

AGENDA
REGULAR COUNCIL MEETING
LEDUC COUNTY
COUNCIL CHAMBER, COUNTY CENTRE, NISKU, ALBERTA
Tuesday, April 9, 2013

1. **ORDER** – 1:30 p.m.

2. **AGENDA ADOPTION**

3. **APPOINTMENTS/PUBLIC HEARINGS**

- 1:30 p.m. – Agenda Item 5. a) Public Presentation(s)
- 1:35 p.m. - Agenda Item 5. b) Presentation - Gert Reynar, Food Bank Manager (Sara Russell and Corrie Richer)
- 1:40 p.m. - Agenda Item 5. c) Clarence Nelson, Director Enforcement Services
- 1:45 p.m. - Agenda Item 6. Dean Ohnysty, Director Parks and Recreation
- 2:00 p.m. - Agenda Item 7. D’Anne O’Keefe, Manager of Current Planning

4. **ADOPTION OF PREVIOUS MINUTES**

- * - Regular Council Meeting – March 26, 2013
- * - Regular Council Meeting – April 2, 2013

5. **GENERAL BUSINESS**

- a) 1:30 p.m. Public Presentation(s)
- b) 1:35 p.m. Presentation - Gert Reynar, Food Bank Manager - Leduc Food Bank (Sara Russell/Corrie Richer)
- * c) 1:40 p.m. Clarence Nelson - Bylaw Concert and Special Events
- * d) Action Items Summary
- ☐ e) Municipal Sustainability Initiative (MSI) Funds - New Sarepta
- ☐ f) 2012 Capital Equipment Purchase - Motor Scraper (Twin Engine)

6. **PARKS AND RECREATION** - 1:45 p.m.

- * a) Leduc County Library Board Audit
- * b) 2013 Calmar Rural Recreation Board Budget
- * c) 2013 New Sarepta Recreation Committee Funding Grants
- * d) 2013 Thorsby and District Recreation Advisory Committee Budget
- * e) 2013 Warburg Recreation Board Budget

REGULAR AGENDA

7. PLANNING AND DEVELOPMENT - 2:00 p.m.

- * a) Use of Land - Section 4-49-23-W4th, Paintball Business Re: 234-13
- * b) **Land Use Bylaw Enforcement (Stop Order) Procedures Re: 109-13**
- * c) Vote on Motion No. 257-13 - Development Permit Application - Noralta Lodge Ltd.
- * d) Extension of Subdivision Validity Period - SD 07-151, Pt. 9-51-24-W4th, UMA Engineering, 1227397 Alberta Ltd.
- * e) Extension of Subdivision Validity Period - SD 06-145, Pt. S.W. 1-50-23-W4th, Odyjewska

8. COUNCIL ORAL REPORTS

9. INFORMATION ITEMS

- * a) March 26, 2013 letter of Thanks from Leduc Curling Club for Sponsorship of the 2013 Alberta Boston Cup Provincial Men's Curling Championship
- * b) March 27, 2013 letter from Hon. Griffiths, Minister Alberta Municipal Affairs inviting submissions for the 12th Annual Minister's Awards for Municipal Excellence
- * c) March 28, 2013 copy of letter from Capital Region Board to City of Leduc - C-Line Intermunicipal Bus Services under the GreenTRIP Program
- * d) March 28, 2013 copy of letter from City of Leduc to Alberta Municipal Government Board - Proposed Separation of Lands from Leduc County and Annexation of Subject Lands to City of Leduc

10. ADJOURNMENT

Legend

- * Items Attached
- ☐ Items Previously Distributed
- ** Items to be Provided

MINUTES OF THE REGULAR COUNTY COUNCIL MEETING, LEDUC COUNTY, HELD ON TUESDAY, MARCH 26, 2013 IN THE COUNCIL CHAMBER OF THE COUNTY CENTRE BUILDING, NISKU, ALBERTA.

Order and Roll Call

The meeting was called to order at 2:20 p.m., Tuesday, March 26, 2013 by Mayor John Whaley as Chair with Council Members Jocelyn Mackay, Clay Stumph, Betty Glassman, Ruth Harrison and Audrey Kelto present. Council Member John Schonewille arrived after the meeting convened.

Also present were Mr. Brian Bowles, County Manager; Mr. Rick Thomas, General Manager, Community Services; Ms. Joyce Gavan, Recording Secretary; Mrs. Cindy Cvorak, Director Corporate Services; Mrs. Roxanne Girard, Human Resources Coordinator; and Mr. Garrett Broadbent, Director Agricultural Services.

