

LAND USE BYLAW CONFORMANCE

Date Issued: January 6, 2021

Mandated by: City Manager

Current Revision: January 6, 2021

Cross Reference:

- Land use Bylaw Compliance Procedure GEN-027-A

Next Review: January 1, 2026

Responsibility: Director, Planning & Development

1. PURPOSE

The Land Use Bylaw (LUB) regulates the development and use of buildings and lands within the City, ensuring they are orderly, economical, and efficient. Correcting contraventions of the LUB promotes a safe, best-in-class community.

2. POLICY

Enforcement of the LUB will be done in accordance with the LUB, MGA, and any other applicable municipal or provincial enactment or legislation.

3. DEFINITIONS

- 3.1 *City* – means the City of Fort Saskatchewan.
- 3.2 *Designated Officer* – means a person appointed to a position to carry out the powers, duties, and functions under the City bylaws, as set out in the MGA.
- 3.3 *LUB* – means the *Land Use Bylaw* for the City.
- 3.4 *MGA* – means the *Municipal Government Act* for Alberta.
- 3.5 *Violation Tag* – means a tag or similar document issued by the City pursuant to the MGA for the purpose of notifying a person that an offence has been committed for which a prosecution may follow, as defined by the LUB, as amended.
- 3.6 *Violation Ticket* – means a ticket that is issued pursuant to the *Provincial Offences Procedures Act*.

4. GUIDING PRINCIPLES

- 4.1 The City of Fort Saskatchewan values the safety and quality of life of its residents and will endeavor to manage complaints related to land use in a responsible and professional manner.
- 4.2 To ensure compliance with the LUB and to address violations, an individual shall be appointed as a Designated Officer by the processes followed by the City at that time.
- 4.3 In accordance with the guidelines of the LUB and the MGA, the City may take any required corrective actions, after providing reasonable notice, to remedy a violation of the LUB.
- 4.4 Nothing within this Policy shall prevent a Violation Tag, Violation Ticket, or Stop Order from being immediately issued, should a Designated Officer believe on reasonable and probable grounds that a contravention of the LUB has occurred.
- 4.5 Any hazards to the safety of people or property may cause an inspection or action to be taken without notice, as set out in the LUB. The hazard and contravention of the LUB or MGA may then be remedied by any of the powers available to the City.
- 4.6 Should this Policy contradict any provisions of the LUB or the MGA, the legislation shall supersede this Policy.
- 4.7 Complaints the City considers to be vexatious may not be investigated unless it is determined that the matter poses an immediate threat to public or personal safety.
- 4.8 The Designated Officer is not compelled to carry out land use enforcement.

5. AUTHORITY / RESPONSIBILITY TO IMPLEMENT

The Director, Planning & Development is authorized to implement this Policy and develop procedures to enact it.



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- Land Use Bylaw Compliance Policy GEN-027-A
 - Compliance Certificate Policy and Procedure GEN-028-A
 - Fees and Charges Bylaw
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1. PURPOSE

This Procedure defines roles and responsibilities, and establishes an effective process to address developments and land use matters which may not comply with the Land Use Bylaw (LUB).

2. OBJECTIVE

The processes and practices within this Procedure are intended to address LUB contraventions effectively and in accordance with the LUB, the MGA, and any other relevant statute, plan, policy, or directive. Those implementing this Procedure may do so in a proactive way, with an aim of generating voluntary compliance.

3. DEFINITIONS

- 3.1 *Building* – means anything constructed or placed on, in, over, or under land but does not include a highway, road or bridge that forms a part of a highway or road, as defined by the MGA, as amended.
- 3.2 *City* – means the City of Fort Saskatchewan.
- 3.3 *City Land* – means land owned by the City.
- 3.4 *Complaint* – means a statement received from a Complainant that a situation is unsatisfactory or unacceptable.
- 3.5 *Complainant* – means a person who files a Complaint, to report a potential violation.
- 3.6 *Designated Officer* – means any person appointed by the City to enforce the LUB, and other applicable legislation.
- 3.7 *Development Authority* – means a Development Authority established pursuant to the MGA, as amended.

