

## Permit extensions/expiring permits survey

Completed by Shaunna Mozingo

Sept 6, 2023

**Question:** We've been generally extending just about any permit that wants an extension (I'm looking at a project on the 2009 code right now for example). We now have one we'd like to expire and are thinking we could use to have a policy on what constitutes justifiable cause for a building official to extend a permit. Wondering what other jurisdictions use for criteria.

What would consider "justifiable" reasons, or do you just allow it as long as they request it in writing?

### **Responses:**

1. I have always used the judgment where if it is beyond their control then they get an extension. ie/ Death in the family. Running out of money is not a great reason since they didn't plan well, unless something beyond their control took their money. So, I believe it's a judgment call. On the other hand, I wouldn't say no just because I didn't like them.
2. We give a one time extension for a 180 Days they must ask for it in writing and give reason why. We just want to know their reason and we would give them 180 days only one time per permit though.
3. We have Administrative Section 103.10 for Major Projects and Section 131 for all others. The rules could benefit from some simplification, but there are end dates after which projects are obligated to redesign to current codes (2021/2022). While we plan on reviewing a few remaining projects based on the 2018/2019 codes/amendments, there would be no allowed continuation for those on earlier codes. Extension allowances are written in code and approved through council/legislation, so the CBO has some, but limited subjectivity in granting extensions.
4. Many jurisdictions require the exterior to be finished and they must keep working on the project, so an inspection every 6 months to keep the project valid and if it gets expired just a letter to reinstate the project.  
I had a project that I had to inspect in 1998 that was continued to be worked on and the original date of the permit was 1978 but inspections were called in every 6 months to keep the project still under the original code that was adopted when the permit was pulled.
5. Our code for permit extensions says that the CBO may extend an unexpired permit "for good and satisfactory reasons" if the permit holder provided justification "showing that circumstances beyond the control of the permitted have prevented action from being taken". Those are both very broad criteria that leave it up to the CBO to make the judgement. We don't have any additional criteria.

In most cases expiring a permit does very little to help resolve an issue. Typically, I would rather keep a permit valid in hopes of the project being completed than expire it and deal with reissuing the permit. However, each situation is different and that's why the code language is discretionary, allowing the CBO to use their best judgement.

6. As far as commercial projects go, money seems to drive the timely completions, so I just go by the standard wording in Section 105.5 of the IBC and I don't typically have any situations where I have to worry about expirations.

My main challenges are with homeowner DIY projects, so we established this policy in numerous jurisdictions I helped with Code Adoptions:

d) Section R105.5 (Permit expiration) is amended to read:

1. Work must commence within 180 days of issuing the permit.
2. Unless determined otherwise by the Building Official because of the size or complexity of the project, each inspection must be completed within



180 days of the previous mandated inspection according to the following schedule:

- a. Reinforcement in footings or structural (monolithic) slab.
- b. Reinforcement in stem-wall or basement-wall.
- c. Wall and roof sheathing.
  
- d. Framing (plumbing, electrical and mechanical must have already passed inspection or will be inspected at the time of the framing inspection).
- e. Insulation.
- f. Drywall or other interior wall coverings.
- g. All final inspections.

Such a schedule allows time for someone doing their own project to get it done, even when working on it during weekends and evenings. Yes, this still leaves room for subjective judgements. The criteria I consider when offering a **one-time** six - month extension are:

1. Is the homeowner trying to occupy or use the space (no deal).
2. Are there features exposed to the weather that are subject to detrimental effects (no deal).
3. Is it truly a large and/or complex project that may need more time (qualifies for consideration)?
4. Am I being consistent in carrying out these determinations?

If the permit does not qualify for an extension, we allow the purchase of a new permit for 50% of the original permit fee IF the permit has been expired for less than one year (no additional Plan Review Fee or Use Tax Fee, just 50% of the Permit Fee). A site visit is required to determine the status of the project.

