

A Guide to Living (and thriving) on Passage Island

Marking the entrance to Howe Sound, 33 acre off-grid Passage Island is located approximately 2.5 km southwest of Eagle Island, West Vancouver. While small, the island is home to an abundant assortment of birds and sea life as well as a diverse selection of plant species and a magnificent old growth forest. Islanders share a mutual respect for our environment and for each other, which enhances our collective and individual enjoyment of island life.

Needless to say, off-grid island living can bring many challenges. This Guide is intended to provide sage advice for new islanders as well as important information for us all, on island living, safety and how to use common sense and be courteous towards each other. This Guide is not an exhaustive list of all you need to consider when buying and living on Passage Island, nor is it intended to provide legal advice on any of the topics addressed.

Attached are links to the following websites and documents, which may be of further assistance:

- (a) The Passage Island website (the "**Website**") - <https://passageislandbc.ca//>

This fabulous resource captures in words and photographs who we are, what we represent, and what living on Passage Island is all about.

- (b) The Bowyer and Passage Islands Land Use Bylaw No. 114 (the "**Bylaws**") -

<https://islandstrust.bc.ca/wp-content/uploads/2020/05/gmbylaw-no-114-bowyer-and-passage-lub-adopted.pdf>

The Bylaws apply to "the land and the surface of the sea adjacent to the land", and set out critical binding provisions governing permitted use and occupancy, construction and alterations, and subdivision for those areas.

- (c) The B.C. Building code (the "**Building Code**") -

http://www.metrovancouver.org/boards/Bylaws1/MVRD_Bylaw_1043_Consolidation.pdf

Metro Vancouver is responsible for the administration of the Building Code, which is used for issuing building permits, performing building inspections, and checking compliance with the Building Code.

- (d) The restrictive covenant (the "**Restrictive Covenant**") -

<https://wstrigel947141212.files.wordpress.com/2022/07/restrictive-covenant-1.pdf>

Every lot has a Restrictive Covenant on title. This link is a sample, as some lots may have minor variations in their covenants. Refer to the precise Restrictive Covenant registered against your own lot.

The Bylaws, the Building Code references and a sample Restrictive Covenant are also all on our Website.

If you do not have a "Passage Island Survival Manual/Binder", ask Jen Sandy (Lot 51) for one. It

provides a handy location within which to keep important informative documents, for quick reference.

A. Our Community

In addition to the Website and this Guide, an invaluable source of information on Passage Island is other islanders. If you are new to the island, considering a home purchase or planning to build, ask other islanders lots of questions! Introduce yourselves to your neighbours, listen to their perspectives and learn from their experience. You will hear lots of stories, find out who to call on for various needs, and get to know some great people in the process. While it is easy to make mistakes, it is often difficult and sometimes impossible to fix them. Take advantage of the expertise around you.

We enjoy an active social life on the island, with a handful of organized events including our Annual Seagull Motor Regatta and more impromptu get-togethers in islanders' homes and on our beaches.

We also have two official organizations:

- (a) Passage Island Homeowners Association ("**PIHA**"), which, at its essence, focuses on providing a "coming together of community" for information and social reasons. Everyone can contribute to the exchange of information and participate in all the little activities that need attention. PIHA elects a chairperson, a treasurer and a fire marshal, holds an annual meeting with a hosted potluck, and collects nominal annual dues.
- (b) Passage Betterments Society ("**PBS**"), which is a non-profit society/legal entity for investing and building improvements on Passage Island that are designed to enhance island livability and safety. Work parties are organized as needed but usually at least twice a year to undertake improvement projects and other tasks around the island. PBS has 5-6 directors and is funded solely by donations.

Volunteerism is alive and well on Passage Island. Becoming involved and helping with one of our initiatives is a great way to meet other islanders and integrate into the community.

Upon becoming an owner on Passage Island you will be added to and have access to the Passage Island Homeowners Directory and may (at your option) be included in the googlegroups email list. Once you receive the Directory, please respect the privacy of islanders by not sharing the Directory with non-owners (including real estate agents), and by not using the contact information listed therein for marketing purposes other than for advising of the listing of your own lot.

