

# Town of Dixmont Building Code Ordinance

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March 21, 2009

Officially amended March 21, 2009

## Section 1. Title and Authority

This ordinance, the Building Ordinance for the Town of Dixmont, herein referred to as the Ordinance, is adopted pursuant to the Town's homerule authority found in the Maine Constitution Art. 8, Pt. 2, Sec. 1 and 30-A MRSA Sec. 3001.

## Section 2. Applicability

This Ordinance establishes a permitting procedure for the construction, placement, relocation, enlargement and replacement of all buildings and accessory structures in Dixmont; establishes various standards which will control the construction, placement, relocation, enlargement and replacement of such buildings and accessory structures; establishes a procedure and standards for the granting of building permits for any building in Dixmont, and prescribes permitting procedures and penalties for violations of the standards contained here.

## Section 3. Conflict with Other Ordinances

- A. The Building Code Ordinance of the Town of Dixmont which was adopted in March 1976 and amended in March of 1989, is hereby repealed and replaced with this Ordinance.
- B. When any provisions of this Ordinance conflict with the provisions of any other local ordinance or state or federal law, the stricter provisions shall apply.

## Section 4. Definitions

Accessory structure or use. A use or structure which is incidental and subordinate to the principle use or structure. Accessory uses, when aggregated shall not subordinate the principle use of the lot. A deck or similar extension of the principle structure or a garage attached to the principle structure by a roof or a common wall is considered part of the principle structure.

Back lot. A "back lot" is any parcel of land which has no frontage on a public or private road.

Building. A "building" is any structure and its attachments including but not limited to decks, breezeways, and porches for the housing or enclosure of persons, animals, or personal property. For the purposes of this Ordinance, the term "building" shall mean either residential or commercial buildings, as defined.

Commercial Building. A "commercial building" is a structure which is designed, equipped or intended to be used, or is in fact being used, principally for the buying, selling, manufacture or storage of goods, the provision of services or the provision of facilities for a fee. For the purposes of this Ordinance, the term "commercial building" shall also include any "place of

public accommodation,” as defined in 5 MRSA #4553(8), which includes any establishment which in fact caters to, or offers its goods, facilities or services to, or solicits or accepts patronage from the general public, including without limitation schools, governmental buildings, or community service facilities.

Construction or Constructed. The terms “construction” or “constructed,” as used in this ordinance, shall refer to and be construed to include the construction, placement, relocation, enlargement or replacement of any building or accessory building in Dixmont.

Dwelling Unit. A “dwelling unit” is a room or suite of rooms designed and equipped exclusively for use by one family as a habitation.

Enlargement. “Enlargement” shall mean a building expansion which increases overall floor area of a building or structure by 100 square feet or more.

Frontage. Land bordering a public or private road.

Lot. “A “lot” is an area of land in one ownership or one leasehold, with ascertainable boundaries established by deed or other instrument of record, or a segment of land ownership defined by lot boundary line of a subdivision plan duly approved and recorded in the Penobscot County Registry of Deeds.

Mobile Home. A “mobile home” is a manufactured home transportable in one or more sections which are built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation when connected to the required utilities, including the plumbing, heating, air-conditioning or electrical systems contained therein. All mobile homes are subject to “Town of Dixmont Safety Standards for Manufactured Housing/Mobile Homes” adopted March 19, 1994.

Non-conforming Lot of Record. A “non-conforming lot of record” is a lot upon which the construction of a building would not be permitted by virtue of the dimensional requirements of the Ordinance, but which was lawfully created prior to the effective date of the Ordinance pursuant to the dimensional requirements of the Dixmont Building Code or state minimum lot size, if any, which was effective at the time the lot was created.

Principle Structure. A “principle structure” is a building other than the one which is used for the purposes wholly incidental or accessory to the use of another building or use on the same premises.

Private Road. A “private road” is any road which is not a public road and which, at a minimum, is built according to the design specifications for a public road, private or subdivision road or driveway to a back lot, as those specifications are found in the Town of Dixmont Subdivision Ordinance.

Public Road. A “public road” is any road, town way or state highway which is either maintained by the town or state, owned in fee simple by the town or state, or over which the public has the uninhibited right to travel by virtue of a public easement.

Residential building. A “residential building” is a structure designed, equipped or intended for use, or which in fact being used, as a permanent, seasonal, or temporary living quarters for one or more households.

Structure. A “structure” is 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. The term includes structures temporarily or permanently located, such as decks and satellite dishes.

Substantial Construction. “Substantial construction” shall mean either the first placement or permanent construction of a structure on a site, including but not limited to the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a mobile or manufactured home on a foundation, slab or pad. Substantial construction does not mean land preparation, such as clearing, grading, or filling.

