



# Mid-West Planning District

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## POLICY

Title	Violation Administration
Policy #	2-2019
Issue Date	November 7, 2019
Resolution	74/19
Authority	Mid-West Planning District Board and By-Laws, The Planning Act, The Municipal Act, Municipal By-Laws
Repeals Policy #	1-2008

**SUBJECT / APPLICATION:** By-Law Violations Administration

**LEGAL AUTHORITY / RELEVANT BY-LAWS:** The implementation of this policy will be by resolution of the Board of the Mid-West Planning District.

The Planning Act  
The Municipal Act  
Municipal By-Laws  
Mid-West Planning District By-Laws

### **POLICY:**

#### **1.0 ACTIONS WHICH TRIGGER POTENTIAL VIOLATIONS and ADMINISTRATIVE PROCEDURES.**

##### **1.1 Complaint (s) received**

Complaints are to be acted on in the following situations:

- When received in writing and carries a signature, or by email
- When notification has been given to the Designated Officer of a situation which is deemed to be an emergency situation or a threat to the general public.

##### **Administration of Complaints**

1.1. (A) The individual who made the complaint may be asked if they would provide us with additional information regarding the alleged violation. (ex. photos, hours of operation, witness in court, etc.) Try to obtain as much information as possible. Ensure proper file administration.

##### **1.2 Finding a Violation**

1.2. (A) Violations of regulations, resolutions, acts, codes or by-laws of which are deemed to be breached, may be identified while traveling through the planning district or on site.

##### **1.3 On-Site Code Violations**

1.3 (A) Deal with violation immediately or as soon as possible, discuss with permit holder, provide direction for compliance.

1.3.(B) An on-site inspection report is to be left on site, outlining the violations and if possible, the corrections to be made.

#### **1.4 Violations Where No Record of Development is Available**

1.4. (A) When a development has been identified and there is no prior record of development for the land parcel in question and a picture is provided, it shall be determined a violation has occurred.

### **2.0 ADMINISTRATIVE PROCEDURES REGARDING VIOLATIONS**

#### **2.1 Initial Action Initiated**

2.1. (A) The designated staff in charge of the respective violations is to make an effort to contact the parties affected and try to resolve the matter prior to sending a notice of violation.

2.1. (B) If this cannot be accomplished, a notice of violation shall be issued.

#### **2.2: Development Query**

2.2 (A) When the MWPD office has been notified that a development has taken place of which the office has no knowledge of, informal correspondence is to be mailed to the landowner to provide information, permit application(s) and other relevant information.

2.2 (B) Send informal and informational correspondence to the landowner (or agent).

2.2 (C) Provide permit information and permit application. Provide contact information and request the landowner contact the MWPD office.

2.2 (D) No timeline for compliance may be indicated, however typically two (2) weeks will be allowed for contact.

2.2 (E) Monetary Surcharges as per the MWPD Fee-Bylaw will be applicable; this is to be identified on the correspondence. As per the discretion of the Development Officer, when an individual contacts the office and declares they have started a development unknowingly, and wishes to be in compliance, the initial surcharge may be waived.

### **3.0 ACTIONS TO BE TAKEN REGARDING VIOLATIONS**

#### **3.1 Notice of Violation #1, Notice of Violation #2, Notice of Violation #3**

3.1. (A) Contacting the landowner shall be attempted prior to sending out the notice of violation.

3.1. (B) Ensure "Right of Entry" prior to entering property, if applicable.

3.1. (C) Correspondence sent is to outline:

- the nature of the violation,
- how to gain compliance,
- timeline for compliance as per applicable by-law,
- surcharges to be applied,
- outline further penalties to be added if no compliance,

- cc to Board and Municipality. (via mail or e-mail)

3.1. (D) Send by Xpress Post or by Registered Letter or other means providing there is a traceable date of receipt.

3.1. (E) -The development query is to be issued within five (5) working days after the alleged violation has been reported.

-If no response from the previous correspondence, the Notice of Violation #1 shall be issued within 21 days after the development query, unless application is received and complete.

- If no response from the previous correspondence, the Notice of Violation #2 shall be issued within 21 days after the first notice of violation, unless application is received and complete.

- If no response from the previous correspondence, the Notice of Violation #3 shall be issued within 21 days after the second notice of violation, unless application is received and complete.

### 3.2 Writing of an Order:

Note: This action is to be initiated when the time for compliance has expired from section 3.1. It may be noted that if there is not compliance with an Order, a second Order may be written where applicable.

