

RESEARCH ARTICLE		Urban Administrative Oversight and Property Rights: A Comparative Legal Analysis of Building Permits and Public Interest in Urban Planning
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Abstract <p>The relationship between property rights and administrative oversight represents one of the most sensitive intersections in contemporary legal and urban planning studies. This article investigates the dynamics of administrative control in urban contexts, with particular emphasis on the building permit system as a mechanism of balancing individual freedoms with collective interests. Property rights, sanctified in constitutional texts and reinforced by statutory law, are traditionally perceived as comprehensive and exclusive, ensuring both enjoyment and exploitation of assets by their owners. However, the exercise of such rights cannot be absolute, as they often intersect with public interest considerations, urban development policies, and environmental sustainability imperatives. Through a comparative legal study, this research explores how different jurisdictions reconcile the protection of private property with the necessity of administrative regulation, particularly in the issuance, monitoring, and enforcement of building permits. The analysis highlights the dual role of administrative oversight: on one hand, serving as a safeguard against unregulated urban expansion and environmental degradation, and on the other, acting as a limitation on individual freedoms that requires clear legal justification. By situating building permits within the broader framework of urban governance and the principle of proportionality, this study demonstrates that administrative control must strike a balance between legal certainty, equity, and efficiency in urban development. Ultimately, the findings contribute to the ongoing scholarly debate on how urban administrative law can both protect the constitutional sanctity of property and respond to the evolving challenges of modern cities, including sustainability, public safety, and social equity.</p>		
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Introduction

The protection and regulation of rights and freedoms have long occupied a central place in legal systems worldwide. Numerous international conventions have been ratified, specialized institutions established, and constitutional frameworks amended in order to safeguard these fundamental principles. Yet, rights and freedoms are never exercised in an absolute manner; they are necessarily relative, conditioned by the principle that individual freedom ends where the freedom of others begins. Their exercise requires moderation, modernity, and adherence to civic responsibility to achieve the overarching objective of peaceful and orderly coexistence.

Within this framework, public administration assumes the responsibility of preserving security, public order, and social equilibrium. This is primarily achieved through administrative control, which is exercised by competent bodies at both national and local levels. Among the most significant and visible expressions of administrative control lies the regulation of urban planning and construction. These domains represent vital aspects of local governance, as they directly affect the quality of life, the provision of public services, and the enhancement of urban environments. Urban planning decisions shape the living standards of populations by providing infrastructure, housing, and facilities that determine the development trajectory of entire communities.

The state, therefore, entrusts municipalities with the crucial role of defining urban planning policies and development priorities. Such responsibilities are implemented within the framework of a broader national strategy and require cooperative governance and arbitration across institutional levels. Planning tools and urban development regulations establish general rules governing the use of land, the construction or modification of buildings, and the distribution of functions among housing, agriculture, industry, natural landscapes, and cultural heritage. These mechanisms reflect an attempt to balance the individual right to property with the collective imperative of sustainable development and public interest.

Against this background, the present study addresses two central research questions:

1. What are the legal bases and procedural rules that regulate the authority of administrative control in the field of construction?
2. What legal challenges and practical problems arise in the administration's oversight of building permits?

To answer these questions, the research employs an analytical methodology, examining legislative texts, judicial interpretations, and procedural frameworks that shape the authority of administrative oversight in the construction domain. In addition, a comparative method is applied, focusing on Algerian law and contrasting it with French and Egyptian legal systems to identify convergences, divergences, and structural shortcomings.

This study is divided into two parts. The first part explores the concept of the building permit and its supervisory dimension, while the second part examines the procedures and administrative mechanisms for granting such permits.

I. The Concept of Building Permits and Their Supervisory Dimension

1. Definition of Building Permit

From an administrative law perspective, a license generally constitutes an official decision permitting an individual to engage in an activity or perform a specified act under defined conditions. Etymologically, the notion of a "permit" is tied to the authority vested in a governing body to authorize individuals to act within the bounds of legality. While most legal systems refrain from offering a statutory definition of a building permit, leaving its contours to jurisprudence and doctrine, legal scholarship has consistently described it as a preventive measure designed to ensure compliance with planning regulations and the protection of public order.

Jurisprudence defines a building permit as a regulatory instrument that specifies the nature, purpose, and technical requirements of a proposed construction, whether residential, commercial, or service-oriented. Its

primary function is to safeguard environmental integrity and prevent harm to third parties by aligning individual construction initiatives with community interests and public welfare. Another doctrinal perspective emphasizes that the building permit is an administrative decision, issued by a legally competent authority, granting authorization to erect or modify a building. Such authorization is conditional upon strict compliance with urban planning legislation and prior to the commencement of construction works.

