

WHEN ARE PERMITS REQUIRED?

(TAKEN OUT OF THE BUILDING CODE)

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R105.1 **Required.** Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, **shall first make application to the building official and obtain the required permit.**

**If unsure, please call the Building Department to ask
(603)497-8990 ext. 112**

Building Permits

Section 676:11

676:11 Building Permits Required. – After a municipality has adopted a building code, any person who intends to erect or remodel any building in the municipality shall submit the plans to the building inspector for the building inspector's examination and approval prior to commencement of the planned construction.

Source. 1983, 447:1. 1996, 226:2, eff. Jan. 1, 1997.

Section 676:12

676:12 Building Permits to be Withheld in Certain Cases. –

I. The building inspector shall not issue any building permit within the 120 days prior to the annual or special town or village district meeting if:

(a) Application for such permit is made after the first legal notice of proposed changes in the building code or zoning ordinance has been posted pursuant to the provisions of RSA 675:7; and

(b) The proposed changes in the building code or the zoning ordinance would, if adopted, justify refusal of such permit.

II. After final action has been taken on the proposed changes in the building code or zoning ordinance, the building inspector shall issue or refuse to issue a permit which has been held in abeyance under this section pursuant to a final action under this section.

III. The provisions of paragraph I shall not be applicable in a city or in a county in which there are located unincorporated towns or unorganized places unless the governing body of the city or the county votes by majority vote to be subject to the provisions of such paragraph.

IV. The building inspector may be authorized by the local legislative body to issue a temporary occupancy permit not to exceed 30 days, which may be extended at the discretion of the building inspector.

V. No building permit shall be denied on the grounds of uncompleted streets or utilities when the construction of such streets or utilities has been secured to the municipality by a bond or other security approved by the planning board pursuant to RSA 674:36, III or RSA 674:44, IV; provided, however, that on land which is part of a subdivision plat or site plan, no building shall be used or occupied prior to the completion of required streets and utilities, except upon such terms as the planning board may have authorized as part of its decision approving the plat or site plan.

VI. The provisions of paragraph I shall not apply to any plat or application which has been the subject of notice by the planning board pursuant to RSA 676:4, I(d) prior to the first legal notice of a proposed change in a building code or zoning ordinance or any amendment thereto. No proposed subdivision or site plan review or zoning ordinance or amendment thereto shall affect a plat or application which has been the subject of notice by the planning board pursuant to RSA 676:4, I(d) so long as said plat or application was the subject of notice prior to the first legal notice of said change or amendment. The provisions of this paragraph shall also apply to proposals submitted to a planning board for design review pursuant to RSA 676:4, II(b), provided that a formal application is filed with the planning board within 12 months of the end of the design review process.

Source. 1983, 447:1. 1986, 200:1; 229:3. 1989, 266:31. 1991, 331:3. 2003, 134:1. 2006, 285:1, eff. Aug. 14, 2006. 2008, 229:1, eff. Aug. 19, 2008.

Section 676:13

676:13 Building Permits Restricted. –

I. The building inspector shall not issue any building or occupancy permit for any proposed construction, remodeling, or maintenance which will not comply with any or all zoning ordinances, building codes, or planning board regulations which are in effect.

II. If any building inspector is prosecuted for violation of RSA 643:1 and found guilty of issuing any permit contrary to the provisions of this section, it shall be prima facie evidence that the building inspector has knowingly refrained from performing a duty imposed on the building inspector by law.

III. The building inspector shall adopt a form or set of standards specifying the minimum contents of a completed application for any building permit. Upon the submission of a completed application, the building inspector shall act to approve or deny a building permit within 30 days; provided, however, that nonresidential applications or residential applications encompassing more than 10 dwelling units shall be approved or denied within 60 days.

IV. The time for the building inspector to act upon building permits for collocation applications and modification applications for personal wireless service facilities shall be governed by RSA 12-K:10. In the event that the form or set of standards for a building permit application conflicts with any of the limitations under RSA 12-K:11 for a collocation application or a modification application for a personal wireless service facility, the limitations in RSA 12-K:11 shall control.

Source. 1983, 447:1. 1986, 150:1. 1996, 226:3, eff. Jan. 1, 1997. 2013, 267:11, eff. Sept. 22, 2013.

complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, not less than the equivalent of that prescribed in this code. Compliance with the specific performance-based provisions of the International Codes shall be an alternative to the specific requirements of this code. Where the alternative material, design or method of construction is not *approved*, the *building official* shall respond in writing, stating the reasons why the alternative was not *approved*.