B. Island Etiquette

To preserve the "minimal rules" ethos of Passage Island, it is important to understand how to share and enjoy the island harmoniously. There are a handful of areas where we can all contribute to each other's happiness by following a few simple suggestions.

1. Private Property

- (a) Respect the privacy and rights of your neighbours. Always ask for an owner's permission before going onto their property/properties.
- (b) Be aware that the properties adjacent to the South Bay, West Bay and North Stairs must not be used for recreation or transit purposes without express permission from the upland owner. Check the subdivision plan for lot lines - essentially, if it's dry at high tide, it's private property. The legal boundary between the sea and the "upland riparian parcel" (aka private land) is "the mean high water mark ... [being] the average of the high spring and high neap tides." Surveyors on occasion reference vegetation lines (e.g. lichen etc.), but those vegetation lines serve only as indicators of the actual "mean high water mark."
- (c) The island has many natural hazards; Trespassers run the risk of injury. Be aware that emergency services take time to access Passage Island and island hosts whose guests trespass may face liability issues.
- (d) Debris or green waste from your property should not be discarded on other properties or on public areas (unless part of a planned habitat maintenance and rehabilitation program).

2. Common Public Property

- (a) Guests new to Passage Island should be accompanied by their hosts to shared spaces (e.g. West Bay, South Bay, Frisbee Field and North Stairs). When unfamiliar with Passage Island, it can be challenging to distinguish public island trails from private pathways, and public beaches from private rock outcrops. If a trail is less than four feet wide, then it likely is private property.
- (b) Avoid storage of personal belongings on the public trails/areas. While it is acceptable to leave dinghies at the North Stairs for those who access moorings from there, dinghies must not be left on the main concrete deck; there is room to leave them on the rocks west of the North Stairs ramp. Please do not leave them where island wheelbarrows are stored.
- (c) Leaving "free stuff" you no longer want at City Hall is a great way to recycle. Please contain your items neatly in a box and retrieve anything not claimed within a week or two for disposal.
- (d) Do not tie-up your boat at North Stairs unless you are actively loading or unloading. Doing so impedes access for others and could severely hamper an emergency situation.
- (e) The Bylaws (described below) designate the zoning of land and water on and around Passage Island.

3. Noise

- (a) Occasional noise is unavoidable, but noise should never become chronic or unpleasant for your neighbours. Generally, any noise that goes beyond three hours or that occurs several

times a week will be considered 'chronic' unless directly related to your short-term home construction project.

- (b) Restrict your use of necessary noise-making equipment (generators, chain saws, construction saws, etc.) to between 8:00am - 8:00pm.
- (c) Repair, replace or reduce the use of overly noisy turbines, generators, saws, or other equipment that disturb the peace and quiet for others on Passage Island.
- (d) Have fun, of course, but please bring your music and rowdy outdoor social activities **inside** after 11:00 pm.

4. Guests and Safety

- (a) Please ensure your guests remain on your own property, on the public beaches, or on the public trail, and do not wander the island or trespass on other lots or water-based property (docks, gangways, mooring buoys etc.) unless you have the express permission from the applicable property owner.
- (b) Hosts are wholly responsible for their guests' health and safety. Be aware of the risk and liability you may be assuming based on your guests' activities.
- (c) We recommend accompanying your guests to our shared island spaces (West Bay, South Bay, Frisbee Field, North Stairs, interior trails) unless they are already familiar with the island and its protocols.
- (d) Guests often do not understand the devastation by fire that could be caused by one discarded cigarette butt. For that reason, please ask your guests to only smoke on your own property and then take care that they completely extinguish their butts. Better still, avoiding smoking outside of your house is the safest option.
- (e) Remember that health, safety and police services are a long way away time-wise and may not be able to respond to an emergency in a timely manner.
- (f) At times of active pandemics and other public health risks, respect and observe all health and safety guidelines from the provincial health officer (e.g. masks, gathering limits, physical distancing, personal health monitoring, etc.).

Passage Island is truly an oasis, if we respect the protocols.