In the French system, the building permit (*permis de construire*) is considered both obligatory and preliminary, applying to a wide range of construction activities, including expansions and modifications (*les travaux d'agrandissement ou de construction*). The objective is to preclude unauthorized urban growth and to maintain coherence between private development initiatives and collective urban planning policies. Scholars often describe it as an indispensable administrative license that ensures construction projects conform to established regulations.

The present research advances an expanded interpretation of the building permit, emphasizing its dual nature: it is both a legal authorization for construction and a regulatory instrument aimed at harmonizing urban development with broader societal objectives. In this sense, the building permit not only enables individual enjoyment of property rights but also imposes limits designed to preserve agricultural land, archaeological sites, and environmentally sensitive areas. Thus, it functions as a legal constraint on property rights, justified by the necessity of preventing unregulated construction and safeguarding the urban and environmental fabric.

2. Building Permits as a Restriction on Private Property

Building permits represent one of the earliest forms of administrative restrictions on property rights, introduced to safeguard public order, health, and safety. By subjecting construction activity to administrative oversight, the state ensures that private building initiatives do not generate risks to public health, structural safety, or environmental balance. The issuance of a permit reflects a reconciliation between individual property rights and collective interests, whereby the state assesses the proposed building's conformity with legal and technical standards before granting authorization.

This intervention necessarily tempers the absoluteness of private ownership. Property, once regarded as an inviolable and unrestricted right, has gradually been reframed as a social function, subject to conditions aligned with the general welfare. Consequently, the exercise of property rights through construction is no longer absolute but contingent upon administrative approval. The obligation to obtain a building permit is not a derogation of ownership rights but an expression of their regulated character in a modern legal order.

Constitutions and high courts have recognized that while private property is protected, it may legitimately be subject to restrictions in pursuit of public interest. The Egyptian Supreme Constitutional Court, for instance, has upheld the principle that administrative limitations on property rights are constitutionally acceptable when they aim to preserve public order, health, and security, and when they are proportionate to the social objectives pursued. Hence, the legal framework of building permits epitomizes the evolving balance between individual autonomy and state intervention, reflecting a dynamic interplay between constitutional guarantees and regulatory necessities.

The Right to Build as an Extension of Ownership

The right to build constitutes one of the essential manifestations of the broader right of ownership. In principle, ownership entails the freedom to use, exploit, and dispose of real estate, including the undertaking of urban activities that serve private interests. Construction, as an expression of this freedom, acquires particular importance given its role in shaping both private benefit and collective urban order. Yet, this right cannot be exercised in absolute isolation. Its exercise must not contravene the public interest, urban planning regulations, or the foundations of public order. Accordingly, building activities are subjected to legal controls, mechanisms, and strict supervisory frameworks to ensure compliance with engineering, architectural, and safety standards. The right to build, though derivative of ownership, is thus conditioned by administrative regulation and prior authorization.

Comparative legal systems, including Algerian jurisprudence, have sought to reconcile two competing imperatives: on the one hand, the individual's right to exploit their land through construction, and on the other, the community's right to preserve essential easements such as sunlight, air, visibility, and access. Algerian civil law, similar to comparative jurisprudence, explicitly safeguards these easement rights, elevating them to a level of importance that must be considered before any construction begins. To this end, a building permit serves as a mechanism of prior administrative control, ensuring that the exercise of ownership aligns with collective rights.

The protection of private property has been enshrined in major constitutional and legal traditions. In France, the *Déclaration des droits de l'homme et du citoyen* of 26 August 1789 recognizes property as a "natural and imprescriptible right" (Article 2) and affirms its sacred character (Article 17), permitting expropriation only in cases of proven public necessity and with just compensation. Similarly, Article 64 of the 2019 Egyptian Constitution guarantees private property and inheritance, restricting expropriation to cases of public interest with advance compensation. The Algerian Constitution of 2020 mirrors this approach in Article 60, confirming the sanctity of property and allowing expropriation only under law and with equitable compensation. Complementing this, the Algerian Penal Code criminalizes unlawful infringements on property, as reaffirmed by the jurisprudence of the Supreme Court (Article 386).

