

COUNCIL POLICY

NAME: Compliance Certificate	POLICY NUMBER: DP-C-02
DEPARTMENT: Planning and Development	SUPERSEDES: A-01-03
DATE APPROVED: April 22, 2024	REVISION DATE: N/A

1. POLICY STATEMENT

- 1.1. To establish standard and consistent requirements for and the processing of a **Compliance Certificate**. A **Compliance Certificate** is confirmation from the **Town** that the location of a building(s) on a site complies with the requirements of the **Land Use Bylaw**.

2. PURPOSE

- 2.1. The processing of **Compliance Certificates** is a service provided by the **Town** for real estate vendors, banks, lawyers, mortgage brokers, and home buyers to ensure that a subject property complies with the **Town's Land Use Bylaw** for protection from future legal issues.

3. SCOPE

- 3.1. This Policy is applicable to all individuals or entities seeking a **Compliance Certificate** within the jurisdiction of the **Town**.
- 3.2. This Policy applies to the **Development Officer** and their delegates.

4. DEFINITIONS

- 4.1. For the purposes of the Policy, the following definitions shall apply:
- a) "**Act**" means the *Municipal Government Act*, RSA 2000 c. M- 26 as amended from time to time, and its successor legislation;
 - b) "**Alberta Land Surveyor**" or "**ALS**" means a person who holds a certificate of registration and an annual certificate to engage in the practice of surveying under the *Alberta Land Surveyors Act*, RSA 2000, c L-3 as amended from time to time, and its successor legislation;
 - c) "**Applicant**" means any person whose name appears as the applicant on any **Compliance Certificate** request received by the **Town**;
 - d) "**Chief Administrative Officer**" means **Chief Administrative Officer** of the Town of Drumheller, or their designates;
 - e) "**Compliance Certificate**" or "**Certificate of Compliance**" means a written document issued by the **Town** that states whether or not the property and the property improvements, as shown on the **Real Property Report**, comply with the **Land Use**

Bylaw regulations;

- f) “**Development Officer**” means the person or persons appointed pursuant to the **Act** that has been authorized to exercise development powers on behalf of the **Town**;
- g) “**Fee Schedule**” means the Town of Drumheller Fees, Rates and Charges Bylaw 01.24, as amended from time to time, and its successor legislation;
- h) “**Encroachment**” means anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground (excluding sound attenuation structures, sidewalks, fences, or any other municipal improvement required and owned by the **Town**), that extends over a property line;
- i) “**Land Use Bylaw**” means the Town of Drumheller’s Land Use Bylaw 16.20, as amended and successor legislation;
- j) “**Legal Non-Conforming**” means a pre-existing use of land to continue, even though the use no longer complies with current land use district regulations identified in the **Land Use Bylaw**;
- k) “**Real Property Report**” means a survey document prepared, signed, dated and stamped by an **Alberta Land Surveyor**, illustrating the location of all structures and visible improvements situated on a parcel of land relative to the property boundaries. The **Real Property Report** also shows any registered easements or right-of-ways 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;
- l) “**Town**” means the Town of Drumheller, a municipal corporation in the Province of Alberta, and includes the area contained within the corporate boundaries of the Town of Drumheller, as the context may require; and,
- m) “**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. **Development Officer(s)** are responsible for:

- a) Ensuring that development activities within the jurisdiction are in compliance with the **Land Use Bylaw**; and,
- b) Determining whether to approve, deny, or conditionally grant a **Compliance Certificate**.

5.2. **Applicants** are responsible for:

- a) Submitting the required documentation for the **Development Officer’s** review; and,
- b) Ensuring that they make the payment for the **Compliance Certificate** using the appropriate service options available.

