

Inspection and Technical Services

Understanding the Manitoba Permit Dispute Resolution Process

ITS BC GUIDE 09
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Introduction

The Manitoba Permit Dispute Resolution Act and the Permit Dispute Resolution Regulation outline a process to resolve building permitting disputes between individuals who have applied for, or hold, a building permit or occupancy permit (the Applicant) and the Approving Authority responsible for the administration of the Manitoba construction codes in the jurisdiction where the permit was applied for or issued.

Note:

Non-code matters, such as those related to planning or zoning, cannot be resolved through the permit dispute resolution hearing process. Please visit the Municipal and Northern Relations webpage for information related to [planning appeals and referrals](#).

Definitions

Manitoba Construction Codes: Refers to the Manitoba Building Code, the Manitoba Plumbing Code, and the Manitoba Energy Code for Buildings under [The Buildings Act](#).

Approving Authority: Refers to the administrative body enforcing the Manitoba construction codes within a specific jurisdiction, often known as the "authority having jurisdiction" or "permitting authority." This could include a municipality, a planning district or [the Building Code Unit of Inspection and Technical Services](#).

The Permit Dispute Resolution Process

1. Identify the type of Issue in Dispute

Technical Matters:

- Technical matters include orders, directions, or requirements issued by an Approving Authority regarding compliance with the building construction codes or standards or the denial of permit by the Approving Authority based on technical grounds.

Performance Standards:

- Four types of activities have prescribed performance standards: timeframes to assess an application as complete or incomplete; timeframes within which a building permit must be issued or refused, timeframes within which an inspection required by the Approving Authority is to be carried out after receiving notification from the client; and timeframes within which an occupancy permit must be issued or refused.
- [The Performance Standards Regulation](#) under [The Buildings Act](#) outlines the performance standards that must be followed by approving authorities.

| Performance Standard Category | Class of Building | Phase 1 (March 1, 2024- February 28, 2025) | Phase 2 (March 1, 2025 and onward) |
|---|---|--|--|
| Timeframe for which an Approving Authority must notify the Applicant if their application for a <u>building</u> permit is <u>complete</u> . | All applications | 5 business days | 2 business days |
| Timeframe for which an Approving Authority must notify the Applicant if their application for a building permit is <u>approved</u> . | Detached and semi-detached houses, townhouses or row houses where no dwelling unit is located above another dwelling unit and associated accessory structures | 25 business days | 10 business days |
| | Part 9 buildings other than those listed in the row above | 25 business days | 15 business days |
| | Part 3 buildings | 30 business days | 30 business days |
| Timeframe for which an Approving Authority must, at the request of the Applicant, <u>conduct an inspection</u> . | Residential | 6 business days | 2 business days |
| | Commercial | 4 business days | 2 business days |
| Timeframe for which an Approving Authority must notify the Applicant if their application for an <u>occupancy</u> permit is <u>approved</u> . | All applications | 10 business days | 10 business days |

Exceptions:

- These timeframes may be extended by an agreement in writing between the Applicant and the Approving Authority.
- The timeframes in which an Approving Authority must conduct an inspection do not apply if:
 - The building to which the application relates is located more than 200 km from the office of the Approving Authority.
 - The Applicant has requested that an inspection of the building occur outside of the Approving Authority's business hours.
 - The Applicant has requested that an inspection of the building occur at a later date.

2. Contact Approving Authority

- Initiate communication with the Approving Authority for building permits in your area.
- Clearly articulate your concerns and seek clarification on the issue.
- Document any relevant details, including dates, communications, and supporting evidence.

- **Municipality or Planning District**

Requirement imposed by a municipality or a planning district:

Council appeals related to technical building code matters are not permitted, however, municipalities or planning districts may still have internal review mechanisms, such as through a manager or director of a permitting department or, through a body composed of technical experts so long as no municipal councillors are involved in decision making. These reviewed decisions are appealable to an Adjudicator. Contact your municipality or planning district directly for more information.

