



Staff Report

ONE YEAR REVIEW OF THE TIME LIMITS FOR COMPLETION OF CONSTRUCTION ORDINANCE

Honorable Mayor and Council Members:

Summary

The Time Limits for Completion of Construction ordinance (TLCC) was implemented on May 9, 2008. The ordinance was structured to capture existing permits dating back to January 1, 2002 and all new permits from the implementation date. Existing permits holders received an allotment of time for completion based on their construction valuation commencing on the implementation date, regardless of the original date of issuance. New permits were also assigned a completion date based on their construction valuation and per the schedule within the ordinance, with the time limit starting on the date the permit was issued. This report will review the impact of the ordinance as it relates to the intended goals and include statistical information to support the findings.

Staff recommends the ordinance remain in force as currently constituted.

Background

With construction projects come noise, loss of on-street parking, debris accumulation, and other negative impacts to the adjacent neighbors. As is the norm with construction projects, a percentage are not completed in a timely manner. Projects that continue for an unreasonable period of time will test the patience of the neighbors and may eventually lead to an unacceptable situation. Additionally, ongoing or inactive projects place a demand on City staff that is disproportionate to the fees collected for the particular project; examples of these demands are numerous inspections, design revisions, and administrative efforts such as monitoring, meetings, and written communication.

In response, Belmont followed suit of several local municipalities (such as San Bruno, Burlingame, Hillsborough, Atherton, Belvedere, and Ross), and passed an ordinance limiting the length of time a construction project can continue. However, Belmont's ordinance differed significantly from these other cities—while other ordinances result in daily fines for failing to complete on time, Belmont's TLCC allows for a series of extensions with associated fees. The fee amounts are set to cover costs to the city and have proven to be sufficient to motivate completion.

The time limits are based on construction valuation; a dollar amount equating to the real estate value created by the project and a required entry on every building permit application. The greater the valuation, the more time allotted for completion. If for any reason, meeting the deadline is not possible, a series of extensions are available. The initial extension is for six months and the associated fee is \$1,000. The following tables from the ordinance show the associated time limits and the subsequent extensions available in the event completion is still not possible after the first extension:

Table of Time Limits

Estimated Value of Construction	Construction Time Limit (months)*
\$0 to \$50,000	9 months
\$50,001 to \$100,000	12 months
\$100,001 to \$500,000	18 months
Greater than \$500,000	24 months

* For landscaping work required by the Planning Commission, the applicant shall have an additional 90 days after the date of final inspection approval of the building permit by the Building Division for the main construction project.

Fees for Additional Extensions

Extensions	Fee
1st 60 day extension	\$1,000.00
2nd 60 day extension	\$1,500.00
3rd 60 day extension	\$2,000.00

Discussion

After the effective date, the first group of permit holders was subject to a nine month time limit. The breakdown of those permits is as follows:

- 126 existing permits
- 24 permits issued in the month of May
- 150 total permits in the first group

Of these permits 147 were finalized within the time limits and three received extensions; one of which was fined before obtaining their extension. The following is a discussion of how the deadlines were communicated and the ordinance enforced.

Upon passage of the TLCC, existing permit holders were notified in writing of the new requirements. Based on their valuation, each received a deadline to obtain a final inspection. Applicants for permits issued after 5/9/08 signed an acknowledgement of the requirement, and the deadline was stamped on their plans and also printed on the job card for the project. Thirty days before the February 2009 deadline all active permit holders from the first group (96 had

been finalized), received a written notice that their permit would expire at the end of the next month.

This notification resulted in a flurry of activity. Many inspections were scheduled and final inspections obtained. Meetings were conducted both at City Hall and at the job site, where the Ordinance was explained and options discussed. By the end of February 2009 the first group of permits were either finalized or extended with the exception of one. This particular permit holder is an absentee landlord—a real estate investor. The project had received a stop work order for exceeding the scope of the permit; unconditioned space was improved that created additional habitable space in excess of their floor area ratio. The owner and contractor were directed to either remove the improvements or lower the ceiling height to below six feet six inches. Those instructions were not followed and a final inspection was not called for. After the written notification and several phone calls were ignored, the February 28th deadline passed and the project was declared a public nuisance pursuant to the Belmont Municipal Code Sec. 7-401 (2) (d).

