

Gambier Island Local Trust Committee Bylaw Compliance & Enforcement Policy

Bylaw Compliance & Enforcement Policy No. 1, effective June 24, 2025.

Version No. 2

Purpose

To establish policies and procedures for bylaw compliance and enforcement in the Local Trust Area in accordance with the adopted Trust Council Policies contained in Policy 5.5.1., and that are within the authority of the Local Trust Committee to enforce, and to ensure that policies and procedures are efficient, transparent, reasonable, and consistent with local community standards.

PART A

1.0 Application

This policy will apply to the Gambier Island Local Trust Area and the enforcement of all applicable regulatory bylaws.

2.0 Definitions & Abbreviations

BEN – Bylaw Enforcement Notice

LUB – Land Use Bylaw

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

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

Health & Safety concerns – fire, unsafe construction, hazards relating to steep slopes or cliffs, or the dumping of sewage

Vexatious - complaints that are made in bad faith or for retaliatory purposes or that are considered frivolous, may be considered vexatious; or repeated complaints that form a part of a pattern of conduct by the complainant that amounts to an abuse of the complaint process

3.0 References

Islands Trust Act section 28:

Enforcement of bylaws

28 (1) For the purposes of enforcing its bylaws and section 32 of this Act, a local trust committee has all the power and authority of a regional district board.

Gambier Island Land Use Bylaw No. 86

2.3 Inspection

(1) The Islands Trust Bylaw Investigation Officer or any other person employed by or under contract to the Islands Trust and designated by the Local Trust Committee to administer this Bylaw is authorized to enter, at any reasonable time and after having given prior notification to the occupier, upon any property that is subject to regulation under this Bylaw, for the purpose of determining whether the regulations are being observed or to evaluate site specific circumstances for the purposes of development application processing.

Keats Island Land Use Bylaw No. 78

Inspection

1.3.6 The Bylaw Investigations Officer and any other officer of the Islands Trust who may be appointed in that capacity, are authorized to enter, at all reasonable times, upon any property subject to the provisions of this Bylaw, to ascertain whether the regulations of this Bylaw are being or have been complied with.

Gambier Associated Islands Land Use Bylaw No. 120

2.3 Inspection

(1) The Islands Trust Bylaw Enforcement Officer or any other person designated by the Islands Trust to administer this Bylaw is authorized to enter, at any reasonable time and after having given prior notification to the occupier, upon any property that is subject to regulation under this Bylaw, for the purpose of determining whether the regulations are being observed.

4.0 Priorities

4.1 The Islands Trust Act grants the Local Trust Committee the power and authority to enforce its bylaws and the Local Trust Committee also has discretion to adopt priorities for enforcement or to defer enforcement. The following deferments are established:

- 4.1.1 Enforcement is deferred on Keats Island for otherwise lawful accessory uses, buildings, and structures on a parcel where no principal use exists, if the adjacent parcel has a principal use and both parcels are held under common ownership.
- 4.1.2 There will be a deferment of enforcement on non-permitted seawalls on North Thormanby Island.

5.0 Inspection

- 5.1** At the start of any investigation, Bylaw Enforcement Officers will determine if entry to private property is necessary to investigate the alleged contravention or if the investigation can be conducted from a public road or other lands.
- 5.2** Bylaw Enforcement Officers will request mutually agreeable times to arrange entry to private property for site inspections and provide minimum of 24 hours notice.
- 5.3** Inspection and investigation of complaints will be limited to those contraventions or concerns specifically identified in a complaint.

- 5.4** Investigations into health and safety issues and matters that may cause adverse environmental impact and result in irreversible damage are a priority and may be investigated without notice.
- 5.5** Holders of temporary use permits will be held accountable for any violations of their Permit. Bylaw Enforcement Officers may enter properties between the hours of 9:00 am and 5:00 pm, on any day, without prior consultation with the holder of a Temporary Use Permit for the purpose of investigating a complaint.
- 5.6** If a respondent has indicated that they will work towards compliance, and have agreed on a time to comply, a site inspection will only be conducted to confirm compliance.
- 5.7** If a respondent provides photographic evidence, a survey, or a professional report that confirms compliance, a site inspection is not required.

