

NOTICE

Introduction of Administrative Penalties

Introduction of Administrative Penalties under the *Safety Codes Act*

Recently, the government of Alberta decided to proclaim administrative penalties under Section 31 of the *Safety Codes Amendment Act, 2015*, the Administrative Penalties Regulation and amendments to the New Home Buyer Protection (Ministerial) Regulation. This change means that, effective December 1, 2017, administrative penalties under the *Safety Codes Act* may be issued for non-compliance.

Administrative penalties are aimed at offenders who repeatedly disregard the requirements of the *Safety Codes Act*, and, through financial motivation, encourages them to correct their behaviour. The focus of the program is to gain compliance, not to punish offenders, nor is it to replace other enforcement actions such as orders or prosecutions. Penalties under the Act can be up to a maximum of \$100,000 or \$10,000 per day, per offence, for continuing offences. Any person who contravenes the *Safety Codes Act* may be subjected to a penalty including owners, contractors, vendors, manufacturers and any person or person(s) who have failed to comply with an order under the Act. It is important to note, that effective December 1, 2017, anyone who has a continuing offence under the Act, could receive an administrative penalty.

The role of accredited municipalities, corporations and agencies in respect to administrative penalties involves working with the Administrator to determine if a penalty is warranted. A government-appointed administrator, employed with Municipal Affairs, will be administering this penalty. Accredited municipalities, corporations and agencies will need to identify when a request to the Administrator is required. In addition, Municipal Affairs is requesting that the administrative penalty requests come through the person that administers your quality management plan and not from individual SCOs. This is to minimize confusion and ensure requests reflect the enforcement strategy of the accredited body.

When considering whether to issue a penalty, the Administrator will factor the risk of the infraction, whether a person repeatedly ignores requirements under the Act and the economic benefit the person may gain from not complying with the Act. The Administrator will also consider whether appropriate enforcement actions have been taken by the accredited municipality.

The Administrator may also vary the penalty depending on whether an offender has taken steps to become compliant with the Act.

The amendments to the New Home Buyer Protection (Ministerial) Regulation allow the New Home Buyer Protection Board to hear administrative penalty appeals under the *Safety Codes Act*. This was done because an administrative penalty will often be related to an order. Since orders are appealable to the Safety Codes Council, it is better for impartiality to have administrative penalty appeals come from a different body.

To help you and the accredited municipality determine when a request for an administrative penalty is appropriate, there is a Request for Administrative Penalty Checklist, including how penalties are determined, and/or for additional information regarding the penalty, located on our website:

www.municipalaffairs.alberta.ca/administrative-penalties.

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For further information contact Municipal Affairs, Public Safety Division
toll-free at 1-866-421-6929.



For the amended Act, Administrative Penalties Regulation and New Home Buyer (Ministerial) Regulation, please visit Queen's Printer at www.qp.alberta.ca.

Municipal Affairs will continue to engage with stakeholders to increase their understanding of administrative penalties and build capacity to make use of this additional compliance tool.