Judicial practice further illustrates the tension between private rights and public necessity. For instance, the French *Conseil d'État* rejected an appeal to compel the Paris Municipality to issue a building permit, reasoning that public safety concerns justified the refusal. The ruling emphasized that a building permit functions as a control measure restricting private ownership in order to preserve public health and security. Where issuing a permit would constitute clear harm to the public interest, refusal becomes a lawful exercise of administrative oversight.

II. Building Permit Procedures

Building permits constitute one of the most effective tools of administrative oversight in the urban planning domain. Their purpose extends beyond mere authorization; they serve as instruments to ensure adherence to planning regulations, preserve the aesthetic and cultural identity of cities, and prevent random or uncontrolled construction. The Algerian legislator, aligning with comparative legal systems, has established a structured administrative process requiring applicants to submit a formal request containing specific data and documentation. This process is designed to balance private initiative with public oversight and is governed by strict timelines and technical requirements set forth in legislative texts.

1. Building Permit Procedures in France

In France, the legal framework for building permits is highly codified, with explicit rules regarding the content of applications, the authority competent to review them, the nature of administrative decisions, and the technical standards that must be satisfied. The *Code de l'urbanisme* provides exhaustive detail, limiting the discretion of the administration in order to guarantee transparency and fairness in the permit process.

A. Content of the Application

Article R-431-4 of Law No. 1527/2005 (dated 12 August 2005) outlines the fundamental requirements for a building permit application. These include:

1. The general information stipulated in Articles R-431-5 to R-431-12.
2. The supporting documents specified in Articles R-431-13 to R-431-31.
3. Additional requirements listed in Articles R-431-34 to R-431-34-01.
4. Procedural conditions identified in Articles R-423-19 to R-423-22.

Together, these provisions exhaustively enumerate the documents necessary for submission, thereby preventing authorities from demanding materials beyond what is prescribed in the *Code de l'urbanisme*. For example, Article R-431-5 explicitly confirms that only the listed documents may be requested, safeguarding applicants from arbitrary administrative burdens.

Key requirements include:

- **Applicant Identification:** Information confirming the legal status of the applicant (owner, tenant, or corporate entity), date of birth, and identification number (*SIRET*) in the case of legal persons. Supporting documentation must include contracts, property deeds, or land records.
- **Architectural Representation:** Article R-431-01 stipulates that applications may only be considered valid if an architect has been retained to prepare the project (*projet architectural*). The architect must sign all drawings, plans, and written submissions included in the dossier, thereby ensuring professional accountability and compliance with architectural standards.

B. Submitting the Application and the Competent Authority

Under French law, the municipality is the competent administrative body entrusted with receiving and processing applications for building permits. Applications must be submitted by the owner or their legal representative. In cases of joint ownership, any co-owner may file the application on behalf of the group. Article R-432-02 of the *Code de l'urbanisme* requires that applications be submitted in four copies; this number may be extended depending on the nature of the project. For example, five copies are required if the permit involves lands adjacent to military areas under the jurisdiction of the Ministry of Defense, or when the project is subject to the opinion of the *Architectes des Bâtiments de France (ABF)*. In environmentally sensitive zones, the number increases to six copies in accordance with Article L-331-02 of Environmental Law No. 914/2000 (18 September 2000).

Upon submission, the mayor delivers an official receipt to the applicant, specifying the registration number, date of submission, and the expected date of decision. The law also obliges municipalities to notify applicants within one month of any deficiencies in the submitted file. This obligation, stipulated in Articles R-431 and R-431-05, aims to prevent administrative abuse by prohibiting authorities from imposing additional, non-statutory requirements.

Although manual submission remains legally valid, since 2018 municipalities have progressively adopted electronic submission technologies under the *ELAN* reform. This system enables applicants to file complete electronic dossiers meeting the same legal specifications as paper submissions, thereby streamlining communication between administrations and citizens.

C. Examination and Decision on the Application

The French legislator has established strict deadlines for administrative review. Article R-423-23 of the *Code de l'urbanisme* grants the competent authority a maximum of two months to decide on residential applications and one month for applications relating to service buildings. These deadlines may be extended by an additional month in specific cases, such as when the proposed site is located on archaeologically significant land, near historical monuments, or in areas subject to environmental or agricultural preservation. Article L-123-19-02 explicitly requires consultation with specialized committees in such circumstances.

The review process concludes with either approval or rejection of the application. The decision is communicated to the applicant by registered letter with acknowledgment of receipt, ordinary registered mail, or electronically via the *ELAN* system. In the event of approval, the permit specifies both the conditions of construction and the timeframe for which the authorization remains valid. Where the decision falls within the jurisdiction of the mayor or the president of an inter-municipal cooperation body, the law further requires notification to the prefecture in accordance with Article R-423-06 of the *Code des collectivités territoriales*.

