

Fire Safety Act Reviews Policy and Procedures



Office of the
Fire Commissioner



Table of amendments	
Description	Date
Document issued	November 2024

Please find all current and available fire safety legislation, regulations, codes, bulletins and reference documents online here:

<https://www2.gov.bc.ca/gov/content/safety/public-safety/fire-safety/legislation-regulations-codes>

Contents

Introduction 5

 Purpose..... 5

 How this document is organized 5

Legislative framework for reviews 5

 Decisions that may be reviewed 6

 Who may conduct a review..... 6

 Notice of right to request a review 7

 Requesting a review 7

 Order or notice of penalty remains in effect 8

 Due date for administrative penalties under review 8

 Due date for orders under review 8

 Review process practice and procedure 9

 Decisions of review 9

Roles and responsibilities 9

 Fire commissioner 9

 Fire commissioner’s delegate 10

 Office of the Fire Commissioner administrative officer 10

 Office of the Fire Commissioner deputy fire commissioner 10

 Fire inspector 11

 Local authority..... 11

Policy 12

 Policy goals of the Fire Safety Act review process 12

 Time limit for requesting a review 12

 Requirement to identify error or grounds for review 13

 Conducting a review 14

 Fire commissioner to conduct review..... 14

 Timeframe for review 14

 Standard of review..... 14

 Review process..... 14

Preparing reasons	15
Varying an order or notice of penalty on review	16
Record keeping.....	16
Correspondence and service	16
Procedures	17
Receipt and initial processing of a request for review.....	17
When request does not include a copy of the order or notice of penalty	18
Decision not reviewable	18
When request was not sent within the 10-day time limit.....	19
When the request does not identify grounds for review	19
Conducting the review.....	20
Serving the decision and reasons.....	21

Introduction

Purpose

The purpose of the Fire Safety Act Reviews Policy and Procedures document is to describe the Office of the Fire Commissioner (OFC) process for managing and conducting a requested review of decisions defined in section 42 of the [Fire Safety Act](#). The document is intended to assist the OFC in maintaining a fair and consistent process for administering reviews that meets the principles of administrative justice and the requirements of the legislation.

How this document is organized

This document is organized in the following parts:

- ▶ Introduction
- ▶ Policy – The policy established by the fire commissioner for the administration of the review process
- ▶ Procedures – The procedures for administering the review process, from the receipt of a request to distribution of the review decision and written reason
- ▶ Forms and templates – The request for review of a decision form of this process will be posted on the BC government website [here](#).

Legislative framework for reviews

The legislative framework for a review of a decision is provided in Part 9, sections 42 to 44 of the Fire Safety Act.

Decisions that may be reviewed

The Fire Safety Act limits the types of decision for which a person may request a review. Under section 42, a person may request that the fire commissioner review:

- ▶ a decision by a fire inspector to issue a fire inspection order to the owner of a premises under section 11 [fire inspector orders].
- ▶ a decision by a local authority or the fire commissioner to issue a preventive evacuation order to the owner of a premises under section 14 [preventive evacuations].
- ▶ a decision by the fire commissioner or delegate to impose an administrative penalty on a person for failure to comply with:
 - an order under section 11 [fire inspector order], or
 - an evacuation order under section 14 [preventive evacuation order],
or
 - a request to provide records or information to a fire inspector under section 10(6) or to a fire investigator under section 26(5).

Who may conduct a review

Under Part 9, the fire commissioner, or a person delegated by the fire commissioner, may conduct a review. Under section 44(1) and (2), the fire commissioner or delegate may not conduct a review of their own decision to issue an order or to impose an administrative penalty. The fire commissioner must ensure that an uninvolved person conducts the review.

Notice of right to request a review

Under sections 11(2)(g) and 33(6)(e), the fire inspection order and a notice of administrative penalty documents must include a statement about a person's right to request a review under the Fire Safety Act. A preventive evacuation order document has no similar requirement.

Requesting a review

Who may request a review?

Under section 43 (1), only a person who has been served with a notice of a decision (i.e., an order or notice of penalty) that is eligible for review may request a review of a decision.

Section 11 fire inspection orders and section 14 preventive evacuation orders are served on the owner of the premises. Therefore, only the building owner may request a review of the decision.

For a decision to impose an administrative penalty under section 33, the person being served with a notice of penalty may be an owner, an occupier of the premises or a person employed by a corporation or member of a strata at the premises. Any of these people may request a review of the notice of penalty if they are served with it.

No other person has the right to request a review, nor does the fire commissioner have the power to conduct a review on their own initiative.

Time limit for requesting a review

Under section 43(1) of the Fire Safety Act, a request for review must be made within 10 days of the requestor receiving notice of the decision.

Section 25 of the [Interpretation Act](#) applies when calculating the number of days of the time limit:

- ▶ When calculating the number of days, the day that the requestor receives notice must not be counted.
- ▶ Holidays and any non-business day (weekends) must not be counted.

