

Policy No.:	168.23	
Policy Title:	Certificate of Compliance	
Department:	Planning & Development	Council Approval: January 24, 2023
Reviewed:		
Revised:		Resolution No.: 018/23
Supersedes		
Policy/Bylaw:		Date: January 24, 2023

1. Policy Statement

To provide a system regarding requests for Certificate of Compliance, in accordance with the Town of Blackfalds Land Use Bylaw, as a public service to property owners, or a person with legal or equitable interest. The issuance of the Certificate of Compliance helps assist with the arrangements for the sale or transfer of ownership of properties.

2. Reason for Policy

- 2.1 The purpose for this policy is to establish a consistent approach for requirements and develop a procedure for processing Certificate of Compliance requests.
- 2.2 This policy will help eliminate any responsibility or liability for any inaccuracy, mistake or error of law or fact arises from the information supplied by or on behalf of the applicant.

3. Related Information

- 3.1 Land Use Bylaw in force.
- 3.2 Development Fees and Fines Bylaw in force.
- 3.3 There is no legislative requirement for a municipality to issue a Compliance Letter.

4. Definitions

- 4.1 **"Accessory Building"** means a detached Building naturally or normally incidental, subordinate to the Principle Building on the same lot or site. Accessory Buildings are not intended to support any occupancy. Typical Accessory Buildings include detached Garages, sheds, gazebos, and garden sheds or Greenhouse, Minor. An Accessory Building does not include a tarp or Canvas Covered Structure.
- 4.2 **"Building"** includes anything constructed or place on, in, over or under land, but does not include a highway or road, or a bridge that forms part of a highway.
- 4.3 **"Compliance"** means if the Building(s) within the property comply with Setback requirements of the Land Use Bylaw in force.

- 4.4 **“Development Permit”** means a document that is issued under a Land Use Bylaw and authorizes a Development.
- 4.5 **“Non-Compliance”** means if one or more Building(s) on the property do not comply with the setback requirements prescribed within the Land Use Bylaw in force, nor has it been constructed in accordance with approved plans.
- 4.6 **“Non-Conformance”** means if one or more Building(s) on the property do not comply with the setback requirements prescribed within the Land Use Bylaw in force, however, did comply with municipal regulations at the time of construction.
- 4.7 **“Principal Building”** means a Building which is considered the principal use of the parcel on which it is erected.
- 4.8 **“Projection”** means any portion of a Building as outlined in the Land Use Bylaw which extends into a required Setback.
- 4.9 **“Real Property Report (or RPR)”** means a survey document prepared, signed, dated and stamped by an Alberta Land Surveyor, illustrating the location of all Buildings and visible improvements situated on a parcel of land relative to the property boundaries. The Real Property Report also shows any registered easements or rights-of-way affecting the property as well as any encroachments from or onto the property. It is a representation of the property on the date of survey.
- 4.10 **“Setback”** means the minimum distance a Building can be located from a property boundary, road, natural environmental feature, or any other feature, as outlined in the Land Use Bylaw.
- 4.11 **“Statutory Declaration”** means a written certificate of facts solemnly declared to be true by the person(s) signing the declaration before a Commissioner for Oaths.
- 4.12 **“Updated Real Property Report”** means a previously prepared Real Property Report that has been brought up to date (if required) and signed, dated and stamped by an Alberta Land Surveyor.

5. Responsibilities

- 5.1 Municipal Council to:
- 5.1.1 Approve by resolution this policy and any amendments.
 - 5.1.2 Consider the allocation of resources for successful implementation of this policy in the annual budget process.
- 5.2 Chief Administrative Officer to:
- 5.2.1 Implement this policy and approve procedures.

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- 5.2.2 Ensure policy and procedure reviews occur and verify the implementation of policies and procedures.
 - 5.3 Director of the Department to:
 - 5.3.1 Ensure implementation of this policy and procedure.
 - 5.3.2 Ensure that this policy and procedure is reviewed as required .
 - 5.3.3 Make recommendations to the Chief Administrative Officer of necessary policy or procedure amendments.
 - 5.4 Manager to:
 - 5.4.1 Understand and adhere to this policy and procedure.
 - 5.4.2 Ensure employees are aware of this policy and procedure.
 - 5.5 All Employees to:
 - 5.5.1 Understand and adhere to this policy and procedure.

6. Exclusions

- 6.1 N/A

7. Appendix

- 7.1 Land Use Bylaw in force.
- 7.2 Development Fees and Fines Bylaw in force.

