

	<h2 style="margin: 0;">Planning &amp; Design</h2> <h1 style="margin: 0; color: #4F81BD;">POLICY</h1>	<p style="margin: 0;">Procedure Number</p> <p style="margin: 0;">2022-04</p>
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## Restrictive Covenants: Procedure

### Summary

Title of Document:	Restrictive Covenants: Procedure
Title of Designated Responsible Manager:	Development Manager, Planning & Design
Original Date Approved:	May 26, 2022
Approved By:	General Manager, Planning & Design
Last Revision:	May 26, 2022
Next Review Date:	Not defined

### Purpose:

This procedure applies to any development permit applications where there is a restrictive covenant registered on the land title of the property. The procedure outlines the parties responsible for enforcing restrictive covenants and the relationship between restrictive covenants and The Land Use Bylaw and statutory plans.

### Background:

The Alberta Land Titles Act allows restrictive covenants to be registered on a title of land, which may include a number of restrictions or conditions such as *“a condition or covenant that the land, or any specified portion of the land, is not to be built on, or is to be or not to be used in a particular manner”* (Alberta Land Titles Act, Section 48-1). Due to the registration of restrictive covenants on some parcels of land in the City, there have been instances where confusion arises when a restrictive covenant conflicts with the requirements of the Land Use Bylaw. However, the Alberta Land Titles Act stipulates that when there is a conflict between a restrictive covenant and a municipal land use bylaw that the land use bylaw prevails, as indicated in *Planning Law & Practice in Alberta, Section 15- Enforcement* (Laux, Palmer-Stewart. 2019). As a result, this procedure was made to clarify enforcement methods for restrictive covenants, their relationships to The Land Use Bylaw and statutory plans, and also to outline approving authority for infill developments or new buildings in an area that has an Area Redevelopment Plan in place.

### Procedure:

- A. **When any development permit application is received for any new growth areas, where the land title includes a restrictive covenant:**
  - **If the Development Permit Technicians are responsible for approving:**

	<p>Planning &amp; Design</p> <p><b>POLICY</b></p>	<p>Procedure Number</p> <p>2022-04</p>
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- The Development Permit Technician will review the application, and if the checkbox for title registrations is not checked off the by applicant, the Development Permit Technician will:
  - a) Notify the applicant that there is a restrictive covenant on the title and that anything listed on a restrictive covenant is a matter to be dealt with between the respective property owners only, and that the City does not have a position to take on it, nor will the City enforce anything identified in the restrictive covenant. The notification to the applicant will be done either by:
    - Email (and retaining a copy in the file); OR
    - Writing this notification under the approval stamp on the site plan.
  - b) Proceed to review the application in accordance with the rules and regulations in Land Use Bylaw 6300, and not based on anything in the restrictive covenant.
- If the Development Officers are responsible for approving:
  - The Development Permit Technician will forward the application to a Development Officer.
  - The Development Officer will review the application and, if the checkbox for title registrations is not checked off the by applicant, the Development Officer will:
    - a) Notify the applicant that there is a restrictive covenant on the title and that anything listed on a restrictive covenant is a matter to be dealt with between the respective property owners only, and that the City does not have a position to take on it, nor will the City enforce anything identified in the restrictive covenant. The notification to the applicant will be done either by:
      - Email (and retaining a copy in the file); OR
      - Writing this notification on the development permit.
    - b) Proceed to review the application in accordance with the rules and regulations in Land Use Bylaw 6300, and not based on anything in the restrictive covenant.
- All other requirements as outlined in Land Use Bylaw 6300 must be followed.

**B. When any development permit application is received for infill developments or developments in areas with an ARP, where the land title includes a restrictive covenant:**

- The Development Permit Technician will receive the application and forward it to the Development Officer .

	<p>Planning &amp; Design</p> <p><b>POLICY</b></p>	<p>Procedure Number</p> <p>2022-04</p>
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- The Development Officer will review the application and, if the checkbox for title registrations is not checked off the by applicant, the Development Officer will:
  - a) Notify the applicant that there is a restrictive covenant on the title and that anything listed on a restrictive covenant is a matter to be dealt with between the respective property owners only, and that the City does not have a position to take on it, nor will the City enforce anything identified in the restrictive covenant. The notification to the applicant will be done either by:
    - Email (and retaining a copy in the file); OR
    - Writing this notification on the development permit.
  - b) Proceed to review the application in accordance with the rules and regulations in Land Use Bylaw 6300, and not based on anything in the restrictive covenant.
- All other requirements as outlined in Land Use Bylaw 6300 must be followed.

### Supporting Documents

- Land Use Bylaw 6300
- Alberta Land Titles Act
- Frederick Laux, Gwendolyn Stewart-Palmer. 2019. *“Planning Law & Practice in Alberta”*. Fourth Edition, Juriliber Limited, Edmonton, Canada.

### Responsibility for Procedure Implementation

- Development Manager, Planning & Design

### Procedure Status:

**Current Status:** in effect

**Date Effective:** May 26, 2022

**Approval Details:** approved by General Manager, Planning & Design

**Endorsement Details**

**Next Review Date:** n/a

**Procedure Author :** Planner 1

**Authored date:** May 26, 2022

**Contacts:**

- Development Manager, Planning & Design

	<p>Planning &amp; Design</p> <p><b>POLICY</b></p>	<p>Procedure Number</p> <p>2022-04</p>
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- General Manager, Planning & Design