5. Boats and Buoys

- (a) Observe the marine speed limit applicable in British Columbia of 10 km/h (6 mph) within 30 metres (100 feet) of the shore.
- (b) Keep yourself and others safe by operating your boats on the **outside** of mooring buoys around Passage Island, as many islanders (children included) and their dogs like to swim off their properties, and kayakers and paddle boards use this area. Be aware of the two reefs off the SE of South Bay.

- (c) Keep crab and prawn traps at least 75 feet away from mooring buoys to avoid entanglements or propeller problems.
- (d) Ask for permission before tying up to someone else's mooring buoy or using their dock to embark or disembark. Stencil your Lot # or name/phone number onto your buoy so it is easy to identify buoy ownership (and to call ahead for permission to moor temporarily).
- (e) If you are new to Passage Island and have a boat, you may be looking for a place to moor it. Most anchored moorings have been placed in front of the applicable owner's property (within the area designated W1 in the Bylaws) and also in more concentrated groups in South Bay, West Bay and by the North Stairs (designated W2 in the Bylaws). These W2 areas are now saturated and there is little room to drop new anchors near shore. Finding a safe place to add a new mooring will be challenging and will not be possible in front of upland lots except with the express permission of the upland owner. Buoys placed in the W1 zoned area without the permission of the upland owner are susceptible to legal challenge and removal by the upland owner.

6. *Pets*

- (a) Help protect natural island species from endangerment by pets. Be aware of habitats and nests so you can keep your pets away.
- (b) Avoid using rat traps or poison. Use only non-toxic antifreeze so as not to kill our island pets and wildlife.
- (c) Monitor your pets to ensure they do not wander onto private property (other than your own). When out walking with your pets, ensure you scoop the poop.

7. *Mosquito Control*

- (a) To eliminate mosquito breeding grounds, cover all standing water and avoid open water tanks or exposed water sources (other than bird baths), in all seasons.
- (b) As birds need a source of fresh water, frequently monitor water sources intended for birds; regularly change the water, and consider adding circulation devices (there are inexpensive solar ones) so that the water is not still or stagnant.
- (c) Exterminate mosquito larvae using non-toxic 'mosquito pucks' (available through Amazon).

C. Bylaws, Building Code & Restrictive Covenant

If you are planning on building, adding to an existing home, or constructing other improvements on your property, please be aware that you will be required to comply with the Bylaws, the Building Code and possibly the Restrictive Covenant (depending on what you are constructing). This will require interaction with the Islands Trust, Metro Vancouver and possibly your neighbours.

1. Bylaws & Building Code

Typically, you would start by checking with Islands Trust to make sure what you are planning on doing is allowed under the Bylaws. The more significant topics dealt with in the Bylaws include:

- permitted use
- number, type, size and height of structures
- maximum site density and setbacks
- fences and landscaping screens
- marine use, in particular docks and mooring buoys
- signs
- subdivision regulations

Once you have confirmed what you are allowed to build under the Bylaws, you can focus on design and then actual construction. That will require interaction with Metro Vancouver, as they are responsible for issuing permits and inspecting buildings to ensure your construction complies with the Building Code.

It is beyond the scope of this Guide to address all matters, or reference all governmental authorities (and in some instances, First Nations), relevant to construction, septic fields, dock and ramp construction, rezoning and subdivision, and the like. Suffice to say, for these complex issues you should seek professional/legal advice.

3. Restrictive Covenant

Passage Island has a Restrictive Covenant registered against the title of each lot. **Understanding the relevance today of the Restrictive Covenant is not straight-forward. Generally speaking, restrictive covenants operate in addition to municipal zoning bylaws in controlling the use and appearance of property. They were originally developed before the emergence of zoning bylaws. However, the fact many of the same topics (number of buildings, siting, etc.) are now also addressed in subsequent municipal bylaws does not mean the earlier restrictive covenant is superseded. In fact, the restrictive covenant still charges the land and is enforceable by those enjoying the benefit of that covenant - in this case, Passage Island Estates Ltd. (the original vendor) and all other property owners on Passage Island. Neither Metro Vancouver nor Islands Trust has jurisdiction to enforce the Restrictive Covenant.**

That being said, only those obligations in the Restrictive Covenant that "run with the land" and that are negative in nature (i.e. not being a positive obligation to do some act), are enforceable against subsequent owners of the property. Further, where there is a conflict or overlap between the Restrictive Covenant and the Bylaws, the fact the "offending" property owner has fully complied with the Bylaws and the Building Code may be of some defense to an alleged breach of the corresponding provision in the Restrictive Covenant - but that potential defense is not certain and would be for a Court to determine if raised.

