

# Hornby Island Local Trust Committee Bylaw Compliance & Enforcement Policy

Bylaw Compliance & Enforcement Policy No. 1, effective July 04, 2025.

## Version No. 1

### 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 Hornby 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.*

## **Hornby Island Land Use Bylaw No. 150**

### **2.3 Inspection**

*(1) The Islands Trust Bylaw Enforcement Officer or any officers of the Islands Trust designated 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 proactive enforcement or to defer enforcement. The following priorities are established:

- 4.1.1 Short Term Vacation Rentals that have one or more of the following characteristics, will be subject to proactive enforcement:
  - 4.1.2 Non-compliant Short Term Vacation Rentals are advertised on the internet, newspapers or other media.
  - 4.1.3 More than one dwelling on the lot is made available simultaneously for a Short-Term Vacation Rental.
  - 4.1.4 While the property is rented, additional persons are staying in tents, trailers or recreational vehicles.
  - 4.1.5 There are issues related to health and safety in accordance with the Land Use Bylaw.
  - 4.1.6 There is more than one complaint from the immediate neighborhood (defined as being within 200 meters of the subject property) regarding issues related to the Short-Term Vacation Rental, such as noise, parking congestion, more than one guest/party in a week, or too many people.
  - 4.1.7 The residential dwelling being used as a Short-Term Vacation Rental does not meet the following criteria for Short Term Vacation Rentals from the Hornby Island Official Community Plan Bylaw No. 149, 2014:
    - That the owner or tenant of the parcel is ordinarily resident on the property and the vacation home rental use is occurring during the temporary absence of the owner or tenant; or
    - Where the owner or residential tenant of the parcel resides seasonally in the dwelling and the vacation home rental use is occurring during the absence of the owner or tenant; or
    - Where the owner or residential tenant is residing in another lawful dwelling on the property while the vacation home rental is occurring.
  - 4.1.8 The Short-Term Vacation Rental is not managed locally, or was purpose built to be a Short-Term Vacation Rental.

4.1.9 A complaint is made by an official of a government regulatory body or the bylaw enforcement officer and it concerns overuse of water, inadequate septic capacity, or too many buildings on the property.

**4.2** Enforcement against non-permitted dwellings will be deferred unless any of the following conditions apply:

4.2.1 There is a complaint from an immediate neighbour;

4.2.2 There is a referral from an agency responsible for health and safety issues that is doing concurrent enforcement;

4.2.3 There is more than one unlawful dwelling on a lot.

**4.3** Defer Enforcement on Farm Stands until new policy is implemented.

## **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** Investigations will be limited to the concerns listed in a written complaint unless there are concerns about health and safety issues or matters that may cause an adverse environmental impact.

**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 as per item 5.2.

**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 regular reporting on open bylaw compliance and enforcement files, and LTC will be notified when files are opened or closed.
- 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

#### 1. Appointment of Screening Officers

Pursuant to section 7.2 of the Hornby Island Local Trust Committee Bylaw Enforcement Notification Bylaw No. 159, 2019 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

#### 2. 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;
- 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;
- 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.

### **3. 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.