



<b>Policy:</b>	5.5.1
<b>Approved By:</b>	Trust Council
<b>Approval Date:</b>	March 11, 1995
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<b>Policy Holder:</b>	Director of Local 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

### 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 Bylaw Compliance and Enforcement Manager will maintain a best practices operating 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 Bylaw investigations may be commenced and an investigation file opened in one or more of the following circumstances:
  - 3.1.1 in response to written complaints of an alleged contravention made by any person;
  - 3.1.2 bylaw contraventions appear to occur in setbacks from water bodies or in development permit areas;
  - 3.1.3 bylaw contraventions appear to cause health and safety issues;
  - 3.1.4 bylaw contraventions appear to occur as part of a building permit process or other permitting process administered by a local government or the

- Islands Trust;
- 3.1.5 a referral is received from a permitting agency that identifies alleged land use bylaw contraventions associated with the permit request;
- 3.1.6 advertisements exist for apparently unlawful uses;
- 3.1.7 a Local Trust Committee directs staff to commence an investigation.

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

- 4.1 Bylaw investigation files can be closed in one or more of 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 Local Planning Services concurs with the Bylaw Compliance and Enforcement Manager that the contravention is of a minor character and does not suit the public interest to enforce.

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

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

#### **6. MEDIATION**

- 6.1 Bylaw investigation 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 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 a compliance solution.

#### **7. LEGAL ACTION**

- 7.1 If unlawful activity does not cease or if compliance is not achieved, a bylaw enforcement officer may:
  - 7.1.1 issue a bylaw violation notice; or
  - 7.1.2 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 or bylaw violation notices issued if impacts of unlawful activity risk serious harm to persons or the environment.
- 7.3 Offence Act prosecutions may be recommended to the Local Trust Committees under

the following conditions:

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

## **8. BYLAW NOTICE DEBT**

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

## **9. CONFIDENTIALITY**

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

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

- 10.1 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 communicated.
- 10.2 Trustees may make a written complaint alleging a bylaw contravention.
- 10.3 Local Trust Committees and trustees are not to be involved in the investigation of a complaint or the preparation of bylaw enforcement reports.
- 10.4 Local Trust Committees may make bylaw enforcement policies to direct compliance and enforcement in regards to specific issues.
- 10.5 Local Trust Committees may request reports about specific investigations or about general enforcement activity in the Local Trust Area.
- 10.6 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](#)
- [BC Local Government Bylaws>Bylaw Enforcement](#)