❖ Although the code reflects current technologies, it is impossible to foresee all potential applications of new materials, construction techniques or design methods. The fact that a material, product or method of construction is not addressed in the code is not an indication that such material, product or method is intended to be prohibited. The code encourages the use of new materials and technologies by allowing them to be presented to the building official for approval. The building official must approve a proposed alternative when it is found to be satisfactory and in compliance with the intent of the provisions of the code and is equivalent to that prescribed by the code. Approval may also be granted for the use of any alternative that is in compliance with the performance-based provisions of the *International Codes*[®]. The building official is responsible for determining if a requested alternative provides the equivalent level of protection of public health, safety and welfare, as required by the code. In order to ensure effective communication and due process of law, if an alternative is not approved, the building official should state in writing the reasons for the disapproval. This is similar to when a permit is rejected in Section R105.3.1.

R104.11.1 Tests. Where there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the *building official* shall have the authority to require tests as evidence of compliance to be made at no expense to the *jurisdiction*. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the *building official* shall approve the testing procedures. Tests shall be performed by an *approved agency*. Reports of such tests shall be retained by the *building official* for the period required for retention of public records.

❖ To provide the basis on which the building official can make a decision regarding an alternative material or method, sufficient technical data, test reports and documentation must be provided for evaluation. If evidence satisfactory to the building official indicates that the alternative material or construction method is equivalent to that required by the code, he or she may approve it. Any such approval cannot have the effect of waiving any requirements of the code. The burden of

proof of equivalence lies with the applicant who proposes the use of alternative materials or methods.

The building official must require the submission of appropriate information and data to assist in the determination of equivalency. This information must be submitted before a permit can be issued. The type of information required includes test data in accordance with referenced standards, evidence of compliance with the referenced standard specifications and design calculations. A research report issued by an authoritative agency is particularly useful in providing the building official with the technical basis for evaluation and approval of new and innovative materials and methods of construction. The use of authoritative research reports can greatly assist the building official by reducing the time-consuming engineering analysis necessary to review these materials and methods. Failure to substantiate adequately a request for the use of an alternative is a valid reason for the building official to deny a request. Any tests submitted in support of an application must have been performed by an agency approved by the building official based on evidence that the agency has the technical expertise, test equipment and quality assurance to properly conduct and report the necessary testing. The test reports submitted to the building official must be retained in accordance with the requirements of Section R104.7.

SECTION R105 PERMITS

R105.1 Required. Any owner or owner's authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed, shall first make application to the *building official* and obtain the required *permit*.

❖ This section contains the administrative rules governing the issuance, suspension, revocation or modification of building permits. It also establishes how and by whom the application for a building permit is to be made, how it is to be processed, fees and what information it must contain or have attached to it.

In general, a permit is required for all activities that are regulated by the code and these activities cannot begin until the permit is issued, unless the activity is specifically exempted by Section R105.2. Only the owner or a person authorized by the owner can apply for the permit. Note that this section indicates a need for a permit for a change in occupancy, even if no work is contemplated. The purpose of the permit is to cause the work to be reviewed, approved and inspected to determine compliance with the code.

R105.2 Work exempt from permit. Exemption from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

Building:

1. One-story detached accessory structures, provided that the floor area does not exceed 200 square feet (18.58 m²).
2. Fences not over 7 feet (2134 mm) high.
3. Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge.
4. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18 927 L) and the ratio of height to diameter or width does not exceed 2 to 1.
5. Sidewalks and driveways.
6. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
7. Prefabricated swimming pools that are less than 24 inches (610 mm) deep.
8. Swings and other playground equipment.
9. Window awnings supported by an exterior wall that do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.
10. Decks not exceeding 200 square feet (18.58 m²) in area, that are not more than 30 inches (762 mm) above grade at any point, are not attached to a dwelling do not serve the exit door required by Section R311.4.

Electrical:

1. Listed cord-and-plug connected temporary decorative lighting.
2. Reinstallation of attachment plug receptacles but not the outlets therefor.
3. Replacement of branch circuit overcurrent devices of the required capacity in the same location.
4. Electrical wiring, devices, appliances, apparatus or equipment operating at less than 25 volts and not capable of supplying more than 50 watts of energy.
5. Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.

