



Town of Northport

# Building Permit Ordinance

Attested By: \_\_\_\_\_

Date: \_\_\_\_\_

Approved: \_\_\_\_\_

## Contents

Section 1 - Title and Purpose.....	3
Section 2 – Authority .....	3
Section 3 - Applicability.....	3
Section 4 – Conflicts with Other Ordinances.....	3
Section 5 – Severability .....	3
Section 6 – Effective Date .....	3
Section 7 – Code Enforcement Officer Permits.....	4
A. A permit from the Code Enforcement Officer shall be required before beginning or undertaking any of the following activities.....	4
B. Procedure.....	5
Section 8 – Fees.....	6
A. General Provisions.....	6
B. Building Fees .....	6
Section 9 – Enforcement.....	6
Section 10- Amendments.....	8
Section 11- Appeals.....	8
Section 12 – Definitions .....	11

# Building Permit Ordinance

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## Section 1 - Title and Purpose

This ordinance shall be known as the Building Permit Ordinance of the Town of Northport, Maine and shall be referred to as the “Ordinance”. The purpose of this Ordinance is to promote health, safety, welfare and property values of the inhabitants of Northport.

## Section 2 – Authority

This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution and Title 30-A, Section 3001 of the Maine Revised Statutes Annotated (M.R.S.A.).

## Section 3 - Applicability

This Ordinance shall apply to all land and all structures within the boundaries of the Town of Northport. All buildings or structures thereafter constructed, reconstructed, altered, enlarged, or moved, and the uses of buildings and land shall be in conformity with the provisions of this Ordinance.

## Section 4 – Conflicts with Other Ordinances

Whenever a provision of this Ordinance conflicts or is inconsistent with another provision of this ordinance or any other ordinance, regulation or statute, the more restrictive provision shall control.

## Section 5 – Severability

In the event that any section, subsection, or any provision of this Ordinance shall be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.

## Section 6 – Effective Date

The effective date of this ordinance shall be the date of adoption by the voters of Northport at a special Town Meeting on June 7, 2010 and as subsequently amended by said voters.

## Section 7 – Code Enforcement Officer Permits

**A. A permit from the Code Enforcement Officer shall be required before beginning or undertaking any of the following activities.**

1. Flood Hazard Development Permit: All construction or earth moving activities or other improvements within the 100-year flood plain designated on the Flood Insurance Rate Maps published by the Federal Emergency Management Agency. (Refer to Floodplain Ordinance)
2. Shoreland Zoning Permit: All construction or earth moving activities or other improvements within the Shoreland Zone. (Refer to Shoreland Zoning Ordinance)
3. Building Permit: New construction, conversion, addition (includes decks), relocations and replacement or significant segment thereof, including all trailers, manufactured homes and/or recreational vehicles when connected to any utility, and/or used as a residence for a period of more than 30 days. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while work authorized by the permit is performed. A permit is not required for the construction or placement of a dog house, children's playhouse, tool shed or similar small building having not more than 100 square feet, providing such structures shall meet all other requirements of this Ordinance.
4. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.
5. Moving or Demolition Permit: All buildings or structures, which are removed from or moved onto, or moved around within a lot, or demolished in a hazardous manner.
6. Change of Use Permit: The change of any premises from one category of land use to any other land use. A change of use may also require a permit from the Local Plumbing Inspector (LPI).
7. Seasonal Conversion: The conversion of a seasonal dwelling unit to year-round use requires a permit from the Local Plumbing Inspector (LPI).
8. Home Occupation: Home occupations shall be carried out wholly within a dwelling unit or accessory structure to a dwelling unit.

9. Site Plan Review Activities: Any building or structures approved by the Planning Board under the Site Plan Review Ordinance.

## B. Procedure

1. Application: All applications for a Building Permit shall be submitted in writing to the Code Enforcement Officer on forms provided for the purpose, together with such fees as required in Section 9 of this Ordinance.
2. Submissions: All applications for a Building Permit shall be accompanied by a plan, accurately drawn to scale, and showing:
  - a. The actual shape and dimensions of the lot for which a permit is sought;
  - b. The location and size of all buildings, structures, and other significant features existing on the lot, as well as all water bodies and wetlands within two hundred fifty feet (250') of the property boundaries;
  - c. The location of new buildings, structures or portions thereof to be constructed;
  - d. The existing and intended use of each building or structure;
  - e. Where applicable, the location of soils test pits, subsurface wastewater disposal system, parking lots and driveways, signs, buffer strips and private wells; and
  - f. Such information as may be reasonably required by the Code Enforcement Officer to provide for the administration and enforcement of this Ordinance.
  - g. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.
3. To whom issued: No permit shall be issued except to owner of record or an authorized agent. Written proof of authorization shall be required.
4. Deadline for decision: The Code Enforcement Officer shall, within thirty (30) days of receipt of an application, issue the permit, if all proposed construction and uses meet the provisions of the Ordinance, refer the applicant to the Planning Board for Site Plan Review, or deny the application. All decisions of the Code Enforcement Officer shall be in writing. Failure of the Code Enforcement Officer to act within thirty (30) days shall constitute denial of the application.

