

Enforcement Approach

Key enforcement actions can be taken in cases where education, encouragement and voluntary compliance are unsuccessful in bringing the non-compliant developments to compliance.

As it relates to surface parking lots, there are two bylaws which offer opportunity to enact enforcement measures, the Zoning Bylaw 20001 and Business Licence Bylaw 20002.

1. Penalty Fines:

Penalty fines are directed to the property owners under the Zoning Bylaw (although the bylaw provides wide discretion to direct fines to anyone responsible for committing the offence even if they are not the property owner), and to owners of the businesses under the Business Licence Bylaw. Tickets can be disputed via the Alberta Court of Justice (Traffic Court). Disputes add additional time to the enforcement process.

Zoning Bylaw:

Penalty Fine amounts vary, with a maximum fine of \$10,000. As per section 7.200 Inspections, Enforcement and Penalties of the Zoning Bylaw, the minimum specified penalty for Development without a Development Permit, or Contravention of a Zoning Bylaw provision is \$1,000 (for a first offence), and \$2,500 for a subsequent offence.

Development Compliance Officers (DCO) also have the option of issuing a Summons Violation Ticket, which compels the recipient to appear in court. The prosecutor may request a fine amount that is higher than the specified fine to a maximum of \$10,000.

Business Licence Bylaw:

Penalty Fines may be issued under section 4 of the Business Licence Bylaw for each day a business is found to be operating without a valid business licence. The specified fine is \$500 for a first offence and \$1,000 for each subsequent offence. If a business applies for a licence and the application is refused by the City, the specified fine for continuing to operate after refusal is \$5,000 for a first offence, and \$10,000 for a subsequent offence.

Enforcement Officers also have the option of issuing a Summons Violation Ticket, which requires the recipient to appear in court. The

prosecutor may request a fine amount that is higher than the specified fine to a maximum of \$10,000.

While there is no upward limit on the total number of subsequent offence Penalty Fines that can be issued, the frequency of ticketing must be reasonable to provide the business owner sufficient opportunity to comply or to dispute the ticket in court. A valid perception or determination that a business has been excessively ticketed can negatively impact a prosecution and future prosecutions.

2. Additional Legal Tools

Stop Orders

A Stop Order can be issued in addition to Penalty Fines or can be issued on its own. It identifies the zoning violation, the actions required by the landowner to comply, and a timeline to meet the identified actions. A Section 645 *Municipal Government Act* Order can act as a precursor for additional escalated enforcement actions if the landowner does not comply with the MGA Order, including:

- Caveat registration: The City can register a caveat to the property which informs any future landowner of the property's non-compliance, should they review the instruments registered on the Certificate of Title. This may impact private lending associated with the property
- Remedial action: The City can undertake the work necessary to bring the site into compliance when the landowner will not (i.e. decommissioning a non-compliant land use, or infrastructure improvements required to bring the site up to standard). Costs can be recovered via the tax roll. Cost recovery is limited, and typically does not reflect the full costs of procurement or enforcement resources needed to warrant remedial action.

Section 645 MGA Orders can be appealed to the Subdivision and Development Appeal Board. The MGA Order can be upheld, varied or overturned. Appeals add additional time to the enforcement process.

There is a similar process that can be used for business licencing issues using Section 545 of the MGA. Section 545 allows for Stop Orders to be issued for breaches of municipal bylaws that are not land related.

Attachment 2

Additional tools including consent orders may also be utilized in support of compliance by an agreed-upon timeline between Development Compliance and landowners.

The enforcement actions described above can be applied sequentially, and are informed by landowners' responses to previous enforcement actions. Timelines for gaining full compliance on a site vary. Landowner responsiveness and willingness to comply, Court timelines, and Subdivision and Development Appeal Board timelines can extend the enforcement timeframe.