2. Procedures for Granting Building Permits in Egypt

In Egypt, the procedures for obtaining building permits are codified under Law No. 410 of 2021, which complements constitutional guarantees established in Article 64 of the 2019 Constitution. This constitutional provision safeguards private property and explicitly stipulates that expropriation may occur only for public

interest purposes and with prior fair compensation. Accordingly, the building permit system functions as both an expression of the constitutional right to ownership and as a tool of administrative control designed to reconcile private construction initiatives with broader urban planning objectives.

A. Content of the Application

Article 112 bis (a), introduced by Ministerial Resolution No. 410 of 2021, specifies the mandatory content of building permit applications. Applications must be filed at the competent *technology center* by a licensed engineer or engineering office, using standardized forms issued under the executive regulations of the Building Law and validated by the Engineers Syndicate.

The application must include, under penalty of non-acceptance, the following documents:

1. Proof of property ownership and a copy of the applicant's national ID card, or an official power of attorney authorizing the engineer to act on behalf of the owner.
2. A copy of the engineering record of the responsible engineer or office, including the calculated project cost, documented using official regulatory forms.
3. A certificate of eligibility for the works to be undertaken, signed by the responsible engineer or office.
4. A planning certificate indicating site eligibility, together with three copies of the approved engineering drawings and a spatial planning certificate.
5. Proof of payment for the engineering stamp issued by the Engineers Syndicate, along with a copy of the Syndicate-approved consultant certificate for any reports or drawings.

For projects subject to insurance under Article 46 of the Building Law, additional documentation is required:

6. A copy of construction drawings approved by the Egyptian Society for Civil Liability Insurance for Construction Risks, together with the consultant's certificate.
7. A geotechnical investigation report prepared by a consulting engineer, a structural safety report for neighboring properties, and a financial statement estimating overall project costs.

B. Filing the Application and the Competent Authority in Egypt

In Egypt, the legislator has entrusted *Technology Centers* with the responsibility of receiving building permit applications. These centers act as the administrative gateway, ensuring both formal and technical compliance. Upon submission, the application file is registered, assigned a serial number, and accompanied by an official receipt indicating the documents and data received. Within two days, the Technology Center forwards the file to the competent administrative units for further review.

Each application must be submitted in three copies, and its contents are formally inventoried through meeting minutes that confirm the integrity of the submitted documents and drawings. Once the application is verified, the Technology Center issues a preliminary certificate of eligibility for building works, stamped with the official seal. This certificate serves as a provisional authorization until the application is examined by the competent planning and organization committees. The legislator requires that the preliminary license be processed within a maximum period of one month by the relevant civilian or military planning authority.

C. Examination and Decision on the Application in Egypt

After review, the Technology Center issues a decision approving or rejecting the application. If approved, the decision is accompanied by the original drawings bearing the official stamp of the examining authority. The applicant or their authorized engineer must then pay the prescribed taxes before receiving the final permit.

Where no explicit decision is issued within thirty days, the legislator recognizes *implicit approval*. In such cases, the applicant must notify the regionally competent governor through a judicial officer of their intention to

commence construction. However, works may not begin until fifteen days after such notification, ensuring adequate time for administrative review.

Article 117 of Law No. 410 of 2021 stipulates additional safeguards: the permit is delivered only after the applicant signs the official form, and the supervising engineer or contractor must also endorse the decision. Failure to comply with these requirements results in the cancellation of the permit. This mechanism underscores the legislator's concern for procedural rigor and accountability in the construction process.

3. Procedures for Granting Building Permits in Algeria

The Algerian legislator, through Executive Decree No. 15/19 of 25 January 2015 (as amended by Decree No. 20/342 of 22 November 2020), has established a detailed framework for building permit procedures. The permit is conceived as an administrative decision authorizing the lawful exercise of ownership rights through construction. The process consists of several stages: the content of the application, the identification of the competent authority, and the examination and adjudication of the request.

A. Content of the Application

Applicants must submit:

1. A completed building permit application form prepared by the competent authority.
2. A decision authorizing the establishment or expansion of industrial or commercial establishments, where applicable.
3. A certificate of land usability, accompanied by a site plan, block plan, and architectural designs on approved scales (1:50, 1:10, or 1:20).
4. A memorandum containing a descriptive and financial inventory of the works, along with a civil engineering feasibility study.