5. Posting: The applicant shall conspicuously post any permit issued, on the lot where the activity will occur, at a location clearly visible from the road.

6. Commencement and completion of work: Construction and alteration activities on projects for which a permit has been granted under this section shall commence within twelve (12) months of the date of issuance of the permit and shall be substantially complete within twenty-four (24) months of that date.

Activities which are not commenced or substantially completed within the time limits provided above shall be subject to new application and the permit issued under this section shall be considered void.

Activities may be extended for up to twelve (12) months by the Code Enforcement Officer, for good cause, if an application for an extension is submitted not later than thirty (30) days prior to the expiration of the prior permit.

## **Section 8 – Fees**

### **A. General Provisions**

1. Applications considered incomplete until payment of required fee: Applications for any of the permits, approvals, or certificates specified.
2. Fee to be paid to Town: All fees shall be paid in the form of a cash or check made to the Town of Northport and the purpose of the fee shall be clearly indicated on the receipt for same.

### **B. Building Fees**

1. Fees for all applications for building permits issued by the Code Enforcement Officer shall be set by the Selectmen.
2. Where a permit is not obtained until after construction begins the fee shall be tripled. The triple fee is in addition to any fine or penalty imposed for violating this Ordinance by failing to obtain a building permit prior to starting construction.

## **Section 9 – Enforcement**

1. Nuisances. Any violation of this Ordinance shall be deemed to be a nuisance.
2. Code Enforcement Officer

a. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.

b. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.

c. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

3. Legal Actions. The Municipal Officers are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. Legal actions taken to enforce the ordinance pursuant to Rule 80K, or any other Maine Statute, may be instituted prior to or without any notice from the Code Enforcement Officer as described in subsection 2 above. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

4. Fines. Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. Section 4452. In addition to the permissive penalties and fines authorized by Title 30-A, any person, including but not limited to a landowner, a landowner's agent or contractor, who violates any provision or requirement of this Ordinance shall be fined a minimum of One Hundred Dollars (\$100.00) per day for each and every violation, and said violator shall pay the Town's legal fees, expert fees and costs of prosecution.

## Section 10- Amendments

This Ordinance may be amended by majority vote of the voters of Northport at a special or regular Town Meeting.

## Section 11- Appeals

1. Powers and Duties of the Board of Appeals. The Board of Appeals shall have the following powers:

a. Administrative Appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board or Code Enforcement Officer in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.

b. Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

2. Variance Appeals. Variances may be granted only under the following conditions:

a. Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.

b. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.

c. The Board shall not grant a variance unless it finds that:

(i) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:

a. That the land in question cannot yield a reasonable return unless a variance is granted;

b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;



- c. That the granting of a variance will not alter the essential character of the locality; and
- d. That the hardship is not the result of action taken by the applicant or a prior owner.

d. The Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures" necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

e. The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

### 3. Administrative Appeals

When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a "de novo" hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a "de novo" capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board Appeals shall not receive or consider any evidence, which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the records of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

### 4. Appeal Procedure

- a. Making an Appeal

(i) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16(H)(1)(a) above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.

(ii) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal, which includes:

- a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
- b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.

(iii) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

(iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless the parties extend this time period.

b. Decision by Board of Appeals

(i) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.

(ii) The person filing the appeal shall have the burden of proof.

(iii) The Board shall decide all administrative appeals and variance appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.

(iv) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

5. Appeal to Superior Court. Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board

of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

6. Reconsideration. In accordance with 30-A M.R.S.A. section 2691(3) (F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

## Section 12 – Definitions

**Aggrieved party** - an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

**Driveway** - a vehicular access-way serving two single-family dwellings or one two-family dwelling, or less.

**Expansion of a structure** - an increase in the floor area or volume of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

**Expansion of use** - the addition of one or more months to a use's operating season; or the use of more floor area or ground area devoted to a particular use.

**Family** - one or more persons occupying a premise and living as a single housekeeping unit.

**Foundation** - the supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frost walls, or other base consisting of concrete, block, brick or similar material.

**Home occupation** - an occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

**Person** - an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

**Principal structure** - a building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

**Principal use** - a use other than one which is wholly incidental or accessory to another use on the same premises.

**Recreational vehicle** - a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

**Residential dwelling unit** - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

**Setback**- the nearest horizontal distance from the normal high- water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object.

**Structure** - anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes.

**Substantial start** - completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

**Subsurface wastewater disposal system** – any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; holding tanks; pretreatment filter, piping, or any other fixture,

Town of Northport

mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.