## **Section 5. Administration**

This Ordinance shall be administered and enforced by the Dixmont Code Enforcement Officer. The Code Enforcement Officer shall, as necessary, inspect any building in the town for the purpose of enforcing the provisions of this Ordinance and any other local or state laws governing the construction of buildings and accessory structures.

## **Section 6. Application for a Permit**

- A. Before the construction of any building, accessory structure, enlargement of buildings, or accessory structures, or siting of a mobile home shall begin, the owner or authorized agent for the owner shall submit to the Code Enforcement Officer an application for a permit for such proposed work and the appropriate application fee in accordance with Section 7 of the Ordinance. The application form shall be supplied by the Code Enforcement Officer.
- B. No application for a permit for any building for which a subsurface wastewater disposal system is required pursuant to 30-A MRSA #4125 and the State of Maine Subsurface Wastewater Disposal Rules shall be considered complete until the application includes a Maine Department of Human Services Bureau of Health Engineering site evaluation form (HHE-200) which has been completed by a licensed site evaluator and which evidences adequate soil conditions for subsurface wastewater disposal.
- C. The Code Enforcement Officer shall review all completed applications for compliance with the standards contained in this Ordinance., Within 15 days of receipt of the completed application, the Code Enforcement Officer shall either return the approved permit to the applicant or transmit to the applicant written notice of denial. The notice of denial shall cite the specific respects in which the applicant’s proposal does not comply

with state law or regulation or the standards of the Ordinance or other Dixmont ordinances. The party aggrieved by the denial of a permit may appeal that decision to the Dixmont Board of Appeals within 30 days in accordance with Section 12 of this Ordinance.

## Section 7. Fees

- A. Non-returnable permit application fees must accompany the application for building or structure proposals according to the following schedule:

Single Family Residential Buildings, up to 1000 sq. ft. ....	\$ 100.00
Single Family Residential Buildings, from 1001 to 2000 sq. ft.....	\$ 150.00
Single Family Residential Buildings, over 2000 sq. ft. ....	10-cents/sq. ft.
Multi Family Buildings.....	\$ 100/unit
Commercial Buildings .....	\$ 150.00
Accessory Structures, 200 sq. ft. to 1000 sq. ft.....	\$ 25.00
Accessory Structures, over 1000 sq. ft.....	\$ 50.00
Mobile Homes.....	\$ 75.00
Enlargement of Buildings or Accessory Structures .....	10-cents/sq. ft.

Accessory Structures (including Agricultural Buildings) under 200 sq. ft. are not subject to this ordinance.

- B. After-the-fact permits. An application for an after-the-fact permit must be accompanied or preceded by payment in full of an amount equal to twice the fee set forth in Section 7 for a timely permit for the same proposal or project, plus any enforcement costs, as determined by the Code Enforcement Officer. An after-the-fact permit is any permit issued by the code Enforcement Officer in response to an application submitted after substantial construction of the building has occurred without the required permit. This section shall not be construed as in any way limiting Dixmont from enforcing the provisions of this Ordinance by means of the procedures and remedies found in Section 11, Enforcement and Penalties.

## Section 8. Standards of Application Review

No building permit shall be issued by the Code Enforcement Officer unless the application proposal is determined by the Code Enforcement Officer to comply with all applicable state law and regulation, local ordinances, and each of the following standards:

- A. Setback. No building, mobile home, or accessory structure shall be constructed closer than twenty (20) feet from any boundary line. All buildings and accessory structures shall have a setback of at least forty-five (45) feet from the centerline of the traveled part of the road right of way (ROW) on all roads having a 49.5 foot ROW excepting that on Town

roads with a sixty six (66) foot ROW the setback distance for buildings and accessory structures shall be at least fifty five (55) feet from the centerline of the traveled part of the ROW. ROW widths to be determined from the latest version of MDOT inventory of Public Roads.

- B. Minimum Lot Size. A building may not be constructed on a lot of less than two (2) acres, except a permit may be issued for construction on a non-conforming lot of record in accordance with Section 9 of this Ordinance.
- C. Road Frontage. Except as provided in Section 8(D), all building shall be constructed on a lot or parcel of land with a public or private road frontage of at least two hundred (200) contiguous feet.
- D. Back Lots. the establishment of an/or construction or building on so-called back lots is authorized, provided such lots are provided with legal rights-of-way to a public road, of not less than fifty (50) feet in width and further, that such rights-of-way do not reduce the road frontage or area requirement of an already existing lot fronting on a road to below the minimum required size and road frontage. Back lots so established must be generally rectangular, having no side of less than two hundred (200) feet and contain a minimum of 87,120 square feet within their boundaries and have no more than a 4-to-1 ratio of depth to frontage.
- E. Multiple Dwelling Units on a Single Lot. If more than one dwelling unit is constructed on a single lot or parcel, the parcel shall contain at least two (2) acres and two hundred (200) feet of frontage on a public or private road for each dwelling unit or conform to requirements of Sec. 8D.