- 3.8 *Development Permit* – means a document authorizing a development pursuant to the provisions of the LUB as defined by the MGA, as amended.
- 3.9 *Inspection* – means the act of viewing or examining a property, building, or thing.
- 3.10 *LUB* – means the *Land Use Bylaw* for the City.
- 3.11 *MGA* – means the *Municipal Government Act* for Alberta.
- 3.12 *Property* – means the land in which the complaint was issued against, be it the physical characteristic of the land or a structure upon the land.
- 3.13 *Stop Order* – means a an order issued by a Development Authority in accordance with the MGA
- 3.14 *SOC* – means the Subject of Complaint, being a person or persons and/or property subject to a complaint and/or violation.
- 3.15 *Violation Tag* – means a tag or similar document issued by the City pursuant to the MGA for the purpose of notifying a person that an offence has been committed for which a prosecution may follow, as defined by the LUB, as amended.
- 3.16 *Violation Ticket* – means a ticket that is issued pursuant to the *Provincial Offences Procedures Act*.

4. PROCEDURE

4.1 Complaints

4.1.1 Receipt and Confirmation of Complaint

- a) The Designated Officer will conduct a preliminary review of the Complaint to verify the accuracy of the information and research any supporting information that may be available in the City records.
- b) The Designated Officer may contact the Complainant to obtain further details or to confirm or clarify information provided.
- c) The Complainant is required to provide their name and contact information before any investigation may occur.
- d) Notwithstanding 4.1.1(c), the Designated Officer may investigate the Complaint depending on the nature and circumstances of the matter.

4.1.2 Investigation

- a) The Designated Officer may conduct a site inspection to assess the nature of the Complaint. The Designated Officer shall compare the findings on-site to the provisions of the LUB, and determine whether a violation exists.
- b) The Designated Officer may conduct an investigation on his/her own initiative based on proactive observation and/or suspicion that a violation exists.
- c) In order to verify a violation has taken place, a site inspection will be conducted in order to examine the property. If the potential violation is not visible to the exterior of the property, an on-site inspection will be arranged with the owner or occupant of the address.

- d) As per Section 542(1) of the MGA, a Designated Officer may provide reasonable notice to the owner or occupant of the land that an inspection will be carried out. On the date indicated by the notice, that officer may lawfully enter onto that land.

4.1.3 Complainant Information

- a) All Complainant's personal information shall be kept confidential in accordance with the Freedom of Information and Protection of Privacy Act, unless permission to release information is provided by the Complainant in writing or the Complainant is required as a witness in court or at a hearing or tribunal.

4.1.4 Vexatious Complaints

In situations whereby multiple Complaints are received from a single person at one time, or where a single person continuously submits a variety of Complaints on an ongoing basis, the Designated Officer will determine on an appropriate level of response to such Complaints. The level of response by the Designated Officer may include:

- (i) To act on some or all of the Complaints;
 - (ii) To not act on some or all of the Complaints; or
 - (iii) To assign priority to some or all of the Complaints.
- b) If a decision not to act is made, that will be conveyed to the Complainant in writing.
- c) Vexatious Complaints will not be investigated unless the Designated Officer determines a reason to do so in accordance with this Procedure.

4.2 Education

4.2.1 The Designated Officer shall make all reasonable efforts to encourage voluntary compliance through education and/or cooperation. This may include, but is not limited to:

- a) Discussions with a SOC to review the nature of a violation, assist the individual(s) to understand the purpose behind the regulation, bylaw, rule, and/or standard, and to facilitate a course of action that achieves compliance;
- b) Initiatives to inform the public or a particular group about a particular regulation, bylaw, rule, and/or standard that may arise or become problematic. This may include newspaper advertisements, mail-outs, social media, or any other medium; and/or
- c) Endeavoring to provide ongoing information to the public as a whole about land use matters.

4.3 Warning

4.3.1 If a violation is not resolved through voluntary compliance, the Designated Officer may issue a warning letter to the SOC. The warning letter shall, among other things:

- a) Specify the breach/violation;

- b) Outline options to remedy the violation; and
- c) Provide a date by which compliance must be achieved.

4.3.2 The date by which an SOC must comply shall be determined in a reasonable manner, while taking into consideration the nature of the violation and the length of time it would take to bring the matter into compliance.

4.3.3 At the discretion of the Designated Officer, a second and possibly a third warning letter may be issued if the SOC has not complied with the direction/order set out in the original warning letter.

