

Development Permit Enforcement

Planning & Development Committee
Thursday, March 2, 2023

DP Enforcement

Background

- In 2020 the Board considered the submission of a resolution to UBCM seeking improvements to development permit enforceability.
- This same issue had been considered by UCBM in 2003, 2011 and 2019.
- The province has advised that it considers local governments to already have the authority to enforce development permit violations – no legislative change are forthcoming.

DP Enforcement

Division 4 — Official Community Plans

Purposes of official community plan

- 471** (1) An official community plan is a statement of objectives and policies to guide decisions on planning and land use management, within the area covered by the plan, respecting the purposes of local government.
- (2) To the extent that it deals with these matters, an official community plan should work towards the purpose and goals referred to in section 428 [*purpose of regional growth strategy*].

Bylaw to adopt official community plan

- 472** (1) A local government may, by bylaw, adopt one or more official community plans.
- (2) An official community plan
- (a) must be included in the adopting bylaw as a schedule, and
 - (b) must designate the area covered by the plan.

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Bylaw notices: application of *Local Government Bylaw Notice Enforcement Act*

- 415** (1) Subject to the regulations under the *Local Government Bylaw Notice Enforcement Act*, a regional district bylaw may be enforced by bylaw notice under and in accordance with that Act.
- (2) If a matter is prescribed for the purpose of section 4 (2) [*regulations restricting enforcement to bylaw notices*] of the *Local Government Bylaw Notice Enforcement Act*, a board that adopts or has adopted a bylaw in relation to the matter may enforce the bylaw only by bylaw notice under that Act.

DP Enforcement

Appendix 8(a) to Schedule A¹⁵

Electoral Area "A"

Official Community Plan Bylaw No. 2450, 2008

Column 1 Offence	Column 2 Section	Column 3 Penalty	Column 4 Early Payment	Column 5 Late Payment	Column 6 Compliance Agreement Available
Failure to obtain a Development Permit	18.1	\$500	\$450	\$550	Yes
Failure to obtain an Environmentally Sensitive Development Permit (ESDP)	18.2.5	\$500	\$450	\$550	Yes
Failure to obtain a Watercourse Development Permit (WDP)	18.3.2	\$500	\$450	\$550	Yes

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An offence against a development permit is an offence against an OCP (not a bylaw) and can only be pursued through civil proceedings in B.C. Supreme Court:

- costly;
- administratively onerous; and
- time consuming.



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Board Resolution

staff to bring forward options for bylaw amendments to allow for the ticketing of development permit infractions rather than pursue legislative changes through a resolution to UBCM.

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Proposed OCP Amendments - “Development Permit Offences”

1. No person shall commence any development on lands within any development permit area without obtaining a valid development permit.
2. The development of land in contravention of the terms or conditions of a development permit that has been issued under Section 489 of the *Local Government Act* is prohibited.

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Proposed BNE Bylaw Amendments

Appendix 8(a) to Schedule A
Electoral Area "X" Official Community Plan Bylaw No. XXXX, 20XX

Column 1 Offence	Column 2 Section	Column 3 Penalty	Column 4 Early Payment	Column 5 Late Payment	Column 6 Compliance Agreement Available
Failure to obtain a Development Permit	XX.X.X	\$500.00	\$450.00	\$550.00	Yes
Failure to comply with a condition of a Development Permit	XX.X.X	\$500.00	\$450.00	\$550.00	Yes

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Issues:

1. Doubts exist regarding the authority to enforce DP contraventions using bylaw notices or municipal tickets.
2. If a bylaw notice penalty is challenged, it is possible that the contravention may not be enforceable.
3. In the absence of a penalty, DP enforcement is challenging.

DP Enforcement

Questions?