### **Section 9. Non-conforming Lots, Merger of Non-conforming Lots, Retroactive Effect**

- A. Non-conforming Lots. A building permit may be issued, without the need for a variance, for the construction of a building or accessory building or mobile home on a non-conforming lot of record provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot size and frontage can be met. Variances relating to setback or other requirements not involving lot size or frontage shall be obtained by action of the Board of Appeals.
- B. Merger of Non-conforming Lots. If two or more contiguous lots or parcels are in single or joint ownership of record at the time of/or since adoption or amendment of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure, no permit may be issued until the lots are combined to the extent necessary or maximum extent possible to meet the dimensional requirements of this Ordinance.
- C. No Retroactive Effect. This ordinance shall not apply to family dwellings which existed or were under construction when this ordinance became effective. Also, if any such pre-existing structure is destroyed or damaged by casualty, it may be rebuilt in substantially the same location and substantially the same size, provided that such building is

- B. Any person aggrieved by an administrative decision of the Code Enforcement Officer may, within 30 days of such decision, file an administrative or variance appeal with the Dixmont Board of Appeals. An “administrative decision” is any decision made in the process of permit application review and issuance or denial. Enforcement decisions are not appealable to the Dixmont Board of Appeals. An “enforcement decision” is any decision concerning activities undertaken after a permit has been granted or denied, and includes but is not limited to “stop work” orders, notices of violation, the commencement of a civil action under Rule 80K, Maine Rules of Civil Procedure, or other enforcement action allowed by law.
- C. The Board of Appeals shall schedule a hearing regarding the appeal request within 14 days of receiving the request for an appeal.
- D. Administrative Appeals. If it is shown at the appeals hearing that the Code Enforcement Officer erred in the interpretation of this Ordinance in making his or her decision, the Board of Appeals may amend, modify, remand or reverse the decision of the Code Enforcement Officer. If it cannot be shown that the code Enforcement Officer erred in the interpretation of this Ordinance, the Board of Appeals shall affirm the decision of the Code Enforcement Officer.
- E. Variance Appeals. A relaxation of the terms of this Ordinance in the form of a variance may be granted by the Board of Appeals where such variance would not be contrary to the public interest where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this Ordinance would result in undue hardship. In order to grant a variance for the reason of undue hardship, the Board of Appeals must find affirmatively each and all of the following criteria:
  - 1. That the land in question cannot yield a reasonable return unless a variance is granted;
  - 2. That the need for the variance is due to the unique circumstances of the property and not the general conditions of the neighborhood;
  - 3. That the granting of the variance will not alter the essential character of the locality, and
  - 4. That the hardship is not the result of action taken by the applicant or a prior owner.
- F. The Dixmont Board of Appeals shall, within 5 days of the appeals hearing, issue a written decision to the applicant and the Code Enforcement Officer. The written decision shall include all findings of fact and conclusions based on those findings.
- G. All appeals from Board of Appeals decisions may be taken to Penobscot County Superior Court pursuant to Rule 80B of the Maine Rules of Civil Procedure.

### **Section 13. Waivers**

- A. Any applicant seeking a waiver to the provision found in Section 8(D) of this Ordinance requiring back lots to be served by a driveway designed at least to the standards of a

commenced with in two years after the casualty, even though it would violate these regulations.

