



# Infill Housing Strategy – Start Of Construction Inspections

The Building Standards Department issues Builder Tips as part of our customer service program. They are designed to provide an improved understanding of the Building Code and to reduce the costs associated with correcting infractions. Please contact your area building inspector for further information or call the Building Standards Department at 905.475.4848 extension 2189

## **Division C – Part 1**

### **1.3.5.2. Additional Notices**

(1) A by-law, resolution or regulation made by a principal authority under clause 7 (1) (e) of the Act may require that notice of one or more of the following stages of construction be given by the person to whom a permit is issued under section 8 of the Act:

- (a) commencement of construction of the building,

### **Building By-Law 9.5**

In addition to the notices prescribed in article 1.3.5.1. of Division C – Part 1 of the Building Code, the person to whom a permit has been issued shall give the chief building official notice of readiness for inspection for the following stages of construction, where applicable;

#### **9.5.1. commencement of construction of the building**

### **BACKGROUND**

The number of new infill home projects are increasing each year. Unfortunately, these projects have a record of non-compliance with the building permit documents and construction practices that generally disrupt the surrounding community. As a result, we are monitoring infill home projects with the aim to;

- Ensure compliance with the approved building permit documents,
- Maintain safe neighbourhoods by ensuring secure construction sites, and
- Increase communication with other Markham departments to provide a co-ordinated approach to the enforcement of other City by-laws related to



construction the affects of construction sites have on the community, such as parking and debris on the roadway.

## **OBJECTIVE**

The objective of this Builder Tip is to advise owners and builders of new home infill projects, at the start of construction, of their responsibilities under the Building Code Act, the Building Code, Markham Bylaws and community expectations.

This Builder Tip was developed to establish an operational policy for the enforcement of the Building Code Act with respect to the owner/builder's responsibilities.

## **IMPACT ON THE NEIGHBOURING COMMUNITY**

When an infill home is constructed within an existing neighbourhood, additional measures must be undertaken by the owner/builder to lessen the negative impact on the surrounding area. Below are directives that must be followed, failure could result in Orders and legal action being taken. There is zero tolerance in regards to the following requirements;

**Excavation** – do not damage or cause damage to adjacent private or public property or services.

**Construction Fencing and Screening** – must be erected at all times. Gates must be closed at all times. Fencing shall not be located on City property.

**Posting of the Permit Card** – The demolition and building permit placard must be posted on the construction fencing the municipal street until the occupancy permit is issued. The placard must within in a weatherproof enclosure.

**Shoring** – Shoring of the excavation must be completed prior to the start of forming of the footing for the home.

**Survey Elevations** – A survey by an Ontario Land Surveyor (OLS) must be submitted for;

- The underside of the footing elevation at the footing inspection, prior to pouring the concrete for the footing, and
- Top of foundation wall and top of first floor elevation at the pre-backfill inspection and indicate all setback dimensions to all property lines

**Sewer Connections** – The underside of the footing elevation must correspond to the approved grading drawings for the sewer connections to maintain gravity flow. Talk with



your trade for installing the inside drains to ensure the elevation of the drains leaving the home under the footing are at the approved elevations.

**Worksite Code of Conduct** – Refer to Appendix A for the requirements of your trades to follow while working on your project within the City of Markham. Printing instructions are enclosed, and the sign must be posted on site facing the municipal road. The electronic document for printing was attached to an email sent to you. See Appendix B

**Lot Grading During Construction** – Your grading plan includes a minimum 600 mm of undisturbed soil around the perimeter of the property. You may not excavate, add soil or place materials within this area during construction. Failure to adhere to this requirement is a violation of the Building Code Act for non-conformance with the Building Permit documents.

**New Home Report** – Your Building Inspector will issue a formal New Home Report. The requirements in this report require you to submit information as the inspector determines. You may be instructed to confirm for yourself that certain building components comply with the Building Code. Failure to follow the directions of this report could affect your occupancy and cause Building Code violations.

**Permit Documents on Site** – The Building Code requires you to have a copy of the permit documents on site. Print your electronic permit documents on a minimum size 450 mm x 600 mm paper.