Present as well were two other individuals.

Pages 4 to 77 and 86 to 107 of the original version of this document were removed, and only the pages required for this website presentation were retained.



REPORT FOR COUNTY COUNCIL

Report Name: Land Use Bylaw Enforcement Procedures

Recommendations

1. Planning and Development recommends that the following procedures be used when undertaking enforcement actions pursuant to the Leduc County Land Use Bylaw and the Municipal Government Act.
2. Planning and Development will present these enforcement procedures to Council using the County standard format for adoption by Council.

Issue

There is a need for a set of standard procedures to be followed whenever Leduc County Planning and Development personnel carry out enforcement actions arising from either complaints that infractions of the Land Use Bylaw are occurring or that development permit conditions are not being met.

Background

At the March 5, 2013 Council Meeting, the following Motion was passed:

Stop Order Recommendation

109-13 Councillor Mackay -- that administration create a policy for the enacting of Stop Orders including but not limited to notification of Council Members prior to the issuance and registration of Stop Orders on land titles; and that this policy be brought back to open Council no later than April 9, 2013.

Carried Unanimously

Leduc County - Relevant Legislation and Policies

Land Use Bylaw (7-08)

The Leduc County Land Use Bylaw includes the following regulations about Stop Orders.

4.2 Stop Orders

4.2.1 *If a development, land use, or building is found to contravene provisions of this Bylaw or conditions of a permit or order issued under this Bylaw, a Development Authority may serve the landowner, occupant or other person responsible with an order to:*

- (a) stop the development or the use of the land or building in whole or in part as directed by the notice;*

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Reviewed by: D'Anne O'Keefe, Manager of Current Planning

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- (b) demolish, remove, or replace the development; or*
- (c) carry out any other action required by the notice to ensure compliance with this Bylaw or the conditions of a permit or order issued under this Bylaw.*

4.2.2 An order issued under this section shall specify a date for completing the required action.

4.3 Enforcement of Stop Orders

4.3.1 The County may register a caveat against the Certificate of Title for land that is the subject of an order under Section 4.2 of this Bylaw. The caveat shall be discharged upon achieving compliance with the order.

4.3.2 Costs to the County resulting from enforcement actions taken to achieve compliance with an order under Section 4.2 of this Bylaw may be added to the tax roll of lands subject to the order.

4.4 Offences and Penalties

4.4.1 A person who contravenes or fails to comply with provisions of this Bylaw and any decision, condition or order made under it, or who obstructs or hinders any person in the administration or enforcement of this Bylaw, is guilty of an offence under the Act.

4.4.2 A person who is guilty of an offence under the Act is liable to a fine and/or imprisonment.

Municipal Government Act

A Stop Order can be issued under one of two applicable sections of the MGA.

Section 546

546 (0.1) *In this section,*

- (a) "detrimental to the surrounding area" includes causing the decline of the market value of property in the surrounding area;*
- (b) "unsightly condition",*
 - (i) in respect of a structure, includes a structure whose exterior shows signs of significant physical deterioration, and*
 - (ii) in respect of land, includes land that shows signs of a serious disregard for general maintenance or upkeep.*

(1) *If, in the opinion of a designated officer, a structure, excavation or hole is dangerous to public safety or property, because of its unsightly condition, is detrimental to the surrounding area, the designated officer may by written order*

- (a) require the owner of the structure to*
 - (i) eliminate the danger to public safety in the manner specified, or*
 - (ii) remove or demolish the structure and level the site;*
- (b) require the owner of the land that contains the excavation or hole to*
 - (i) eliminate the danger to public safety in the manner specified, or*

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- (ii) fill in the excavation or hole and level the site;
- (c) require the owner of the property that is in an unsightly condition to
- (i) improve the appearance of the property in the manner specified, or
- (ii) if the property is a structure, remove or demolish the structure and level the site.

(2) The order may

- (a) state a time within which the person must comply with the order;
- (b) state that if the person does not comply with the order within a specified time, the municipality will take the action or measure at the expense of the person.

Section 645

645(1) Despite section 545, if a development authority finds that a development, land use or use of a building is not in accordance with

- (a) this Part or a land use bylaw or regulations under this Part, or
- (b) a development permit or subdivision approval,

the development authority may act under subsection (2).

(2) If subsection (1) applies, the development authority may, by written notice, order the owner, the person in possession of the land or building or the person responsible for the contravention, or any or all of them, to

- (a) stop the development or use of the land or building in whole or in part as directed by the notice,
- (b) demolish, remove or replace the development, or
- (c) carry out any other actions required by the notice so that the development or use of the land or building complies with this Part, the land use bylaw or regulations under this Part, a development permit or a subdivision approval,

within the time set out in the notice.