How a request must be made

Under section 43(2) of the Fire Safety Act, a request for a review:

- ▶ must be made to the fire commissioner,
- ▶ must be in writing, and
- ▶ must identify the error that the requestor believes was made or provide other grounds for a review of the decision.

Order or notice of penalty remains in effect

Under section 43(3), an order or administrative penalty that is the subject of a request for review remains in full force and effect.

Due date for administrative penalties under review

However, for an administrative penalty, section 34(b) provides that when a person requests a review of the decision to impose the penalty, the due date of the penalty changes. Instead of being 30 days from the date the notice of penalty was served on the person, it becomes 30 days from the date the review decision and reasons are served on the person, unless the penalty is cancelled on review.

Due date for orders under review

There is no similar provision for the review of an order. This means that the date on which the order must be complied with remains in effect, even when that date does not allow sufficient time to complete a review. This is considered necessary to ensure that where immediate compliance is necessary to address life safety issues, a request for review would not function as a means of delaying the due date for compliance. The policy of the OFC regarding the issuing of section 11 fire inspector

orders provides instruction on setting an appropriate date for compliance with an order. The policy considers the possibility that an order may be reviewed. The date for coming into compliance allows time for a review to be conducted whenever reasonable in the specific circumstances.

Review process practice and procedure

Under section 44(4), the person who conducts a review:

- ▶ must complete the review as soon as is practicable, and
- ▶ must serve written reasons for their review decision to the requestor of the review and the person who originally issued the decision under review.

Under section 44(5), the fire commissioner may make rules respecting practice and procedure in relation to the just and timely resolution of reviews.

Decisions of review

The person — either the fire commissioner or their delegate — who conducts a review may confirm, vary, or cancel the order or administrative penalty under review [section 44(3)].

Roles and responsibilities

Fire commissioner

The fire commissioner has the authority to conduct a review of a decision and to delegate this authority when or where required. The fire commissioner is responsible for:

- ▶ overseeing all aspects of the review process and approving policy and procedures for conducting reviews,
- ▶ determining when a request for review that is made after the 10-day time limit may be accepted,

- ▶ conducting a review, except where the review is of a decision made by the fire commissioner, and
- ▶ delegating the authority to conduct a review to another person when required.

Fire commissioner's delegate

A person who is delegated, in writing, the authority to conduct a review by the fire commissioner is responsible for conducting the review as though they were the fire commissioner, in compliance with the policy and procedures established by the fire commissioner.

Office of the Fire Commissioner administrative officer

The administrative officer is responsible for:

- ▶ receiving and processing requests for review,
- ▶ opening and maintaining the request for review files,
- ▶ preparing and sending notices and other correspondence from the OFC to the person requesting a review and the person who originally made a decision that is the subject of the review, and
- ▶ assisting the fire commissioner or their delegate as required to complete a review.

Office of the Fire Commissioner deputy fire commissioner

The OFC deputy fire commissioner has been delegated the authority to impose an administrative penalty under section 33 of the Fire Safety Act. When the deputy fire commissioner's decision to impose an administrative penalty is the subject of a review, the deputy fire commissioner is responsible for providing information about the penalty to the fire commissioner or delegated reviewer.

Fire inspector

A fire inspector has the authority to conduct fire inspections and issue fire inspection orders under section 11 of the Fire Safety Act. When a fire inspector's decision to issue an order is the subject of a review, the fire inspector is responsible for providing information about the order to the fire commissioner or delegated reviewer.

Local authority

A local authority has the authority to issue a preventive evacuation order under section 14 of the Fire Safety Act. When a local authorities' decision to issue an evacuation order is the subject of the review, the local authority is responsible for providing information about the order to the fire commissioner or delegated reviewer.

Policy

Policy goals of the Fire Safety Act review process

The policy goals of the Fire Safety Act review process are:

- ▶ Fair and just decisions
- ▶ Consistency
- ▶ Timeliness
- ▶ Accessibility
- ▶ Cost efficiency

The most important policy goal is reaching a fair and just decision. Of the remaining goals, a balance should be struck to achieve each goal to the greatest extent possible.

Time limit for requesting a review

A fire inspector order or a notice of administrative penalty for which a review may be requested must include a notice regarding a person's statutory right to a review, including:

- (a) that a review must be requested within 10 days of receiving the order or notice of penalty, and
- (b) guidance on where to get more information about the review process.

The 10-day time limit for requesting a review is calculated as follows:

- (a) There must be no more than 10 days from the date when the order or notice of penalty was received by the requestor and the date that the requestor sent the request for review to the OFC.