Gas:

1. Portable heating, cooking or clothes drying appliances.

2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.
3. Portable-fuel-cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.

Mechanical:

1. Portable heating appliances.
2. Portable ventilation appliances.
3. Portable cooling units.
4. Steam, hot- or chilled-water piping within any heating or cooling equipment regulated by this code.
5. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.
6. Portable evaporative coolers.
7. Self-contained refrigeration systems containing 10 pounds (4.54 kg) or less of refrigerant or that are actuated by motors of 1 horsepower (746 W) or less.
8. Portable-fuel-cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.

Plumbing:

1. The stopping of leaks in drains, water, soil, waste or vent pipe; provided, however, that if any concealed trap, drainpipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code.
2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

❖ This section of the code lists the types of work in five categories—building, electrical, gas, mechanical and plumbing—that do not require permits. However, all work, even work that does not require a permit, must be done in a manner that will comply with the code requirements.

Communities that participate in the NFIP are required to issue permits even for some of the work listed under the building category if that work takes place in flood hazard areas, including work on accessory structures, retaining walls, water tanks, and sidewalks and driveways if fill is involved. This responsibility may be handled under a separate floodplain management regulation or IBC Appendix G. For guidance, the requirements for these activities, including floodway encroachment impacts, are described in IBC Appendix G.

R112.4 Administration. The *building official* shall take immediate action in accordance with the decision of the board.

- ❖ Decisions made by the board of appeals must be enacted as quickly as possible. The building official is to take whatever action is necessary to see that the orders of the board are carried out.

SECTION R113 VIOLATIONS

R113.1 Unlawful acts. It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

- ❖ This section describes the citing, recording and subsequent actions to be taken when code violations are found.

R113.2 Notice of violation. The *building official* is authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of this code, or in violation of a detail statement or a plan approved thereunder, or in violation of a permit or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

- ❖ The building official is required to notify the person responsible for the construction or use of a building found to be in violation of the code. The section of the code that is being violated must be cited so that the responsible party can respond to the notice.

R113.3 Prosecution of violation. If the notice of violation is not complied with in the time prescribed by such notice, the *building official* is authorized to request the legal counsel of the *jurisdiction* to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

- ❖ When the building owner, owner's agent or tenant does not correct the condition causing the violation as directed, the building official must pursue, through the use of legal counsel of the jurisdiction, legal means to correct the violation. This is not optional.

Any extensions that allow the violations to be corrected voluntarily must be for a reasonable, bona fide cause, or the building official may be subject to criticism for "arbitrary and capricious" actions. In general, it is better to have a standard time limitation for correction of violations. Departures from this standard must be for a clear and reasonable purpose, usually stated in writing by the violator.

R113.4 Violation penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the *building official*, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law.

- ❖ The jurisdiction must establish penalties for a variety of violations that may occur. Violations specifically addressed by the code include failure to comply with the code, approved plans or directives of the building official.

Penalties for violating provisions of the code are typically contained in state law, particularly if the code is adopted at that level, and the building department must follow those procedures. If there is no such procedure already in effect, one must be established with the aid of legal counsel.

SECTION R114 STOP WORK ORDER

R114.1 Notice to owner or the owner's authorized agent. Upon notice from the *building official* that work on any building or structure is being executed contrary to the provisions of this code or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's authorized agent or to the person performing the work and shall state the conditions under which work will be permitted to resume.

- ❖ The stop work order is a tool authorized by the code that enables the building official to demand that work on a building or structure be temporarily suspended. Typically used under rare circumstances, this order may be issued where the work being performed is dangerous, unsafe or significantly contrary to the provisions of the code.

The stop work order is to be a written document indicating the reason or reasons for the suspension of work, identifying those conditions where compliance is necessary before work is allowed to resume. All work addressed by the order must cease immediately. The stop work order must be presented to either the owner of the subject property, the agent of the owner or the individual doing the work. Commentary Figure R114.1 is an example of a stop work order.

R114.2 Unlawful continuance. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

- ❖ The only activity permitted in a building or a portion of a building subject to a stop work order is that work necessary to eliminate the violation or unsafe condition. Otherwise, penalties prescribed by laws of the jurisdiction must be imposed for illegal construction activity in defiance of a stop work order.