

## GROWTH MANAGEMENT ORDINANCE

### 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.

### 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 provide for the immediate housing needs of the existing residents of Waterboro.
- B. To ensure fairness in allocation of Building Permits.
- C. 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.
- D. Avoid a situation in which the rapid development of new residences, potentially housing many families with school-age children, could outpace SAD 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 (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 units is not increased, regardless of the need for a variance.
- B. Dwelling units constructed by the York & Cumberland Housing Authority, an agency of the state or federal government; or by a private developer or contractor if such dwelling units are located in a subdivision or multi-family dwelling development that is permanently limited by deed, covenant, or other legally enforceable restriction to housing

for older persons as defined by 42 USCA Section 3607 with the condition that such subdivision or multi-family dwelling development complies with the requirements of the Federal Fair Housing Act, 42 U.S.C.A. §§ 3601-3631, as may be amended from time to time, and all applicable federal regulations promulgated under that law. Any conversion of these units eliminating the age restriction shall require a Growth Permit prior to the conversion. (amended 6/7/05)

C. Significant Subdivisions: 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 by Town Meeting, the maximum number of new Growth Permits issued shall be eighty (80) , from July 1 to June 30 each year, plus 2 additional Growth Permits that shall be for affordable housing constructed by Habitat for Humanity or a similar not for profit organization. (amended 6/7/05)

Except that all residential building permits issued from June 1, 2002 to July 1, 2002 shall remain valid and not be counted in the above total, but shall be counted against the maximum number of permits allowed in any subdivision and/or to be issued annually to individuals and/or corporations hereunder.

2. This Ordinance shall apply in all zoning districts with a special exemption in the VR zone limited to 20 permits per year through June 30, 2007 and then 15 through June 30, 2008 and 10 annually from June 30, 2008 and thereafter.

This is necessary to insure a water supply to all residents without additional shortages to present residents or a complete breakdown in this system which would burden homeowners with unreasonable or overwhelming expenses.

3. No more than 50% of the remaining Growth Permits shall be issued annually for dwelling units within subdivisions. Subdivisions within the VR zone shall be exempt from this sub-section but subject to subsection 2 hereof.

4. Significant Subdivisions as defined in Section 5.C hereof shall be entitled to 5 growth permits in the fiscal period 2007-2008, 10 in the fiscal period 2008-2009 and 15 annually thereafter. Said Subdivisions shall further be exempt from the limitations set forth in Section 6.C(4) hereof and all said permits may be available to the same subdivider in any one year, but said subdivider shall not be entitled to any growth permits other than those provided for in this sub-section. (amended 4/21/07)

## B. Application Procedure

1. All Growth Permit Applications shall be submitted in person to the Code Enforcement Officer or his/her assistant or agent (hereinafter the CEO) during normal office hours on the form designated Growth Permit Application. No Growth Permit Applications shall be accepted by mail.

2. The CEO shall indicate on the Application form the date and time the Growth Permit Application was received and provide the applicant with a receipt, when said Application is 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, documentation establishing the applicant's right, title and interest to the property, and one copy of a subsurface wastewater disposal system application form (HHE-200), and/or confirmation for eligibility of a sewer user unit.

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.

3.
  - i. The CEO shall notify an applicant once the applicant is entitled to have a Growth Permit issued.
  - ii. Expired Growth Permits shall be available for reissue.
  - iii. 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.

4. With respect to Growth permits sought for property located within a subdivision approved by the Planning Board of the town, no more than three growth permits shall be issued during any year for the building of dwellings in a single subdivision. No person, partnership, or corporation shall be entitled in any single year to more than two of the three growth permits allowed to a subdivision.

With respect to permits allocated to a subdivision, corporations shall be treated as the same corporation for purposes of this Ordinance if they share common directors (or their spouses) and / or shareholders (or their spouses) of 10% or more of the stock. Any person or corporation which is a partner in a partnership shall also be considered the same person as the partnership.

With respect to Growth Permits sought for property not located within a subdivision approved by the Planning Board of the Town, no more than 2 Growth Permits shall be issued during any year to any one person, partnership or corporation.

5. If, at the end of the fiscal year, there are any unissued Growth Permits still available, they shall not be carried over to the next year.

#### D. Replacement with Building Permit and Expiration

1. A Growth Permit shall be replaced by a building permit for a dwelling on the specific site for which the Growth Permit was issued. A Growth Permit which has not been replaced with a building permit within 90 days of Growth Permit approval by CEO shall be considered expired and must be resubmitted for consideration. Resubmitted Growth Permit Applications will not have any priority over other Growth Permit Applications. The expiration of the building permit shall be in conformity with the Town of Waterboro Building Code.

2. Expired Growth Permits shall be available for reissuance.

#### E. Transferability

Growth Permits are not transferable. 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. (amended 4/21/07)

### 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 Ordinance shall be June 1, 2002, but the total number of Growth Permits available through June 30, 2003 shall be limited by Section 6.A hereof.

## 10. REVIEW PROCEDURE

This Ordinance shall be reviewed by the Planning Board in June 2008 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. (amended 4/21/07)

## 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 placed, 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. 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

A. Any person owning or controlling the use of any dwelling unit being constructed or occupied in violation of this chapter shall be liable to be fined not less than \$ 100.00 or more than \$2,500.00 for each day such a violation (i.e. construction activity, unlawful occupancy) continues after notification by the CEO.

B. If a dwelling unit has been built in violation of this chapter and is then occupied, for residential use, the owner may be fined as provided in Section 14 A. of this Ordinance.

#### 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 unit, 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: 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. Subdivision: A subdivision shall be defined by 30-A M.R.S.A. § 4401, and as amended from time to time. For the purposes of this Ordinance, subdivisions shall mean only those approved by the Planning Board after March 6, 1959. In addition, any lots shown on a subdivision plan, but not subject to Planning Board review shall not be considered a lot in a subdivision.

**H. Person:** A person shall be defined to include an individual's spouse, parents, siblings and members of his or her immediate family unless the spouse, parents, sibling or immediate family member can demonstrate that the person seeking the Growth Permit owned the title to the property that is the subject of the Growth Permit independently of his spouse, parents, siblings or immediate family members.

Growth Management Permit Application You can download this form and bring it to the town hall along with the septic design and copy of your deed, and the \$200 application fee. Available growth permits are tracked on a daily basis and posted [HERE](#). Please do not call the office to find out how many permits are left.