



Title: Compliance Certificates		Policy No.: 12-01
Section: 61	Code: P-S	Page No.: 1 of 8 E

Legislation Reference:	Alberta Provincial Statutes
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Purpose:	To outline the procedures and requirements for the Planning and Development Department on handling requests for Compliance Certificates in Smoky Lake County.
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Policy Statement and Guidelines:

1. STATEMENT:

1.1 Smoky Lake County wishes to issue Compliance Certificates upon request as a service.

2. OBJECTIVE:

2.1 Smoky Lake County usually receives a request for a Compliance Certificate in connection with the purchase or sale of a property as a financial institution, lawyer or buyer wants to know if the development on the property conforms to Smoky Lake County's Land Use Bylaw.

3. DEFINITIONS:

For Interpretation purpose:

3.1 **Real Property Report:** A Real Property Report is a legal document that clearly illustrates the location of significant visible improvements relative to property boundaries. The Real Property Report is a "snap shot" of the property on the date of the survey prepared by an Alberta Land Surveyor.

3.2 **Compliance Certificate:** A Compliance Certificate is a document issued by Smoky Lake County that states whether or not the existing buildings and/or other visible improvements which are shown on the Real Property Report meets the setback requirements of Smoky Lake County's Land Use Bylaw.

3.3 **Alberta Land Surveyor:** An A.L.S. is an individual who holds a certificate of registration and an annual certificate to engage in the practice of surveying under the Land Surveyor's Act.

4. GUIDELINES:

4.1 Smoky Lake County has no legislative requirement to issue a Compliance Certificate. We do so as a public service since many financial institutions will not lend without one.

5. PROCEDURES:

5.1 Upon receipt of a written request (letter) or the attached **Schedule A – Compliance Certificate Request Form** and the appropriate fee as set by County Policy Statement 61-11: Planning and Development Fees, the Planning and Development Manager will adhere to **Schedule B – Frequently Asked Questions: Real Property Reports/Compliance Certificates.**

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Policy Statement and Guidelines:	
5.2	The Planning and Development Manager will consider submitted requests as soon as possible. However, it may up to 10 working days before a Compliance Certificate is issued.
5.3	Should the existing development on the lands not comply with the current Land Use Bylaw, a letter will be issued stating the point(s) of non-conformance to the applicant.
5.4	The Planning and Development Manager does not inspect the property and relies solely on the information provided in the Real Property Report as provided by the applicant.
5.5	If the Real Property Report meets the minimum setbacks in the current Land Use Bylaw, the copies will be stamped as complying. One copy is kept for County records and the rest will be returned to the applicant.

	Date	Resolution Number
Approved	March 28, 2014	# 367-14 - Page # 11159
Amended		
Amended		



Box 310
4612 McDougall Drive
Smoky Lake, AB T0A 3C0
ph 656-3730 fx 656-3768

COMPLIANCE CERTIFICATE REQUEST FORM

Applicant Information

Applicant/Agent: _____ Phone: _____
 Address: _____ Cell Phone: _____
 City/Prov. _____ Postal Code: _____ Fax: _____
 Email address: _____ Signature: _____

Application Requirements

1. Completed Application Form (or Letter)
2. Application Fee as set by County Policy 61-11.
3. Two (2) originals of a Real Property Report with this application form.

***Note:** Smoky Lake County does not accept faxed, photocopies, emailed, spliced, or altered Real Property Reports.) Please allow up to 10 working days for a Compliance Certificate to be reviewed and issued.*

Property Address Requiring Compliance

Legal: Lot _____ Block _____ Plan _____ and Part of _____ ¼ Sec _____ Twp _____ Rge _____ W4M

Preferred Method of Communication

Select a method which can be used to advise you that your application has been completed.

call you for pick up mail the decision

If mailed, where would you like the certificate/letter mailed.

