

Policy

Title:	CERTIFICATES OF COMPLIANCE
Policy Number:	PD- 61- 01
Effective Date:	November 29, 2023
Resolution:	530-23
Department Responsible:	Planning & Development
Supersedes Policy No:	H1 – Amended
Next Review Date:	November 29, 2026

POLICY STATEMENT:

From time to time the Municipal District is requested to provide a letter stating a building or buildings are located in compliance with the Land Use Bylaw. This policy is to establish a formal system for the issuance of a Certificate of Compliance respecting the Land Use Bylaw for the Municipal District of Lesser Slave River No. 124. The Compliance Certificate does not relieve the applicant from seeking input from other levels of government including Alberta Transportation for the setback distance from a highway.

DEFINITIONS:

“**Alberta Land Surveyor**” means a person who holds a certificate of registration and an annual certificate to engage in the practice of surveying under the Alberta Land Surveyors Act. It is commonly referenced as A.L.S.

“**Certificate of Compliance Letter**” means a written document issued by the Municipal District of Lesser Slave River No. 124 that states whether or not the property and the property improvements, as shown on the Real Property Report, comply with the siting and setback regulations of the Land Use Bylaw.

“**Designated Officer**” means the person or persons defined by the Development Authority Bylaw and appointed by Council to act as the Development Authority pursuant to that Bylaw,

“**Encroachment**” means a structure or improvement that projects beyond the boundaries of the property or is constructed within an easement or right-of-way that extends on, over or under adjacent land, including, but not limited to:

- Buildings and all projections (including eaves, footings, foundations weeping tiles, cantilevers, etc.) and siding;
- Sheds (including those attached to a dwelling and/or fence);
- Extensions of adjacent lands by fill or any deposit of fill;
- fences;
- Sidewalks, curbs, parking pads, aprons or driveways made from concrete asphalt, brick, or similar materials;
- Structures (including decks, patios, gazebos, satellite dishes, antennas, decorative walls, etc.);

- Retaining walls;
- Swimming pools and hot tubs;
- Hard landscaping (including asphalt, concrete paving stones, retaining walls, structures, planters, etc.).

“**Higher Density**” means multi-lot development consisting of 5 or more parcels in a quarter section.

“**Improvements**” means any visible, permanent structure as outlined in Part D, Section 8.5 of the Alberta Land Surveyor’s Association Standard of Practice Manual. In addition, in all Hamlets and Higher Density developments, the Real Property Report shall show all temporary structures and structures less than 9.4 sq. m (144 sq. ft.), including sheds and decks.

“**Real Property Report (RPR)**” means a survey document prepared, signed, dated, and stamped by an Alberta Land Surveyor, illustrating the location of all structures and visible improvements situated on a parcel of land relative to the property boundaries. The Real Property Report also shows any registered easements or right-of-ways affecting the property as well as any encroachments from or onto the property. It is a representation of the property on the date of survey.

“**Updated Real Property Report**” means a previously prepared Real Property Report that has been brought up to date (if required) and signed, dated, and stamped by an Alberta Land Surveyor.

“**Statutory Declaration**” means a written certificate of facts solemnly declared to be true by the person(s) signing the declaration before a Commissioner for Oaths.

PRINCIPLE:

1. The Municipal District of Lesser Slave River has no legislative requirement to issue a Compliance Certificate. Issuing the Certificate of Compliance is done as a public service to the landowners as many financial institutions will not lend money for the purpose of purchasing a property unless a Certificate of Compliance letter has been issued.
2. Any request for a Certificate of Compliance must be in writing and signed by the current registered landowner(s) or an agent acting on their behalf.
3. Any request for a Certificate of Compliance must provide the following information:
 - Specify the legal location and/or plan, block, and lot number on the property
 - Specify the name, address, and phone number of the applicant
 - One signed digital Real Property Report (not a Surveyor’s Certificate or Building Location Certificate). Any Real Property Report dated more than 1 year from the date of request must be accompanied by a



Statutory Declaration stating there have been no new buildings added or any additions made since the date of the Real Property Report.

