
Compliance Certificate

Policy No.: 4188
Department: Planning & Development
Authority: Council
Current Approved Date: August 9, 2016

Policy Certificate:

Lamont County's Planning and Development Department provides Compliance Certificate as a public service to property owners, or a person with a legal or equitable interest.

Purpose:

The Planning and Development Department wishes to:

1. Establish consistent requirements and develop a standard procedure for processing Compliance Certificate requests;
2. Minimize the liability risk to the County for any mistake, inaccuracy or error which may arise from the information supplied by or on behalf of the property owner.

Related Documents & Legislation:

There is no legislative requirement for a municipality to issue Compliance Certificates nor does Lamont County require that they be obtained. The Planning and Development Department provides Compliance Certificate as a service to property owners because lawyers and financial institutions often require them as part of a real estate transaction or to secure a mortgage. A Compliance Certificate must be signed by a Development Authority Officer or such other employee as the Development Authority Officer delegates for Lamont County.

Definitions:

“Alberta Land Surveyor”

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. It is commonly referenced as A.L.S.

“Compliance Certificate”

Means a written document issued by Lamont County that states whether or not the property and the property improvements, as shown on the Real Property Report, comply with the siting and setback regulations of the Land Use Bylaw.

“County”

Means the Municipality of Lamont County.

“Encroachment”

Means a structure or improvement that projects beyond the boundaries of the property, or is constructed within an easement or right-of-way.

“Land Use Bylaw”

Means the Lamont County’s Land Use Bylaw.

“MGA”

Means the Municipal Government Act, Chapter M-1, revised Statutes of Alberta.

“Real Property Report (RPR)”

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.

“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.

“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.

PROCEDURES:

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 property owner or the property owner’s representative providing the same information required on the form;
 - b) The applicant for a Compliance Certificate shall submit two (2) original sealed Real Property Reports for the site that has been produced by an Alberta Land Surveyor no more than six (6) months prior to the date of submittal. A real property Report produced more than one (1) year prior, but not more than two (2) years prior, may be accepted by the Development Authority Officer or such other employee as the Development Authority Officer delegates if accompanied by a sworn Affidavit stating that no changes to the property have occurred. If there have been any changes, however slight, a new or updated Real Property Report must be provided.

Under no circumstances will a Real Property Report or an updated Real Property Report older than two (2) years will not be accepted for review.

- c) The appropriated fee for Compliance Certificates as per Lamont County's Fee Schedule.
2. While Lamont County endeavors to process requests for Compliance Certificates as quickly as possible (4 or more business days), there is an option for rush processing (1 to 3 business days). If however, there is a non-compliance or encroachment situation requiring a secondary process, such as a Development Permit Application or an Encroachment Agreement etc. this will lengthen the process. A Compliance Certificate will not be issued by the County until these processes are addressed and resolved.
 3. The Compliance Certificate process can result in one or several of the following possible outcomes:
 - a) The review process determines that the property and property improvements comply with the siting and setback regulations of the Land Use Bylaw and a Compliance Certificate is issued.
 - b) The review process determines that the property and/or property improvements do not comply with the siting and setback regulations of the Land Use Bylaw due to one or a combination of the following reasons;
 - i) The development 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. This type of development is considered legal non-conforming and is therefore allowed to continue subject the provisions of Section 643 of the MGA.
 - ii) The development was built without a development permit under regulations which would require development approval. In this situation, the property owner is required to apply for a development permit and request any variance that would be required to allow the development to remain as sited. This permit will involve additional fees as per Lamont County's Fee schedule. If the permit is not approved, the development may have to be moved or removed. The issues would have to be resolved to the satisfaction of the Development Authority Officer prior to issuance of the Compliance Certificate.
 - c) The review process identifies an encroachment within or beyond the property lines as follows:
 - i) The encroachment is beyond the property boundaries, encroaching on County property such as a roadway, boulevard, reserve land or a public utility lot. In this situation the property owner is required to either move/remove the encroachment or enter into an Encroachment Agreement with the County.

- ii) The encroachment is beyond the property lines on another privately owned parcel. In this situation the property owner is required to either move/remove the encroachment or enter into an Encroachment Agreement with the owner of that property. The County will not negotiate with the neighboring property owner, as this is a private agreement between the two parties. The encroachment agreement must be registered on the titles of both properties.
- iii) The encroachment is located on a registered right-of-way for which a Right-of-Way Agreement is not registered on the Certificate of Title. In this situation the property owner is required to either move/remove the encroachment or enter into a Right-of-Way Agreement with the County that identifies and allows for the encroachment.
- iv) The encroachment is located on a right-of-way for which a Right-of-Way Agreement is registered against the Certificate of Title, the property owner will have to move/remove the encroachment or enter into an Amending Agreement to amend the terms of the Right-of Way Agreement to identify and allow for the encroachment.

If the landowner chooses to relocate or remove the encroaching structure, an Updated Real Property Report must be prepared and submitted, showing the change, prior to issuance of the Compliance Certificate.

If the County agrees to allow the encroachment to remain subject to the appropriate required agreement (Encroachment Agreement, Right-of-Way Agreement or Amending Agreement), the agreement must be registered against the certificate of title for the property prior to issuance of the Compliance Certificate. Preparation and registration of any of these agreements shall be assessed the applicable fees as per Policy# Fee schedule.

4. The Compliance Certificate shall clearly state all of the following:
 - a) That Lamont County 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) That Lamont County is not required to conduct an independent site inspection to verify the information provided by the landowner or presented in the Real Property Report.
 - d) The Compliance Certificate evaluates compliance only in terms of zoning, siting and setback regulations of the prevailing Land Use Bylaw. It does not address compliance with other municipal bylaws, provincial Safety Codes regulation or other provincial and federal legislation.

e) The Compliance Certificate is not a confirmation respecting the use of the lands.

Forms Associated With This Policy:

Schedule A – Compliance Certificate Request

Schedule B – Statutory Declaration

Amendment History:

1. Created August, 2016

Scheduled Review Date:

August 2018