

WHAT IS A CERTIFICATE OF COMPLIANCE?

A Certificate of Compliance is a confirmation from the Town of Okotoks that the location of the buildings and structures on the site complies with the requirements of the Okotoks Land Use Bylaw.

It takes the form of a 'Certificate of Compliance' stamp on a Real Property Report.

This is a service provided by the Town, but the Town does not require anyone to obtain a Certificate of Compliance; it is typically requested by a purchaser, lender or legal counsel and is usually associated with a real estate transaction.

WHAT IS CONSIDERED IN REVIEW OF AN APPLICATION?

When reviewing a Real Property Report for a Certificate of Compliance Application, the Development Officer considers only:

- Whether the buildings and structures on the site meet the minimum setback requirements of the current Land Use Bylaw;
- Whether features projecting from buildings and structures, such as steps, eaves and cantilevers, are within the maximum sizes allowed under the Land Use Bylaw;
- If the buildings or structures, or features projecting from them, do not meet the minimum setback requirements, whether (1) a relaxation has been previously approved by the Town; or (2) the buildings or structures are non-conforming (see 'When is a Certificate of Non-conformance given' below); and
- Whether encroachments into lands, easements or roads owned by or under the care and control of the Town conform to the Town's Encroachment Policy.

The following are not considered as part of the review of a Certificate of Compliance Application:

- Building or fence heights;
- Lot coverage;
- Parking spaces;
- Encroachments into private property not owned by or under the care and control of the Town;
- Encroachments into easements to which the Town is not a party;
- Restrictive Covenants and other title registrations;
- Buildings or structures less than 0.61 meters (2') in height provided they don't encroach into lands, easements or roads owned by or under the care and control of the Town;

- Corner visibility triangle;
- Safety Codes requirements (e.g. Building Permits);
- Buildings and structures not shown on the Real Property Report;
- Requirements of other Bylaws or Legislation; or
- Any other items not identified as being considered as part of the application review.

WHAT HAPPENS IF MY PROPERTY DOESN'T COMPLY?

The Applicant will receive an email from the Town listing the features that do not comply, and outlining the actions that must be taken in order to receive a Certificate of Compliance Stamp or a Certificate of Non-Conformance. Typically that may include:

- Application for a Development Permit or Advertised Variance to allow structures to remain as- and where-built; **and/or**
- Removal, reduction or relocation of buildings or structures that encroach or do not comply; **and/or**
- Application for an Encroachment Agreement where buildings or structures encroach into lands, easements or roads owned by or under the care and control of the Town.

Forms and fees are available on the Town of Okotoks website. Where buildings or structures are removed, reduced in size or relocated, a Statutory Declaration may be accepted or an updated Real Property Report may be required, depending upon the individual circumstances of each case. The Applicant will be notified accordingly.

ENCROACHMENTS

Certificates of Compliance or Certificates of Non-Conformance will not be issued if the Real Property Report identifies any encroachments into lands, easements or roads owned by or under the care and control of the Town, unless:

- the encroachment is permitted under the Town's Encroachment Policy without an Encroachment Agreement; **or**
- an Encroachment Agreement has been registered on the title allowing the encroachment(s) to remain; **or**
- the encroachment is removed.

An Application for Encroachment Agreement may be submitted with payment of the fee prescribed in the current Planning Fee Schedule at www.okotoks.ca/cofc. This option will be offered when the encroachment is deemed acceptable by the affected municipal services and/or utility operators and the Agreement is likely to be granted. See the Encroachment Policy at www.okotoks.ca/cofc for more information.

Where an Encroachment Agreement is involved, the Real Property Reports will be stamped only after the Agreement has been registered by Caveat against the title of the lands at the Southern Alberta Land Titles Office.

WHEN IS A CERTIFICATE OF COMPLIANCE GIVEN?

The location of buildings and structures is considered compliant and a **Certificate of Compliance Stamp** is provided if:

- the setbacks (distances from property lines) meet the minimum requirements as stated in the Land Use Bylaw; **or**
- where setbacks do not meet the minimum requirements stated in the Land Use Bylaw, the Town's development authority has approved a variance; **and**
- encroachments, if applicable, have been addressed to the satisfaction of the Town in accordance with the Town's Encroachment Policy.

WHEN IS A CERTIFICATE OF NON-CONFORMANCE GIVEN?

The location of buildings and structures is considered non-conforming and a **Certificate of Non-Conformance** is provided if the building setback(s) do not comply with the current Land Use Bylaw, but they were in compliance with an earlier version of the Land Use Bylaw that was in effect when the building or structure was approved.

If you receive a Certificate of Non-Conformance, please consult with the Town before planning any further development or renovation to the building(s) or structure(s) or the site. Section 643 of the *Municipal Government Act* states that a non-conforming building may continue to be used but the building may not be enlarged, added to, rebuilt or structurally altered except to make it a conforming building. Routine maintenance is permitted.

HOW DO I APPLY?

To apply for a Certificate of Compliance, please submit:

- a completed application form **or** a dated, signed letter of request that includes the applicant's name and complete contact information including email address, the address and legal description of the property in question, and the Applicant's delivery preference (mail, email, pick-up); **and**
- the fee prescribed in the Planning Fee Schedule at www.okotoks.ca/cofc; **and**
- at least two original, hard copy Real Property Reports (no photocopies) printed to the scale identified on the drawing (the Town will retain one original for its files); **or**
- a digital Real Property Report in pdf format, to scale, supplied to the Town directly by the Survey Company that prepared it.

The Real Property Report must accurately depict the condition of the site on the date the application is submitted.

If the survey date identified on the Real Property Report is:

- up to 90 days prior to the application date: it will be accepted as current provided there have been no changes to the site since the date of the survey.

- more than 90 days prior to the application date: it will be accepted with a Statutory Declaration provided there have been no changes and the Real Property Report accurately represents the current condition of the site. The Town can prepare the Statutory Declaration at no charge upon request.

A Statutory Declaration is a statement of fact written down and attested to by the Declarant before individuals who are authorized to administer oaths, confirming that the Real Property Report accurately represents the current condition of the site. It has the same effect in law as a sworn statement or affidavit.

If the Real Property Report does not accurately represent the current condition of the lands, the Applicant may be asked to provide an updated or new Real Property Report.

SERVICE OPTIONS AND TIMELINES

For application review and stamping of the Real Property Reports **or** notification to the Applicant of any issues to be resolved before a stamp may be provided:

- Standard: Five (5) business days following the date of submission
- Expedited: Two (2) business days following the date of submission

CAN I WITHDRAW MY APPLICATION?

An application may be withdrawn without further action, provided the contraventions do not, in the opinion of the Development Officer, create a potential hazard, create adverse effects on neighbouring properties, affect the operation or maintenance of roads or utilities, or otherwise merit further action. The Town reserves the right to address the outstanding issues at any time regardless of withdrawal of the application.

Encroachments into lands, easements or roads owned by or under the care and control of the Town that are deemed likely to cause adverse effect – that is, to create a potential hazard, adversely affect other properties, affect the operation or maintenance of roads or utilities, or otherwise merit further action - may be referred for compliance action should the applicant choose not to resolve the issue through the Certificate of Compliance process.

DISCLAIMER

This document is for informational purposes only. It does not constitute legal advice and should not be relied upon as such. The content of this document is provided “as is” and no representations are made regarding its accuracy or completeness.

For additional information, please contact Planning Services at 403-995-2760 or planning@okotoks.ca, or refer to the Town of Okotoks Land Use Bylaw which can be found on the Town’s website at www.okotoks.ca/cofc.