

Title: Development Enforcement

Policy No: 6002

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Purpose: To provide a clear and defined process to uphold all planning documents and a process in which enforcement action is to be taken on apparent illegal, nonconforming or refused development within Greenview.

DEFINITIONS

Complainant means the person who is dissatisfied and is filing a complaint.

Contravener means a person who fails to comply with a municipal bylaw.

Development means any development as defined in the Municipal Government Act (MGA).

Planning Documents means documents that have been created and approved by Greenview for the purposes of creating and promoting orderly development within Greenview including: Intermunicipal Development Plans (IDPs), Municipal Development Plans (MDPs), Area Structure Plans (ASPs), and the Land Use Bylaw (LUB).

Valid complaint means a written complaint that describes the location and general nature of a potential bylaw contravention, which includes the complainant’s name, address and telephone number, and which is not a vexatious complaint.

Vexatious complaint means a complaint that is made for retaliatory, vengeful or bad faith purposes, or otherwise forms part of a pattern of conduct by the complainant that amounts to an abuse of the complaint process.

POLICY

1. Greenview believes that it is important to provide a process by which enforcement is undertaken in a transparent fashion and that actions are carried out on apparent illegal, nonconforming, or refused development in a consistent manner that upholds the legislative requirements as well as promote community goals, objectives and targets for development within Greenview, as defined in the Municipal Government Act (MGA) and further defined in the Land Use Bylaw (LUB) and statutory plans that Greenview has adopted such as the Municipal Development Plan (MDP), Area Structure Plans (ASPs), Intermunicipal Development Plans (IDPs) and other pertinent planning policies and documents.
2. Greenview has created several documents, through public engagement, to build plans containing the community’s objectives, goals and targets; and as such, Greenview has a right and obligation to uphold these documents.

3. Greenview, like most municipalities, relies primarily on public complaints to identify potential non-compliance. The primary goal in dealing with contraventions of these bylaws is to achieve voluntary compliance through communication and education; however, where further enforcement is needed, it will be based on consistency and fairness.
4. Development deemed to be without appropriate approvals that comes to the attention of Greenview will prompt planning staff to conduct a field inspection and discuss the contravention with the contravener and follow-up in writing with a warning letter. If corrective action has not taken place, then a Stop Order and caveat will be issued and registered on the titled property in a timely manner as prescribed by legislation, thus requiring remedial action to be taken to rectify the un-approved development within Greenview and uphold any and all planning documents approved by Greenview.
5. Greenview will accept and act on information received as a written complaint from members of the public, government departments, public bodies or stakeholders that have an interest in or are adjacent to an apparent illegal, nonconforming or refused development.
6. The enforcement process must be accessible and transparent while ensuring and upholding the Freedom of information and Protection of Privacy Act.

PROCEDURE

1. Valid Complaints:
 - 1.1 All development complaints must be submitted in writing to the Development Officer of the relevant area where possible, with the exception of those identifying urgent contraventions (health and safety) prior to being considered for investigation.
 - 1.2 A valid complaint must include complete contact information for the complainant (name, address and telephone number). The complaint must be in the form of a letter or email. Greenview will generally not respond to anonymous complaints.
2. Investigation
 - 2.1 In response to a complaint, a Development Officer will assess and investigate to determine compliance with municipal bylaws and planning documents. The investigation may include reviewing a bylaw and file, contacting the alleged contravener, contacting the complainant, and conducting a site inspection.
 - 2.2 Upon receipt of a valid complaint, a Development Officer will open a file in order to track the progress of the violation. The Development Officer shall maintain a written record of inspections and investigations undertaken and a record of all complaints received.
 - 2.3 If a confirmed violation is minor in nature and/or if it appears the complaint may be a vexatious complaint or is part of a larger neighbourhood conflict, Administration may conclude it is not in Greenview's best interest to pursue the matter.
 - 2.4 Vexatious complaints will be referred to the Chief Administrative Officer (CAO) for a determination on the outcome and the complainant will be notified in writing on the reason for imposing the outcome.
3. Confidentiality
 - 3.1 Information regarding the complainant is kept confidential and is protected under the Freedom of Information and Protection of Privacy Act; however, a complainant may be identified if the issue proceeds to court and the complainant is required to act as a witness for the prosecution.
 - 3.2 Confidentiality is necessary to ensure complainants are not exposed to retaliation or other adverse actions as a result of the complaint and to maintain effective investigation

techniques. The identity of the complainant and any identifying information will not be disclosed to the alleged contravener or any member of the public, except as required by law. Likewise, the details of Greenview's investigation and enforcement steps will not be disclosed to the complainant.