6.0 Enforcement Procedures

- 6.1** If a bylaw contravention is confirmed, and there is no agreement on a deadline for compliance, there will be notice in writing, and Respondents will be given a minimum of 90 days to comply. Notice may also be given that enforcement action will be escalated if there is no compliance at the deadline, and this may include the use of the BEN system or a request for legal action.
- 6.2** Bylaw Enforcement Officers can use their discretion to consider any reasonable request for time to comply from Respondents, but the term cannot be for more than one year.
- 6.3** 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.
- 6.4** Respondents will be given a Bylaw Warning Notice with a minimum of 45 days to comply before a Bylaw Violation Notice is issued, unless there are health and safety concerns, or contraventions in environmentally sensitive areas.
- 6.5** Bylaw Violation Notices will not be issued more than once per week unless authorized by the Manager of Bylaw Compliance and Enforcement.

7.0 Closing Files

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

discretion to close the file unless there is work in a development permit area, or work in an environmentally sensitive area, or there are health and safety concerns.

8.0 Frivolous, Repeat or Vexatious Complaints

8.1 If a decision is made to not act upon a complaint that is considered frivolous, repeat, or vexatious, the complainant will be advised of the decision, the reason for it, and may be advised of the circumstances under which it may be reconsidered.

9.0 Communications

9.1 When a file is opened and an investigation commenced, respondents will be advised of the Trust Council Policy that authorized the opening of the file and that an investigation has commenced.

9.2 Respondents will receive as much information about complaints against their properties as possible without revealing the identity of the complainant.

9.3 If there are questions or concerns regarding individual files, Trustees or the Local Trust Committee will communicate with the Manager of Bylaw Compliance and Enforcement.

9.4 The Manager of Bylaw Compliance and Enforcement will arrange public information and education sessions regarding bylaw enforcement when appropriate and time permitting.

10.0 Reporting

10.1 The Local Trust Committee will receive a staff report on any files closed due to a vexatious nature.

10.2 The Manager of Compliance and Enforcement will report to the Local Trust Committee any concerns, trends, or issues with enforcement that they believe the Local Trust Committee needs to be aware of.

10.3 The Manager of Compliance and Enforcement will maintain the Bylaw Enforcement Policy and will report to the Local Trust Committee 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 Gambier Island Local Trust Committee Bylaw Enforcement Notification Bylaw No. 116, 2011 the persons holding the following positions are appointed as screening officers:

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

Screening Officer Powers and Duties

The powers and duties of the screening officer are contained in section 7.3 of the bylaw. However, it is the direction of the Local Trust Committee that these powers and duties only are carried out in respect to each of the above positions as follows:

- 1) **Regional Planning Manager.** In respect to Bylaw Violation Notices issued by all Bylaw Enforcement Officers, including the Manager of Bylaw Compliance and Enforcement, the Regional Planning Manager, acting as Screening Officer, may exercise all of the powers and duties in Section 7.3 of Bylaw No. 156, 2011;
- 2) **Manager of Bylaw Compliance and Enforcement.** In respect to Bylaw Violation Notices issued by Bylaw Enforcement Officers, the Manager of Bylaw Compliance and Enforcement, acting as Screening Officer, may exercise all of the powers and duties in Section 7.3 of Bylaw No. 156, 2011;
- 3) **Bylaw Enforcement Assistant.** In respect to Bylaw Violation Notices issued by all Bylaw Enforcement Officers, including the Manager of Bylaw Compliance and Enforcement, the Bylaw Enforcement Assistant, acting as Screening Officer, may exercise only those powers and duties in Section 7.3(1) and 7.3(2) of Bylaw No. 156, 2011.

Authorized Reasons to Cancel Bylaw Violation Notices

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

1. The contravention did not occur as alleged.
2. The contravention no longer exists.
3. The Bylaw Violation Notice was issued to the wrong person.
4. The Bylaw Violation Notice was not completed properly.
5. The issuance of the Bylaw Violation Notice did not adhere to established Trust Council or Local Trust Committee policies.
6. It is unreasonable for the person to pay a penalty.
7. An exception specified in the bylaw, or related enactment, or Local Trust Committee Standing Resolution, or compliance and enforcement policy exist.
8. A permit exists or has been obtained that authorises the alleged contravention.
9. 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 upon 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.

10. 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. A Local Trust Committee resolution has deferred enforcement on the specific contravention;
- c. The Local Trust Committee has closed the file;
- d. The offence occurred because of a circumstance that made it unreasonable for the person to comply with the bylaw.