



Mid-West Planning District

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POLICY

Title	Violation Administration
Policy #	6-2024
Issue Date	July 4, 2024
Resolution	55/24
Authority	Mid-West Planning District Board and By-Laws, The Planning Act, The Municipal Act, The Fire Prevent and Emergency Response Act, The Building Act, Municipal By-Laws
Repeals Policy #	2-2019

SUBJECT / APPLICATION: Municipal By-Law and Manitoba Code 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 and with respect to:

The Planning Act
 The Municipal Act
 The Building Act
 The Fire Prevention and Emergency Response Act
 Municipal By-Laws
 Mid-West Planning District By-Laws

POLICY:

1.0 ACTIONS WHICH TRIGGER VIOLATIONS INVESTIGATIONS.

1.1 Complaint reports

Complaints are only to be investigated in the following situations:

- When received in writing via the Mid-West Planning District Violation Report form.
- Email reports/inquiries from Manitoba Assessment or any other Provincial agency.
- When a member of the Mid-West Planning District organizational structure reports a situation for the Development Officer, Building or Fire Inspector to investigate.
 - Members of the MWPD Organizational Structure can include employees, freelance contractors, Board members, Member Municipality employees, or Member Municipality Council members.
- When notification has been given to the Building or Fire Inspector of a situation which is deemed to be an immediate unsafe situation or a threat to the public.

1.2 Discovery by employees in the execution of their duties

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.

1.3 On-site Inspection Code Violations

Code violations found during a required or scheduled inspection conducted by a Development Officer, Building or Fire Inspector.

2.0 INVESTIGATION PROCEDURES REGARDING VIOLATIONS

2.1. Information Gathering: The individual who made a report may be asked if they would provide MWPD with additional information regarding the alleged violation. (ex. photos, hours of operation, witness in court, etc.) MWPD employees will try to obtain as much information as possible and ensure proper file administration.

2.2. Non-emergency investigations: for all other situations, the appropriate inspector or officer shall schedule time as soon as possible to visit the property and do a site audit to confirm the

report and take any pictures. The designated staff in charge of the violation is to try to contact (call) the owner and tenant (if known) and try to resolve the matter prior to sending a development inquiry, notice of violation, or Order to Remedy.

2.2.1. When a development has been identified and there is no prior record of development for the property in question, it shall be determined a violation has occurred. A Development Enquiry Letter is sent to the property owner with the following contents:

- the nature of the violation,
- pictures,
- how to gain compliance,
- deadline for compliance as per applicable by-law,
- surcharges to be applied,
- outline further penalties to be added for non-compliance,
- cc to Board and Municipality. (via mail or e-mail)

2.2.1.1. If no response is received by the deadline, a second letter is sent asking the property owner why they have not replied yet and reminding them of the response needed with a new deadline of at least 2 weeks from the date of the letter.

2.2.2. For non-emergency Unsafe Conditions, the inspector will ensure "Right of Entry" prior to entering property and send a letter to the owner and tenant (if known) notifying them of an upcoming inspection (noting the date) to investigate an unsafe conditions report received. The inspection date should be set at least 2 weeks from the date of sending the letter.

2.2.2.1. On the date prescribed, the appropriate inspector will arrive on-site to conduct an inspection. A police presence and/or other Provincial agencies may be requested to accompany the inspector. A full inspection of not only the areas reported, but the entire ecosystem will be conducted.

2.2.2.1.1. If access to the building or property is prevented/denied, the inspector will apply for a warrant and execute it with a police presence.

2.2.2.2. Upon completion of the inspection, the inspector will write a report that includes a checklist of what was inspected, Order(s) to Remedy and any Recommendations, which will be sent to the owner, tenant (if applicable), fire chief (if applicable), and the municipal Council via the CAO with a compliance deadline. The Board will be copied.

2.3. Inspection Code Violations: shall be brought up with the inspection attendees during the inspection.

2.3.1. For Building Inspections an on-site inspection report is to be left on site, outlining the violations and if possible, the corrections to be made. A digital copy of the report to be filled in Cloudpermit and sent via email to the contractor/owner.

2.3.1.1. When on-site, if a deficiency is found and the on-site 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 deficiencies are dealt with.

2.3.2. For Fire Inspections, a report that includes the checklist results, Order(s) to Remedy and any Recommendations is sent to the building owner, occupant, and local fire chief via email or mail. Order(s) to Remedy will have compliance deadlines.

2.3.2.1. When on-site, if there are deficiencies that pose an immediate threat to Safety of Life, the inspector can write an order to cease occupancy until those deficiencies are resolved. A Cease Occupancy card shall be posted on the entrances of the building.

2.4. Emergency Investigations: for any immediate unsafe situations or public safety issues, the appropriate inspector shall conduct an on-site inspection into the specific allegation to confirm the validity.