Most properties on Passage Island have the same 11 covenants registered against their title.

For the most part, for breaches of paragraphs 1, 4, 5, 7, 9 and 10 of the Restrictive Covenant, the "offending" property owner may be able to claim as a defense/relief the fact they have fully complied with the Bylaws, even though those paragraphs of the Restrictive Covenant still charge the lands. Also, it is likely the restrictions in paragraph 3 (and possibly paragraph 11) are no longer enforceable (except against any original purchaser from Passage Island Estates Ltd) as they are positive in nature and are only enforceable against the original purchaser of the lot.

Importantly, paragraph 8 (tree covenant) is still very much alive and well, and has not been augmented by the Bylaws. Also, paragraphs 2 (nuisance) and 6 (diversion of water) may also remain fully binding in nature.

Paragraph 8 (tree covenant) (the "**Tree Covenant**") bears spelling out. It provides:

The Owner (as successor in title to the original purchaser) "will not ...cut down any tree presently growing on the said lands which shall be either more than 15 feet high or 4 inches in diameter of the trunk measured at a height of 3 feet from the ground without the consent in writing of the Vendor. Provided further that the [Owner] shall be entitled, if in his opinion any tree is dangerous to person or property, to sever and remove not more than the top one-third of the height of such tree."

Pursuant to common law, an Owner is required to act reasonably in making a determination as to whether a particular tree is dangerous. This tree covenant bears close scrutiny, especially as it is enforceable by each and every lot owner on Passage Island. More on this issue is discussed below under the heading "Protecting our Natural Environment."

If you intend to do any action that is addressed in any paragraph of the Restrictive Covenant, you would be wise to seek legal advice and also consider seeking input from those who benefit from the same.

3. Neighbours' Input

Although not a legal requirement, if you are intending on constructing a structure/improvement or make a change to your property that may be controversial, it is prudent practice to seek input from your neighbours, especially your immediate neighbours. The adage, "It's easier to ask forgiveness than to get permission", does not apply on Passage Island.

4. Pre-existing/Grandfathered Legal Non-Conforming Use

When walking around Passage Island you may notice some dwellings and other improvements that appear not to strictly comply with the Bylaws, the Building Code and/or the Restrictive Covenant. You should not assume they were constructed without regard or in breach of the applicable laws. Some were built following appropriate approval under the

Restrictive Covenant, some were built before the Bylaws were promulgated, some are pursuant to specific exemptions in the Bylaws or the Building Code, and some were specifically positioned and designed after input from affected islanders and consideration of the applicable laws.

D. Fire Prevention and Fire Readiness

We take fire risk extremely seriously on our island – particularly during the dry summer months. Passage Island is not served by any municipal fire services, so the prevention of, and reaction to, an uncontrolled fire (that could potentially destroy the entire island) is largely our own responsibility. We are all strongly urged to observe the following:

- (a) Monitor the fire rating posted at 'City Hall' on the island, and carefully follow the information provided by the BC Wildfire Service. You can find the official fire ratings and burning regulations (for Bowen Island) here: <https://www.bowenismunicipality.ca/fire-danger>
- (b) Each owner should have a covered garbage-bin-sized container full of water, a shovel, and a bucket at the trail entrance to their property at all times of the year.
- (c) Metro Vancouver recommends wood stoves be inspected annually.
- (d) You and/or your guests should only smoke on your own property (and preferably indoors).
- (e) Keep several fire extinguishers on your property in good working order and consider the purchase of a personal fire pump, hoses and nozzle.
- (f) Please volunteer to learn how to operate our fire pumps and fire extinguishers stationed around the island. Fire pump demonstrations are sometimes held to instruct islanders on their operation.
- (g) Be especially diligent about monitoring and educating strangers on the island on the fire risk. From time to time, kayakers have come ashore intending to camp overnight and have been discovered building cooking fires.
- (h) Know how to protect your home. BC's FireSmart Manual can be found at: https://firesmartbc.ca/wp-content/uploads/2019/09/FireSmart_Booklet_web-Updated.pdf
- (i) Don't forget that we have lots of peat on the island, which can heat up under and beside a burn barrel and then burn underground for days without your knowledge. Keep burn barrels on rock only – never on soil/peat. Never leave fire barrels unattended and have a fire extinguisher handy when the barrel is in use.
- (j) Talk to your kids about the risks of fire because... kids will be kids.