## **Section 10. Minimum Construction Standards**

- A. Building Practices. All building materials used and practices followed in the construction of buildings shall conform to generally accepted standards of good workmanship.
- B. Mobile homes. All mobile homes to be located within the Town of Dixmont must meet the minimum standards set forth in the Town of Dixmont Proposed Safety Standards for Manufactured Housing/Mobile Homes.
- C. Height. The Code Enforcement Officer may require the installation of an approved fire suppression system in a structure, any part of which is over thirty-five feet (35') in height.
- D. Electrical Installation. If deemed necessary by the Code Enforcement Officer, a person holding a master license issued by the State of Maine Electricians Examining Board shall inspect and certify that the electrical system is safe and meets the current National Electrical code.
- E. Plumbing Installation. All interior and exterior plumbing work shall be done in compliance with all applicable Maine State laws, rules and regulations pertaining to plumbing and to subsurface wastewater disposal.
- F. Roof Covering. The roof shall be covered with fire resistant material. Such covering shall be completed within a reasonable time, not to exceed eighteen (18) months after the rafters are in place.
- G. Chimneys. Chimneys shall be constructed of brick, masonry unites, or reinforced concrete or other materials approved for us in construction, of the type in question by a national association concerned with standards for fire protection or prevention in construction. Smoke pipes shall not be permitted.
- H. Chimney Liners. Masonry or reinforced concrete chimneys shall be lined with liners approved for use in construction of the type in question by a national association concerned with standards for fire protection or prevention in construction.
- I. Clean-outs. A clean-out shall be installed in all chimneys.
- J. Disposal of construction Waste. No material shall be disposed of by burning without obtaining the required permit to burn.
- K. Driveways. Each dwelling unit shall have a driveway that is not less than ten (10) feet in width. Additionally, said driveway shall extend into the lot at least twenty (20) feet beyond the boundary of the road right of way (ROW) if the boundary can be determined, or shall extend forty five (45) feet from the centerline of the road if the boundary cannot be determined, on all Town roads with a 49.5 foot ROW.

Excepting that on Town roads with a ROW width of 66 feet said driveway shall extend into the lot at least twenty (20) feet beyond the boundary of the road ROW if the

boundary can be determined, or shall extend fifty five (55) feet from the centerline of the road if the boundary cannot be determined.

L. Road Access Control and Safety

1. A sight distance of ten (10) feet for each mile per hour of posted speed limit shall be maintained or provided in each direction. The sight distance shall be determined with the front of a vehicle at least ten (10) feet behind the edge of the road shoulder.
2. Access from a road shall slope no greater than 2% upward or downward from the road shoulder for at least 25 feet onto the property.
3. Entrance permits onto State or Municipal roads are required to construction.

**Section 11. Enforcement and Penalties**

- A. Any violation of this Ordinance shall be deemed a nuisance.
- B. It shall be the duty of the Code Enforcement Officer to enforce this Ordinance. If the Code Enforcement Officer finds 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 building or structures; and abatement of nuisance conditions. A Copy of such notices shall be submitted to the selectmen and maintained as a permanent record.
- C. When the above action does not result in the correction or abatement of the violation, the selectmen, upon notice from the Code Enforcement Officer, 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. The Selectmen or the Code Enforcement Officer are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. All agreements are subject to the approval of the Selectmen.
- D. Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with the provisions of 30-A MRSA #4452.

**Section 12. Appeals**

- A. Board of Appeals. The Board of Appeals shall consist of five (5) persons appointed by the Selectmen, to which an appeal may be taken from any order of the Code Enforcement Officer, or from his refusal to issue a building permit, and an appeal may be taken from the Board of Appeals to the Superior Court as provided by the law. The term of office of each member of the Board of Appeals shall be for five (5) years with the terms so arranged that the term of one (1) member expires each year.

driveway to a back lot pursuant to the Dixmont Subdivision Ordinance may apply for such a waiver, with 7 days' prior notice, to the Dixmont Planning Board at a regularly scheduled meetings. No provision other than this requirement in Section 8(D) of this Ordinance may be waived by action of the Planning Board.

- B. Within 7 days of the Planning Board meeting at which the waiver request is heard, the Planning Board shall issue such a waiver, in writing, to the applicant and a copy to the code Enforcement Officer, whenever sufficient evidence or documentation has been presented by the applicant to satisfy the Planning Board that the back lot in question:
  - 1. Will be used only as a seasonal, recreational parcel; and
  - 2. Will not be accessed by a motor vehicle registrable by the Maine Department of Motor Vehicles.
- C. The Planning Board shall place as a condition on any waiver granted under this section a requirement that the applicant must, prior to either converting the use of the building permitted under this waiver to a year round dwelling or accessing the back lot with a registrable motor vehicle, construct an access driveway designed at minimum to the standards for a driveway to a back lot in the Dixmont Subdivision Ordinance. A waiver-holder's failure to so construct such a road under these circumstances shall be constitute a violation of this Ordinance.

#### **Section 14. Changes in law or statutes or regulation**

References in this ordinance to other laws, ordinances, and regulations shall be deemed to incorporate into those references any amendments to those other laws, ordinances, and regulations, but only to the extent that an absurdity will not result.

#### **Section 15. Severability**

Should any section or provision of this Ordinance be declared to be invalid by the Courts, such invalidity any shall not affect any other section or provision of this Ordinance.

#### **Section 16. Effective Date**

This Ordinance shall become effective on the date adopted by the town meeting.

Final Version 6.