

GROWTH MANAGEMENT ORDINANCE

Adopted July 23, 2002

Amended through January 15, 2013

1. TITLE

This Ordinance shall be known as the "Growth Management Ordinance of the Town of Waterboro, Maine" and shall be referred herein as the "Ordinance".

2. LEGAL AUTHORITY

This Ordinance is adopted pursuant to Home Rule Powers as provided in Article VIII-A of the Maine Constitution and Title 30-A M.R.S.A. Section 3001, and pursuant to 30-A M.R.S.A. Section 4360.

3. PURPOSE

The purpose of this Ordinance is to protect the health, safety and general welfare of the residents of Waterboro through placing limitations on residential development and meeting the following:

- A. To plan for continued residential population growth of Waterboro which would be compatible with orderly and gradual expansion of community services including, but not limited to, education, public safety, transportation infrastructure, waste disposal and health services.
- B. Avoid a situation in which the rapid development of new residences, potentially housing many families, could outpace RSU 57's capability to expand its schools and other services soon enough to avoid serious school over-crowding and a significant reduction in other services.

4. APPLICABILITY

This Ordinance shall apply to all new dwelling units and any new family units added to an already existing dwelling unit (including manufactured housing) within the Town of Waterboro. No new dwelling unit, which fails to meet the requirements of the Ordinance, shall be constructed or placed within the Town of Waterboro.

5. EXEMPTIONS

This Ordinance shall not apply to the following:

- A. The repair, replacement, reconstruction or alteration of any existing building or structure provided the number of dwelling or Family units is not increased, regardless of the need for a variance.

- B. Hotels, motels, group homes, assisted living facilities, boarding houses, bed and breakfast, rehabilitation facilities, or temporary seasonal sites operated as a business such as campgrounds and/or cottage rentals.
- C. Significant Subdivision: Subdivisions of greater area than 500 acres that have obtained a Contract Zoning Agreement approved by the Selectmen, which agreement ensures the preservation of large tracts of open space for public use and/or provides a major contribution to certain public capital improvements as a condition of said Contract Zoning Agreement, shall be exempt from the growth Cap, subject to terms hereof. In the event such an Agreement is not approved by the Selectmen, such subdivisions shall remain subject to this Growth Management Ordinance. (amended 4/21/07)

6. **ADMINISTRATION**

A. **Maximum Number of Dwelling Units**

- 1. Unless and/or until this Ordinance is amended the maximum number of new Growth Permits issued shall be seventy-four (74), from January 1 to December 31 each year, plus 8 additional Growth Permits that shall be for affordable housing as defined in 30-A M.R.S. § 4301. (amended 6/7/05, amended 11/16/10)

B. **Application Procedure**

- 1. All Growth Permit Applications shall be submitted together with a completed building permit application and waste water disposal system (HHE 200) to the Code Enforcement Officer or his/her assistant or agent (hereinafter the CEO) during normal office hours.
- 2. The CEO shall indicate on the Growth Permit Application form the date and time that all Permit Applications have been received and provide the applicant with a receipt, showing that all said applications have been submitted and determined to be complete. The Applications shall be reviewed in the order in which they were received. Only complete Applications will be accepted.
- 3. The Growth Permit Application shall be accompanied by a non-refundable administrative fee in the amount of Two Hundred (\$200.00) Dollars, with documentation establishing the applicant's right, title and interest to the property.
- 4. A separate Application shall be required for each dwelling unit.

C. **Issuance Procedure**

1. Growth Permit Applications shall not be accepted by the CEO until on or after the effective date of this Ordinance. Growth Permit Applications shall be on file with the CEO. From that time on, Applications will be accepted, and Growth Permits issued, as provided for herein.
2. Growth Permits shall be available on a first-come, first-served basis.
 - i. Expired Growth Permits shall be available for reissue only in the same calendar year.
 - ii. The CEO shall issue Growth Permits for all complete Applications if they do not outnumber the supply of Growth Permits.
 - a. If Applications exceed supply for any given year, Permits shall be issued on the basis of the order complete Applications were received by the CEO. Those on the list who do not get a Permit for that year shall have first priority to get a Permit in the next year, in the order in which the Applications were deemed to be complete.
3. If, at the end of the calendar year, there are any unissued Growth Permits still available, they shall not be carried over to the next year.

4. Multifamily housing:

Each dwelling unit within a multifamily dwelling requires a separate growth permit regardless of the number of building or plumbing permits required

single family home	1 growth permit
two family home	2 growth permits
three family home	3 growth permits
etc	etc

D. Expiration

A Growth Permit shall expire with the building permit. (See section 2.03 of the Zoning Ordinance.)