**What Can I Do to Prepare for the Start of Construction Inspection?** Your building inspector has a responsibility to the builder and owner to enforce the Building Code and ensure public safety from the hazards associated with construction.

You are required to have the following ready or installed prior to the inspector's arrival:

- Construction fencing and screening are still being maintained around the entire perimeter and not located on City property
- Posted the weather-proofed building permit card on the construction fencing so that it faces the City street
- Printed and posted the Worksite Code of Conduct on the construction fencing so that it faces the City street.
- The line of excavation has been marked on the ground in accordance with the permit documents.

### **Failure to Construction In accordance**

The Building Code Act contemplates that owners and builders will comply with the laws regarding building construction in Ontario, including constructing a building in accordance with the approved Building Permit Documents. Once a building permit is issued, the Building Standards Department relies on the owner and builder to construct in accordance with the building permit documents. Failure to obtain approval to your permit documents prior to making the change on site will result in an Order to Comply



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Updated to 2024 OBC

being issued. Failure to Comply with this Order may result in the issuance of a Stop Work Order. See Appendix A.

Copy of an Order is attached to original.



# Order to Comply

Pursuant to Subsection 12(2) of the *Building Code Act*, 1992

The City of Markham, 101 Town Centre Blvd.  
 Markham, Ontario, L3R 9W3  
 905 477-7000  
 Building Code Identification Number 16175

Address to which Order applies:

Order Number:

Date Order Issued:

Building Permit Application No.:

Order issued To:

Order issued To:

The inspection on or about \_\_\_\_\_ (date) at the above-referenced address found the following contravention(s) of the Building Code or the *Building Code Act*, 1992.

You are hereby ordered to correct the contraventions itemized below by the dates listed.

Item	Reference	Description and location	Required action and compliance date
1.	<i>Building Code Act</i> s. 8(13) and 18(1)	<p>1) No person shall construct or demolish a building or cause a building to be constructed or demolished except in accordance with the plans, specifications, documents and any other information on the basis of which a permit was issued or any changes to them authorized by the chief building official.</p> <p>2) The following construction has not been authorized by the Building Permit documents;            (list of unauthorized work)</p>	<p>1) You are required to submit a detailed report from an Architect, Professional Engineer or provincially qualified designer that provides how the unauthorized construction will impact the following building components;</p> <ul style="list-style-type: none"> <li>a) Architectural</li> <li>b) Structural</li> <li>c) Mechanical</li> <li>d) Energy Efficiency (EEDS)</li> <li>e) Plumbing</li> <li>f) Heritage approval</li> <li>g) Markham zoning bylaw</li> <li>h) Committee of Adjustment decisions</li> </ul> <p>The report must comment on how the remaining as-built construction (other than the construction listed under Description and Location) is in compliance with the Building Permit documents</p> <p>Submit this report by (date)</p> <p>2) Obtain authorization from the chief building official in the form of a revised building permit by (date)</p> <p>3) Submit a professional report every 2 weeks from the date of this Order to Comply was issued that confirms all construction is continuing in accordance with the building permit documents.</p> <p>4) You are advised that construction on the items identified on this Order should not continue and may require</p>



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			modification or removal based on any revised building permit documents being issued.
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Order issued by:

Signature:

Note:

- It is illegal to obstruct the visibility of a posted Order. It is also illegal to remove a posted Order unless authorized by an inspector or Registered Code Agency. [*Building Code Act*, 1992 s. 20]
- An Order may be appealed to the Superior Court of Justice. [*Building Code Act*, 1992 s. 25]. It may also be appealed to the Building Code Commission concerning the sufficiency of compliance with the technical requirements of the Building Code. [*Building Code Act*, 1992 s. 24]
- Failure to comply with this Order could result in a Stop Work Order. [*Building Code Act*, 1992 s. 14]
- Failure to comply with this Order is an offence which could result in a fine. [*Building Code Act*, 1992 s. 36]
- No construction affected by this Order is to be covered until inspected and approved. [*Building Code Act*, 1992 s. 13]



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## Documented Photo(s)

Note: This page does not form part of the Order, it is provided for information purposes

The administration fees associated with the issuance of this Order are contained within the Building Bylaw. Fees noted within the Building By-Law cannot be waived or appealed.