- (b) The 10 days will be counted beginning on the day after the order of notice of penalty is known to have been received by the person on whom the penalty may be imposed.
- (c) When the date of receipt is unknown or uncertain, an accepted date of service is provided in section 45(2) of the Fire Safety Act.
- (d) If the last day of the 10-day time limit falls on a weekend or holiday day, the last day becomes the next business day.

A request for a review that was sent after the time limit had passed may be accepted at the discretion of the fire commissioner, when:

- (a) there is no indication of indifference or bad faith on the part of the requestor in sending the request, and
- (b) the fire commissioner believes that accepting the request is consistent with the policy goals of the review process.

Requirement to identify error or grounds for review

A request for review must identify the error the requestor believes was made or other grounds on which the review should be based. When a request for review does not identify the error or grounds for the review, the OFC will inform the requestor that this information must be provided in writing within five business days to the OFC address in the notice form sent to them.

If the OFC does not receive this information in writing within five business days, the request for review will not be accepted.

Conducting a review

Fire commissioner to conduct review

The fire commissioner or delegate will conduct all reviews.

The fire commissioner must appoint a delegate to conduct a review when the decision that is the subject of a request for review was originally made by the fire commissioner.

Timeframe for review

A review, including the preparation of written reasons, will be completed within 10 business days of the request being received by the OFC.

Standard of review

When conducting a review, the fire commissioner will do the following:

- (a) verify the errors identified by requestor are errors,
- (a) consider whether the decision under review was properly within the authority of the person who made the decision, and
- (b) consider whether the exercise of discretion involved in making the decision under review was reasonable in the circumstances.

The decision will be confirmed when the decision under review was:

- (a) properly within the authority of the person who made the decision, and
- (b) an exercise of discretion that was reasonable in the circumstances.

Review process

When conducting a review, the fire commissioner will take the following steps:

- (a) They will review the following documents:
 - i) the written request
 - ii) the order or notice of penalty being reviewed, and

- iii) the statutory authority under which the order was issued, or the penalty was imposed.
- (b) They will consider the factors as noted above in the "[Standard of review](#)" section and decide whether to confirm, vary or cancel the decision.
- (c) They will prepare written reasons for the review decision.

The fire commissioner or delegate may take any steps in conducting a review that is believed necessary to achieve the policy goals of the review process.

Preparing reasons

The fire commissioner or delegate will prepare written reasons for the review decision that includes all the following information:

- (a) the fire commissioner's statutory authority to conduct the review,
- (b) a brief description of the nature of the review that identifies:
 - i) the person requesting the review,
 - ii) the type of order or notice of penalty that is the subject of the review,
 - iii) the person who issued the order or imposed the penalty, and,
 - iv) the date the order or notice of penalty was made,
- (c) a statement of the reason for the review provided by the requestor and the issues to be decided based on the standard of review,
- (d) a statement of the facts and the evidence supporting those facts,
- (e) a brief statement of the decision, and
- (f) the analysis of the facts that led to the decision and the decision that was reached based on that analysis.

Varying an order or notice of penalty on review

When, on review, the fire commissioner or delegate varies an order or a notice of penalty, the original order or notice of penalty will remain in effect with the changes described in the review decision communicated to all parties involved.

Instead of a revised order or notice of penalty being issued, the review decision will become part of the existing order or notice of penalty that has been varied.

Record keeping

The OFC will create a file for every request for review and keep a record of all:

- (a) correspondence, including telephone calls, made or received, and
- (b) substantive actions taken and documents produced.

Correspondence and service

Correspondence and service regarding a review will be conducted by email except when the recipient:

- (a) has not provided an email address, or
- (b) has indicated a preference for another acceptable method for correspondence.

Where correspondence or service is by email, the OFC will also send a hard copy to the person by registered mail.

Where the person does not provide an email address, correspondence and service will be by the most appropriate alternate method in the circumstances, as specified in section 45 of the Fire Safety Act.

Procedures

Receipt and initial processing of a request for review

A [request for review](#) will be directed to an OFC administrative officer for initial processing. The OFC administrative officer will initiate a file for the request for review.

The OFC administrative officer will review the request to determine whether the request is complete. A request that is complete:

- (a) includes a copy of the order or notice of penalty for which the review is requested,
- (b) was sent within the 10-day time limit, and
- (c) includes an explanation of the error that was made or other grounds on which the review is being requested.

The OFC director, strategic initiatives, will review the request to determine whether the request is appropriate. A request that is appropriate:

- (a) is reviewable under section 42 of the Fire Safety Act; regarding the:
 - i) issue of a fire inspection order under section 11(1),
 - ii) issue of a preventive evacuation order under section 14(5), or,
 - iii) imposition of an administrative penalty under section 33(1).
- (b) was sent within the 10-day time limit, and
- (c) describes the error that was made or other grounds on which the review is being requested.