Eligible applicants include landowners, their legally empowered agents, and tenants holding notarized and registered lease contracts. Ownership is defined broadly to encompass individuals holding registered titles, beneficiaries of state-supported housing, and holders of development certificates under Law No. 90/25 of 18 November 1990.

B. Competent Authorities

The competence to issue building permits is distributed across three levels:

- **The Mayor:** Article 48 of Decree No. 15/19 designates the president of the municipal people's council as the primary authority to grant building permits, including demolition and restoration permits. The mayor may also issue permits outside municipal plans for state-owned lands, subject to binding approval from the governor.
- **The Governor:** Under Article 49, governors are competent to issue permits for public facilities and collective housing projects exceeding 200,000 units but below 600,000 units.
- **The Minister of Urban Planning:** Article 49, paragraph 7, reserves to the Minister the authority to license projects of national interest, such as collective housing exceeding 600,000 units, as well as facilities constructed for foreign governments, international organizations, or concessionary energy institutions.

C. Examination and Adjudication of the Application

Article 48 of Decree No. 15/19 prescribes that municipal applications be processed through a *single-window* system. The mayor must transmit the file within eight days to the relevant advisory services for review. These services, represented at the municipal level, are required to provide their opinion within fifteen days.

Where applications fall under the jurisdiction of governors or ministers, the municipal council forwards seven copies of the file, along with its opinion, to the state-level urban planning services. These agencies must seek consultation from specialized bodies and render a decision within twenty days.

D. Possible Outcomes

1. **Approval:** Article 51 requires notification of approval within twenty days of submission. The permit authorizes construction strictly in accordance with approved designs and for a legally specified period.
2. **Rejection:** Article 50 requires that rejections be formally justified, allowing applicants to contest the decision before administrative courts. Competence lies with municipal administrative courts or, in ministerial cases, the Administrative Court of Appeal in Algiers, pursuant to Articles 800 et seq. of the Code of Civil and Administrative Procedure No. 09/08.
3. **Postponement:** Article 51, paragraph 2, authorizes postponement where supplementary documents are required, or where land is situated in special zones. The postponement period may not exceed one year and serves as a precautionary measure against administrative liability.
4. **Administrative Silence:** While the decree does not explicitly address administrative silence, legal commentators largely interpret prolonged inaction as an implicit rejection. This interpretation allows judicial oversight of administrative inaction, ensuring that silence does not serve as a means of arbitrary obstruction.

Conclusion

The findings of this study reaffirm the fundamental principle that administrative authorities, in exercising their duties, act primarily to safeguard the public interest. This responsibility necessarily empowers them to impose restrictions on certain individual rights and freedoms. However, such authority cannot be absolute; it must be bounded by legal checks and balances to ensure that administrative actions remain within legitimate limits. When administrative measures exceed these boundaries, they are rendered invalid and subject to annulment.

Ensuring the legality of administrative actions requires the establishment of effective oversight mechanisms. Across comparative legal systems, four principal modes of control are recognized: administrative oversight, political oversight, independent institutional oversight, and judicial oversight. Among these, administrative oversight remains the most frequently applied, as it allows administrations to regulate themselves and to rectify acts tainted by illegality through withdrawal, amendment, or annulment. This form of oversight also enhances accountability by fostering greater diligence among public officials, who are continuously aware of supervisory control exercised by their superiors.

Despite these safeguards, the study identifies a critical challenge in the context of building permits: the issue of *administrative silence*. Leaving such silence open to judicial interpretation risks undermining individual rights, particularly property rights that hold a constitutionally enshrined status in Algeria, France, and Egypt. Judicial practice, while pragmatic and fact-based, often lacks the flexibility of legislative clarity and may inadvertently restrict freedoms through restrictive interpretations. Consequently, the absence of explicit legislative regulation on the consequences of administrative silence in building permit procedures represents a significant shortcoming.

Therefore, this research recommends that legislators adopt reforms to urban planning legislation that explicitly address administrative silence, thereby closing gaps that could compromise the balance between public interest and private rights. Such amendments would not only reinforce legal certainty but also protect the constitutional sanctity of property, ensuring that administrative powers are exercised within a clear and equitable legal framework.

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Conflict of Interest Statement

The author declares that there are no conflicts of interest associated with this research. The study was conducted independently, without financial, institutional, or personal influences that could have affected its objectivity, integrity, or conclusions.

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