7. We extend a lot of permits here in Golden much to my chagrin as it's nice to get projects off the books. That said there are as many reasons to extend a permit as a kid has excuses as to why they didn't get their homework done or why they were absent from school. We generally will extend any permit as long as the applicant states the reason and provides that request in writing such that it can be documented.
8. As long as a project is being actively worked on, we allow extensions indefinitely. We only get concerned if a project appears to be abandoned and has ceased to make forward progress. We do sometimes require the owner to supply clear evidence of continued forward progress.
9. This is what we have in our municipal code "Every permit issued is good for 180 days after its issuance or after the commencement of work if more than 180 days pass between inspections. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated."

On large commercial projects, the CBO will need to receive the request in writing. Sometimes the circumstances are out of the contractor's control, and they just need more time.

On residential projects, in most cases, we extend the permit to 180 days every time an inspection occurs whether it passes or fails. There are times when residential contractors or homeowners experience a hardship or the perils of life and must stop working on their job to take care of business, this is when we discuss amongst the permit techs if we need to work with the residential contractors or homeowners to help complete the project.

A lot of times our CBO works with contractors on a case-by-case basis. We learn early on what company is a habitual offender and often apply and pay for a permit only to have it expire and then request a refund.

10. Generally, The Building Official will make the call based on IBC 105.5 (2021), but most of the time we review by a case-by-case basis if there has been substantial progress on the job. Our jurisdiction has given one time extension "no questions asked" life happens, but beyond that an extension must be in writing with continuous inspections.
11. Our amendments allow an extension for up to a year of inactivity. Of course, I've extended several that have been over a year based on Covid excuses. Material delays have been commonplace, garage doors have been 6-10 months out! I did deny a permit extension that is 6 years old, there is new energy code they will have to show compliance to, they only had the foundation poured. We charge ½ the permit fee to re-instate an expired permit, if it's within a year I don't charge them. Its case by case, I've had a contractor pass away or a spouse passed away or material delays or shut down during covid... I don't think a solid list will work myself, this is where the CBO has to make a reasonable call.

12. I am not sure if it is written, however our standard practice is no extensions on any project that has not been completed prior to our new code adoption. We just let everyone know during adoption once this is official, no extensions on old/expired permits not under this code.  
Case by case but I use - if they made it to finals? Easy to extend.  
Did they make it to roughs? Ok did they pass them? Could be a factor in your decision, then  
How much did the code change?  
Will it even effect what the scope of work is here?  
Any life safety issues/concerns we might as for an inspection to see what is involved  
Will it make your life easier in the long run is sometimes my last filter
13. Lately permit extension requests that are coming across my desk seem to be due to issues relating to material delays and I'll typically grant one request for material delays or similar reasons. We also see extension requests come from homeowner permits where they either bit off more than they could chew with their project, or the project moves at a slow pace.
14. Past CBOs here ignored permit expirations completely and simply told an applicant to schedule their next inspection when they were ready, so it was not uncommon to see the occasional inspection request for a permit that was 6 or 7 years old and had not had any activity in 5 or 6 years. I pivoted from that stance significantly at the beginning of this year (in anticipation of amending the base code language to attempt to create language that would be easier for the City to use to stop perpetually extending permits) by expiring every permit that had no activity within the past 180 days and requiring anyone wanting to reopen an expired permit to pay half of the Building Permit Fee (not including any use tax or other fees). Now that the City has adopted updated codes, expired permits will not be reopened if expired for more than 180 days. Here is our amended expiration code language that went into effect on 8/1/23:

**105.5 Expiration.** Every permit issued shall become invalid, unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each provided that the permit has been expired for less than sixty days and the permit was issued under the same adopted codes as are currently adopted by the city. The scope of work must remain unchanged. The extension shall be requested in writing and justifiable cause demonstrated. If a permit has expired for sixty days or more, but less than 180 days, a fee prescribed by 109.3.1 shall be paid to re-issue the permit after a written request has been made. If a permit has expired for 180 days or more, the applicant shall provide a new permit application and construction documents complying to the code as adopted at the time of filing as required by Section 107.

Beginning recently (within the past 6 months), when a permit holder requests a permit extension, I ask for justifiable cause in writing, let them know that only one extension will be granted, and also offer that they can automatically extend their permit by scheduling their next inspection.

15. We allow anyone who wants an extension on their permit to get one. Although we state that we will allow this only one time, we do like to be lenient with people and allow them to finish out the project if they request it because our ultimate goal is to get permits closed out so we figure if they are requesting extensions, then we should grant extensions because we are glad they are trying to close it out.

