

June 26, 2025

To: Mayor Amarjeet Sohi
Edmonton City Council

CC: Michael Gunther, A/City Solicitor, Employee and Legal Services Division
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From: Jamie Johnson, Barrister and Solicitor
Jessy Inkpen, Barrister and Solicitor

Subject: **Moratorium on Infill Construction**

Introduction

Legal Services has received a number of councillor questions related to moratoriums on infill development. Below are the questions and their corresponding response from Legal Services.

Questions:

What is the legality of a moratorium on infill construction -- comprehensively, all new infill construction? This could be in any zone.

There are three possible scenarios that this question may be speaking to. Each of these scenarios have unique legal implications. These are:

Directing Development Planners to not issue Development Permits:

The *Municipal Government Act* requires that when an application is made for a Permitted Use within a zone, and the other regulations of the Zoning Bylaw are complied with, a permit must be issued by the development authority. Council does not have the authority to pass a resolution to prevent such permits from being issued. Council's authority rests in determining Permitted Uses and the associated regulations through the zoning process.

Directing Administration to not bring rezoning proposals to Public Hearings:

If an applicant meets the requirements for a rezoning application (payment of fees, circulation, consultation, etc.) that applicant has a right to be heard by City Council on their proposal. Once presented to City Council through a public hearing process, members of City Council are required to be open to persuasion on that application. [REDACTED]

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[REDACTED]

[REDACTED] Council could direct Administration to not support rezoning applications that meet a certain parameter. Council could also, through its vote on any given Public Hearing matter, refuse an application. The law is clear that a person has a right to be *heard* if they want a rezoning; a person does not have a right to have their rezoning application *succeed* in any given case.

Amending the Zoning Bylaw to prohibit infill construction:

Practically speaking Council could rezone certain properties, or areas of the City, to a holding zone pending further planning analysis. Such amendments would have to go through the proper process including a public hearing. Rezoning large areas of land to a holding zone could have the impact of removing a landowners rights to particular types of development but could also create issues of non-conformance to the impacted properties. [REDACTED]

[REDACTED] In taking this action, it would be crucial that the municipality allow some Uses to still be available on the individual parcels; these do not have to be substantial development rights however the City cannot go so far as to truly sterilize the land.

Could we also enact a moratorium on building permits?

Under the legislation, the municipality's role in relation to building permits is one of administration of the *Safety Codes Act*. Essentially, the issuance of a building permit is required when a proposed building meets the requirements of the Alberta Building Code. This means that the Province sets the standards for building construction and the municipality works within those parameters to issue building permits, inspect construction and administer enforcement.

Under this hierarchy, the City of Edmonton does not have the authority to enact a moratorium on building permits; that authority would rest solely with the Province of Alberta.

Could we issue a stop work order to projects in process?

Projects that have received valid development permits must be allowed to proceed under the law so long as the development permit is complied with. Any stop order issued in these circumstances would likely get appealed to the Subdivision Development Appeal Board and overturned. If the City were to proceed in this fashion, [REDACTED] the City would be both the regulatory authority that issued the permit and then also the regulatory authority that sought to stop that same permit from being utilized.

Conclusion

If you have any questions regarding the above or wish to discuss it further, please contact Jamie Johnson (Jamie.Johnson@edmonton.ca) or Jessy Inkpen (Jessy.Inkpen@edmonton.ca) at your convenience.

Jl/JJ

C:

Office of the Mayor
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