The owner was given written notification that the nuisance must be abated within 30 days or daily fines in the amount of \$75 would commence, as allowed by the Administrative Citation program. This writing was also ignored and fines were assessed that totaled \$750. Eventually a representative for the owner paid the fines and obtained an extension for the permit to remedy the nuisance.

Each month will bring a new group subject to the TLCC ordinance. Each applicant is fully apprised of their deadline at the time of permit issuance and each owner receives a letter advising them of the advancing deadline at least 30 days before that date. Staff's experience with the months of March and April has been routine. For March, 28 permits had deadlines, of those only five received warning letters as the remainder were already completed. For April, 26 permits had deadlines, of those only four received warning letters. It appears that as the program matures it becomes easier to administer. This may be attributed to older, more problematic permits passing their final inspection and that newly issued permits are attuned to the time limits.

As expected, there have been “bumps in the road”. The four projects that have received extensions to date were arranged with some degree of conflict and reluctance. Two of the four had experiences relating to their project that to a certain extent were outside the owner's control; difficulties with contractors, divorce, etc. The others were due to their own choices in the management of the project. For all of the permit holders facing an impending deadline, the fees associated with the extension were a motivation to complete their project. Undoubtedly, there will be similar circumstances in the future where completing a project is difficult. Staff believes this reality should not result in a change to the format of the ordinance. The lack of discretion for staff insures the intent of the ordinance and prevents diminishing its impact. It is also believed that as the older permits are finalized, these instances will occur less and less.

One of the intended (and realized) benefits of the TLCC ordinance was a reduction in staff time in administering expiring building permits. Under the previous approach, permits remained in force as long as there was activity every 180 days. This required daily monitoring of the status of the permits and resulted in a continuous stream of written notification. In addition, inspections

were previously required to verify the status of certain projects where there was no apparent motivation to complete. The TLCC has resulted in fewer inspections per project and a more proportional involvement by staff relative to the fees collected.

Staff believes the Ordinance is having its intended impact despite the negative consequences for a few. By far the reaction from applicants upon learning of the deadline is positive; they believe the time constraints are not only reasonable, but more than generous. Others have expressed their appreciation for a target date. Staff recommends the Ordinance remain in place as currently constituted.

Fiscal Impact

The TLCC ordinance has resulted in fewer demands on staff time and has generated \$4,750.00 of new fees during FY08-09.

Public Contact

This matter was placed on the agenda and posted as required by the California Government Code.

Recommendation

Staff recommends the Ordinance remains in place as currently constituted.

Alternatives

1. Provide direction to staff to commence a work program to suspend or amend the existing TLCC ordinance.
2. Refer back to staff for additional information.

Attachments

- A. Belmont Municipal Code—Article XIV. Time Limits for Completion of Construction

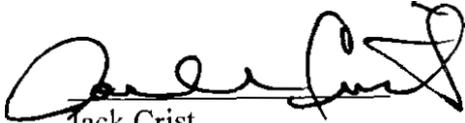
Respectfully submitted,



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ARTICLE XIV. TIME LIMITS FOR COMPLETION OF CONSTRUCTION

Sec. 7-701. Purpose.

(a) A continuous stream of new and ongoing construction projects within the city has resulted in adverse impacts on its residents and businesses from the associated construction activities. These adverse effects include: noise, loss of on-street parking, stress on neighbors, impact on roads and other infrastructure, and a disproportionate demand on staff time, which increases as the length of the project increases.

(b) It is in the interest of the health, safety, and welfare of the citizens of Belmont to place a reasonable time limit on the duration of each construction project, so as to balance the needs of the owner of the project with those of his/her neighbors and the community, for the safe and peaceful enjoyment of their properties.