Where the request meets the requirements in the Fire Safety Act, the administrative officer will:

- (a) prepare and send an acknowledgement of receipt and next steps to the person who requested the review,
- (b) add the acknowledgment of receipt to the review file,
- (c) notify the person who issued the order or notice of penalty that a request for review has been made, and
- (d) forward the file to the assigned reviewer (fire commissioner or delegate).

When request does not include a copy of the order or notice of penalty

When a request for review does not include a copy of the order or notice of penalty, the administrative officer will:

- (a) contact the requestor and ask the requestor to provide a copy
- (b) prepare and send an acknowledgement of receipt and next steps to the person who requested the review
- (c) follow up as necessary to ensure a copy of the order or notice of penalty is received as soon as possible, and
- (d) when a copy is received, add it to the review file and forward the file to the OFC director, strategic initiatives, for assessment.

Decision not reviewable

When the OFC director, strategic initiatives, determines that the request is for a decision that is not reviewable under section 42 of the Fire Safety Act, they will instruct the administrative officer:

- (a) to prepare an acknowledgment of receipt that notes that the request cannot be accepted and to inform the fire commissioner of the decision,
- (b) to send the signed acknowledgment of receipt to the requestor, and
- (c) to add the signed acknowledgment of receipt to the review file.

When request was not sent within the 10-day time limit

When the OFC administrative officer determines that a request was not sent within the 10-day time limit, the administrative officer will:

- (a) note the determination in the review file, including the calculation of the number days after receiving the order or penalty that the request for review was sent, and
- (b) forward the file to the OFC's director, strategic initiatives, for assessment.

The OFC director, strategic initiatives, will recommend a course of action, and the fire commissioner will determine whether to accept the request for review (even though the time limit of the Fire Safety Act has not been met), note the reasons in the file and return the file to the OFC administrative officer.

When the late request will not be accepted, the OFC administrative officer will:

- (a) prepare an acknowledgment of receipt with a notation that the request cannot be accepted,
- (b) send the signed acknowledgment of receipt to the requestor, and
- (c) add the signed acknowledgment of receipt to the review file.

If the late request will be accepted, the OFC administrative officer will process the request as though it had been received within the time limit.

When the request does not identify grounds for review

When a request for a review does not identify the error or other grounds on which the review is requested, the administrative officer will:

- (a) contact the requestor and inform them that their request cannot be accepted unless they provide this information in writing within five business days, and note the date and result of the call in the review file,

- (b) send the requestor an acknowledgment of receipt to the person who requested the review, noting that the missing information must be provided in writing within five business days,
- (c) add the acknowledgment of receipt to the review file, and
- (d) notify the OFC director, strategic initiatives, of the action completed.

When the OFC receives the missing information in writing within five days of notifying the requestor, the administrative officer will:

- (a) prepare and send an acknowledgement of receipt and next steps to the person who requested the review,
- (b) add the acknowledgment of receipt to the review file, and
- (c) forward the file to the OFC director, strategic initiatives, for assessment of the request.

When the OFC does not receive the missing information in writing within five days of notifying the requestor, the administrative officer will:

- (a) prepare a notification that the request cannot be accepted and forward it to the fire commissioner for signature,
- (b) send the signed notification to the requestor, and
- (c) add the signed notification to the review file.

Conducting the review

The fire commissioner, or delegate, will begin the review as soon as is practicable and complete the review and preparation of written reasons within 10 business days after the request is vetted and verified as complete, except in extenuating circumstances.

When conducting a review, the reviewer will take the following steps:

- (a) They will review the written request for review.
- (b) They will review the original order or notice of penalty.
- (c) They will review the statutory authority under which the order was issued, or the penalty was imposed.
- (d) They will consider whether to contact the requestor to confirm the requestor's reasons for requesting the review.
- (e) They will consider whether to contact the person who issued the order or imposed the penalty to confirm that person's reasons for making the decision.
- (f) They will consider the standard of review and determine whether to confirm, vary or cancel the order or notice of penalty.
- (g) They will prepare written reasons for the decision to confirm, vary or cancel the order or notice of penalty.

When the review decision varies an order or notice of penalty, the reviewer will set out in the written reasons that the original order or notice of penalty remains in effect, with the variances described in the decision.

The reviewer will sign the written reasons for the decision and forward them to the OFC administrative officer.

Serving the decision and reasons

The OFC administrative officer will prepare a notice of decision and a copy of the written reasons. The OFC administrator officer then will:

- (a) serve the notice and reasons to the person who requested the review,
- (b) serve a copy of the notice and reasons to the person who made the decision that was reviewed, and

(c) add the notice of decision and reasons to the review file, indicating how the notice was served and the date of service.

Forms and Templates

There is one user form related to the Fire Safety Act Reviews Policy and Procedures that is needed by persons receiving a decision based on the Fire Safety Act.

This form is titled: 'Request for review of a decision' and can be located on the BC government website [here](#).