Note: As of January 1, 2023 the City of Markham Building Bylaw provides for additional fees to be applied where further site investigations and file updates are conducted.

## Why was this Order issued?

You have received an Order to Comply because unauthorized changes have occurred to your construction, demolition or alterations project without our authorization.

In Ontario, it is against the law to construct not in accordance with the building permit documents. Any construction that is unauthorized is considered building without a permit'. This unauthorized work will not form part of the building permit until a revision is authorized by the Chief Building Official and is subject to further legal proceedings.

Sections 8(12) and (13) of the Ontario Building Code Act state;

*8 (12) No person shall make a material change or cause a material change to be made to a plan, specification, document or other information on the basis of which a permit was issued without notifying, filing details with and obtaining the authorization of the chief building official. 1992, c. 23, s. 8 (12).*

*8 (13) No person shall construct or demolish a building or cause a building to be constructed or demolished except in accordance with the plans, specifications, documents and any other information on the basis of which a permit was issued or any changes to them authorized by the chief building official. 1992, c. 23, s. 8 (13).*

Building permits are necessary to ensure construction meets minimum standards, which protects everyone from unsafe and faulty buildings. Not only is making unauthorized changes to your building permits illegal, you may have unintentionally compromised other components of your home, including structural, mechanical, building envelope, zoning etc.

## Required action and compliance date

Under this heading on the Order to Comply, four Items that require your action in order to achieve compliance with this Order

Item 1 - Requires you to submit a report from a professional (architect, professional engineer, provincially qualified designer) that will provide the following information. This report must be submitted to the Building Inspector by the date indicated or a Stop Work Order will be issued.

- 1) The scope of unauthorized changes, and
- 2) How the unauthorized changes have affected,
  - a) Zoning
  - b) Any Committee of Adjustment decision requirements
  - c) Heritage approval
  - d) Structural components



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- e) Mechanical components
- f) Plumbing components
- g) Life safety components





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**Item 2** – File an application and obtain a building permit revision for all of the as-built construction that is not part of your current building permit. Alternatively, you may remove all the unauthorized work and restore the building to conform to the building permit documents. Submit a report from the architect, professional engineer or provincially qualified designer that the construction has been restored. The date by which you are required to comply with Item 2 is set out on the Order.

**Item 3** – Since you received this Order to Comply for failure to adhere to your building permit documents, an increase in review of your projected is now warranted. You are required to continue submitting a report from an architect, professional engineer or provincially qualified designer every two weeks from the date of the issuance of this Order to Comply. The purpose of the report is to confirm that construction is continuing in accordance with the building permit documents, including any authorized changes.

## How do I apply for a revision to the building permit?

1. Based on the report performed by the architect, professional engineer or provincially qualified designer for compliance with Item 1 of this Order to Comply, prepare the necessary technical drawings and specifications. The extent of plans required depends on the scope of your project. Your plans must identify all proposed and completed work in enough detail for us to be able to confirm that the changes will comply with the building code, zoning standards and other applicable laws. Include the report as part of your building permit revision application prepared for compliance with Item 1.
2. Please see our online Guides to Building Permits, as all building permit applications must be performed online. It shows the forms, drawings and documents you need to send us for each type of permit application. Your building permit application must include, a completed application form, drawings and supporting documentation and the applicable fee.

More detailed information about required plans and other permit application requirements is available from our website:  
[www.markham.ca](http://www.markham.ca)

## What happens after that?

If your plans are complete and your proposed revised work complies with the building code, zoning standards and applicable law, you will be issued a revision to your building permit. You must post the revision permit card on site before continuing work. You must complete the work according to the approved plans and arrange the required inspections. The inspector may require you to uncover any work that was completed and covered prior to inspection.