(Ord. No. 1034, § 1, 4-8-08)

Sec. 7-702. Application.

(a) This article shall apply to all construction, including all additions, alterations, modifications, repairs, and improvements, which requires a building permit.

(b) The time limit for completion of any building permit issued after January 1, 2002 shall be extended from the effective date of this ordinance pursuant to the time limits specified in section 7-703 and section 7-704.

(Ord. No. 1034, § 1, 4-8-08)

Sec. 7-703. Time limits for construction completion required.

As part of the building permit application, a reasonable valuation must be assigned to the project and approved by the building official. Based on that valuation, a construction time limit, commencing on the date of issuance of the building permit, shall be established in accordance with the table below.

Table of Time Limits

TABLE INSET:

Estimated Value of Construction	Construction Time Limit (months)*
\$0 to \$50,000.00	9 months
\$50,001.00 to \$100,000.00	12 months
\$100,001.00 to \$500,000.00	18 months
Greater than \$500,000.00	24 months

* For landscaping work required by the planning commission, the applicant shall have an additional ninety (90) days after the date of final inspection approval of the building permit by the building division for the main construction project.

(Ord. No. 1034, § 1, 4-8-08)

Sec. 7-704. Extension.

(a) In the event a project has not passed a final inspection in the allotted time period pursuant to section 7-703, the applicant shall be entitled to a six-month extension to complete the work. The request for an extension must be made in writing thirty (30) days prior to the expiration of the building permit. The extension shall be granted only if the applicant pays a fee in the amount of one-thousand dollars (\$1,000.00), and only if an inspection by the building division prior to the expiration of the original permit reveals no violations of any fire/health and safety codes at the project site.

(b) In the event a project has not passed a final inspection at the expiration of the initial six-month extension, the applicant shall be entitled to no more than three (3) additional sixty-day extensions. Each extension is subject to payment of the associated fees, which are based on the table below. Each extension is subject to an inspection by the building division, prior to the expiration of the previous extension, to verify there are no violations of fire/health and safety codes at the project site. A request for an extension must be made in writing thirty (30) days prior to the expiration of the building permit.

Fees for Additional Extensions

TABLE INSET:

Extensions	Fee
1st 60-day extension	\$1,000.00
2nd 60-day extension	\$1,500.00
3rd 60-day extension	\$2,000.00

(Ord. No. 1034, § 1, 4-8-08)

Sec. 7-705. Construction completion.

For the purpose of this article, construction shall be deemed complete upon the final performance of all construction work, including, but not necessarily limited to, exterior repairs and remodeling, total compliance with all conditions of application approval, and the clearing and cleaning of all construction-related materials and debris from the site. Final inspection and approval of the construction work by the city shall mark the date of construction completion. Deadlines for the completions of landscaping are set forth in the table of time limits.

(Ord. No. 1034, § 1, 4-8-08)

Sec. 7-706. Severability.

It is hereby declared to be the intention of the city council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

(Ord. No. 1034, § 1, 4-8-08)

Sec. 7-707. Effective date.

This article shall take effect and be in force thirty (30) calendar days after the date of its passage.

(Ord. No. 1034, § 1, 4-8-08)

Sec. 7-708. CEQA exempt.

This article is categorically exempt from the provisions of Chapter 3 (commencing with Section 21100 of Division 13 of the Public Resources Code (California Environmental Quality Act (CEQA)) pursuant to the State CEQA Guidelines Section 15305, minor alterations and land use limitations of the CEQA Guidelines as an action that assures the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. The city council further finds that adoption of this ordinance does not require review under the California Environmental Quality Act (CEQA) because it is not a project (CEQA Guidelines section 15378), and there is no possibility that the ordinance may have a significant effect on the environment (CEQA Guidelines section 15061.b).

(Ord. No. 1034, § 1, 4-8-08)

Sec. 7-709. Public nuisance.

Any violation of this chapter shall constitute a public nuisance and, in addition to being subject to any other remedies allowed by law, may be abated as provided by law.

(Ord. No. 1034, § 1, 4-8-08)