Planning & Development's Current Procedures for Land Use Bylaw Enforcement

The following is an overview of the procedures currently used by Planning & Development for Land Use Bylaw enforcement actions.

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Potential Land Use Bylaw enforcement issues would include:

- Any unauthorized or illegal building,
- Any unauthorized or illegal development,
- Any unauthorized or illegal development within an existing building, or a change of use that would normally require an additional development permit, or
- Any condition included as part of a development permit (in the Notice of Decision letter) which is not adhered to.

In accordance with the Municipal Government Act Part 17, Section 616, "Development" is defined as:

- i. Any excavation or stockpile and the creation of either of them,
- ii. A building or an addition to or replacement or repair of a building and the construction or placing of any of them on, in, over or under land,
- iii. A change of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the use of the land or building, or
- iv. A change in the intensity of the use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the intensity of use of the land or building.

Current Basic Procedures

There are two ways in which a LUB enforcement file is begun: complaints and development permit conditions

Complaints

When a complaint regarding a LUB infraction is received, the information is recorded using a Land Use Bylaw Enforcement form. A complaint will be accepted in several different formats:

- E-mail
- Phone call
- Letter
- Office visit

The complaint can be either attributable to a specific person or it can be anonymous. Quite often, the complaint is registered by a resident of a subdivision or hamlet and there is some trepidation on the part of the complainant that their identity will be revealed because they don't want to be seen as causing problems in their neighbourhood.

Complaints are made most often by ratepayers or business owners but a complaint will be accepted from a member of the Leduc County administration.

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Development Permit Conditions

Enforcement actions pursuant to the Land Use Bylaw can be undertaken if conditions specified in the Notice of Decision letter of a Development Permit are not complied with.

Once a complaint is received or it is found that a development permit condition has not been fulfilled, an enforcement file is opened and identified by the landowner's name and the property roll number. This file is separate from any of the file systems currently in use and it is a temporary file that allows us to concentrate information about the LUB complaint into one place. Once the LUB enforcement issue has been dealt with and no further action is anticipated, the paper files will be moved into either the official Land File or a Development Permit file (if the enforcement action resulted from an issued development permit).

A file review for the subject property is done, putting together a history of activities, development permits and/or any previous enforcement activity. It is important to know what permits, if any, have been issued on the lands, and what conditions were included in those permits.

A site inspection should be done at this point. This will serve to verify the information included in the complaint. It should also be used to determine if the complaint is indeed legitimate or if:

- the complainant is looking at the wrong property.
- the complaint has been exaggerated.
- the subject of the complaint is actually a permitted use, either under the LUB or under an existing development permit.

Photos must be taken during the site inspection, both to verify the information provided by the complainant or to illustrate that there is no infraction of the LUB.

Paper copies of site photos need to be included in the enforcement file. Digital copies of all site inspection photos need to be added to the network files.

All information obtained during the site inspection(s) is added to the enforcement file (attached to the Land Use Bylaw Enforcement form).

Based on the information found during the site inspection(s), either:

- contact the complainant to clarify any issues that may appear to contradict their original complaint, or
- contact the landowner.

Contacting the landowner; this is done to:

- determine what is occurring on the property, from their point of view.
- discuss any infractions of the LUB that were revealed by the site inspection(s).

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Based on the information gathered to this point (from the land use complaint, the site inspections, and any discussions with landowner), the Development Officer will do one of the following:

- Close the enforcement file if there are no real infractions under either the LUB or the MGA.
- Issue an Enforcement letter.
- Issue a Stop Order.

Regardless of which of these three actions is taken, the original complainant is to be advised of progress on the complaint.

Enforcement Letter

In the case of LUB activities that do not pose an immediate threat to human health and safety or an immediate threat of damage to lands or buildings, the Development Officer should issue an Enforcement Letter. This letter will contain:

- A description of the enforcement issue.
- Why this activity or development is not allowed under either the LUB or the MGA.
- State that the County requires the activity and/or development to stop, either immediately or by a specified date.
- Explain the next step: either the issue has to stop permanently or explain what options the person has (i.e., must apply for a development permit).
- Explain that if the activity and/or development cannot be authorized under a development permit and therefore has to cease, but the activity and/or development does not cease by a specific deadline, that a Stop Order will be issued.

