

## **Expiry Dates for Building Permits**

**Date:** June 14, 2021

**To:** Planning and Housing Committee

**From:** Chief Building Official and Executive Director, Toronto Building

**Wards:** All

### **SUMMARY**

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The purpose of this report is to respond to City Council's request that the Chief Building Official and Executive Director, Toronto Building report to the Planning and Housing Committee on a review of implementing expiry dates on building permits in the City of Toronto. This report provides an overview of the Chief Building Official's abilities to revoke building permits, and identifies that the City does not have the authority to impose additional conditions on a permit to compel a property owner to finish construction within a prescribed time, or set a building permit expiry date.

Even with an additional authority to set an expiry date on the permit, the City could not force construction to continue, as the root problem is typically the lack of finances, or other externalities to continue with the work to complete the project.

In situations where Toronto Building and other divisions are faced with a stalled construction site, the first priority is site safety, then maintenance (for example litter and untidy site) followed by actions to encourage the permit holder to complete the building's exterior, thereby mitigating potential impacts on neighbours.

To strengthen its processes within its existing authorities, Toronto Building has recently augmented its building inspection services with two additional mandatory inspections so that it can more actively monitor the construction process. City Council also adopted by-law changes in 2019 to provide clear guidance on how the Division proceeds with revocation after a reasonable time, and in a fair and transparent manner. The Division has also engaged the Ministry of Municipal Affairs and Housing on the matter, as requested by City Council.

## RECOMMENDATIONS

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The Chief Building Official and Executive Director, Toronto Building recommends that:

1. The Planning and Housing Committee request that the Chief Building Official and Executive Director, Toronto Building continue to engage with the Ministry of Municipal Affairs and Housing to strengthen the regulatory tools available (in the *Building Code Act, 1992* and the Ontario Building Code) to the City of Toronto so that it may more effectively respond to stalled and dormant construction sites.

## FINANCIAL IMPACT

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There are no financial impacts resulting from the recommendation contained in this report.

## DECISION HISTORY

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At its meeting of December 12, 2020, City Council adopted Member Motion MM27.9, "Investigating Expiry Dates for Building Permits".

1. City Council request the Chief Building Official and Executive Director, Toronto Building, in consultation with the Executive Director, Municipal Licensing and Standards, to communicate with the Province of Ontario to review implementing expiry dates on building permits across the City of Toronto and to report back to the Planning and Housing Committee in the second quarter of 2021.

<https://www.toronto.ca/legdocs/mmis/2020/mm/bgrd/backgroundfile-159303.pdf>

At its meeting of October 2, 2019, City Council adopted Member Motion MM10.6, "Regulating Property Standards on Unfinished or Dormant Development Sites".

1. City Council direct the Executive Director, Municipal Licensing and Standards and the Chief Building Official and Executive Director, Toronto Building to report to the Planning and Housing Committee with a strategy to improve the regulation of property standards for dormant development sites, with consideration of the following:
  - a. requirements for restoration of the site following full or partial excavation, including timelines for completion and penalties for non-compliance;
  - b. strong, enforceable regulations related to property standards and maintenance;
  - c. regulations related to ensuring the ongoing safety and security of the site;
  - d. requirements to restore the property to the pre-construction state, including removal of unfinished structures, unsightly construction hoarding, and debris;
  - e. measures to compel builders to meet construction timelines and schedules, including but not limited to fines and revoking permits; and
  - f. mechanisms to proactively monitor and investigate dormant construction sites.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.MM10.6>

## COMMENTS

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### **Current Regime**

The *Building Code Act, 1992* (the Act) sets out the legal framework for building and construction regulation in Ontario. The Act requires people to obtain a building permit to undertake construction, as defined in the Act. Once issued, a building permit authorizes the construction proposed and does not have an expiry date. However, the Chief Building Official may revoke a permit when construction has not seriously commenced within six months of issuance, or where (in the opinion of the Chief Building Official) construction has been substantially suspended, or discontinued for more than a year. The Act does not allow the Chief Building Official to impose conditions on building permits that would compel building permit holders to carry out construction within a specified period of time, or have building permits on a specified date.

### **Permit Revocation and Encouraging Timely Construction**

While the Chief Building Official ultimately retains discretion on when to revoke a building permit, through Toronto Municipal Code Chapter 363 (Chapter 363), the City has established an efficient, fair, and transparent process for the revocation of permits in situations where construction has not commenced or has stalled. In those situations, Chapter 363 provides for the provision of notice of pending revocation of a building permit and permit holders are afforded an opportunity to respond to the Chief Building Official's notice to revoke.

To strengthen its processes within its existing authorities, Toronto Building has recently augmented its building inspection services with two additional inspections so that it can more actively monitor the construction process. City Council also adopted by-law changes in 2019 to provide clear guidance on how the Division proceeds with revocation after a reasonable time, and in a fair and transparent manner.

Between January 1, 2017 and May 31, 2021, Toronto Building revoked approximately 1000 permits. More than half of these permits were for small residential construction where work had not commenced. Almost 50 permits were revoked where work was suspended and the site was dormant (which includes 30 permits for small residential construction projects which also includes interior alterations).

### **Issues with Stalled Construction**

Revoking a building permit, or having an expiry date on a permit may not eliminate underlying issues of dormant, or stalled construction. Upon revocation, there is no standing and corresponding authority for the City or the Chief Building Official to remove or finish any construction that took place while the permit was in force and effect.

When Toronto Building and other divisions are faced with a stalled construction site, the focus is on prioritizing and responding to the issues. For example, the first priority is site safety, then maintenance (tidiness/litter), followed by actions to encourage the permit holder to complete the building's exterior, thereby mitigating potential impacts on neighbours. Building inspectors work to keep builders engaged with the City. Even if the City were granted a new authority to set an expiry date on the permit, the City could not

force construction to continue, as the root problem is typically the lack of finances, to continue the project.

### **Communication with the Province of Ontario**

As requested by City Council, Toronto Building has engaged the Ministry of Municipal Affairs and Housing to further discuss the issue of expiry dates for building permits beyond the current regulatory regime and the current limitations on the removal of construction that has been completed under a permit that has now been revoked.

### **Next Steps**

This report recommends that the Chief Building Official and Executive Director, Toronto Building continue to work with the Ministry of Municipal Affairs and Housing to review the *Building Code Act, 1992* and the Ontario Building Code, for opportunities to strengthen the regulatory tools available for the City of Toronto to effectively respond to stalled and dormant construction sites.

Toronto Building is committed to addressing issues related to the building approvals process and working with its divisional partners to mitigate against the negative impacts of the construction process on the public. The Division is currently working to strengthen its stakeholder and education initiatives through resident association and industry round tables. Staff will be bringing issues such as dormant construction sites for discussion with these groups.

The Municipal Licensing and Standards Division (MLS) is preparing to undertake a review of the City's Property Standards By-law, in consultation with relevant stakeholders. The review will respond to outstanding Council directives, identify areas to simplify and clarify requirements, and strengthen enforcement processes to aid with compliance. Property standards issues related to dormant development and construction sites will also be considered.

## **CONTACT**

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## **SIGNATURE**

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