As far as justifiable reasoning for extending a permit, we believe there are many circumstances that would be justifiable so pretty much any reason will be fine to extend a permit. Some circumstances we have seen in the past are family emergencies, loss of funds for a project, unable to find certain products or products are on backorder, homeowners having a hard time

finding time to finish a project they are working on, etc. So really we will allow any justification/ reasoning for a permit to be extended because we want those permits to get closed out.

Now with that being said, there are a few circumstances that come up where we cannot simply extend a permit:

- If a permit has expired and in that time since its expiration, we have had a code adoption, then we will not allow an extension of that permit because we will need to re-review the plans under the current codes and the remaining inspections will be subject to the current codes. In those cases we will have the applicant create a new permit, pay some additional fees (where applicable) and we will actually transfer the history of the old permit to the new permit so that our inspectors can see all previous inspections that were completed and other history of the previous permit.

- Another circumstance that may come up is if the previous permit expired and in that time since its expiration, the applicant or contractor has changed- then the new applicant/ contractor will need to apply for a new permit since the previous applicant/ contractor owned the previous permit. In those cases they would need to pay all new permit fees but we will still allow the history of the old permit to transfer over such as previous inspections that were completed under the previous permit so that our inspectors can see that.

#### 16. Our building permit application amended code for expiration of building permits:

Section R105.5 Expiration is hereby amended as follows:

A building permit that has been issued shall become invalid if: 1) The work on the structure authorized by such permit is not commenced within 12 months after the date of permit issuance. Evidence of commencement shall be a building inspection of work performed on the structure itself and does not include such peripheral work as infrastructure, grading, access, excavation, etc. 2) The work authorized on the site by such permit is suspended or abandoned for a period of six months after the time the work is commenced. Continuation of work shall be evidenced by a required building inspection. Projects that are not ready for a required inspection shall request a progress inspection to document the performance of significant work in the judgment of the building official.

The building official is not authorized to grant an extension. Here is our written policy:

#### REAPPLICATION POLICY FOR ISSUED BUILDING PERMITS THAT EXPIRE PRIOR TO CO

Building permits which have expired\* in process must be re-applied for by the issuance of a new building permit specific to the needs and requirements applicable to bring the project to completion and full compliance with Pitkin County Building and Land Use Codes. A new number one permit application will need to be submitted by the owner or contractor with a full description of any and all work remaining to be completed and inspected and any supporting documentation provided for staff review.

Expired permits shall be categorized in Tiers:

##### Level I - Administrative Cleanup

- All required inspections completed but Permit not internally routed or other administrative oversight.
  - o No contact required.

##### Level II - Work Completed but never Finalized/Inspected in the field

- Majority of Inspections completed with some items left outstanding.
  - o Inspection of outstanding items required.
  - o May be subject to scrutiny according to current code requirements depending on what stage of completion inspections ceased.

- o May be required to repeat the entire permitting process.
- o Contact by phone.

Level III - Work Abandoned in Process (abandoned means exceeded 180 days without a building/progress inspection)

- Subject to further Expired Permit review by staff and referrals to determine proper course of action.
  - o Must meet current code requirements.
  - o May be required to repeat the entire permitting process.
  - o Contact by registered letter.

Level IV- Work Never Started

- Must repeat permitting process.
  - o Contact by registered letter.

Re-application fees shall be based on hourly charges incurred by staff for work performed in researching the property address file, reviewing the associated plans and submittals, and confirming the continued approvals of referral agencies, plus a reapplication fee of \$500.00\*\*. This fee is not refundable if the new permit expires or is withdrawn or cancelled. The reapplication fee is payable at the time of re-application, and the remaining fees are payable upon issuance of the permit.

\*expired as defined by the adopted codes and ordinances

The (jurisdiction's) Code states that building permits are deemed to have expired if they have not been issued within 12 months of filing, and/or if work on the permit is not commenced within 12 months of its issuance, and/ or if the work authorized by the permit is suspended or abandoned for a period of 180 days after the work is commenced.

\*\*or \$150.00 for work minor in nature (such as zoning only review or minor repair/replacement permits).