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## MORE DETAILS EMERGE IN CAMBODIA ON VARIOUS TYPES OF CONSTRUCTION PERMITS AND THE OCCUPANCY CERTIFICATE

In addition to the Construction Law, which was passed in 2019, the Ministry of Land Management, Urban Planning, and Construction (“MLMUPC”) issued a new sub-decree on construction permits, Sub-Decree No. 224 ANKr. Br (“SD 224”), on 30 December 2020 with the intention to further regulate construction in Cambodia. In the new SD 224, there are several important improvements to the previously issued Sub-Decree 86 ANKr. Br on Construction Permits (“SD 86”), such as clear information on the opening site, renovation, and demolition permits, as outlined below:

### Permit Types and Application Process

Under the Construction Law, there are six different types of permits that cover various aspects of the construction process. Under SD 224, only the legal owner of the construction land has the authority to apply for a permit. All applications must be submitted to the competent authority through its single-window service counter with the required official fee.

The timeline for the issuance of each permit is counted from the date the permit application is received by the competent authority (which varies depending on the scale of the construction, see Section II below).

#### Construction permit (Art. 13)

**Overview:** A construction permit is required for all new construction before commencement of any work.

### Highlights of this note

- ▶ Permit Types and Application Process
- ▶ Competent Authorities for the Issuance of Permits.
- ▶ Construction Permits for Real Estate Developers
- ▶ Complaints and Penalties
- ▶ Validity of SD 86

### Issuance Timeline:

MLMUPC: 45 working days

City hall: 25 working days

Governor of district or khan: 15 working days

**Official Fee:** Varies by size and type of construction; specified in Joint Prakas No. 356 SHV.BrK dated 26 March 2019 issued by the MLMUPC and the Ministry of Economy and Finance (“**Joint Prakas 356**”).

### Renovation permit (Art. 22)

**Overview:** A renovation permit is required for any renovation of an existing structure that affects the foundation, weight, original form, or exterior.

### Issuance Timeline:

MLMUPC: 20 working days

City hall: 15 working days

Governor of district or khan: 10 working days

**Official Fee:** Varies by size and type of construction; specified in Joint Prakas 356.

#### Demolition permit (Art. 29)

**Overview:** A demolition permit must be obtained prior to the commencement of any demolition work.

#### **Issuance Timeline:**

MLMUPC: to be determined

City hall: to be determined

Governor of district or khan: to be determined

**Official Fee:** Varies by size and type of construction; specified in Joint Prakas 356.

#### Opening site permit (Art. 37)

**Overview:** In addition to a construction permit, demolition permit, or renovation permit, prior to the commencement of any work, an opening site permit must be obtained.

#### **Issuance Timeline:**

MLMUPC: 20 working days

City hall: 15 working days

Governor of district or khan: 10 working days

**Official Fee:** Varies by size and type of construction; specified in Joint Prakas 356.

#### Occupancy certificate (Prakas 177 and Sub-Decree 226 MLMUPC)

As first introduced by the Construction Law, all buildings in Cambodia must have an occupancy certificate prior to use of the building. This is not addressed in SD 226; instead, the MLMUPC has issued two different regulations to tackle this matter – Prakas 177 MLMUPC/Br on the Procedure for the Issuance of Occupancy Certificates for Structures Built Prior to the Construction Law and Sub-Decree 226 ANKr. BK. on the Procedure for the Issuance, Suspension, and Revocation of Occupancy Certificates.

#### Extension of opening site permit (Art. 37)

For construction work that is suspended for one year or longer, an extension of the opening site permit must be obtained prior to resuming construction.

#### **Competent Authorities for the Issuance of Permits.**

No.	Authority	Size and type of construction
1.	MLMUPC (Art. 4)	<ul style="list-style-type: none"><li>• Construction, demolition, renovation work with a total size of more than 3,000 square meters</li><li>• Buildings with more than 11 floors (including the ground floor)</li><li>• Structures with a basement floor deeper than 5 meters</li><li>• Soil retaining walls higher than 5 meters</li><li>• Inflammable infrastructure</li><li>• Water reservoirs higher than 15 meters or with a total size of 50 cubic meters or more</li><li>• Construction for sports, tourism, or cultural activities</li><li>• Buildings, towers, or structures inside bus/vehicle stations, train stations, ports, airports, and hydropower plants</li><li>• Construction of buildings, towers, or gates at international borders</li><li>• Telecom and television or radio towers</li><li>• Other construction with a height greater than 30 meters</li></ul>
2.	City Hall (Art. 5)	<ul style="list-style-type: none"><li>• Construction with a total size of 3,000 or fewer square meters and buildings with 11 or fewer floors (including the ground floor) without a basement or with a basement floor no deeper than 5 meters</li><li>• Reconstruction, renovation, or additional construction work on an existing structure where the total of the old and new construction floor size is more than 500 square meters and less than or equal to 3,000 square meters</li><li>• Soil retaining walls that are less than or equal to 5 meters high</li><li>• Stone or cement fences higher than 3 meters</li><li>• Other construction with a height of 30 meters or less</li></ul>
3.	Governor of district or khan (Art. 6)	<ul style="list-style-type: none"><li>• Residential buildings with a total size of no more than 500 square meters and with 4 floors or less (including the ground floor) without a basement</li><li>• Reconstruction, renovation, or additional construction work on an existing residential structure where the total of the old and new construction floor size is 500 square meters or less</li><li>• Stone or cement fences of 3 meters or less in height</li></ul>
4.	Authorized authority from the government (Art. 7)	<ul style="list-style-type: none"><li>• Confidential state construction</li><li>• Construction for the purpose of public security and order</li></ul>



## Construction Permits for Real Estate Developers

As a follow on from SD 86, the new SD 224 sets out more concrete rules for real estate developers. Although it is the same process to acquire a construction permit, real estate developers must first obtain a land developer license from the competent authorities (as set out in Sub-Decree 087 MLMUPC.PrK/NiT on Land Development dated 11 May 2018 by the MLMUPC).

For other independent housing developers, the splitting out of the land is only applicable after the legal land owner has acquired the requisite construction permit and opening site permit and 1% of construction is completed with clear border walls erected.

## Complaints and Penalties

Any person affected by any approval stated under SD 224 has the right to lodge a complaint with the: (i) permit issuance authorities; (ii) the Minister of the MLMUPC;

or (iii) a Cambodian court in accordance with the Construction Law or any other applicable regulations. In addition, the affected party or any other person who foresees potential damage from the construction, demolition, opening site, or renovation permit has the right to lodge their concerns with the MLMUPC dispute committee for proper dispute resolution in accordance with applicable law.

Forgery of documentation of any kind by the applicant is subject to criminal punishment in accordance with the law.

Unreasonable refusal by the authorities to accept any application will result in administrative and criminal punishment in accordance with the law.

## Validity of SD 86

Even with the issuance of SD 224, SD 86 is still enforceable to the extent that there is no contradiction with SD 224.

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