In 2019, volunteers completed a comprehensive document on fire readiness specific to Passage Island. This document, along with a handy single-page "short form", includes important information on fire prevention, firefighting procedures and island firefighting equipment. If you

do not already have these handouts, copies are available for pickup in a plastic box inside City Hall. You will also find the “Fire Readiness on Passage Island” document on our website: <https://passageislandbc.ca/>

E. Weather

1. Overview

Given how critical wind and weather conditions are to water-access only Passage Island, extra care needs to be taken to check marine weather forecasts, current weather conditions and particularly weather warnings. Almost all of our winds are either northerly, northwesterly or southeasterly. Always remember that the descriptive direction refers to the direction **from which** the wind is coming. Wind can vary greatly in strength and character depending on factors like fetch (distance of open water), air pressure, air temperature, tide, current etc. Also, the wind direction can shift very quickly just to make things even trickier. It’s a complicated business. If you are new to boating, taking a Power Squadron course is recommended.

Another difficulty regarding wind and weather conditions stems from the fact that Passage Island is located in the intersection of two different Government of Canada weather regions: Georgia Strait South of Nanaimo and Howe Sound. These are the two regions to check; but when their forecasts differ, one might win out over the other, and sometimes they can cancel each other out.

2. Weather Websites

Be sure to bookmark and check the Environment Canada Marine Weather for Pacific: South Coast before venturing out. The two regions to look at are:

- Strait of Georgia - South of Nanaimo
https://weather.gc.ca/marine/forecast_e.html?mapID=02&siteID=14305
- Howe Sound
https://weather.gc.ca/marine/forecast_e.html?mapID=02&siteID=06400

You will find tabs for **Forecast**, **Weather Conditions**, and **Warnings**. Under the “Weather Conditions” tab, there is a **Select a buoy or land station** drop-down menu where you access **Howe Sound - Pam Rocks** and **Point Atkinson** land stations. Familiarize yourself with these web pages and remember that forecasts are updated several times a day.

For tides at Point Atkinson: <https://www.tides.gc.ca/en/stations/07795/>

3. Apps

There are several great apps available as well. Two recommendations are:

- Windy
- PredictWind

And, one islander has set up a small weather station on Passage Island! Access this at:

- <https://tempestwx.com/station/40085/>

View a more detailed version of this section on the Website.

G. Protecting our Natural Environment

If there is one thing that unites all Passage Islanders, it is by far the great love and respect that we all share for our magnificent yet often fragile ecosystem. Environmental conservation is a very serious concern on Passage Island and we are collectively committed to protecting and preserving our old growth forest, which has never been logged. Despite the small size of Passage Island, its forest is extremely diverse and spans arid coastline and shaded interior, where both evergreen and deciduous trees provide a magnificent canopy.

Many of the tallest trees on the Island have been “de-crowned” by the high strength storms to which the Island is exposed from most all directions. The forest, as a whole though, survives; but the felling of trees diminishes the forest’s resilience, making neighbouring trees more vulnerable to wind blow-down, encouraging erosion, and impacting the water table. The Coastal Douglas Firs of Howe Sound and the Gulf Islands are rare and at risk, and exist in a recognized UNESCO biosphere.

1. *Tree Covenant*

Recognizing the uniqueness and vulnerability of the forest, in the late 1960s the original developer of the island included a tree covenant in the Restrictive Covenant (discussed and defined above in Part C2). Residents of Passage Island care deeply about their forest and respect the intent and purpose of the Tree Covenant. A resident disregarding the Tree Covenant or this Guideline does so at the risk of dividing the community and losing its support.

