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|  | <h2 style="text-align: center;">Municipality of Crowsnest Pass Procedures</h2> |
| <p>Procedure Category: Worksite: Approval Date: Revision Date: Department:</p> | <p>Compliance Certificate Procedure Office July 5, 2016 August 23, 2022 Development, Engineering and Operations</p> |

1.0 Definitions

“Municipality” – the municipal corporation of the Municipality of Crowsnest Pass, or the area contained within the Municipal boundaries, as the context requires.

“Municipal Lands” - collectively or individually, a road, lane, Municipal easement and other Municipal property [excluding Reserves – pursuant to ss. 651.2, 671(2), 674 and 676 of the Municipal Government Act, an encroachment agreement appears to be limited to a road, a Reserve parcel can only be used for specified purposes, a Municipal Reserve parcel can only be disposed of by way of a sale, a lease or other disposition after holding a public hearing and an Environmental Reserve parcel cannot be sold and can only be leased or disposed of for a term not exceeding three years and only by a bylaw adopted by Council].

“Owner” – the person or persons registered under the Land Titles Act as the owner of the fee simple estate in the land. In the context of a Compliance Certificate and an encroachment, “Owner” shall mean the owner of the land described in a Real Property Report or the owner of the land which has an encroachment into adjacent lands.

“Compliance Certificate” - written confirmation from a municipality that the improvements on a property identified in a Real Property Report either meet the current regulations of the Land Use Bylaw and/or that certain improvements on a property do not meet the current regulations of the Land Use Bylaw.

“Encroachment” – anything constructed or placed with a fixed location on the ground or attached to something having a fixed location on the ground that extends on, over or under adjacent private property and/or Municipal Lands, and includes but is not limited to the following:

- i. Buildings, projections from buildings (including eaves, footings, foundations, weeping tiles, cantilevers, etc.) and siding;
- ii. Sheds including those attached to a dwelling and/or a fence;
- iii. Fences;
- iv. Asphalt, concrete, or brick sidewalks, curbs, parking pads, aprons, or driveways;
- v. Structures (including decks, stairs, patios, balconies, etc.);

- vi. Retaining walls;
- vii. Swimming pools and hot tubs;
- viii. Shrubs, trees, or other organic landscaping materials;
- ix. Hard landscaping (including asphalt, concrete paving stones, retaining walls, planters, and structures);
- x. Light standards;
- xi. Permanent Signs.

“Encroachment Agreement” – an agreement between the Owner and an adjacent private landowner or the Municipality, authorising an encroachment onto adjacent private property or adjacent Municipal Lands, and shall, among other things, include:

- i. The location and identification of the encroachment;
- ii. Fees, as may be required;
- iii. The Owner’s responsibilities to maintain the Encroachment;
- iv. Terms or conditions under which the agreement is terminated;
- v. Cost and liability for removal of the encroachment; and
- vi. Indemnification of the adjacent private landowner and/or the Municipality, its agents, and licensees.

“Fence” – any barrier, wall, or structure such as a chain link fence, wooden fence, metal fence, or brick/stucco wall, usually located along the property line.

“Land Use Bylaw” – the bylaw that has been adopted by the Municipality for the purpose of regulating and controlling the use and development of land and buildings within the Municipality of Crowsnest Pass.

“Real Property Report (RPR)” - a legal document prepared by an Alberta Land Surveyor illustrating the location of all visible improvements relative to the property boundaries.

“Reserves” – municipal reserves, environmental reserves, and other reserves as defined in the Municipal Government Act.

“Statutory Declaration” - a written statement of facts signed and solemnly declared to be true by the person making it before a person with the required provincial authority to take such statements (i.e. Commissioner for Oaths).

2.0 Procedure

- a. A request for a Compliance Certificate shall be in writing and must include an original or, at the discretion of the CAO or their designate, an otherwise acceptable, Real Property Report (RPR) signed and dated, and stamped as may be required, by an Alberta Land Surveyor (an Alberta Land Surveyor operating as a sole proprietor does not require a stamp/seal).
- b. An RPR older than two (2) years must include a Statutory Declaration to confirm that no new development has been added or other changes made to the property,

or to confirm and identify structures that have been removed from the property since the RPR was prepared. If there have been any structures added to or relocated on the property that are not identified on the RPR a new and updated RPR is required.

- c. The Municipality will accept an RPR up to and including 15 years old, providing that a Statutory Declaration is included. After 15 years a new RPR is required.
- d. A Compliance Certificate relates only to the Municipal Land Use Bylaw and not to any Federal, Provincial or other municipal laws, bylaws or regulations. It is based entirely on the information supplied on the RPR. A Site inspection is not conducted by the Development Officer in their review of the RPR.

