

**EXECUTIVE COMMITTEE ACTING AS A LOCAL TRUST COMMITTEE
(BALLENAS-WINCHELSEA ISLANDS)
BYLAW NO. 34, 2018**

**A BYLAW IN RESPECT TO THE ENFORCEMENT OF BYLAW NOTICES WITHIN THE EXECUTIVE COMMITTEE
ACTING AS A LOCAL TRUST COMMITTEE (BALLENAS-WINCHELSEA ISLANDS) LOCAL TRUST AREA**

WHEREAS the Executive Committee Acting as a Local Trust Committee is the Local Trust Committee having jurisdiction on and in respect of the Executive Committee Acting as a Local Trust Committee Local Trust Area, pursuant to the *Islands Trust Act*; and

WHEREAS the Executive Committee Acting as a Local Trust Committee wishes to regulate the Enforcement of Bylaw Notices in the Executive Committee Acting as a Local Trust Committee Local Trust Area;

NOW THEREFORE the Executive Committee Acting as a Local Trust Committee enacts, in open meeting assembled, as follows:

Citation

1. This Bylaw may be cited as “Islands Trust Executive Committee Acting as a Local Trust Committee Bylaw Enforcement Notification Bylaw No. 34, 2018”.

1.0 INTERPRETATION

In this Bylaw:

- 1.1 “Act” means the *Local Government Bylaw Notice Enforcement Act*, SBC 2003, c 60.
- 1.2 “Registry” means the Islands Trust established pursuant to section 6 of this bylaw.
- 1.3 “LTC” means the Executive Committee Acting as a Local Trust Committee.

2.0 DEFINITIONS

The terms in this bylaw have the same meaning as the terms defined in the *Act*.

3.0 BYLAW CONTRAVENTIONS

The bylaws and bylaw contraventions designated in Schedule “A” attached to this bylaw may be dealt with by Bylaw Violation Notice.

4.0 PENALTY

The penalty for a contravention referred to in Section 3 is as follows:

- (1) subject to paragraphs (2) to (4), is the Penalty amount set out in column A1 of Schedule “A” as attached to this bylaw;
- (2) if received by the Islands Trust within 14 days of the person receiving or being presumed to have received the bylaw violation notice, is the Early Payment Penalty Amount set out in column A2 of Schedule “A” as attached to this bylaw applies;

- (3) if more than 28 days after the person has received or is presumed to have received the bylaw violation notice, is subject to a late payment surcharge in addition to the penalty under paragraph (1), and is the Late Payment Penalty Amount set out in column A3 of Schedule "A" as attached to this bylaw or
- (4) if paid under a compliance agreement, may be reduced as provided under column A5 of Schedule "A" as attached to this bylaw.

5.0 PERIOD FOR PAYING OR DISPUTING NOTICE

5.1 A person who receives a bylaw violation notice must, within 14 days of the date on which the person received or is presumed to have received the bylaw violation notice,

- (1) pay the penalty, or
- (2) request dispute adjudication

by filling in the appropriate portion of the bylaw violation notice indicating either a payment or a dispute and delivering it, either in person during regular office hours, or by mail, to the Islands Trust as directed on the bylaw violation notice.

5.2 A person may pay the indicated penalty after 14 days of receiving the notice subject to the applicable surcharge for late payment in accordance with Section 4(3) of this bylaw, but no person may dispute the bylaw violation notice after 14 days of receiving it.

5.3 Where a person was not served personally with a bylaw violation notice and advises the Islands Trust that they did not receive a copy of the original notice, the time limits for responding to a bylaw violation notice under Sections 5, 6 and 7 of this bylaw do not begin to run until a copy of the bylaw violation notice is re-delivered to them in accordance with the *Act*.

6.0 BYLAW NOTICE DISPUTE ADJUDICATION SYSTEM

6.1 The Registry is established as a bylaw violation notice dispute adjudication system in accordance with the *Act* to resolve disputes in relation to bylaw violation notices.