Mail out to the address shown above to the address shown below

****If a decision has not been picked up within 5 (five) working days, the decision will be automatically mailed to applicant.**

OFFICE USE ONLY

Type of Payment: DEBIT CASH CHEQUE

Fee \$ _____ Receipt # _____

Receipt Date _____ Date Received _____

Our File Number: _____ Your File Number: _____ Roll Number: _____

SCHEDULE "B"



**Frequently Asked Questions:
REAL PROPERTY REPORTS/
COMPLIANCE CERTIFICATES**

Updated: March 2014

For more information, contact:

Planning & Development

Box 310

Smoky Lake, AB T0A 3C0

Phone: (780) 656-3730

Fax: (780) 656-3768

Website: www.smokylakecounty.ab.ca

1. What is a Real Property Report?

A Real Property Report is a survey document prepared by an Alberta Land Surveyor that shows the location of all buildings and other visible improvements situated on a parcel of land, including their distance from the property boundaries. Any easements or rights of way registered against the title of property at the date of the survey will also be indicated.

In preparing a Real Property Report, the Surveyor is required to note any visible encroachments that extend onto the property or from the property onto other adjoining lands, including County reserve lands.

The Real Property Report is a legal document that you can rely upon as an accurate representation of the development existing on a piece of land. The Real Property Report takes the form of a plan or illustration of the various physical features of the property, including a written statement detailing the surveyor's findings. It can be relied upon by the buyer, the seller, the financial institution and the municipality as an accurate representation of the improvements on your property.

2. Why do I need a Compliance Certificate?

Smoky Lake County usually receives a request for a Compliance Certificate in connection with the purchase or sale of a property as the financial institution, lawyer, or buyer wants to know if the development on the property conforms to Smoky Lake County's Land Use Bylaw. The Compliance Certificate will tell them that everything is in order, or that encroachment problem(s) may exist. Lawyers and lending institutions need compliance certificates to protect their clients' investments. Standard real estate purchase contracts often require the vendor to obtain a stamp of compliance.

Financial institutions typically require a statement confirming that the development complies with municipal bylaws or that any problem is resolved prior to the registration of a mortgage.

It is important that you check the financial institution's requirements carefully as some may be willing to accept an existing Real Property Report in which case the seller may have one available for you. Unfortunately, the County is not able to photocopy any Real Property Report submitted previously by a landowner or surveyor as there are copyright laws on same. A financial institution or potential buyer may insist on a current Real Property Report. You also need to clarify whether a Real Property Report is all that is required. Normally, they will want a current Compliance Certificate from Smoky Lake County.

3. Why is Smoky Lake County's Compliance Certificate important?

The Planning and Development Manager will confirm on a Compliance Certificate whether or not the existing buildings and/or other improvements shown on the Real Property Report meet the setback requirements of Smoky Lake County's current Land Use Bylaw.

It is important to note that the Compliance Certificate only relates to the development existing on the date of the survey. We would also remind you that a Compliance Certificate is not a substitute for legal advice. If there are any issues or questions regarding compliance, you should review these matters with a lawyer with relevant expertise.

4. What does Smoky Lake County do to determine if the existing development complies with the current Land Use Bylaw?

The Planning and Development Manager will first establish the zoning of the property and then review the Real Property Report to determine if the buildings and other improvements shown meet the setback requirements of Smoky Lake County's Land Use Bylaw. The Planning and Development Manager typically does not consider whether other development standards have been complied with or what actual use is being made of the property.

Smoky Lake County has adopted environmental setbacks from watercourses and other bodies of water. In order to confirm whether the buildings and other improvements shown on the Real Property Report meet these requirements, we could ask Surveyors to show distances from the top of the bank where the property abuts a river stream or watercourse and the high water mark if the property borders a lake or other water body.

Where the property borders a highway, the setback distance requirements from the highway are established by Alberta Transportation, and not Smoky Lake County. Please contact Alberta Transportation if your property abuts a highway for further information.