6. REAL PROPERTY REPORT ELIGIBILITY

- 6.1. The eligibility of the **Compliance Certificate** application will be determined by the **Development Officer** or the **Chief Administrative Officer**.
- 6.2. A **Real Property Report** is eligible if the survey was completed within six (6) months from the date of submission.
 - a) Notwithstanding Section 6.2, a **Real Property Report** may be eligible if the survey was completed no more than two (2) years prior to the date of submission if accompanied by a sworn Affidavit stating that no changes to the property have occurred.
 - b) Any **Real Property Report** where a survey has been completed over two (2) years from the date of submission will not be eligible under any circumstances.
 - i) A **Real Property Report** that states "Under Construction" or "Foundation Only" will only be eligible if the survey was completed within six (6) months of submission.
- 6.3. The **applicant** may submit a **Real Property Report** in the following manner:
 - a) Submitted in-person or via standard mail with two (2) original sealed **Real Property Reports**; or,
 - b) Submitted via email with one (1) **Real Property Report**.

7. INELIGIBILITY

- 7.1. The following are reasons that a **Compliance Certificate** request will be ineligible:
 - a) The **applicant** does not provide all materials as identified in Section 8.1;
 - b) The **Real Property Report** submitted cannot be read or interpreted; or
 - c) Any **Real Property Report** that meets the conditions outlined in Section 6.2(b).

8. APPLICATION

- 8.1. A request for a **Compliance Certificate** must include the following:
 - a) A completed request form as shown in "Schedule A" or a written request by the **applicant** representative providing the same information required on the form;
 - b) A **Real Property Report** for the site that has been produced by an **Alberta Land Surveyor** that meets the conditions outlined in Section 6.2 produced; and,
 - c) The required fee for the selected processing time according to the submitted request form. The fee to process a **Compliance Certificate** is dependent upon the **fee schedule**.
- 8.2. Notwithstanding Section 8.1(b), if any changes have been made to the property, however slight, a new or **Updated Real Property Report** must be provided.

9. COMPLIANCE CERTIFICATE

- 9.1. The **Compliance Certificate** process can result in one or several of the following possible outcomes:

- a) A Compliance Certificate is issued, after the review process determines that the property and property improvements comply with the regulations of the **Land Use Bylaw**.
- b) A Compliance Certificate is **not** issued, after the review process determines that the property and property improvements do not comply with the regulations of the **Land Use Bylaw**.
- c) An encroachment is identified within or beyond the property lines.

9.2. The **Compliance Certificate** shall clearly state all of the following:

- a) The **Town** makes no guarantee as to the accuracy of the **Real Property Report** or the information provided on behalf of the landowner;
- b) The **Compliance Certificate** is based solely on the information presented in the **Real Property Report**;
- c) The **Town** is not required to conduct an independent site inspection to verify the information presented in the **Real Property Report**;
- d) The **Compliance Certificate** evaluates compliance only in terms of the prevailing **Land Use Bylaw**. It does not address compliance with other municipal bylaws, provincial safety codes regulations or other provincial and federal legislation; and,
- e) The **Town** is authorized to retain copies of the **Alberta Land Surveyor's Real Property Report** for record-keeping purposes. However, in compliance with copyright laws, copies of the survey will only be provided to the person/client listed on the **Real Property Report** or the surveyor who conducted the assessment.

10. NON-COMPLIANCE:

10.1. If a property and property improvements are determined **not** to comply with the regulations of the **Land Use Bylaw**, in accordance with 9.1(b), the following may occur:

- a) If an improvement was built in accordance with the requirements and regulations in place at the time of construction, whether the regulations were different, or a development permit was not required at the time, the development shall be considered **legal non-conforming** and allowed to continue subject to the provisions of Section 643 of the **Act**, and/or,
- b) If property improvements were built without a development permit under regulations which would require a development approval, the property owner is required to:
 - i) apply for a development permit;
 - ii) request any variance that would be required to allow the improvement to remain as sited;
 - iii) pay the appropriate development fee, as outlined in the **fee schedule**.

10.2. Notwithstanding 10.1(b), if a development permit application is rejected, the improvement may have to be removed at the owner's expense.

- 10.3. Notwithstanding 10.1(b), any concerns regarding property improvements would have to be resolved to the satisfaction of the **Development Officer** prior to issuance of the **Compliance Certificate**.