6.2 The civic address of the Registry is Suite 200 – 1627 Fort Street, Victoria, BC V8R 1H8.

6.3 Every person who is unsuccessful in dispute adjudication in relation to a bylaw violation notice or a compliance agreement under the dispute adjudication system established under this Section, must pay the Islands Trust an additional fee of \$25.00 for the purpose of the Islands Trust recovering the costs of the adjudication system.

7.0 SCREENING OFFICERS

7.1 The position of screening officer is established.

7.2 The following are designated classes of person that may be appointed as screening officers:

- (1) Regional Planning Manager;
- (2) Bylaw Enforcement Manager;
- (3) Bylaw Enforcement Officer;
- (4) Bylaw Enforcement Assistant;

and the LTC may appoint screening officers from these classes of persons by name of office or otherwise.

7.3 The powers, duties and functions of screening officers are as set out in the *Act*, and include the following powers:

- (1) Where requested by the person against whom a contravention is alleged, to communicate information respecting the nature of the contravention, the provision of the bylaw contravened, the facts on which the contravention allegation is based, the penalty for a contravention, the opportunity to enter into a compliance agreement, the opportunity to proceed to the bylaw violation notice dispute adjudication system and the fee or fees payable in relation to the bylaw violation notice enforcement process;
- (2) To communicate with any or all of the following for the purposes of performing their functions under this bylaw or the *Act*:
 - (a) the person against whom a contravention is alleged or their representative;
 - (b) the officer issuing the bylaw violation notice;
 - (c) the complainant or their representative;
 - (d) the Islands Trust staff and record regarding the disputant's history of bylaw compliance.
- (3) To prepare and enter into compliance agreements under the *Act* with persons who dispute bylaw violation notices, including to establish terms and conditions for compliance that the screening officer considers necessary or advisable, including time periods for payment of penalties and compliance with the bylaw;
- (4) To provide for payment of a reduced penalty if a compliance agreement is entered into as provided in column A5 of Schedule "A" as attached to this bylaw; and
- (5) To cancel bylaw violation notices in accordance with the *Act* or LTC policies and guidelines.

7.4 The bylaw contraventions in relation to which a screening officer may enter into a compliance agreement are indicated in column A4 of Schedule "A" as attached to this bylaw.

7.5 The maximum duration of a compliance agreement is one year.

8.0 BYLAW ENFORCEMENT OFFICERS

Persons acting as any of the following are designated as bylaw enforcement officers for the purposes of this bylaw and the *Act*:

- (a) Bylaw Enforcement Manager;
- (b) Bylaw Enforcement Officer.

9.0 FORM OF BYLAW VIOLATION NOTICE

The LTC may, from time to time, stipulate the form or forms of the bylaw violation notice provided the bylaw violation notice complies with Section 4 of the *Act*.

10.0 SCHEDULES

The following schedule is attached to and forms part of this bylaw:

(a) Schedule A – Executive Committee Acting as a Local Trust Committee Ballenas-Winchelsea Islands Land Use Bylaw No. 28, 2013 Contraventions and Penalties.

READ A FIRST TIME THIS 12TH DAY OF DECEMBER , 2018

READ A SECOND TIME THIS 12TH DAY OF DECEMBER , 2018

READ A THIRD TIME THIS 12TH DAY OF DECEMBER , 2018

APPROVED BY THE EXECUTIVE COMMITTEE OF THE ISLANDS TRUST THIS
15TH DAY OF JANUARY , 2019

ADOPTED THIS 23RD DAY OF JANUARY , 2019

SECRETARY

CHAIR

Schedule A
EXECUTIVE COMMITTEE ACTING AS A LOCAL TRUST COMMITTEE
(BALLENAS-WINCHELSEA ISLANDS)
BALLENAS-WINCHELSEA ISLANDS LAND USE BYLAW NO. 28, 2013
CONTRAVENTIONS AND PENALTIES