4. Enforcement

- 4.1 Bylaw enforcement is sought, in the first instance, through voluntary compliance. Individuals who are being investigated will be issued a warning letter, instructed to cease the activity or remedy the infraction and given the opportunity to achieve compliance before further action is taken to the limits noted in municipal bylaws or the Municipal Government Act. Compliance may be encouraged through notification of fines associated with the offence.
- 4.2 If a violation is identified, the contravener will be instructed to take action to resolve the issue immediately or within a specified time period as specified in the relevant legislation.
- 4.3 Administration will determine the time period required to resolve the issue based on, but not limited to, matters such as:
 - a) potential risk to public health and/or safety;
 - b) magnitude, nature and duration of the contravention;
 - c) history of non-compliance on the property or by the contravener;
 - d) potential short- and long-term impact on a structure, the community and the environment;
 - e) potential for setting a precedent;
 - f) resources available to resolve the matter; and
 - g) potential costs and liability associated with enforcement action.
- 4.4 The Chief Administrative Officer (CAO) will request approval from Council to commence bylaw enforcement legal proceedings. All requests to Council shall be *in closed Council session*.
- 4.5 Council will decide whether to provide funding for legal action, decline to do so or recommend other actions. Administration, with the assistance of legal counsel, will follow up with Council's motion to initiate legal proceedings.
- 4.6 Enforcement proceedings will generally commence where and when voluntary compliance cannot be achieved to rectify bylaw infraction(s).
- 4.7 All enforcement action will be conducted in accordance with the relevant provincial legislation, municipal bylaws and as outlined in this policy.
- 4.8 This policy is not meant to take precedence over the federal or provincial jurisdictional matters or interfere in any way with these authorities, as the municipality will only take the necessary steps to ensure that enforcement is within municipal jurisdiction.

5. Safety

- 5.1 While encouraging compliance with municipal bylaws is important, the safety of enforcement personnel is paramount. If a member of staff is verbally or physically threatened while administering bylaws, appropriate law enforcement personnel will be utilized to ensure enforcement action may proceed.

6. Responsibilities

- 6.1 Council members, Board members, Greenview Staff:
 - 6.1.1 Forward written complaints of any apparent illegal, nonconforming or refused illegal development to the Manager of Planning & Development or Development Officer responsible for the area in question; and
 - 6.1.2 Hold in confidence any information that is brought forward pursuant to this procedure and uphold the Freedom of information and Protection of Privacy Act.

- 6.2 Manager of Planning & Development and Development Officers:
 - 6.2.1 Assess any and all information provided regarding any apparent illegal, nonconforming or refused development;
 - 6.2.2 Ensure remedial action is undertaken to uphold the MGA and all Greenview's planning documents;
 - 6.2.3 The Manager of Planning & Development is responsible to delegate duties to Development Officers and provide required information to ensure that remedial action is undertaken in a timely manner as prescribed by legislation;
 - 6.2.4 Remedial action will be started in an appropriate manner on a case-by-case basis according to legislative requirements. A report will be forwarded in regard to all apparent illegal, nonconforming or refused development within Greenview, to the appropriate Planning Authority for consideration and any further action as may also be required on a case-by-case basis;
 - 6.2.5 Hold in confidence any information that is brought forward pursuant to this procedure and uphold the Freedom of information and Protection of Privacy Act; and
 - 6.2.6 Assess and identify any policy, procedure or internal changes that may assist in preventing any further such occurrences.