

Approved by Council February 12, 2002

MUNICIPALITY OF THE DISTRICT OF LUNENBURG

Policy on Development Agreement Inspections and Violations

1. This policy is entitled "Policy on Development Agreement Inspections and Violations".
2. In this Policy:
 - (a) Development Officer means the person or persons appointed by Council to administer a land use or subdivision by-law.

3. Annual Inspection

The Development Officer shall ensure that an annual inspection of every development agreement in force is conducted, to ensure that the provisions of the development agreements are adhered to.

4. Violation is Identified.

A violation of a development agreement may be identified by either the Development Officer or through a report from an individual. A report made to the Development Officer shall be investigated, regardless of whether or not the report is made anonymously.

Upon notification of a possible violation, the Development Officer shall conduct an on-site inspection to determine whether a violation exists.

5. Notification to Owner of Violation

The Development Officer shall notify the owner of the property of any violation. This notification shall be in writing and shall:

- a) identify the violation;
- b) identify the necessary steps to rectify the violation;
- c) give notification that a follow up inspection shall be conducted:
 - i) thirty (30) days from the date the notice was served, for a first time offender,
 - ii) fifteen (15) days from the date the notice was served for a repeat offender, or
 - iii) seven (7) days from the date the notice was served, when the Development Officer determines that immediate rectification is necessary to reduce an immediate negative impact on the community or the environment;
- d) advise that if the violation has not been rectified upon expiration of the time frames identified in clause (c), the Development Officer will make a recommendation to Municipal Council that the Development Agreement be terminated or that the Municipality seek remedies pursuant to Section 264 of the Municipal Government Act; and

- e) advise that if the Development Agreement is terminated, the use will be an illegal use and Council may seek remedies as provided under Sections 266 or 505, or both, of the Municipal Government Act

6. Follow-up Inspection

Once the applicable time frame referenced in Section 5, clause (c) has expired, the Development Officer shall conduct an on-site inspection to determine if the violation has been rectified.

7. Recommendation of Termination of a Development Agreement or Remedies Pursuant to Section 264.

If the violation has not been rectified, the Development Officer shall report the violation to the Municipality's Committee of the Whole recommending that:

- i) Municipal Council terminate the Development Agreement, or
- ii) pursuant to Section 264 of the Municipal Government Act, Municipal Council give thirty (30) days notice to the owner that the Municipality will enter the property to complete the required work necessary to fulfill the terms of the Development Agreement, and the cost will be a first lien on the property until paid.

8 Remedies Sought by Council

Upon receipt of the recommendation from the Development Officer, Council shall decide whether to:

- a) terminate the Development Agreement;
- b) give the owner of the property thirty (30) days notice that the Municipality will enter the property to complete the required work necessary to fulfill the terms of the Development Agreement with the cost as a first lien on the property, until paid;
- c) identify other remedies; or
- d) not seek remedies, at which time the violation file will be closed.

9. Termination of Development Agreement

If Council terminates the Development Agreement, they shall instruct the Municipal Solicitor as to the method of prosecution that should be sought, in accordance with Sections 266 and 505 of the Municipal Government Act.

9.1 Notification to Owner

Upon termination of the Development Agreement the Development Officer shall, where a Land Use By-law so provides, revoke the Development Permit. Subsequently, the Development Officer shall advise the owner in writing that the use of the property, for which the permit was issued, is now illegal and must cease within seven (7) days from date this notice is served.

9.2 Final Inspection

The Development Office shall conduct a final inspection at the end of the seven- (7) day period to determine if the use has ceased. If the use has not ceased, the Development Officer shall refer the matter to the Municipal Solicitor. The Municipal Solicitor shall proceed with prosecution in the manner determined by Municipal Council.

10. Remedy Sought in Accordance with Section 264 of the Municipal Government Act

10.1 Notification to Owner

Where Council determines to take action as outlined in Section 8, clause (b) and as provided for pursuant to Section 264 of the Municipal Government Act, the Municipal Clerk shall notify the owner, in writing that:

- a) Thirty (30) days from the date the notice is served, the Municipality will enter upon the lands and carry out the work required to rectify the violation; and
- b) that the Municipality will recoup all reasonable expenses incurred in carrying out this work, which cost shall be a first lien on the property until paid.

10.2 Final Inspection

Upon the expiration of thirty (30) days from the date of the notice referred in Section 10.1 clause (a), the Development Officer shall conduct an on-site inspection to determine whether the owner has rectified the violation. Where the owner has not rectified the violation the Development Officer shall advise the Municipal Clerk, who shall arrange for the work to be completed.

11. Delivery of Notices

Any notice to be delivered pursuant to this policy shall be delivered personally, or by registered mail. A notice is deemed to have been served on the third (3rd) business day after it was sent.

Annotation for Policy Book

**Date of Notice to Council Members of intent
to consider :January 8, 2002**

Date of Passage: February 12, 2002

I certify that this Policy was adopted by Council as indicated above.

**Douglas E Quinn
Chief Administrative Officer**

Date