Bylaw Section	Description The following fines apply To the contraventions below:	A1 Penalty Amount	A2 Early Payment Penalty Amount (within 14 days)	A3 Late Payment Penalty Amount (after 28 days)	A4 Compliance Agreement Available	A5 Compliance Agreement Discount
3.1	Non Permitted Use/Building/Structure	\$500.00	\$375.00	\$750.00	Yes	100%
3.2(1)	Non Permitted Junkyard, Auto-wrecking and/or Storage of Derelict Vehicles	\$500.00	\$375.00	\$750.00	Yes	100%
3.2(2)	Disposal/Storage Of Hazardous Or Toxic Waste	\$500.00	\$375.00	\$750.00	Yes	100%
3.2(3)	Non Permitted Sale of Commercial Storage of Personal Watercraft Breakwater	\$350.00	\$262.50	\$525.00	Yes	100%
3.2(4)	Non Permitted Residential Use Of Vessel	\$500.00	\$375.00	\$750.00	Yes	100%
3.2(5)	Non Permitted Finfish Aquaculture	\$500.00	\$375.00	\$750.00	Yes	100%
3.2(6)	Non Permitted Structure Connecting Any Island To Another Island Or Mainland	\$500.00	\$375.00	\$750.00	Yes	100%
3.2(7)	Non Permitted Water Utility Lines Connecting Any Island to Another Island or Mainland	\$500.00	\$375.00	\$750.00	Yes	100%
3.2(8)	Non Permitted Marinas	\$500.00	\$375.00	\$750.00	Yes	100%
3.2(9)	Non Permitted Wind Generators	\$350.00	\$262.50	\$525.00	Yes	100%
3.2(10)	Non Permitted Dog Breeding and Boarding Kennels	\$350.00	\$262.50	\$525.00	Yes	100%
3.2(11)	Non Permitted Storage of Unusable, Stripped, Non-functional or Abandoned Vehicles, Vessels, Trailers or Campers	\$350.00	\$262.50	\$525.00	Yes	100%
3.2(12)	Non Permitted Commercial Uses	\$500.00	\$375.00	\$750.00	Yes	100%
3.2(13)	Non Permitted Industrial Uses	\$500.00	\$375.00	\$750.00	Yes	100%
3.3(2)	Non Permitted Building/Structure Encroaching in Setback	\$350.00	\$262.50	\$525.00	Yes	100%

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3.3(3)	Non Permitted Building/Structure Encroaching Setback From the Sea	\$350.00	\$262.50	\$525.00	Yes	100%
3.3(4)	Non Permitted Building/Structure Encroaching Setback From Any Natural Watercourse or Wetland	\$350.00	\$262.50	\$525.00	Yes	100%
3.4(1)	Dwelling Exceeding Maximum Permitted Height	\$350.00	\$262.50	\$525.00	Yes	100%
3.4(2)	Accessory Building Exceeding Maximum Permitted Height	\$350.00	\$262.50	\$525.00	Yes	100%
3.5(1)	Fence Exceeding Maximum Permitted Height	\$200.00	\$150.00	\$300.00	Yes	100%
3.6(1)	Non Permitted Use of Accessory Building for Human Habitation	\$500.00	\$375.00	\$750.00	Yes	100%
3.6(2)	More Than Two (2) Accessory Buildings and/or Exceeding Total Accessory Building Floor Area	\$350.00	\$262.50	\$525.00	Yes	100%
3.6(3)	More Than One (1) Non-residential Building prior to Construction of Dwelling or Residential Use	\$350.00	\$262.50	\$525.00	Yes	100%
3.7(1)	Non Permitted Home Occupation	\$200.00	\$150.00	\$375.00	Yes	100%
3.7(2)	Fail to Operate Home Occupation Within Permitted Building	\$200.00	\$150.00	\$375.00	Yes	100%
3.7(3)	Exceed Maximum Home Occupation Floor Area	\$200.00	\$150.00	\$300.00	Yes	100%
3.7(4)	Fail to Operate Home Occupation Without Operator or Employee Present on Property	\$200.00	\$150.00	\$300.00	Yes	100%
3.7(5)	Fail to Meet Home Occupation Employee Regulations	\$200.00	\$150.00	\$300.00	Yes	100%
3.7(6)	Fail To Store Home Occupation Materials/Commodities/Finished Products Within Permitted Building	\$200.00	\$150.00	\$300.00	Yes	100%

