outlined in the BC Ombudsperson's report ["Bylaw Enforcement: Best Practices Guide for Local Governments"](#), March, 2016 or in subsequent updated versions of the same reference material.

**C. Legislated References**

1. [Islands Trust Act](#)
2. [Local Government Act](#)
3. [Offence Act](#)

**D. Attachments/Links to Supporting Forms, Documents, Websites, Related Policies and Procedures**

- Local Trust Committee Bylaw Compliance and Enforcement Policy Template ([attached](#))
- [BC Ombudsperson's report "Bylaw Enforcement: Best Practices Guide for Local Governments", March, 2016](#)
- [Best Practices Manual](#)
- [BC Local Government Bylaws>Bylaw Enforcement](#)
- Local Trust Committee Compliance and Enforcement Policy Template