11. ENCROACHMENTS

- 11.1. If an **encroachment** is identified within or beyond the property lines as follows, in accordance with 9.1(c), the following may occur:
- a) If an **encroachment** is beyond the property boundaries, encroaching onto public property such as a **Town**-owned land, roads, reserve land or a public utility lot, the property owner must either:
 - i) move or remove the **encroachment**;
 - ii) receive a signed Letter of Consent from the **Town**; or,
 - iii) enter into an Encroachment Agreement with the **Town**.
 - b) If the **encroachment** is beyond the property lines of another privately-owned parcel, the **Town** will not negotiate with the neighboring property owner, as this is a private agreement between the two (2) parties.
- 11.2. Notwithstanding 11.1(a), if the landowner chooses to relocate or remove an **encroachment**, the property owner must submit the following, prior to the issuance of a **compliance certificate**:
- a) An **Updated Real Property Report**, and/or,
 - b) Payment, as per the **fee schedule**, if resubmission exceeds ninety (90) days of the original **Compliance Certificate** request.
- 11.3. If the **Town** agrees to allow the **encroachment** to remain subject to an **encroachment** agreement, in accordance with 11.1(a)(iii):
- a) The agreement must be registered against the Certificate of Title for the property prior to issuance of the **Compliance Certificate**; and,
 - b) The applicant is required to pay the appropriate **encroachment** fees, as per the **fee schedule**.

12. RELATED DOCUMENTS/FORMS

- 12.1. Schedule A "Compliance Certificate Request Form."

13. TRANSITIONAL

- 13.1. This Policy comes into effect on the day it is signed by Council.
- 13.2. This Policy repeals Policy #A-01-03 – Certificate of Compliance Policy.


MAYOR


CHIEF ADMINISTRATIVE OFFICER

REVISIONS

Schedule "A"

REQUEST FOR COMPLIANCE CERTIFICATE

Property Information

Legal Land Description: Lot: _____ Block: _____ Plan: _____

Civic Address for Compliance: _____

Applicant Information

Applicant Name: _____ Agent Owner

Mailing Address: _____

City: _____ Postal Code: _____

Phone: _____ Cell Phone: _____

Email: _____

What are you applying for? (please select an option)

 COMPLIANCE CERTIFICATE

- Residential Regular (5 Business Days Max.)
- Residential Rush (3 Business Days or Less)
- Non-Residential Regular (5 Business Days Max.)
- Non-Residential Rush (3 Business Days or Less)

 COMPLIANCE CERTIFICATE REVISION

A request for a revision to a Compliance Certificate or Certificate Respecting Compliance may be made within 90 days of the date of the original, at no additional cost, if the following conditions have been met:

1. All permits identified in the original compliance certificate must have had their final inspections completed. Alternatively, if structures identified in the report are non-compliant and have been removed, an Updated Real Property Report reflecting these changes must accompany the Revision application.
2. If any encroachments were identified in the original compliance certificate, three (3) possible actions that could be taken (i) the owner moves/removes the encroachment at the owner's expense, (ii) the Town produces a letter of consent authorizing the continued placement of the encroachment, (iii) an encroachment agreement is endorsed by both the owner and Town and filed onto the Certificate of Title for the parcel. Alternatively, if encroachments identified in the report have been removed, an Updated Real Property Report reflecting these changes must accompany the Revision application.

Application Requirements

- Completed application request form
- Two (2) **Original** Real Property Reports submitted in-person (no more than 6 months prior to date of submittal)

OR

- One (1) **Original** Real Property Report is submitted electronically to development@drumheller.ca (no more than 6 months prior to date of submittal)

Applicant Authorization

1. I am the owner/agent with the consent and authority of the owner that is the subject matter of this application.
2. I consent to receiving notifications & correspondence regarding this application via email to the address provided on this application.
3. By checking the "I agree" box below, you agree and authorize your electronic signature as valid and binding upon you to the same force and effect as a handwritten signature.

Applicant Signature: _____ I Agree Date: _____

The personal information requested on this form is being collected under the authority of Section 33(c) of the Freedom of Information and Protection of Privacy (FOIP) Act. The information collected will be used to process compliance certificates for the Town of Drumheller. If you have any questions about the collection or use of your personal information, contact the Town of Drumheller's Manager of Legislative Services at 224 Centre Street, Drumheller, Alberta, T0J 0Y6 or 403-823-1339.