- **Inspection and Technical Services**

Provincial building permitting decisions where [Inspection and Technical Services](#) is the Approving Authority may be reviewed or reconsidered by the Director appointed under [The Buildings Act](#). These decisions are appealable to an Adjudicator.

Requirement imposed by an Inspector:

The Director may review any requirement imposed on a person by an Inspector working for Inspection and Technical Services. A request for review must be made in writing and must set out the reasons why the Director should reconsider the requirement imposed by the Inspector. After a review, the Director may confirm, vary, or rescind the Inspector's requirement and/or allow additional time for the person to comply with a requirement imposed by the Inspector.

Requirement imposed by the Director of Inspection and Technical Services:

A person who disagrees with a decision of the Director of Inspection and Technical Services on an application for a building permit or occupancy permit may request that the Director reconsider the decision. A request for reconsideration must be made in writing and must set out the reasons why the Director should reconsider the decision.

Following a reconsideration, the Director may confirm the original decision and/or make any decision that could have been made on the application. The Director must give written reasons for the decision.

Request for a Director Review:

- For more information on pursuing a Director review, please visit the [Inspection and Technical Services](#) webpage

3. Request a Permit Dispute Resolution Hearing:

If a resolution is not achieved through communication with the Approving Authority, file a Request for an Adjudication Hearing.

Complete the Request for an Adjudication Hearing Form:

- Obtain the Request for an Adjudication Hearing Form from the [Inspection and Technical Services](#) webpage.
- Fill out the form accurately and attach all relevant supporting documents.

Submission:

- Submit the completed form to Inspection and Technical Services within 60 days after the decision, order, direction, or requirement was issued by the Approving Authority.

4. Notice of Hearing

Upon acceptance of the completed application, an Adjudicator will be selected, and a Notice of Hearing will be issued. The Notice of Hearing will specify the manner in which the hearing will be conducted, and any procedural requirements set by the Adjudicator for the hearing.

The adjudication hearing will take place within 30 days following the Notice of Hearing for issues related to technical requirements and orders and within 15 days for issues related to performance standards.

5. Participating in the Adjudication Hearing

Prepare Your Case:

- Organize evidence and be ready to present your case.
- Parties may be represented by an agent if they so choose.

Adjudication Hearing:

- The hearing may be conducted orally, in writing, or a combination, and may allow electronic participation.
- You must attend the hearing on the scheduled date and present your case to the Adjudicator.
- You must respond to questions and provide additional information to the Adjudicator as needed.

6. Decision-Order and written Reasons

- After the dispute resolution hearing, the Adjudicator will render a decision and issue an order that confirms, varies, or sets aside the decision, order, direction, or requirement in question; or, in the case of a dispute respecting compliance with a performance standard, the Adjudicator will determine whether the applicable performance standard was met.
- You will receive a written decision that outlines the findings and reasons for the decision.
- The order and written reasons will be issued within 15 days after the conclusion of the dispute resolution hearing.
- All orders and written reasons issued by Adjudicators will be available to the public.

7. Cost of Hearing

- The cost for a permit dispute resolution hearing is \$450 for a hearing up to two hours in length, plus \$112.50 for each additional half-hour, up to a maximum of \$2,250 per hearing.
- The Adjudicator's order will specify the portion of the cost of the permit dispute resolution hearing to be paid by each party.
- The Adjudicator has complete discretion to determine the allocation of costs between the parties and may consider the outcome of the dispute, the conduct of each party, and any other factors the Adjudicator considers relevant.
- The party that is ordered to pay some or all of the costs of a permit dispute resolution hearing must pay the costs specified in the order no later than 30 days after the order is issued.

8. Appeal Process

- The adjudicator's order is binding on the parties and the matter in dispute is not subject to any further appeal or review process of an approving authority.

Contact Information

- For further information or assistance, contact the Building Codes section of Inspection and Technical Services at ITSCodes@gov.mb.ca.

Note: This guide is for informational purposes only, for additional information please consult:

- [The Permit Dispute Resolution Act](#)
- [The Permit Dispute Resolution Regulation](#)
- [The Buildings Act](#)
- [The Performance Standards Regulation](#)