Mayne Island Local Trust Committee Bylaw Compliance & Enforcement Policy

Bylaw Compliance & Enforcement Policy No. 1, effective November 25, 2024.

Bylaw Compliance & Enforcement Policy No. 1, Amendment 1, adopted July 20, 2026.

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 Mayne Island Local Trust Area and the enforcement of all applicable regulatory bylaws.

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 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.

Mayne Island Land Use Bylaw No. 146 Section 2.3

(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, upon any property that is subject to regulation under this Bylaw, for the purpose of inspecting and determining whether the regulations, prohibitions and requirements are being met.

Trust Council Policy 5.5.1

Policies adopted by the Islands Trust Council 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.

4.0 Priorities

4.1 The Islands Trust Act grants the LTC the power and authority to enforce its bylaws and the LTC also has discretion to adopt priorities for enforcement or to defer enforcement.

4.2 There will be no enforcement against unlawful short term vacation rentals (STVR) except in the following circumstances:

- 4.2.1 There is no resident owner or operator on the property;
- 4.2.2 There are non-permitted dwellings used for the STVR without a resident owner being present on the property;
- 4.2.3 There is a complaint made by a representative of an improvement district and it concerns overuse of water;
- 4.2.4 There is a written complaint by owners or residents in the immediate neighbourhood about bona fide nuisance issues such as noise or parking congestion related to the STVR.
- 4.2.5 There is evidence that the STVR is causing an overuse of the septic system.

4.3 Enforcement will be deferred against unlawful dwellings unless one of the following circumstances exists:

- 4.3.1 There is a complaint from an immediate neighbour;
- 4.3.2 Or there is a referral from an agency responsible for health and safety issues.
- 4.3.3 The unlawful dwelling is located in a non-residential zone.

4.4 There will be deferred enforcement on any non-permitted or unlawfully sited outhouses.

4.5 Enforcement on violations related to the storage of vehicles, derelict vehicles, or vehicle parts is authorized without a written complaint.

4.6 Unsightly properties will be reported to the Capital Regional District Bylaw Enforcement Department.

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 Bylaw Enforcement Officers will request mutually agreeable times to arrange site inspections and provide minimum of 7 days notice despite section 2.3 of the LUB.

5.3 In compliance with Trust Council Bylaw Compliance and Enforcement Policy 5.1, investigations will focus on the specific alleged bylaw contraventions outlined in the complaint unless other observations pose an immediate risk to public health, safety, or the environment.

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 pursuant to section 2.3 of the LUB.

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 LTC 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 LTC will receive regular reporting on 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 that they believe the LTC needs to be aware of.

10.3 The Manager of Compliance and Enforcement will maintain the Bylaw 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 Mayne Local Trust Committee Bylaw Enforcement Notification Bylaw No. 156, 2011 the persons holding the following positions are appointed as screening officers:

1) Regional Planning Manager;
2) Bylaw Enforcement Manager; 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 Officers, including the Bylaw Enforcement Manager, 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) **Bylaw Enforcement Manager**. In respect to Bylaw Violation Notices issued by Bylaw Enforcement Officers the Bylaw Enforcement Manager, 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 the Bylaw Enforcement Manager and Bylaw Enforcement Officers 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

The 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 LTC policies.
6. It is unreasonable for the person to pay the penalty.
7. An exception specified in the bylaw or related enactment or LTC Standing Resolution exists.
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. 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.