5. What happens if the existing development is not in compliance?

Staff will advise what aspects of the development do not comply with Smoky Lake County's current Land Use Bylaw. Sometimes it may be a case where a building does not conform to the current setback requirements but instead was built according to Smoky Lake County standards that were in effect at the time of development approval or perhaps a lesser setback distance previously agreed to by Smoky Lake County. In either case, the building is considered a "*legal, non-conforming*" development as it was located in accordance with the rules at the time of construction or the conditions of the development approval. A "*legal, non-conforming*" building may remain at its present location but may not have any structural alterations or additions without prior approval from Smoky Lake County.

There are, of course, situations where a building may simply not have been built in a location that complies with requirements of Smoky Lake County's current Land Use Bylaw. In these cases, we will indicate that the building does not conform to the current Land Use Bylaw. There are several options which may be available if this situation occurs. You may contact the Planning & Development Manager to review the options available.

6. What action will the County take if there are encroachments onto adjoining municipally owned property?

It has been fairly common for staff to find that buildings or other private improvements encroach onto County-owned land, particularly reserve lands around our lakes.

If a Real Property Report shows that there is a private improvements encroaching onto County-owned land, we will check if permission has previously been given for this improvement to remain. Where there has been no permission, we will not issue a Compliance Certificate until the situation has been resolved to the satisfaction of Smoky Lake County. We will then advise the person or party requesting the compliance of the situation and the action required by Smoky Lake County.

At times the landowner may be asked to remove the encroachment. Where this is the case, we will require an updated survey from the landowner or their agent that this has been done before any Compliance Certificate is issued. In some rare situations, Smoky Lake County may consider allowing a building or other private improvement to remain insofar as the owner enters into a license or encroachment agreement with Smoky Lake County. A Compliance Certificate will be issued once the agreement has been executed.

7. Will Smoky Lake County accept a Real Property Report that is not dated within the last 6 months?

No, unfortunately not, as the Planning and Development Manager is unable to confirm if any improvements have been made. The Planning and Development Manager relies solely on a current Real Property Report for the issuance of a Compliance Certificate. Statutory Declarations will not be accepted in lieu of a current/updated Real Property Report.

8. What is the cost for a Compliance Certificate?

The fee for a Compliance Certificates is set by County Policy 61-11.

9. How many originals of the Real Property Report do I need to submit?

Smoky Lake County requires two (2) original Real Property Reports stamped by an Alberta Land Surveyor.

10. Can I obtain a copy of a Real Property Report that has been previously received by the County?

Smoky Lake County will not release a copy of any previously received Real Property Report and/or Compliance Certificate that it may have in its possession due to the copyright restrictions placed on the Real Property Report by the Alberta Land Surveyor. To obtain a copy of same, a prospective buyer or realtor may ask the landowner for a copy of same if a Compliance Certificate was previously issued on the property.

11. How long does it take to obtain a Compliance Certificate?

We will consider your request as quickly as possible. However, depending on other work demands, it may sometimes take 5-10 working days before a Compliance Certificate is issued.

You should be aware that Smoky Lake County's response may cause a longer delay in obtaining financing or completing a property transaction if it is found that the existing development does not conform to the requirements of Smoky Lake County's Land Use Bylaw. The reason for this delay is that a setback relaxation may be required to address the non-compliance. If a relaxation is required, you will need to apply for a new development permit together with a fee that allows the building or structure in question to remain as-built. The processing of such an application can take up to 5 weeks as any decision to relax a setback requirement is subject to appeal by neighbors. In other cases, Smoky Lake County may require you to remove any building or structure that encroaches onto public property, such as reserve or right of way. Where Smoky Lake County is prepared to allow the encroaching building or structure to remain, you will be required to enter into a license or encroachment agreement with Smoky Lake County. This agreement will describe the terms and conditions under which the building or structure may remain.

It is advisable for you to ensure that a condition is placed on the offer to purchase that provides for any compliance issues to be satisfactorily addressed before the final closing date. To avoid a delay in finalizing your transaction, you should apply for your compliance stamp as soon as you have decided to sell your property.

12. How can I get more information on Real Property Reports?

You may contact an Alberta Land Surveyor (A.L.S.) directly or you may visit The Alberta Land Surveyors' Association website's at: www.alsa.ab.ca.