NOTE: When on site, if an contravention is found and the onsite work or a portion thereof is to be "held" until specific issues are dealt with to bring work into compliance or if the on-site work is to be temporarily 'stopped", a Stop Work Card may be posted alerting the landowner /builder/applicant of the requirement to stop work until the contraventions are dealt with.

3.2 (A) Send the appropriate Order under the authority of one (or more) of the following that best applies:

-Applicable Building By-Law

-*The Planning Act*, Section 178 (2) or,

-*The Municipal Act* Section 242(2), or 243 (1), or 243 (2).

3.2. (B) Correspondence to outline and explain the Order is to be drafted and included with the Order. The Order is to be written to:

- direct the person to stop doing something or
- to change the way in which a person is doing something, and
- what the order is intended to achieve, as
- per the applicable by-law or act, and
- to state what is required to be done to gain compliance

3.2. (C), The Order is to state a time for compliance.

3.2. (D) The Order shall state that if the person does not comply with the order within the specified time, the district of municipality may take any action required to remedy the contravention at the expense of the person. (and may be collected as a tax).

3.2. (E) A notice of objection (Appeal) is to be provided to the person being served the Order. See *The Municipal Act* 244 (1)

3.2. (F) The Order is to be copied to the board and cc to the Municipality (vie mail or email).

3.2. (G) The Order is to be sent by Registered Mail, or when required by a Process Server.

3.2. (H) If the perpetrator has not contacted the office after his/her receipt of the Order and the time has expired, the designated officer shall consult the Board.

3.2. (I) The Board may consider taking actions under the Court of Queen's Bench (Small Claims) to recoup the costs of an action or measure taken by the planning district or municipality under the applicable sections of the Planning Act, the costs are deemed to be a debt owing to the planning district or municipality by the person who contravened the by-law.

### **3.3 No Compliance with an Order within the Required Time Specified**

#### **Board consultation is required.**

3.3. (A) A summary of the file is to be prepared by the designated officer which will provide the issues, history, alternatives, analysis and a recommendation. This is to be kept on the file for future reference and to be supplied to the Board and the Boards solicitor when required.

3.3. (B) The Board may retain the services of the MWPD retained Solicitor. The prepared summary and any other relevant information is to be provided to the retained Solicitor. Have the Solicitor write the individual who is in violation the following:

- the severity of the violations,
- what further actions will be taken, and
- to specify timelines for compliance.

**Note:** Up to this point the administrative and incurred costs will be the responsibility of the Board of the Mid-West Planning District. There may be some exemptions under remedial actions taken or other circumstances not listed.

### **3.4 No Compliance with the Solicitors 1<sup>st</sup> Correspondence within the Required Time as specified in Section 3.5.**

#### **Board consultation is required.**

3.4. (A) The Board is to meet to discuss the matter.

3.4. (B) The Board may consult with the Municipality, the municipality shall follow through with further actions to gain compliance at this point, as they have more resources.

3.4. (C) Recommend to the municipality to have their Solicitor write another letter (second correspondence) with further language to gain compliance, indicate that Court action is pending.

3.4. (D) **Report to Board is to be prepared.**

This report will be provided to the Board and will consist of a complete summary of events to date.

3.4. (E) **Letter re: infraction**

Prior to the Solicitor preparing the information on the charges to be laid, the Solicitor may send a further notice requesting the perpetrator to seek compliance, otherwise legal action will follow. This will be the responsibility of the municipality.

## **4.0 OTHER RELATED MATTERS**

### **4.1 Service of a Process Server.**

4.1. (A) This service is to be used when correspondence sent by regular mail is returned.

4.1. (B) This service is to be used when correspondence of which has been sent by registered letter or other correspondence which is date sensitive and requires a signature on delivery is returned.

**4.2 Unpaid Accounts and Debts Owning to the Board.**

4.2. (A) Unpaid accounts may be invoiced and have interest applied at a rate approved by the Board.

4.2. (B) Accounts are to be declared delinquent after a period of 120 days.

4.2. (C) Delinquent accounts may have actions taken through Small Claims Court (Court of Queens Bench),

**Board Approval Required for Section 4.3 (C)**

**4.3. Appeal**

4.3. (A) An avenue for Appeal is to be provided where applicable under *The Planning Act* or any other By-Law, Act or Statute. Typically, an Appeal is required when an Order is written.

End of Policy.

This Policy has been reviewed and approved for use or implementation by the Board of the Mid-West Planning District on November 7, 2019 by Resolution 74/19.

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Development Officer/Designated Officer

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Chairman of the Board