4. Any development constructed or located on a property before January 1, 1995 (Municipal District incorporation date), and for which no Development Permit was issued, will be considered as legally non-conforming and may be issued a Certificate of Compliance provided it is otherwise in compliance with the Land Use Bylaw.
5. Any development constructed or located on the property on or after January 1, 1995, and for which no Development Permit has been issued, will be considered as non-conforming and a Certificate of Non-Compliance will be issued. Such a property can achieve compliance by obtaining an approved Development Permit from the Municipal District of Lesser Slave River No. 124 in respect to the subject property.
6. The fee for the Certificate of Compliance is established by the Schedule of Fees Bylaw.



Chief Administrative Officer
Barry Kolenosky

December 12, 2023
Date



Reeve
Murray Kerik

December 12, 2023
Date

SPECIAL NOTES/CROSS REFERENCE: ADM-12-25 Policy & Procedure Development
PD-61-01.01 Certificate of Compliance Procedure
AMENDMENT DATE: November 29, 2023



Procedure

PROCEDURE TITLE: Certificates of Compliance

PROCEDURE NO.: PD-61-01.01

RESOLUTION: 531-23

EFFECTIVE DATE: November 29, 2023

DEPARTMENT RESPONSIBLE: Planning & Development

NEXT REVIEW DATE: November 29, 2026

GENERAL GUIDELINES:

The Municipal District of Lesser Slave River has no legislative requirement to issue a Compliance Certificate. Issuing the Certificate of Compliance is done as a public service to the landowners as many financial institutions may not lend money for the purpose of purchasing a property unless a Certificate of Compliance letter has been issued.

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“**Certificate of Compliance Letter**” means a written document issued by the Municipal District of Lesser Slave River that states whether or not the property and the property improvements, as shown on the Real Property Report, comply with the siting and setback regulations of the Land Use Bylaw.

“**Designated Officer**” means the person or persons defined by the Development Authority Bylaw and appointed by Council to act as the Development Authority pursuant to that Bylaw,

“**Encroachment**” means a structure or improvement that projects beyond the boundaries of the property or is constructed within an easement or right-of-way that extends on, over or under adjacent land, including, but not limited to:

- Buildings and all projections (including eaves, footings, foundations weeping tiles, cantilevers, etc.) and siding;
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“Higher Density” means multi-lot development consisting of 5 or more parcels in a quarter section.

“Improvements” means any visible, permanent structure as outlined in Part D, Section 8.5 of the Alberta Land Surveyor’s Association Standard of Practice Manual. In addition, in all Hamlets and Higher Density developments, the Real Property shall show all temporary structures and structures less than 9.4 sq. m (144 sq. ft.), including sheds and decks.

“Real Property Report (RPR)” means a survey document prepared, signed, dated, and stamped by an Alberta Land Surveyor, illustrating the location of all structures and visible improvements situated on a parcel of land relative to the property boundaries. The Real Property Report also shows any registered easements or right-of-ways affecting the property as well as any encroachments from or onto the property. It is a representation of the property on the date of survey.

“Statutory Declaration” means a written certificate of facts solemnly declared to be true by the person(s) signing the declaration before a Commissioner for Oaths.

“Updated Real Property Report” means a previously prepared Real Property Report that has been brought up to date (if required) and signed, dated, and stamped by an Alberta Land Surveyor.

PROCEDURE:

1. Upon receipt of a Certificate of Compliance request and the established fee, the designated officer shall determine whether a Development Permit has been issued for the identified buildings which allows setbacks or development criteria that are less restrictive than the current Land Use Bylaw.
2. Upon determining the residence and any improvements comply with the Land Use Bylaw and/or Development Permits, the designated officer shall prepare a letter which identifies the following:
 - The legal description of the property for which the Certificate of Compliance applies to
 - The current land use zoning of the property
 - A statement which identifies that based on the Real Property Report, or Real Property Report and Statutory Declaration, the residence and other buildings conform to the minimum front, side and rear yard setbacks required in the specific land use district
 - A statement which identifies the Municipal District of Lesser Slave River No. 124 is issuing this compliance letter based on the information provided in the Real Property Report. The compliance letter evaluates compliance only in terms of siting and setback regulations of the Land Use Bylaw. It does not address compliance with other municipal bylaws, Provincial Safety Codes Regulations or other Provincial or Federal legislation. The Municipal District of Lesser Slave River No. 124 assumes no responsibility for error or omissions relating to the information provided by the applicant.
3. Should the designated officer determine the residence and any improvements do not comply with the Land Use Bylaw but complies with a Development Permit issued under a previous Land Use Bylaw, the designated officer shall issue a Certificate of Compliance.