2.4.1. Owner/Property Manager is on-site. The inspector can talk and work with them during the inspection.

2.4.1.1. If a violation is valid and an immediate (in that moment) threat to public safety, the inspector shall talk to the owner/on-site property manager to have them rectify the situation during the inspection.

(a) If the situation is fully fixed during the inspection, a follow-up report is to be sent to the owner/property manager summarizing the incident.

(b) If the fix was only temporary, an Official Order to Remedy shall be sent via email/mail with a compliance date.

2.4.1.2. If a violation is valid and not an immediate threat to public safety, the inspector shall inform the owner/property manager during the inspection of the issue, give them a compliance date, and schedule a follow-up inspection. An official Order to Remedy shall be sent via email or mail with the compliance deadline.

2.4.1.3. If the report is not valid, the inspector shall make notes on the findings and make the owner/on-site property manager aware.

2.4.2. Owner/Property Manager is NOT on-site (vacant building or closed)

2.4.2.1. If a violation is valid, the inspector shall inform the CAO and get the phone number/email for the owner/property manager and contact them to inform them of the issue, give them a compliance date and schedule a follow-up inspection. An official Order to Remedy shall be sent via mail with the compliance deadline.

2.4.2.2. If the report is not valid, the inspector shall make notes of the findings.

2.4.5. After the Inspection

2.4.5.1. If the inspector feels that it is warranted to do a more thorough inspection later for the entire ecosystem, they will schedule that inspection with the owner/on-site property manager and charge fees as per the Mid-West Planning District Fee Schedule By-Law.

2.4.5.2. The inspector will provide a summary report of the incident and outcome to the CAO and the Board.

3.0 ACTIONS TO BE TAKEN REGARDING NON-COMPLIANCE.

3.1 Development Enquiry

3.1.1. If no response is received by the deadline of the second development enquiry letter, a registered letter will be sent to the owner and tenant if known as a Notice of Violation #1 with an Order to Remedy and an invoice for the Notice of Violation #1 penalty fee. The Order to Remedy will have a compliance deadline.

3.1.2. If no response from the previous correspondence has been received, a registered letter for Notice of Violation #2 which shall include a copy of the original Order to Remedy, the revised Order to Remedy with a new compliance date and an invoice for the Notice of Violation #2 penalty fee and any outstanding invoices or fees associated with this Order, shall be issued within 21 days after the first notice of violation Notice of Violation #1.

3.1.3. If no response from the previous correspondence has been received, a registered letter for Notice of Violation #3 (final) which shall include a copy of the first two original Order to Remedy, the revised Order to Remedy with a new compliance date and an invoice for the Notice of Violation #3 penalty fee and any outstanding invoices or fees associated with this Order, shall be issued within 21 days after the first notice of violation Notice of Violation #2.

3.1.4. If there is no response from the previous third and final notice, the file on the history of the violation will be taken to the Board of Directors for consultation.

3.1.4.1. The Board may retain the services of the MWPD retained Solicitor. The prepared summary and any other relevant information are 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.

- The Board is to meet to discuss the matter.
- 3.1.4.2. If the owner does not respond to the Solicitor correspondence, 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. 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.
 - 3.1.4.2.1. Solicitor 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.
- 3.1.4.3. A report to the Board of Directors is to be prepared. This report will consist of a complete summary of events to date.
- 3.1.4.4. The Board may consider taking actions under the Court of King'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 an Act or By-Law, the costs are deemed to be a debt owing to the planning district or municipality by the person who contravened the by-law.

3.2. **Unsafe Conditions Order(s) to Remedy**

- 3.2.1. If no response from the previous correspondence has been received, the Order to Remedy will be officially handed over to the Municipality to rectify the unsafe situation as they see fit, and a Cease Occupancy card shall be posted on the entrances of the building until the deficiencies are rectified. A letter to the owner will be sent notifying them of the actions being taken and give them a contact at the municipal office.
 - 3.2.1.1. The municipality can make the situation safe through construction, demolition, removal, etc. with all costs to be billed to the property taxes.

3.3. **Building Code Deficiencies from Inspection report**

- 3.3.1. If the deficiencies have not been rectified and the next phase of construction prevents them from being done, the inspector can order construction work done reversed/opened to correct the deficiency.
- 3.3.2. If the owner/contractor refuses to fix the deficiency and/or stops calling for inspections, the inspector will not issue occupancy and expire the permit, but not officially close the file.
 - 3.3.2.1. Notes about the permit status and outstanding deficiencies will be added to the property roll in the Manitoba Assessment database.
 - 3.3.2.2. A final letter to the owner and contractor will be sent notifying them of the expiry of the permit, the list of outstanding deficiencies, list of unexecuted inspections, and cease occupancy.

