

Title: Issuance and Enforcement of Stop
Work Orders



Policy No: 6104

Approval: County Council
Effective Date: August 21, 1995

Supersedes Policy No:

Policy Statement: To establish a procedure for issuing and enforcing stop work orders on developments where a development permit has not been obtained from the County or where the development is in violation of the County's Land use bylaw or development permit.

1. Where it is determined that construction is taking place or a building is being used in violation of the County's Land Use Bylaw or development permit or where a development permit for the construction or use has not been obtained from the County, the County's Development Officer may, at his discretion and under the authority of the Municipal Government Act and associated regulations, require the owner to remove, demolish, alter, fill in or stop the work or use. Where such action is required to be taken, the following procedure shall be adhered to:

a) **Issuance of Notice**

Written notice of the violation shall be served on the owner of the property and on the contractor engaged in the work.

b) **Content of Notice**

The notice must state the reasons why the stopping of work is required and what remedial actions must be taken to comply with the order. The notice shall include the text of any sections of the Land Use Bylaw that are being violated and/or the conditions of the development permit that are not being followed. The notice shall also specify the length of time the owner has to correct the violation, allowing the owner a reasonable length of time for the correction to be made.

c) **Additional Information to Accompany Official Notice**

A letter shall be included with the notice suggesting that the owner contact the development officer for answers to any questions concerning the notice and for more information as to what may be required to correct the violation. The letter shall state that a follow-up inspection will be made prior to the expiry of the time limit stated in the order. If the development has been undertaken without a permit, the letter shall offer the assistance of the development officer to complete a permit application.

d) **Follow-up Inspections**

Where a notice has been served, a follow-up inspection of the property shall be undertaken to determine if action has been taken to comply with the order. The inspection shall be undertaken after the owner has had sufficient time to begin to correct the violation but before the expiry of the time period stated in the order for correction of the violation.

e) **Reminder Notice**

If the follow-up inspection reveals that the owner is not taking action to comply with the notice, the development officer may, at his discretion, send a second written reminder to the owner, clearly setting out the action required by the owner to correct the situation and, again, stating the date that compliance with the order is required. The reminder notice shall also outline the action that the County intends to take in the event that the owner does not comply with the notice, describing the potential penalties, which may be assessed.

f) **Action on Notices**

Where a stop order has been served, it is the responsibility of the property owner or his designate to perform the work necessary to comply with the order within the time period specified in the order. In the event that the owner is unable to perform the work and requests the assistance of the County in complying with the order, the Municipal District may choose to enter the property and assess the cost of the action required to comply with the order. In the event that such action is contemplated by the development officer, approval of the County Council shall be obtained prior to any such action being taken.

g) **Court Authorization for Entry**

Where the owner has taken no steps to comply with the order and does not authorize the necessary work to be performed by the County, the County may

apply to the court of Queen's Bench, by way of an Originating Notice of Motion, for an order authorizing municipal entry onto the premises and restraining the owner from interfering with actions required to bring the development into conformance with the Land Use Bylaw or otherwise as the case may be.

h) **Other Legal Avenues**

As an alternative to the application to the Court for entry onto the property, the County may approach the Court for an order to the owner to comply with the Land Use Bylaw or, alternatively, the County may apply to the court for an injunction addressing possible prosecution and penalties as may be the case.

i) **Seeking Legal Assistance**

Actions contemplated beyond the issuance of a reminder notice shall only be taken upon the explicit advice of the County's solicitors, bearing in mind that liability for failing to take action on a bylaw is a concern which need to be addressed in each instance.