4. If the Development Authority determines that any of the improvements located on the subject property do not have a Development Permit, the development authority may, at its sole discretion, require the property owner to obtain a development permit prior to the issuance of a Compliance Certificate. The proper development permit application fee is required for this process.
5. Should designated officer determine the residence and any improvements do not comply with the Land Use Bylaw and/or Development Permits the designated officer shall prepare a letter of Non-Compliance which identifies the following:
 - The legal description of the property for which the Certificate of Non-Compliance applies to
 - The current land use zoning of the property
 - A statement that identifies that based on the Real Property Report, or Real Property Report and Statutory Declaration, the residence and other buildings encroach upon a specific setback requirement in the specific land use district
 - The statement as follows:

Due to this encroachment and the fact there is no Development Permit on file allowing this encroachment, the (dwelling/building type) is considered a non-conforming building and section 3.3 of the Land Use Bylaw applies which states:

- 3.3.1 A non-conforming use of land or a building may be continued, but if that use is discontinued for a period of six (6) consecutive months or more, any future use of the land or building must conform with this Bylaw.
- 3.3.2 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, for the routine maintenance of the building, if the Development Authority considers it necessary, in accordance with a variance powers of the development authority provided in subsection 5.1
- 3.3.3 If a non-conforming building is damaged or destroyed by more than 75% of the value of the building above its foundation, the building may not be repaired or rebuilt except in accordance with the regulations in this Bylaw.
- 3.3.4 A non-conforming use of part of a building may be extended throughout the building but the building, whether or not it is a non-conforming building, may not be enlarged or added to and no structural alterations may be made to its interior or exterior.
- 3.3.5 A non-conforming use of part of a lot may not be exceeded or transferred in whole or in part to any other part of the lot and no additional buildings may be constructed within the lot while the non-conforming use continues.
- 3.3.6 The use of land or the use of a building is not affected by a change of ownership, tenancy, or occupancy of the land or building.



6. If the review process identifies an encroachment that is within or beyond the property lines, potential remedies are as follows:
 - The encroachment is beyond the property boundaries, encroaching onto Municipal District property such as a roadway, reserve land or a public utility lot: In this situation the property owner is required to either move/remove the encroachment or enter into an Encroachment Agreement or Licence of Occupation Agreement with the Municipal District. The Municipal District is under no obligation to issue an Encroachment Agreement or a Licence of Occupation Agreement. Each situation will be assessed individually to determine if the existing encroachment creates a hazard, obstacle, or other impediment to the Municipal District at the Municipal District's sole discretion.
 - The encroachment is beyond the property lines onto another privately owned parcel: In this situation the property owner may resolve the issue with the neighbor and either move/remove the encroachment or enter into an Encroachment Agreement with the owner of that property. The Municipal District will not negotiate with the neighboring property owner, as this is a private agreement between the two parties. If agreed to, the encroachment agreement must be registered on the titles of both properties.
 - The encroachment is located on a right-of-way for which a Right-of Way Agreement is registered against the Certificate of Title: The property owner will have to move/remove the encroachment or enter an Encroachment Agreement with the holder of the Right-of-Way Agreement to identify and allow for the encroachment. The Encroachment Agreement must be registered on title. If the landowner chooses to relocate or remove the encroaching structure, an Updated Real Property Report must be prepared and submitted, showing the change, prior to issuance of the Compliance Letter.
7. If the Municipal District agrees to allow the encroachment to remain subject to the appropriate required agreement (Encroachment Agreement, Right-of-Way Agreement or Amending Agreement), the agreement must be registered against the certificate of title for the property prior to issuance of the Compliance Letter.
8. Upon completion of the compliance letter, one original Real Property Report will be returned to the applicant and one original will be kept in legal filing. If, for whatever reason, only one Real Property report is provided, a photocopy will be returned with the compliance letter and the Municipal District will keep the original.
9. The Development Authority will not conduct a site inspection of the subject property and will rely solely on the Real Property Report to make a determination on whether or not improvements located on a property are compliant with the Land Use Bylaw.






Chief Administrative Officer
Barry Kolenosky

December 13, 2023
Date

SPECIAL NOTES/CROSS-REFERENCE: PD-61-01 Certificates of Compliance
AMENDMENT DATE: November 29, 2023

