

Denman Island Local Trust Committee Compliance and Bylaw Enforcement Policy

Bylaw Enforcement Policy No. 1, effective June 4, 2024

Bylaw Enforcement Policy No. 1, Amendment 1, adopted March 17, 2026.

Purpose

To establish policies and procedures for bylaw enforcement in the Denman Island Local Trust Area in accordance with the adopted Trust Council Policies contained in Policy 5.5.1., 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.

PART A

1.0 Application

This policy will apply to the Denman Island Local Trust Area and the enforcement of the Denman Island Official Community Plan, No. 185, Denman Island Land Use Bylaw No. 186, and the Denman Island Local Trust Committee Siting and Use Permit Bylaw No. 240, and the use of the Denman Island Local Trust Committee Bylaw Enforcement Notification Bylaw No. 232.

2.0 Definitions & Abbreviations

BEN – bylaw enforcement notice

LUB – Land Use Bylaw

LTC – Local Trust Committee

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

SUP – siting and use permit

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

3.0 References

Denman Island Land Use Bylaw No. 186

Denman Island Siting and Use Permit NO. 240

Denman Island Bylaw Notice Enforcement Bylaw No. 232

4.0 Priorities

- 4.1** Enforcement on short-term vacation rentals that have no resident owner or operator on the property are a priority and proactive enforcement is authorized.
- 4.2** Enforcement on non-compliant dwellings will be deferred unless there are contraventions in development permit areas, or other environmentally sensitive areas, or there are concerns about health and safety, or the lack of an approved septic system.

5.0 Inspection

- 5.1** 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.
- 5.2** 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.
- 5.3** If a Respondent provides photographic evidence, a survey, or a professional report that confirms compliance, a site inspection is not required.
- 5.4** Bylaw Enforcement Officers will give a minimum of 24 hours notice before conducting a site inspection to gather evidence and they will schedule a mutually agreeable time with the property owner.
- 5.5** If a Respondent has not replied to a notice letter from Bylaw Enforcement regarding arranging a time for a site inspection, or they will not agree to a mutually agreeable time, notice of inspection can be given at the door. There will be no site inspection or gathering of evidence when notice is given at the door.
- 5.6** If Bylaw Enforcement Officers have contact with neighbouring property owners while investigating a complaint, they will advise them of the reason for the contact and that they are not subject to complaint or investigation, and that they are not collecting evidence.
- 5.7** If Bylaw Enforcement Officers discover a bylaw contravention on a neighbouring property during an investigation, and proactive enforcement is authorized for that contravention by either Trust Council Policy, or LTC Enforcement Policy, they will advise the property owner that a file may be opened and that they will receive written notice if a file is opened.

6.0 Enforcement Procedures

- 6.1** If a bylaw contravention is confirmed, there will be notice in writing, and Respondents will be given a minimum of 90 days to comply with the relevant bylaw.
- 6.2** Non-compliant short-term vacation rentals will be given a minimum of 45 days to comply with the Land Use Bylaw or cease the use. Failure to comply will result in the issuance of Bylaw Violation Notices.
- 6.3** 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.
- 6.4** 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.

- 6.5** 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 the feasibility of such an application.
- 6.6** If there is no agreement on time to comply, a Respondent will be provided written notice that enforcement action will be escalated with reporting to the LTC and this may include a request for legal action or the use of the BEN.

7.0 Closing Files

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

8.0 Siting and Use Permits

- 8.1** If buildings or structures are discovered during an investigation that do not have a SUP, but the construction is more than 25 years old, enforcement should not proceed unless there are contraventions in environmentally sensitive areas, development permit areas, or there are health and safety concerns.
- 8.2** If new construction is discovered without a written complaint, a file should be opened to investigate, and enforcement should proceed if a SUP is required.

9.0 Communications

- 9.1** When a file is opened, Respondents will be advised of the Trust Council Policy that authorized the opening of the file, and if they are subject to proactive enforcement.
- 9.2** Respondents will receive as much information about complaints against their properties as possible without revealing the identity of the complainant.

9.3 The Manager of Compliance and Enforcement will communicate with Trustees or the LTC if there are questions or concerns regarding individual files.

10.0 Reporting

10.1 The LTC will receive regular reporting for 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 Compliance and Enforcement will report to the LTC any concerns, trends, or issues with enforcement on Denman Island that they believe the LTC needs to be aware of.

10.3 The Manager of Compliance and Enforcement will maintain the Denman Island Bylaw Compliance and Enforcement Policy and will report to the LTC if amendments are recommended or required.

PART B

Bylaw Enforcement Notice Bylaw Screening Officer's Powers and Duties Policy

Appointment of Screening Officers

Pursuant to section 7.2 of the *Denman Island Local Trust Committee Bylaw Enforcement Notification Bylaw, 2019*, (the Bylaw) the persons holding the following positions are appointed as screening officers:

- 1) Regional Planning Manager;
- 2) Bylaw Compliance and Enforcement Manager; and
- 3) Bylaw Compliance and Enforcement Assistant.

Screening Officer Powers and Duties

The powers and duties of the screening officer are contained in section 7.3 of the Bylaw. It is the direction of the Denman Island Local Trust Committee (LTC) that these powers and duties are only exercised in respect to each of the above positions as follows:

- 1) Regional Planning Manager. In respect to Bylaw Violation Notices issued by any Bylaw Officer, including the Manager of Bylaw Compliance and Enforcement, the Regional Planning Manger, acting as Screening Officer, may exercise all of the powers and duties in Section 7.3 of the Bylaw;
- 2) Bylaw Compliance and Enforcement Manager. In respect to Bylaw Violation Notices issued by Bylaw Compliance and Enforcement Officers, only the Bylaw Compliance and Enforcement Manager, acting as Screening Officer, may exercise all of the powers and duties in Section 7.3 of the Bylaw;
- 3) Bylaw Compliance and Enforcement Assistant. In respect to Bylaw Violation Notices issued by the Bylaw Compliance and Enforcement Manager and Bylaw Compliance and Enforcement Officers, the

Bylaw Compliance and Enforcement Assistant, acting as Screening Officer, may exercise only those powers and duties in Section 7.3(1) and 7.3(2) of the Bylaw.

Authorized Reasons to Cancel Bylaw Violation Notices

The Screening Officer may cancel a Bylaw Violation Notice if satisfied that one or more of the following reasons exist:

1. Voluntary compliance has been achieved.
2. The Bylaw Violation Notice was issued to the wrong person;
3. The Bylaw Violation Notice was not completed properly.
4. It is unreasonable for the person to pay the penalty;
5. An exception specified in the bylaw or related enactment or LTC Standing Resolution exists;
6. A permit exists or has been obtained that authorises the alleged contravention;
7. There is poor likelihood of success at adjudication for the Local Trust Committee the following reasons:
 - a. The evidence is inadequate to show a contravention;
 - b. Incorrect information was relied on in issuing the Bylaw Violation Notice;
 - c. The disputant intends to challenge the bylaw with a legal argument that is ill suited to the adjudication process or the legal arguments are too complicated to be decided by an adjudicator.
8. It is not in the public interest to proceed to adjudication for one of the following reasons:
 - a. The bylaw has changed since the Bylaw Violation Notice was issued and now authorizes the contravention;
 - b. An LTC resolution has deferred enforcement on the specific contravention;
 - c. The LTC has closed the file.
 - d. The offence occurred because of a circumstance that made it unreasonable for the person to comply with the bylaw.