

STATE BUILDING CODE INTERPRETATION NO. I-27-08

July 7, 2010

The following is offered in response to your correspondence in which you seek a formal interpretation. These questions would apply to Sections 105.5 and R105.5 along with 110.1 and R110.1, of the 2003 International Building and Residential Code portion of the 2005 State Building Code.

Question #1:

"How many (building permit) extensions do you feel is reasonable for a building official to grant? One extension would grant an applicant a year to commence work and an additional 180 days extension would effectively give the applicant 1-1/2 years to start. How far out do we really want to go?"

Answer #1:

Since this question is general in nature and does not address a specific situation, the following guidance is offered. The code states, emphasis added: "*The extensions shall be requested in writing and justifiable cause shall be demonstrated*". The building official must evaluate the applicants request and determine 'justifiable cause' which should be based on but not necessarily limited to events beyond the permit holder's control. If the permit holder's reason has been determined acceptable, it is my opinion that nothing in the code would limit the amount of extensions granted by the building official.

Question #1a:

Case and Point. In June, a building permit was issued for a commercial building. Site leveling was started, work stopped, and in December, we received a written request for an extension and it was granted. Since December nearly a year has passed and 1) no further work has been done on the site and 2) the building official's office has never been called for any inspections whatsoever. Has this permit expired?

Answer #1a:

Yes. The June permit has expired and evidence of the above situation is documented in the building department file. The permit applicant should be notified in writing that the permit has become invalid and the steps needed to be taken in order to reinstate the permit and restart the work.

Question #2:

"To get an extension 'justifiable cause shall be demonstrated'. Earlier this year, we notified a developer that his permit was to expire. Their argument was they could not sell two adaptable units in this four unit building therefore they wanted an extension. Could you elaborate on justifiable cause?"

Answer #2:

Guidance on 'justifiable cause' was addressed in the answer to Question #1. A permit is a license to proceed with the construction work. The lack of sales does not correlate with the process of work/constructing a building and therefore is not considered as 'justifiable cause'.

Question #3:

"If a certificate of occupancy has not been issued pursuant to Section 110.1 and R110.1 in a timely fashion, does the permit that was issued become expired after the 180 days?"

Answer #2:

Please see the answer to Question #1a. If a final inspection has been completed and no violations exist or all have been corrected, the building official's next procedure is to issue a certificate of occupancy.