4.4 Consequence

4.4.1 Where the SOC has not complied with the directions/order set out in the warning letter(s) and the Designated Officer finds that a development or use of land or buildings is not in accordance with:

- a) Part 17 of the MGA, or regulations thereto,
- b) the LUB;
- c) a Development Permit; and/or
- d) a decision by the Subdivision and Development Appeal Board

the Designated Officer may take such action as specified within any relevant sections of the LUB, the MGA, or any applicable Policy and Procedures.

4.4.2 Pursuant to Section 645 of the MGA, the Designated Officer may, by written notice, order the registered owner, the person in possession of the land or buildings or the person responsible for the contravention, or all or any of them, to

- a) stop the development or use of the land or buildings in whole or in part as directed by the notice,
- b) demolish, remove, replace the development or landscaping; or
- c) take such other measures as are specified in the notice so that the development or use of land or buildings is in accordance with the MGA, a development permit, subdivision approval, or LUB as the base may be, within the time specified by the notice.

4.4.3 If a Violation Tag or Violation Ticket is issued by the Designated Officer to the SOC of the property in question:

- a) The service of a Violation Tag shall be carried out as per the LUB. Non-payment of a Violation Tag will result in the issuance of a Provincial Violation Ticket,
- b) The service of a Violation Ticket shall be carried out as per the Provincial Offences Procedures Act.
- c) A Violation Ticket may require a specified penalty to be paid, or alternative of making a payment, require a person to attend court.
- d) A Designated Officer may issue additional Violation Tags or Tickets, should a subsequent offence occur.

- 4.4.4 Violation Tags issued by a Designated Officer allow for voluntary payment, in lieu of prosecution. Payment of these Tags may be made by following the instructions on the Tag.
- 4.4.5 Voluntary payments shall be in the amount specified, and in the manner which is prescribed by the LUB, as amended.
- 4.4.6 In accordance with Section 646 of the MGA, if a person fails to comply with a Stop Order, the City may enter on the land or building and take any action necessary to carry out the order.
- 4.4.7 In accordance with Section 646(2) of the MGA, the City may also register a caveat, under the Land Titles Act, against the certificate of title for the land that is subject to the order, provided that the caveat is discharged when the order has been complied with.
- 4.4.8 The City's costs of carrying out any actions required for compliance, including any legal fees, may be added to the tax roll of the land subject to the order.

4.5 General

- 4.5.1 The City's prioritizes Enforcement matters as following:
 - a) Safety concern/Hazard
 - b) Complaint based
 - c) Administration lead initiative
 - d) Individual non-compliance
- 4.5.2 Notwithstanding anything above, whether by way of a Complaint or proactive means, the City may seek to remedy any violation of the City's LUB using whatever actions deemed to necessary given the circumstances and nature of the violation/breach, as set forth by the City's bylaws, the MGA, or other relevant legislation.
- 4.5.3 Enforcement of LUB violations shall not set any form precedent, as the City will make every effort to address each violation in a way that is fair and equitable based on the details of the specific case.
- 4.5.4 Notwithstanding anything above, all Complaints made in respect to a use or development which contravenes the LUB will be investigated to establish whether a violation has occurred, and if so, the Designated Officer may attempt to correct the violation in a manner that is appropriate for the situation and in accordance with the authority granted. Methods to achieve compliance include, but are not limited to:
 - a) Warning letter(s),
 - b) Stop Order, and/or
 - c) Violation Tag or Violation Ticket.
- 4.5.5 In determining the appropriate level of response to the Complaint, the Designated Officer shall have regard for:
 - a) safety factors;

- b) available resources;
- c) existing and/or potential adverse effect to the Complainant;
- d) existing and/or potential adverse effect on the neighbourhood;
- e) likelihood that the matter is a result of a separate dispute between neighbours; and
- f) whether the nature of the Complaint is considered frivolous and/or vexatious.

4.5.6 In consideration of the circumstances, the Designated Officer may provide incremental notices in order to address the ongoing offence with appropriate actions, penalties, or applicable fines. The Designated Officer will however strive to address complaints with an education approach first. The Designated Officer's initial response to a complaint may include penalties or the issuance of a Stop Order when:

- a) There is an imminent risk to people or property; and/or
- b) Authorization has been received from the Director of Planning and Development in consultation with the GM of Infrastructure and Planning

4.5.7 Required actions and compliance dates may be adjusted based on the details of the infractions. These adjustments will be made by the Designated Officer in consultation with the Development Authority and Director of Planning and Development.