E. Transferability

Growth Permits are lot specific. They shall be valid for construction on the lot specified on the Application and by the Applicant; provided however, that such valid Permits shall be transferable to new owners of the lot should the property change hands. If a Permit is transferred, the date of issuance remains unchanged.

7. CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not repeal, annul, or otherwise impair or remove the necessity of compliance with any federal, state or other local laws or ordinances. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall prevail.

Compliance with the conditional and/or contract rezoning provisions of Section 13.04 of the Waterboro Zoning Ordinance shall be required for Significant Subdivisions as defined in Section 5(C) of this Ordinance to be exempt from this Ordinance and any violation of a Contract Zoning Agreement and/or conditional rezoning negotiated there under shall automatically subject said Significant Subdivision to the conditions and limitations of this Ordinance.

8. SEPARABILITY

Should any section or provision of this Ordinance be found by the courts to be invalid, illegal, or unenforceable, such decision shall not affect any other section or provision of this Ordinance either singly or collectively.

9. EFFECTIVE DATE

The effective date of this Amended Ordinance shall be January 1, 2013.

10. REVIEW PROCEDURE

This Ordinance shall be reviewed by the Planning Board every three years as required by State statute to assess the efficacy of the Ordinance and to ensure that the annual maximum growth rate has not become inconsistent with the Town's capital program requirements to establish, maintain, or enlarge needed public facilities and services. Based on its-review the Planning Board may recommend amending this Ordinance as provided in Section 11.

11. AMENDMENTS

1. An amendment to this Ordinance may be initiated by one of the following:
 - (A) The Planning Board.
 - (B) The Selectmen.

(C) The residents, pursuant to state law.

12. VIOLATIONS

- A. A violation of this Ordinance shall be deemed to exist when any person, partnership or corporate entity engages in any construction activity directly related to the erection or placement of a dwelling unit, upon any land within the Town without first having obtained a Growth Permit from the CEO.
- B. If a dwelling unit has been constructed or an additional separate family unit has been added to a pre existing dwelling unit without a Growth Permit, it shall be deemed a violation for any person, firm, or corporate entity to sell, lease, rent or occupy such dwelling unit until such permit has been duly issued.

13. NOTICES OF VIOLATIONS; LEGAL ACTION

When a violation of any provision of this Ordinance shall be found, the CEO shall send a written notice of the violation to the responsible party or parties and shall notify the Selectmen of the violation.

If the notice does not result in the correction of the violation, the Selectmen may institute any and all actions and proceedings, either legal or equitable, including seeking injunctive relief, the imposition of fines, removal of the structure, or other action that may be appropriate or necessary to enforce the provisions of this Ordinance. Such actions may include an enforcement action under the provisions of 30-A M.R.S.A Section 4452.

The remedies set forth herein are intended to be cumulative and not exclusive of each other. The Selectmen are authorized to enter into administrative consent orders to eliminate violations with or without court action. Such agreement shall not allow an illegal structure or use to continue.

14. PENALTIES

Penalties for violations of this Ordinance shall be as established by 30-A M.R.S.A. Section 4452.

15. APPEALS

- A. The Zoning Board of Appeals in accordance with Section 10 of the Waterboro Zoning Ordinance, may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the Code Enforcement Officer in the administration of this Ordinance. Following such hearing, the Zoning Board of Appeals

may reverse the decision of the Code Enforcement Officer only upon a finding that the decision is clearly contrary to the specific provisions of this Ordinance.

16. DEFINITIONS

- A. **Building Permit:** A permit is defined by and issued in accordance with the Waterboro Building Code and Section 2.03 of the Waterboro Zoning Ordinance.
- B. **Dwelling Unit:** A room or group of rooms designed and equipped exclusively for use as living quarters for a family, including provisions for living, sleeping, cooking and eating. The term shall include, but not be limited to, manufactured housing, modular/mobile homes, apartment units, duplexes and multiplexes and condominium units. The term shall not include trailers or recreational vehicles used for overnight or temporary lodging only.
- C. **Growth Permit:** A permit issued, in accordance with the provisions of this Ordinance, by the CEO to allow the establishment of a new dwelling unit.
- D. **Family / Family unit:** A person or persons occupying a dwelling unit and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging residence, hotel or motel.
- E. **Manufactured Housing:** A fabricated pre-assembled dwelling unit designed to be transported after fabrication and to be used as living quarters. The term "Manufactured Housing" may include the term "Modular Home" and "Mobile Home", except that the fabricated single-family modular home is assembled on the building site on a permanent foundation.
- F. **Person:** A person—for the purpose of this ordinance shall also mean to include a corporation, LLC, partnership.