Improvements that are in Compliance

- e. If a development permit was previously issued, or was not required at the time of construction, for an improvement identified on the RPR and the improvement complies with the standards of the current Land Use Bylaw (after considering any approved variance) or with the applicable land use district for the property, a Compliance Certificate will be issued to the Owner.

Improvements with Non-conforming Status

- f. If a development permit was previously issued, or was not required at the time of construction, for an improvement identified on the RPR and, as a result of subsequent amendments to the Land Use Bylaw or the adoption of a new Land Use Bylaw, the improvement does not comply with the standards of the current Land Use Bylaw (after considering any approved variance) or with the applicable land use district for the property, a Compliance Certificate will be issued stating that the improvement does not meet the yard setback standards or land use provisions of the current Land Use Bylaw however, it has non-conforming building or use status pursuant to the Municipal Government Act. The Compliance Certificate will state that the improvement may remain in its present location on the property and that the Owner may bring the improvement into compliance with the Land Use Bylaw when an application for development is made in the future or at any time prior to that when the Owner may desire to bring the property into compliance.

Improvements without the Benefit of Approval

- g. If a development permit was not previously obtained for an improvement identified on the RPR, or a development permit was previously obtained for it but either did not include a variance approval or the improvement was constructed or

located in a manner that does not meet the requirements of an approved variance, or the improvement is not allowed as a building or use in the land use district for the property, except as the result of a subsequent Land Use Bylaw amendment, a Compliance Certificate will be issued stating that the improvement is considered “a development without approval” or “a development without the benefit of a development permit and/or a variance approval”. The Compliance Certificate will state that the improvement without approval or benefit of a development permit and/or variance does not qualify for “non-conforming status”, and that the Owner is responsible to bring the improvement into compliance with the Land Use Bylaw when an application for development is made in the future, or at any time prior to that when the Owner may desire to bring the property into compliance. The Compliance Certificate will state that a penalty fee may apply to a subsequent development permit application that proposes to bring such an improvement into compliance. In addition, the Compliance certificate will state that it is the responsibility of the Owner to bring the property into compliance with the Safety Codes Act, as may be required (e.g. a building permit).

Allowable Tolerance

- h. If an improvement identified on the RPR does not comply with the standards of the current Land Use Bylaw by a measurement of 20cm or less, and provided that no portion of it encroaches onto adjacent land and that the use or building is allowed in the land use district for the property, the Development Officer may apply a tolerance to the review and deem the improvement to be compliant.

Aspects not Reviewed

- i. The following aspects of a property will not be reviewed for compliance when issuing a Compliance Certificate:
 - i. A fence between adjacent private properties (Note: a fence between the subject property and adjacent Municipal Lands will be reviewed for compliance);
 - ii. A deck of which the height of any portion of it does not exceed 0.6 m (2 ft).
 - iii. Land use that cannot be determined from the RPR, e.g. a secondary suite.
 - iv. Standards in the Land Use Bylaw that do not relate to property boundaries, e.g. building height, site coverage, etc.
 - v. Compliance with the Safety Codes Act, e.g. whether or not a building permit was issued.


To obtain information relevant to the aspects listed in iii, iv and v above, the Owner may have to submit a separate “Request for Information” to the Development Officer and pay the required administration fee.

Encroachments

- j. If an improvement on the subject property encroaches onto adjacent private property or onto Municipal Lands, the Compliance Certificate will be issued and will state that the Owner is responsible to do any of the following:
- i. Enter into an encroachment agreement with the adjacent private landowner and provide a copy of the fully executed agreement to the Development Officer or enter into an Encroachment Agreement with the Municipality, as may be applicable, or
 - ii. Remove or relocate the encroaching improvement to bring the property into compliance with the current Land Use Bylaw, or
 - iii. Correct the encroachment by, as may be applicable, obtaining road, lane or Municipal Reserve closure (or portions thereof), subdivision approval for a boundary adjustment and redistricting approval, and by purchasing the required portion of private property or Municipal Lands, all of which shall be at no cost to the Municipality (note that while the Municipality has jurisdiction to close a Municipal Reserve, the jurisdiction to close a road or a lane or portion thereof ultimately lies with the Minister of Transportation).
- k. An encroachment agreement between two private landowners shall include the Municipality as a third party, with the claim of interest being that the Municipality has management and control over developments on the affected properties through the Land Use Bylaw.
- i. The Development Officer shall ensure that a caveat is registered on the certificate(s) of title of the subject properties affected by the encroachment agreement.
 - ii. For more information on the requirements for an encroachment agreement, see the Encroachment Policy and the Encroachment Procedure.

3.0 Approval

Department Manager: Johan van der Bank Date: September 26, 2022
(print name)



(signature)

4.0 End