Once the Enforcement Letter is in-transit (via Registered Mail), a copy of the signed letter is e-mailed to the following people:

- Manager of Current Planning
- District Councillor
- Assessment Department

If the unauthorized development is one that may be considered a permitted or a discretionary use within the district, the land owner should be advised that the unauthorized use must cease until such time as a development permit has been issued. It is important that the landowner be made aware that in some cases, the development permit may not be approved.

Should the land owner not comply with the development authority's request to cease the unauthorized development, the development authority will then issue a Stop Order.

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If there is an immediate threat to human health and safety, or of damage to lands or buildings, then a Stop Order must be issued, without an Enforcement Letter being issued.

Stop Order

A Stop Order is issued under one of two applicable sections of the MGA:

- 546 – Order to remedy dangers and unsightly property,
- 645 – a development, land use or use of a building which is not in accordance with a land use bylaw, a development permit or subdivision approval.,

Normally, the signed Stop Order is sent to the landowner via Registered Mail, as this method provides a paper trail regarding the delivery, and pick-up, of the Order. In some cases, if it is urgent that the recipient of the Stop Order receives it that same day, then the original Order can be hand delivered to the recipient by a County Peace Officer.

Once the Peace Officer has delivered the Order, they will provide Planning & Development with an Affidavit of Service, indicating the date, time and location of service of the Order.

Once the Order is in-transit (via either Registered Mail or Peace Officer), a copy of the signed Order is e-mailed to the following people:

- Manager of Current Planning
- Director of Planning and Development
- District Councillor
- Manager of Safety Codes
- Assessment Department
- Enforcement Services

All Stop Orders will be registered as a caveat on the Land Title of the subject property.

It is important that all of these people receive a copy of the Order, so that they can:

- Answer questions and talk knowledgeably about the Order.
- Inform any County personnel who may be doing an inspection or assessment of that same property that the landowner has recently been the recipient of an Order.

Appeal Process

Any time a Stop Order is issued, the person named in the Order is contacted to:

- discuss the implications of the Order,
- answer questions or clarify any uncertainties, and
- ensure that the recipient understands that they can appeal the Order.

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It is important that the recipient of the Order is made fully aware that they have the right to appeal the Order and how the appeal process works, whether the Order is reviewed by Council (MGA, Section 546) or appealed to the Subdivision and Development Appeal Board (MGA, Section 645).

Court Order

If the landowner/applicant refuses to comply with either an Enforcement Letter, or a subsequent Stop Order, the next step would be to obtain a Court Order. A Court Order would allow the County to:

- take the necessary actions to remedy a longstanding problematic situation, and
- hire a contractor to enter the subject property and fix the outstanding infraction(s).

Enforcement of Conditions of Approved Development Permits

When a development permit is issued with conditions, the development authority is obligated to follow up on these conditions with the landowner/applicant.

This procedure should be undertaken as follows:

- The development authority should have a record of approved conditions that need to be verified, and a mechanism by which notification is provided to the development authority indicating a date for follow up (i.e., digital calendar).
- The Development Officer should ensure that permit conditions are met within the timelines set out in the Notice of Decision letter.
- Generally the Development Officer will notify the landowner/applicant verbally of the information required, and follow up in writing, confirming this information with the landowner. The development officer will work with the landowner/applicant and make every reasonable effort to accommodate their efforts to comply with the Notice of Decision letter, given the many problems which could hamper their efforts, such as inclement weather, poor ground conditions, etc.
- If, after a reasonable time period has passed, and at least 1 written request has been sent to the landowner/applicant advising them of the need to comply with the Notice of Decision condition, there is no indication that the landowner/applicant has any intention of complying with the permit condition, the development officer shall issue first, an Enforcement Letter (copied to the District Councillor) and second, if necessary, a Stop Order (also copied to the District Councillor).
- When development permit conditions have been met, the Development Officer shall confirm this in writing with the landowner/applicant.

When undertaking enforcement action of any nature, it is extremely important to ensure precise records are maintained with the following information:

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- Date and time of all site inspections, and who was present.
- Ensure that any pictures taken of a site include a written description on the photo of the legal land description, time and date of photo, location where the picture taken from, and who was present at the site inspection.
- A detailed written description of all materials noted on site, and their locations. It is helpful to use an air photo or site plan when on-site to more accurately document these items.
- Keep an accurate record of all correspondence relating to the enforcement action. For example, any conversations with complainant(s), land owner, adjacent land owners, etc.

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Conclude Public Hearing

Mayor Whaley concluded the Public Hearing at 2:54 pm

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