



<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: September X, 2024
<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 Committees' Bylaws.

### A. Definitions

1. *Long-form information* means a complaint sworn before a Provincial Court judge by a bylaw compliance and enforcement officer
2. *Vexatious complaint* means frivolous, repeat or false complaints, or ones made in bad faith that are meant to harass, annoy, or irritate any person, or are for retaliatory purposes
3. *Respondent* means those responding to allegations of bylaw contraventions
4. *Bylaw Notice* means a ticket, with penalty, issued under the *Local Government Bylaw Notice Enforcement Act*.

### B. Policy

#### 1. COMPLIANCE

- 1.1 Compliance is sought through a combination of education, mediation and enforcement techniques. Bylaw compliance is primarily sought through an attempt to achieve voluntary compliance. Voluntary compliance is indicated by a commitment to corrective action as soon as reasonably possible and the cessation of unlawful activity.

#### 2. BEST PRACTICES MANUAL

- 2.1 The Manager of Bylaw Compliance and Enforcement will maintain a best practices manual in accordance with the administrative fairness principles outlined in the BC Ombudsperson's report "[Bylaw Enforcement: Best Practices Guide for Local Governments](#)", March, 2016.

#### 3. COMMENCING INVESTIGATIONS

- 3.1 Investigations are commenced on a complaint-basis, with the exception provided below.
- 3.2 Bylaw investigations may be commenced at the discretion of the Manager of Bylaw Compliance and Enforcement and an investigation file opened in one or more of the

following circumstances:

- 3.2.1 In response to written complaints of an alleged contravention made by any person that is within the jurisdiction of Islands Trust and that is not vexatious nor anonymous;
  - 3.2.2 Bylaw contraventions appear to occur in setbacks from water bodies or in development permit areas;
  - 3.2.3 Bylaw contraventions appear to cause health and safety issues;
  - 3.2.4 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;
  - 3.2.5 A referral is received from a permitting agency that identifies alleged land use bylaw contraventions;
  - 3.2.6 Advertising of unlawful uses; or
  - 3.2.7 Local Trust Committee directs staff to commence an investigation.
- 3.3 Respondents and complainants will be notified in writing if an investigation has been commenced and they will be notified in writing of the determination of an investigation.
- 3.4 Respondents may request that a determination of a contravention be reviewed by the Manager of Bylaw Compliance and Enforcement.
- 3.5 Complainants may request the Director of Planning Services to review a file if no contravention has been determined by the Manager of Bylaw Compliance and Enforcement.

#### **4. CLOSING INVESTIGATIONS**

- 4.1 Bylaw investigation files can be closed, and notice will be given, in the following circumstances:
- 4.1.1 If no contravention existed;
  - 4.1.2 If compliance has been achieved;
  - 4.1.3 On direction of a Local Trust Committee;
  - 4.1.4 If the Director of Planning Services concurs with the Manager of Bylaw Compliance and Enforcement that the contravention is of a minor character and does not suit the public interest to enforce.
  - 4.1.5 Complainants may request that a closing of a file be reviewed by the Manager of Bylaw Compliance and Enforcement.
- 4.2 Respondents and complainants will be notified in writing when a file has been closed.

#### **5. PRIORITY OF INVESTIGATION**

- 5.1 The workload for bylaw investigations will be prioritized as follows:
- 5.1.1 Health and safety issues;
  - 5.1.2 Adverse environmental impact that could result in irreversible damage if not prevented in a timely fashion;
  - 5.1.3 Contraventions of land use bylaws and other bylaws.
  - 5.1.4 By specific direction of a Local Trust Committee;

#### **6. MEDIATION**

- 6.1 Efforts to gain compliance should be conducted using the principles and techniques employed in mediation.

- 6.2 Persons alleged to have committed contraventions and complainants may be invited by staff to participate in a process designed to:
  - 6.2.1 Provide full information and exchange of information;
  - 6.2.2 Confirm facts;
  - 6.2.3 Explore opportunities for compliance;
  - 6.2.4 Negotiate a timeline for compliance;
  - 6.2.5 Reach compliance solutions.

## **7. LEGAL ACTION**

- 7.1 If unlawful activity does not cease or if compliance is not achieved, a Bylaw Compliance and Enforcement Officer may make recommendations to the Local Trust Committee on how to proceed, including taking civil action or closing the investigation without compliance.
- 7.2 Immediate legal action may be recommended to Local Trust Committees if impacts of unlawful activity risk serious harm to persons or the environment.

*Offence Act* prosecutions may be recommended to the Local Trust Committees under the following conditions:

- 7.2.1 Offence Act prosecutions are to be used only for serious land use permit contraventions.
- 7.2.2 A long-form information may be sworn only after approval by a local trust committee; and
- 7.2.3 Executive Committee has approved legal funding for the prosecution; and
- 7.2.4 The long-form information has been reviewed and prepared by legal counsel.

## **8. USE OF DISCRETION**

- 8.1 Local Trust Committees may adopt discretionary enforcement policies using the following guidelines:
  - 8.1.1 The nature and urgency of the complaint or alleged contravention.
  - 8.1.2 The impact of the contravention on the complainant and community.
  - 8.1.3 Previous decisions or legal precedents on similar complaints.
  - 8.1.4 The matter appears to be a civil dispute, frivolous or vexatious in nature (see policy 11.0).
  - 8.1.5 The impact of the contravention on the complainant or other persons.
  - 8.1.6 The impact of the complaint or alleged contravention on public health, safety, or the environment.
  - 8.1.7 There are limited resources available to resolve the matter.

## **9. BYLAW NOTICE DEBT**

- 9.1 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 it is not in the interest of Islands Trust to pursue the debt.

## **10. CONFIDENTIALITY**

10.1 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*.

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

11.1 Investigations and Enforcement Files may not be opened if a complaint is considered vexatious.

11.2 Persons may be declared vexatious complainants if the Director of Planning Services and the Manager of Bylaw Compliance and Enforcement concur and the vexatious complainant will be advised that no further submissions will be accepted from them.

## **12. LOCAL TRUST COMMITTEES, TRUST COUNCIL, AND TRUSTEES**

12.1 Trustees will be immediately advised when a bylaw investigation file is opened indicating the type and area where the contravention is alleged to occur but names and addresses of the complainant and alleged violator will not be shared.

12.2 Local Trust Committees will be advised of when a bylaw investigation file has been closed.

12.3 Trustees may make a written complaint alleging a bylaw contravention.

12.4 Local Trust Committees and trustees will not be involved in the investigation of a complaint or the preparation of bylaw enforcement reports.

12.5 Local Trust Committees may make bylaw enforcement policies to direct compliance and enforcement.

12.6 Local Trust Committees may request reports about specific investigations or about general enforcement activity in the Local Trust Area.

12.7 Trust Council will be informed of the volume and type of bylaw enforcement files bi-annually.

## **C. Legislated References**

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

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

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