

POLICIES & PROCEDURES



**City of Wilsonville
Building Division**
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EXPIRED PERMITS AND APPLICATIONS

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Summary

It is the Building Division's goal to facilitate the development of approved projects in a manner that progressively moves them toward completion. This procedure establishes parameters for the expiration of building permit applications and issued permits for which work has ceased for more than 180 days.

Background & Discussion

The Oregon Specialty Codes contain general administrative language for the expiration of permit applications and issued permits. This policy and procedure provides guidance to staff in permit and application expiration.

It is necessary to monitor applications or permits so they do not languish for lack of activity. Codes and standards change regularly and there are numerous safety and administrative reasons to bring closure to permits in a timely manner.

Policy

It is the responsibility of the Permit Applicant to timely complete their permit or permit application, or to request an extension of the permit or application prior to expiration. Permits and applications will be expired as required by the Oregon Specialty Codes using the procedure noted below:

Procedure

1) **Expiration of permits and permit applications:**

- The Plan Review and Permit Tech staff will be responsible to track permit applications. The Inspection and Permit Tech staff will be responsible to track issued permits.
 - The Permit Tech staff will run a report at the beginning of each month which indicates permits that are expired, or are within 30 days of expiration.
 - The Permit Tech staff will pull the permit files for projects that are in question and need to be reviewed by a Plans Examiner or Inspector.
 - Once reviewed, the Plans Examiner or Inspector will return the files to the Permit Tech with direction for next steps (to send the letter, extend the permit, etc.)
- Applications and permits that are approaching their expiration date will have a minimum of 2 notices sent:
 - Notice 1 will be sent to the owner and the applicant as a courtesy reminder preferably approximately 2 to 4 weeks ahead of the expiration date.

- Notice 2 is the notice of expiration and is sent to the owner and applicant after expiration.
- Prior to application expiration the application activity must be reviewed by the assigned Plans Examiner and Permit Technician.
- Prior to permit expiration (for issued permits) activity must be reviewed by the assigned Inspector and Permit Technician.
- In determining whether it is appropriate to expire a permit application or issued permit, staff must weigh the project circumstances using professional judgment. In addition, staff will consider other staff input, applicant requests, applicant's action/inaction, and any known hazards or other extenuating circumstances.
- Prior to expiration, the Plans Examiner or Inspector should also consult with the BIPE-L or Building Official before taking final action.
- The Permit Technician shall add a notation in the permit tracking system regarding the date and to whom the notices were mailed.
- All correspondence, including canned expired permit letters, shall be scanned and retained with the permit case.

In circumstances where a revised Wilsonville Development Code becomes effective, permit applications submitted and accepted as complete before the effective date of the revised code, shall not be granted permit application extensions after the effective date of the revised code.

A permit application will not be expired if the application is filed in response to a violation or a hazardous situation intended to be rectified by obtaining a permit. In these cases the permit application will only be expired as directed by the Building Official.

- 2) **Permit application extensions and issued permit extensions:** Often an applicant needs additional time to complete a project. It is the goal of the Building Division to facilitate projects and keep them moving toward completion. The Oregon Specialty Codes provide that an application for a permit shall be deemed to have been abandoned and may be expired 180 days after application. In addition, issued permits expire if the approved work is not commenced within 180 days from issuance, or, if work is suspended or abandoned for a period of 180 days at any time after commencing. However, both applications and permits may be extended at staff discretion for a period of 90 days, or up to 180 days, provided that 'Justifiable Cause' is demonstrated and the request for an extension is made in writing.

Several issues arise with plan review and permit expiration:

- **Legitimate inspection requests:** In considering whether or not an inspection should be the reason to extend a permit, the inspector should ensure the inspection is legitimate and leads to productive progress toward completing a project. Requesting an inspection just to have an inspector show up does not constitute progress or permit activity.
- **Land Development Code Changes:** In circumstances where a revised Wilsonville Development Code becomes effective, permit applications submitted and accepted as complete before the effective date of the revised code, shall not be granted permit application extensions after the effective date of the revised code.

- **Justifiable Cause:** The term Justifiable Cause is subjective. On this point, the City Attorney's Office has been consulted. It has been suggested that the following definition should apply:

Justifiable Cause: A reasonable ground for belief that certain alleged facts exist (see examples below) and those facts would induce a prudent building official/inspector/plans examiner/employee/etc., acting within the scope of their duties, to believe a cause for permit renewal is appropriate and proper.

The following are a few examples of (included but not limited to) cases where the request for an application or permit extension can be granted as having Justifiable Cause:

- Circumstances of severe financial hardship
- Unforeseen construction barriers (supply delays, demolition findings, hazards)
- Land use issues (ex: DRB or Planning Commission appeal)
- Documented medical condition

The following are not reasons to extend a plan review or permit:

- Unforeseen regulatory effects on project
- Insufficient or incomplete project planning
- Request without sufficient support of Justifiable Cause
- Applicant does not want to fulfill conditions of approval
- Applicant cannot secure a contractor

- **Contractor as applicant:** There are also situations where the hired contractor is the permit applicant and, for whatever reason, becomes unable to fulfill the obligations of the permit. The applicant is legally responsible for completing the permit requirements and is liable for the state in which a project is left. Since permits are not transferrable, the permit would need to be voided or expired upon request from the applicant. In such instances, the request from the applicant/contractor must include written confirmation that they, in good faith, have notified the owner of the need to obtain permits for the remainder of the project. Building Division staff will then expire the permit and will send copy of the notice of expiration to the owner so they understand their future permitting obligations.
- 3) Application or permit extensions may be granted in accordance with item 2 above if Justifiable Cause is demonstrated. After January 1, 2020, extension approvals will have the new expiration date designated on the confirmation.
 - 4) After an extension occurs twice on any given project, the third extension may only be approved by the Building Official. No additional extensions will be allowed unless extreme circumstances have prevented work from progressing.
 - 5) This procedure is intended to be effective only for those applications received after January 1, 2018.