

Building Permits: Navigating Bureaucracy to Move your Project Along

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A variety of building permits are typically required for new construction and renovation of buildings. Building permits are issued as a matter of right if the plans and specifications submitted by an applicant for a permit comply with a city's or county's building codes. Almost every local government in America has some form of building codes adopted from a nationally promulgated form. National code writers will release a new version of a code every few years. A city will formally adopt a version of the code and often also adopt local amendments to the code that contain specific provisions that regulate development in a manner specific to that city. For example, the City of Houston has adopted the 2012 International Building Code with local amendments while the City of Pearland has adopted the 2015 International Building Code with local amendments. What that means for you is that building codes are, at least, slightly different almost everywhere you look.

Sometimes submitted plans do not comply with the adopted building codes and the plans are rejected. While that can be incredibly frustrating and expensive, it is much better than having plans approved and permits issued in error, then revoked. Alternatively, plans and specifications may comply with local building codes, but are rejected anyway, often requiring special intervention on behalf of the applicant to show the city or county that they are wrong.

Wait, revoked? Can the government do that?

If plans are approved that do not comply with the local building codes, they are subject to being revoked. Sometimes construction is already underway when a permit is revoked, leading to costly delays where construction crews have been hired and now have to be sent home. Local governments typically do have the authority to do this, with some important limitations. As amazing as this may sound, it does make some sense. Building codes

are adopted by publicly elected city councils that have legislative authority. Plan reviewers and building officials do not have the legal right to amend the building codes, and giving their mistakes the force of law is effectively doing just that. However, in most cases, you have the right to notice and a hearing before your permit is effectively revoked, even if it was issued in error.

Often, what's much worse than a revoked permit is the local government's ability to put your project in limbo, which can happen a few different ways. The plan reviewer or building official can subject your submitted plans to endless scrutiny by attempting to find fault and order revisions, even if those faults and revisions are not supported by local building codes. Another path to limbo involves the approval of plans, the issuance of



a certificate of occupancy indicating final inspections are complete, and then added scrutiny by the local government concerning the application of the certificate of occupancy to a particular use. In especially egregious cases, this added scrutiny is a pretext for governmental opposition to a project and defeats the purpose of having a predictable and uniformly applied set of laws.

Some aspects of reviewing building permit applications involve a degree of discretion on behalf of the government as well. A good building code consultant is often well worth the expense to navigate these areas and structure an application to prevent these types of delays.

Can I appeal? Can I sue?

Typically, there are a few layers of administrative appeals from adverse decisions of the building official, depending on what kind of issues exist with the appli-

cation for a building permit. For example, the City of Houston has a Building Standards Commission, a General Appeals Board, a hearing official, a City Council, all of which play a role in various stages of administrative appeals. An applicant is usually required to go through as many of these as can be applied to the application before filing suit in court. However, local governments can sometimes refrain from making the kind of final determinations that are administratively appealable by keeping applications in limbo, forcing you to resort to simply filing suit.

Best Practices

Some tips for navigating the building permit process:

1. Have a meeting before submitting plans. Try to enlist the help of the local building official in anticipating problems and issues before they arise so that your plans and specifications can incorporate those concerns.
2. Employ a consultant for a project that may be tricky or involve some uncertainty. Architects, civil engineers, and building code experts all understand different aspects of the regulations affecting approval of building permit applications.
3. Communicate in writing. Relating an issue verbally by an unnamed plan reviewer does not help move your application along.
4. Stay on top of the review. Most applications are reviewed by several different plan reviewers who focus on different aspects of the building code. The entire set of plans sometimes has to physically move from one desk to the next. It is very helpful to know which reviewers have signed off on certain aspects of your plans so that you can isolate the problems.
5. Don't let your permits expire. Typically, permits are good for six months, but this can be different from jurisdiction to jurisdiction. Do work, have it inspected. Let the government know you are pursuing your project.