South Pender Island Local Trust Committee Bylaw Compliance & Enforcement Policy

Bylaw Compliance & Enforcement Policy No. 1, adopted August 28, 2026.

Purpose

To establish policies and procedures for bylaw compliance and enforcement in the South Pender Island 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 South Pender Island Local Trust Area and the enforcement of all applicable regulatory bylaws.

2.0 Definitions & Abbreviations

BEN – bylaw enforcement notice

BEN System – refers to the Bylaw Adjudication Program under the Local Government Bylaw Notice Enforcement Act. This program permits local governments to establish a bylaw notice enforcement and adjudication system for bylaw offences with penalties of no more than $500

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

Approved septic system – one that has been registered with the Vancouver Island Health Authority

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.

South Pender Island Land Use Bylaw No. 114

2.3 Inspection (1)

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 Enforcement on short-term vacation rentals will be deferred for those rentals validly operating as of April 30, 2024, and enforcement on any short-term vacation rental will proceed based on written complaints only.

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 In compliance with Trust Council Bylaw Compliance and Enforcement Policy section 5.5.1, investigations will focus exclusively on the specific alleged bylaw contraventions outlined in the complaint unless observations provide the officer with reasonable grounds to believe that the situation may pose a significant risk to health, safety, or the environment. Officers should answer reasonable questions related to the purpose of the visit and the bylaw complaint investigation process.

5.3 Bylaw Compliance & Enforcement Officers are encouraged to request mutually agreeable times to arrange site inspections and provide one week's notice.

5.4 Entry without Notice: In exceptional circumstances, where prior notice is not feasible or where immediate entry is required as there are reasonable grounds to believe that the failure to enter may result in immediate threat to health, safety, or the environment, officers may enter property as authorized under the Local Government Act. Officers will document the justification for entry without notice, specifying the urgency and applicable legal authority, and will notify the property owner or occupier as soon as practicable following the visit.

5.5 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.

5.6 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, there will be notice in writing, and Respondents will be given a minimum of 90 days to comply with the relevant LUB.

6.2 Bylaw Compliance & 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.

6.3 If there are contraventions in identified environmentally sensitive areas, or development permit areas, or if there is an immediate risk to health and safety, there will be a demand for the Respondent to cease the use or activity immediately.

6.4 If the Respondent wishes to consider a planning application that will bring the property into compliance, the Bylaw Compliance & Enforcement Officer will advise planning staff and they will arrange a meeting to discuss the feasibility of such an application.

6.5 If there is no agreement on time to comply, a Respondent will be provided written notice that enforcement action will be escalated and this may include a request for legal action or the use of the BEN system.

6.6 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 immediate health and safety risks, or contraventions in identified environmentally sensitive areas that may require more immediate action.

6.7 Bylaw Violation Notices will not be issued more than once per week unless authorized by the Manager of 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 from one person, 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 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 except in cases where the contravention poses a significant risk to health, safety, or the environment.

7.5 If it is determined during an investigation that the complaint was frivolous, repeat, or vexatious in nature, the file can be closed unless there is work in a development permit area, or in cases where the contravention poses a significant risk to health, safety, or the environment.

7.6 Respondents, complainants and the local trust committee will be notified in writing when a file has been closed and the reason for closing the file.

8.0 Frivolous, Repeat or Vexatious Complaints

8.1 Complaints that are made in bad faith, false, or made for retaliatory purposes may be considered vexatious.

8.2 Repeated complaints that form a part of a pattern of conduct by the complainant that amounts to an abuse of the complaint process may by considered frivolous or vexatious.

8.3 Frivolous, repeat or multiple complaints about the same issue or a matter that has been investigated with no offence found may be considered vexatious.

8.4 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 If the Manager determines that there is a potential violation, a file is opened, and the Respondent will receive a Notice Letter, providing a summary of the issue, contact details of the assigned officer, and encouraging the Respondent to contact the officer. The Complainant will be notified that a file has been opened.

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 Compliance and Enforcement.

9.4 The Manager of 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 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 maintain the South Pender Island 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 South Pender Island Local Trust Committee Bylaw Enforcement Notification Bylaw No. 116, 2019, (the Bylaw) the persons holding the following positions are appointed as screening officers:

1) Regional Planning Manager;

2) Manager of Compliance and Enforcement; 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 South Pender 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 all Bylaw Compliance and 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 the Bylaw;

2) **Manager of Bylaw Compliance and Enforcement**. In respect to Bylaw Violation Notices issued by Bylaw Compliance and Enforcement Officers, the Manager of Compliance and Enforcement, 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 Manager of Compliance and Enforcement, 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 correctly.
4. The issuance of the Bylaw Violation Notice did not adhere to established Trust Council or LTC policies.
5. It is unreasonable for the person to pay the penalty.

6. An exception specified in the bylaw or related enactment or LTC Standing Resolution exists.
7. A permit exists or has been obtained that authorises the alleged contravention.
8. 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.

9. 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.