8. End of Policy

PROCEDURE	Policy No.: Policy Title: Department:	168.23 Certificate of Compliance Planning and Development
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1. Preamble

- 1.1 The issuance of Certificates of Compliance, Non-Compliance, or Non-Conforming by the Town of Blackfalds shall relate only to the location of Principal Buildings, Accessory Buildings and Projections, in relation to the Setbacks prescribed in the Land Use Bylaw and shall not relate to land use.

2. General

- 2.1 All requests for Compliance shall be accompanied by:
- a) A Real Property Report (RPR) signed by an Alberta Land Surveyor. If submitted in person, mail or by courier, 3 copies of the RPR will be required, or the RPR may be submitted electronically.
 - b) The applicant shall submit the applicable fee for the Compliance, as prescribed by the Development Fees and Fines Bylaw, as amended.
 - c) A copy of a Certificate of Title obtained within 30 days.
- 2.2 One Copy will be retained for the Town of Blackfalds Records and all other copies will be returned to the applicant/agent.
- 2.3 If an RPR is greater than 6 months it must be accompanied by a Statutory Declaration or affidavit, executed within 30 days of submission for compliance review stating that no Building(s) have been added, added onto or altered since the day of the survey. If any changes to the property have been made a new RPR is required.
- 2.4 A Real Property Report older than 10 years will not be accepted.
- 2.5 All measurements shown on an RPR are deemed accurate within a tolerance of 0.08 m.
- 2.6 The compliance review shall relate only to the location of Principal Buildings, Accessory Buildings and Projections, in relation to the Setbacks prescribed in the Land Use Bylaw, and shall not relate to land use.
- 2.7 The Development Officer shall stamp or issue one of the following:
- a) Stamp and seal the RPR where the Building(s) on the property comply with requirements of the Land Use Bylaw.
 - b) Issue of Certificate of Compliance where the Building(s) on the property do not comply with the requirements of the Land Use Bylaw, but a Development Permit was issued

allowing the variance to the Setbacks and the RPR shows the Building(s) were constructed in conformance with the approval.

- c) Issue a Certificate of Non-Compliance, if the RPR indicates a Building does not comply with the requirements of the Land Use Bylaw.
 - d) Issue a Certificate of Non-Conformance, if one or more Building(s) does not comply with the requirements of the Land Use Bylaw but did comply with the municipal regulations in place at the time of construction.
- 2.8 In either case, a Non-Compliance or Non-Conforming Building(s) may remain as is however, may not have any structural alterations or additions to it, pursuant to the *Municipal Government Act* R.S.A 2000, c.26 and amendments thereto. Alternatively, the landowner can apply for a Development Permit to remedy the Non-Compliance or Non-Conformance.
- 2.9 If Development Permit approval is granted to remedy the Non-Compliance or a Non-Conformance, there will be no charge for the issuance of a new Certificate of Compliance, if the approval is granted within 1 year from the original date the Certificate of Non-Compliance or Non-Conformance was issued.
- 2.10 If in the review process an encroachment is identified within or beyond the property lines, the Development Officer shall inform the applicant of the following potential remedies:
- a) If the encroachment is beyond the property boundaries, encroaching onto Town property such as roadway, reserve land or public utility lot, the property owner is required to either move/remove the encroachment or enter into a License to Occupy or an Encroachment Agreement with the Town. However, each situation will be assessed individually to determine if the encroachment creates a hazard, obstacle, or any other impediments to the Town. The Town is under no obligation to enter into a License to Occupy or an Encroachment Agreement.
 - b) If the encroachment is beyond the property line onto the another privately owner parcel the property owner is to either move/remove the encroachment or enter into an Encroachment Agreement with the owner of the property. As this is agreement between the two parties, the Town will not negotiate with the neighbouring property. Should an Encroachment Agreement be agreed upon, it must be registered on the Certificate of Title of both properties.
 - c) If the encroachment is located on a right-of-way for which a Right-of Way agreement is registered on the Certificate of Title, the property owner will have to move/remove the encroachment or enter into a License to Occupy or an Encroachment Agreement with the holder(s) of the Right-of-Way. The Encroachment Agreement must be registered on the Certificate of Title.
 - d) Should the landowner choose to move/remove the encroachment, an updated Real Property Report will be required.

e) Should the landowner choose to enter into the required agreement, the agreement must be registered on the Certificate of Title.

2.11 In determining whether a Compliance Certificate can be issued for a property, the Development Officer shall rely on the Real Property Report provided by the applicant. The Development Officer shall not undertake independent property inspections.

2.12 The Development Officer shall not be liable for any damages arising from the use of a Compliance Certificate containing errors where the errors are the result of incorrect or incomplete information on the Real Property Report.

3. End of Procedure

Approval

-Original Signed-

Chief Administrative Officer

-Original Dated-

Date