2. *Soil*

As the outside and all the high points of Passage Island are bare rock, only the core of the island has sufficient soil to sustain large trees. With no known reservoir of fresh water on the island, the trees and other vegetation survive by the soil retaining rain water.

Because the slope of most of the land is towards the nearby coastline, if trees are removed, there is little to stop soil erosion and consequently diminishment of the water retention capacity of the island. Many residents deliberately build-up soil with mulch to enhance water retention and some barge extra soil onto the island to support the vegetation.

3. *Invasive Species*

Unfortunately, there have been invasive species introduced to Passage Island, including blackberries and ivy, which compete with the trees for precious water. The ivy also climbs trees, potentially smothering them and making them top-heavy and prone to topple. So it is a good practice to remove any ivy found climbing up trees and to clear an area around the base of trees

most susceptible to such invasion.

4. Trees and Shrubs

After several years of summer drought, many of our young trees have died. Help your remaining trees survive by clearing away underbrush that competes for water. Nurture the new Coastal Douglas Fir seedlings planted throughout the island during the spring of 2021. Provide water and light to those seedlings, and clear away the underbrush and invasive species. Add mulch to help retain water.

5. Tree Protocol

The following Tree Protocol is intended to guide the responsible protection of the island's forest. It is also structured to provide an opportunity for input from the island community in order to promote community cohesiveness and avoid acrimony. However, it does not replace the requirement to adhere to the Tree Covenant, and it does not limit any other owner's rights to enforce or seek damages for a breach of the Tree Covenant (which is enforceable by any owner on the island).

- (a) No tree with a diameter of 4 inches or greater at a height of 3 feet above the ground should be considered for topping, felled or other treatment (collectively, "**management**") without complying with the Tree Covenant. Residents should carefully consider the merit of felling even smaller trees, which in many cases represent the next generation of forest.
- (b) If a tree is suspected of being infirm and in imminent danger of falling, then it may be considered for management under the guidance of a suitably certified arborist and in accordance with the Tree Covenant. In such situation, this Protocol is designed to provide some guidance to the owner wishing to address a particular tree, as to how the island generally is likely to react to the proposed management of that tree:
 - (i) The person initiating such action should first clearly identify and mark the tree using coloured surveyor tape or other obvious means, and advise the Chairperson or Treasurer of PIHA of the tree's location along with their desired course of action/management and their rationale, including any written report from their arborist.
 - (ii) The Chairperson or Treasurer of PIHA shall endeavor, within two weeks of receiving the request, to convene a group of not less than three other residents (one of whom should be an immediate neighbour of the lot on which the tree is located) to review the request and either support the request or offer an alternate resolution for consideration by the lot owner.
 - (iii) In considering the request, the review group should consider among other factors:
 - The impact the removal of the tree may have on neighbours (such as privacy

- considerations and making other trees more vulnerable to wind),
- Whether the stated concern can be mitigated by selective removal of limbs or tree-topping, and
 - The history of tree management on the particular lot.
- (c) The person initiating the request should defer their qualified tree feller coming to the island to manage the tree until the review group can attend and participate in the discussion with the arborist and lot owner, and any required approvals have been obtained pursuant to the Tree Covenant.
- (d) When constructing a dwelling (as defined in the Bylaws) and any ancillary services such as a septic field, lot owners should seek to develop a building plan that accommodates the existing trees on their lot.
- (e) Lot owners should not expect support from other residents for the felling of any trees to accommodate construction of accessory buildings (whether permitted or non-permitted).
- (f) Any decision or support provided by the review group will not over-ride the operation of the Tree Covenant or limit any other owner's rights to object to the management of a particular tree, but may offer some support or guidance to the owner who wishes to manage a particular tree.

When considering a construction project, lot owners should be mindful of the Tree Covenant, this Guide, the Bylaws, the Building Code, the Restrictive Covenant, and other applicable laws.

When marketing a lot for sale, owners are requested to ensure the real estate agent and prospective buyers are aware of this Guideline.