## Can my permit revision application be refused?

The rules for issuing building permits are very explicit and are common throughout Ontario. If your proposed work contravenes any applicable laws, the City is prohibited from issuing a permit and must refuse it. In this case you will receive a notice of refusal.

## What do I do if my application for revision is refused?

You can revise your plans in order to comply with applicable laws, or remove the work and arrange a re-inspection. If you revise your plans, all construction must be completed and inspected in strict accordance with the final plans.

## What penalties can apply?

It is illegal to start construction before obtaining a permit, to fail to comply with an Order or direction issued by an inspector, to furnish false information in an application, or to contravene the building code. A person convicted of any of these offences is liable to a fine of \$50,000 for a first offence. A person convicted of failing to comply with a Stop Work Order is liable to a fine of \$10,000 for each day the offence continues.

In addition, this Order to Comply may be registered in the land registry office and may affect future transactions involving the property such as transfer of ownership and financial transactions. You will not be notified if the Order to Comply is registered on title.

**Building Inspections – 101 Town Centre Blvd – Tel: 905-475-4850**



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## **Documented Photo(s) of Unauthorized Construction**

Note: This page does not form part of the Order, it is provided for information purposes



## Appendix B



# WORKSITE CODE OF CONDUCT



Everyone on site is responsible for keeping it clean and safe.



**NO TRESPASSING**  
RESPECT NEIGHBOURING SPACES AND PROPERTY.



**KEEP SIDEWALKS & ROADS CLEAR**  
IF YOU SEE DIRT, GRASS, SNOW, ICE OR ANYTHING ELSE, CLEAN IT UP.



**SECURE YOUR WORKSITE**  
OPEN EXCAVATIONS MUST BE FENCED WITHIN THE PROPERTY LINE. CLOSE THE GATE WHEN YOU LEAVE.



**SECURE YOUR LOAD**  
SECURE AND COVER ANY MATERIALS BEING TRANSPORTED TO AND FROM THE WORKSITE.



**CLEAN IT UP**  
PUT TRASH IN GARBAGE BINS, KEEP A CLEAN SITE, AND NO DUMPING ON NEIGHBOURING PROPERTY.



**DON'T FLOOD THE NEIGHBOURS**  
MAKE SURE WATER DRAINS PROPERLY OFF THE WORKSITE AND AWAY FROM NEIGHBOURS.



**PARK LEGALLY**  
KEEP OFF DRIVEWAYS, SIDEWALKS AND BOULEVARDS. OBEY ALL PARKING RESTRICTIONS.



**PROTECT TREES**  
SET UP TREE PROTECTION FOR PUBLIC AND PRIVATE TREES. TREES ARE VALUABLE AND DAMAGE COULD COST YOU.



**MATERIAL AND EQUIPMENT**  
KEEP MATERIALS AND EQUIPMENT OFF ROADS, SIDEWALKS, BOULEVARDS AND NEIGHBOURS' YARDS.



**MIND THE NOISE**  
CONSTRUCTION CAN ONLY HAPPEN DURING ALLOWED HOURS: 7AM-7PM MONDAY-FRIDAY AND 9AM-7PM SATURDAY. NO CONSTRUCTION NOISE ON SUNDAY AND HOLIDAYS.





## Worksite Code of Conduct Sign

To encourage respectful construction practices in residential neighbourhoods, it is recommended the Worksite Code of Conduct sign be posted on every infill construction site. When sending the print-ready PDF to a print shop, the following information must be provided:

### PRINT SPECIFICATION (TO BE PROVIDED TO YOUR PRINT VENDOR)

Note: The Worksite Code of Conduct sign can be printed on any size between 24" x 18" (minimum) to 3' x 4' (maximum).

#### 24" x 18" Sign

Final size: 24" x 18", with 0.25" bleed

Colour: 4/0 process

Stock: E-panel

Quantity: 1 (unless directed otherwise)

or

#### 3' x 4' Sign

Final size: 3' x 4' with a 0.25" bleed

Colour: 4/0 process

Stock: E-panel

Quantity: 1 (unless directed otherwise)