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3.7(7)	More than One (1) Sign For All Home Occupations on Lot	\$200.00	\$150.00	\$300.00	Yes	100%
3.7(8)	Excessive Noise From Home Occupation	\$200.00	\$150.00	\$300.00	Yes	100%
3.7(9)	Exceeding Maximum Permitted Bedrooms and Beds in Guest Accommodation Home Occupation	\$200.00	\$150.00	\$300.00	Yes	100%
5.1(1)	Non Permitted Use In Residential Zone	\$500.00	\$375.00	\$750.00	Yes	100%
5.1(2)	More Than One (1) Dwelling	\$500.00	\$375.00	\$750.00	Yes	100%
5.1(3)	Exceed Maximum Permitted Lot Coverage	\$350.00	\$262.50	\$525.00	Yes	100%
5.1(4)	Exceed Maximum Permitted Dwelling Floor Area	\$350.00	\$262.50	\$525.00	Yes	100%
5.1(5)	Building/Structure Encroaching Into Setback	\$350.00	\$262.50	\$525.00	Yes	100%
5.2(1)	Non Permitted Use In Community Service Zone	\$500.00	\$375.00	\$750.00	Yes	100%
5.2(2)	Exceed Maximum Permitted Lot Coverage	\$350.00	\$262.50	\$525.00	Yes	100%
5.2(3)	Building/Structure Encroaching Setback	\$350.00	\$262.50	\$525.00	Yes	100%
5.3(1)	Non Permitted Use In Conservation Zone	\$500.00	\$375.00	\$750.00	Yes	100%
5.3(2)	More Than One (1) Dwelling	\$500.00	\$375.00	\$750.00	Yes	100%
5.3(3)	Exceed Maximum Permitted Lot Coverage	\$350.00	\$262.50	\$525.00	Yes	100%
5.4(1)	Non Permitted Use In Park Zone	\$500.00	\$375.00	\$750.00	Yes	100%
5.5(1)	Non Permitted Use and/or Building/Structure In Nature Protection Zone	\$500.00	\$375.00	\$750.00	Yes	100%
5.6(1)	Non Permitted Use In Marine General Zone	\$350.00	\$375.00	\$750.00	Yes	100%
5.6(2)	More Than One (1) Dock	\$350.00	\$262.50	\$525.00	Yes	100%
5.6(3)	Structure Encroaching into	\$350.00	\$262.50	\$525.00	Yes	100%

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	Setback					
5.6(4)	Mooring Buoys Located Outside of 100 Metres of Upland Lot	\$200.00	\$150.00	\$300.00	Yes	100%
5.6(5)	Ramp/Walkway/Pier Exceeding Maximum Permitted Width	\$200.00	\$150.00	\$300.00	Yes	100%
5.6(6)	Float/Piers Exceeding Maximum Permitted Area	\$200.00	\$150.00	\$300.00	Yes	100%
5.6(7)	Permitted Structures Exceeding Maximum Height and Area	\$350.00	\$262.50	\$525.00	Yes	100%
5.6(8)	Non Permitted Building On Float/Dock/Pier/Breakwater	\$350.00	\$262.50	\$525.00	Yes	100%
5.6(9))	Non Permitted Dock Construction Material	\$350.00	\$262.50	\$525.00	Yes	100%
5.7(1)	Non Permitted Use In Marine Protection Zone	\$500.00	\$375.00	\$750.00	Yes	100%
6.1	Non Permitted Sign	\$200.00	\$150.00	\$300.00	Yes	100%
6.2	Non Permitted Sign	\$200.00	\$150.00	\$300.00	Yes	100%
6.3	Sign Exceeding Maximum Height	\$200.00	\$150.00	\$300.00	Yes	100%
6.4	Fail to Remove Obsolete Sign	\$200.00	\$150.00	\$300.00	Yes	100%
6.5	Exceed Maximum Number and/or Permitted Sign Size	\$200.00	\$150.00	\$300.00	Yes	100%