3.4. **Fire Safety Inspection Order(s) to Remedy**

- 3.4.1. Follow-up inspections are done to ensure that all deficiencies have been fixed.
 - 3.4.1.1. Any remaining deficiencies are put on a Follow-Up Order to Remedy.
 - 3.4.1.1.1. At the discretion of the inspector and based on the owner/on-site property manager's history, an inspector can ask the Office of the Fire Commissioner to enact Administrative Penalties, if they feel compliance is being refused.
 - 3.4.1.2. If during any inspection, any of the deficiencies have become emergent, see section 2.4.1., 3.5. and 3.6. as applicable.

3.5. **Emergency On-site Order(s) to Remedy**

- 3.5.1. If immediate action is required and can be accomplished at that time and no action is taken or is refused, the inspector will make note of the refusal and call the local police to report the unsafe situation and request help to fix the deficiency.
 - 3.5.1.1. The inspector will follow the instruction given by the police in terms of staying on scene, being interviewed, handing over evidence, filing reports, testifying, etc.
 - 3.5.1.2. The inspector will ask for a receipt for any evidence handed over that was their only copy and see if they can get a copy or the original returned for the MWPD records.

3.6. Emergency Unsafe Conditions Cease Occupancy Order

3.6.1. If there are deficiencies that pose an immediate threat to Safety of Life and owner/on-site manager cannot have it rectified or made safe at that time, the inspector can notify the owner/on-site manager that they will be writing an order to cease occupancy until those deficiencies are resolved and order the building evacuated.

3.6.1.1. If no action is taken or is refused to evacuate the building, the inspector will activate any alarms to evacuate the building, help with the evacuation, call the police to report the unsafe situation and actions taken, then make note of the refusal.

3.6.1.2. As the emergency services arrive, the inspector will notify each service of the situation and follow the instruction given by the police in terms of staying on scene, being interviewed, handing over evidence, filing reports, testifying, etc.

3.6.1.3. The inspector will ask for a receipt for any evidence handed over that was their only copy and see if they can get a copy or the original returned for the MWPD records.

3.6.1.4. A Cease Occupancy card shall be posted on the entrances of the building as soon as possible or when it is safe to return.

4.0 CONTENT OF AN ORDER

4.1 Reference the authority for issuing the Order from one (or more) of the following that best applies:

- Applicable Building By-Law
- Applicable Zoning By-Law
- The Planning Act, Section 178 (2)
- The Municipal Act, Section 242(2), or 243 (1), or 243 (2)
- The Fire Safety and Emergency Response Act – Manitoba Fire Code
- The Building Act – Manitoba Building Code

4.2 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, act, or Code, and
- to state what is required to be done to gain compliance
- to state a deadline for compliance.
- to state that if the person does not comply with the order within the specified time, the district or municipality may take any action required to remedy the contravention at the expense of the person. (and may be collected as a tax).
- to provide instructions and the deadline for an objection (Appeal)

4.3. Include correspondence to outline and explain the Order.

4.4. The Order is to be copied to the board and cc to the Municipality (via mail or email).

4.5. The Order is to be sent by Registered Mail, or when required by a Process Server.

5.0 VIOLATION FILE ADMINISTRATION

5.1. **File Records:** A file is to be prepared by the designated office in charge of the violation which include information around the reporting of the issue, outline the issues, investigation results/pictures, correspondence history, copies of all Orders and correspondence, records of the registered mail receipts or process server notes, plus any suggested alternatives, analysis, and recommendations. This is to be kept on the file for future reference and to be supplied to the Board and the Boards solicitor when required.

5.2 Service of a Process Server

5.2.1. This service is to be used when correspondence sent by regular mail is returned.

5.2.2. 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.

5.3 Unpaid Accounts and Penalty Debts Owing to the Board

5.3.1. Unpaid accounts may be invoiced and have interest applied at a rate approved by the Board.

5.3.2. Accounts are to be declared delinquent after a period of 120 days.

5.3.3. Delinquent accounts for regular fees may have actions taken through Small Claims Court (Court of King’s Bench),

5.3.4. Penalty fees owing that have been declared delinquent are allowed to be collected through municipal property taxes.

5.5. Closing a Violation Report File

5.5.1. A file is considered closed when one of the following has occurred.

- The perpetrator has met the requirements of an inquiry or Order and paid all penalty fees.
- The matter has been transferred to the Municipality for rectification.
- The matter has been settled through a Solicitor or in Court.

5.5.2. All correspondence, records, files, pictures, reports, etc. regarding the violation shall be compiled in a physical file for storage and a digital file on the server.

5.5.3. If the violation was the result of a Violation Report, the inspector shall provide a summary report of the outcome of the investigation and resolution of the violation to the reporter.

End of Policy.

This Policy has been reviewed and approved for use or implementation by the Board of the Mid-West Planning District on July 4, 2024, by Resolution 55/24.

Development Officer/Designated Officer

Chairperson of the Board