

Land Use Bylaw Enforcement

Date of Approval by Council: 03/12/2013

Resolution No: 130/2013

Lead Role: Chief Commissioner

Replaces: N/A

Last Review Date: March 12, 2013

Next Review Date: 03/2016

Administrative Responsibility: Planning and Development Services

Special Notes: The department has established (and from time to time will update) a Land Use Bylaw Enforcement Guidelines and Procedure Manual to support this Policy and provide additional information and guidelines. EBRT - PDS # 4045370.

A. POLICY STATEMENT

1. Purpose

This purpose of this policy is to define the roles and responsibilities, set guidelines and procedures for Administration and Council in the enforcement of land use as it relates to Land Use Bylaw 8-2001, as amended from time to time. This policy complements other existing municipal policies, including the Organizational Roles and Responsibilities Policy (GOV-001-029).

2. Definitions

Administration means the Chief Commissioner and such designated employees deemed necessary to carry out the functions of this policy.

Chief Commissioner means the Chief Administrative Officer of Strathcona County.

Council means the body having the approving authority.

Designated Officer (DO) means a Development Officer, Enforcement (DOE), a Bylaw Enforcement Officer, or any other official appointed by the Chief Commissioner to enforce the provisions of the LUB.

Development Officer, Enforcement (DOE) means an official of Strathcona County appointed, according to the procedures authorized by County Council, to act as a development authority according to the Municipal Government Act and is appointed for the purposes of enforcing the Land Use Bylaw and includes a Senior Development Officer, Enforcement (SDOE).

Land Use Bylaw (LUB) means a bylaw adopted by Council to prohibit or regulate and control the use and development of land and buildings in Strathcona County as amended from time to time.

Land Use Bylaw Enforcement Guidelines and Procedure Manual (Manual) means the guidelines adopted by Administration to assist with the enforcement of provisions of the LUB.

Municipal Government Act (MGA) means the Municipal Government Act, R.S.A. 2000, c. M-26, as amended.

B. GUIDELINES

1. Enforcement Principles

Strathcona County DOEs will embrace the rule of law; as representatives of Strathcona County, DOEs will exercise the authority to enforce the LUB according to its written rules and regulations; moreover, in exercising prosecutorial discretion the DOEs will have regard to relevant considerations, and will not exercise discretion arbitrarily or for improper purposes.

2. Enforcement of LUB

- a) Strathcona County embraces the principle of compliance through education before prosecution, when practical.
- b) This is not to fetter the discretion of the DOEs, but to state a guiding principle.
- c) As an adjunct to the guiding principle of compliance through education, before prosecution, DOEs will generally consider the use of:
 - i. Warning Notices;
 - ii. Alternate Dispute Resolution; and / or
 - iii. Mediation Services.
- d) Nothing in the *LUB* or *Manual* prevents a DOE from proceeding directly with enforcement or prosecution if the situation warrants.

3. Investigative Independence

Except where limited by law and/or policy, DOEs have full investigative independence and prosecutorial discretion with the requisite supervisory review/constraints.

4. Response and Patrol Standards

DOEs will consider the guidelines contained within the *Manual*. However, it is recognized that a number of factors may impact enforcement measures, including severity of infraction, time to collect evidence, workload, and time to liaise with other parties.

5. Communications

All communications respecting LUB enforcement matters shall be governed by this policy and the policies and procedures in place in Strathcona County, including the Organizational Roles and Responsibilities Policy (GOV-001-029). Without limiting the generality of the foregoing, any reference in this policy shall be interpreted to complement and not contradict the Organizational Roles and Responsibilities Policy (GOV-001-029).

Furthermore, all enforcement matters may be subject to the provisions of the *Freedom of Information and Protection of Privacy Act R.S.A. 2000 c. F-25, as amended from time to time*; personal information shall be used appropriately and secured from unauthorized use and disclosure in accordance with this legislation including related regulations, and Strathcona County policies and procedures.

C. ROLES AND RESPONSIBILITIES

1. Council and individual Councillors, subject to Strathcona County policies and procedures, are responsible for:

- a) Establishing, through the budgetary process, the level of service that will be provided to support *LUB* enforcement;
- b) Where Council or an individual Councillor becomes aware of a potential breach of the *LUB*, providing this information to the Chief Commissioner for submission to the SDOE for further investigation; and
- c) Requesting updates on enforcement matters through the Chief Commissioner.

2. Chief Commissioner, subject to Strathcona County policies and procedures, is responsible for:

- a) Providing Council a periodic *in camera* report referencing priority enforcement matters or matters which Council has specifically requested information about;
- b) Providing Council a periodic *in camera* report referencing statistical information respecting *LUB* offences under investigation and itemizing the *LUB* enforcement actions;
- c) Providing Council additional information about *LUB* offences when requested by Council or individual Councillors (*in camera* if warranted).

3. DOEs, in enforcing the *LUB* are subject to the provisions of the *LUB*, the *MGA*, and the *Manual* as amended from time to time. They are also subject to the DOE's discretion as set out the *LUB*, including with respect to the following activities:

- a) To enforce *LUB*;
- b) To follow the directions of the Chief Commissioner and to report to the Chief Commissioner or a person designated by him/her;
- c) To respond to and investigate complaints relating to the *LUB*;
- d) To conduct routine patrols;
- e) To issue inquiries, notices, stop orders and tags with respect to the *LUB*;
- f) To assist in the prosecution of offences including appearances in Court to provide evidence;
- g) To provide regular updates of enforcement actions as outlined in the *Manual*; and
- h) To perform all other duties as may from time to time be assigned.

4. Statutory Authority

This policy document provides further clarification and direction to the requirements of the *MGA* and its Regulations. DOEs are Designated Officers under Section 210 of the *MGA*. The details of their authority are defined in the *LUB*.

5. Regulatory

DOEs employed by Strathcona County are restricted solely to enforcing the provisions of the *LUB* (or other legislation) or which they have legal and statutory authority to enforce.

6. Discretion

- a) DOEs will endeavor to perform their powers and duties with due diligence, and are entrusted with discretion in both investigation and enforcement of the *LUB*.
- b) DOEs should remain cognizant of the need to embrace the avenues of voluntary compliance, education, alternate dispute resolution and mediation in the investigation and handling of complaints and concerns.
- c) Notwithstanding the DOEs' discretion, Council and, if so empowered or authorized, the Chief Commissioner has the authority to make a policy decision to set parameters for determining the level and scope of enforcement of the *LUB*.
- d) Once a policy decision is made in regard to the enforcement of the *LUB*, all DOEs shall be guided by that decision in the performance of their duties and responsibilities.