

March 7, 2003: Shall the following proposed Growth Management Ordinance be enacted?

PASSED

May 7, 2007: Passed 10 yes / 6 no to extend the Growth Management Ordinance until the annual Town Meeting March of 2008.

**TOWN OF LIMERICK, MAINE
PROPOSED GROWTH MANAGEMENT ORDINANCE**

1. TITLE

This Ordinance shall be known as the “Growth Management Ordinance of the Town of Limerick, Maine” and shall be referred to 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 Limerick through placing limitations on residential development that:

- A. Provide for the immediate housing needs of the existing residents of Limerick.**
- B. Ensure fairness in allocation of Building Permits.**
- C. Allow only for such residential population growth of Limerick as is compatible with an orderly and gradual expansion of community services including, but not limited to, education, public safety, transportation infrastructure, waste disposal and health services.**

4. APPLICABILITY

This Ordinance shall apply to all new dwelling units (including manufactured housing) within the Town of Limerick. No new dwelling unit, which fails to meet the requirements of the Ordinance, shall be constructed or placed within the Town of Limerick on or after the effective date of this Ordinance.

5. EXEMPTIONS

The following uses (hereinafter “Section 5 Exemptions”) are exempt from the terms of this Ordinance except those set forth in Sections 6(B)-(E), 12,13,and 14 below. In accordance with Sections 6(B)-(E), persons seeking a Section 5 Exemption shall apply to the Town of Limerick Code Enforcement Officer (hereinafter the “CEO”), and the CEO shall determine whether a Section 5 Exemption should be issued:

- 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, whether constructed by an agency of the state or federal government, or by a private developer or contractor, with a continuing age restriction of persons 55 years of age or older. Any conversion of these units eliminating the age restriction would require a Growth Permit.**
- C. Dwelling units to be build upon a lot owned by a person who has been a resident of Limerick for at least ten (10) years prior to the effective date of this ordinance provided that that person has both continually owned the property and been a resident of Limerick for the entire period in question and that the dwelling unit will be occupied by that person for a period of at least five (5) years.**
- D. Dwelling units to be built on lots created by way of gift from a blood or adoptive relative with no consideration. If the property is developed by the recipient, he/she must reside on the property for a period of least five (5) years.**
- E. Dwelling units to be built within subdivisions of less than 200 acres in size that were:**
 - 1. Approved by the Limerick Planning Board on or after January 1, 1960 but before January 1, 2003; or**
 - 2. Under current consideration by the Planning Board on January 1, 2003.**

6. ADMINISTRATION

A. Maximum Number of Dwelling Units

- 1. Unless and/or until this Ordinance is amended or repealed by Annual or Special Town Meeting, the maximum number of new Growth Permits issued in any given calendar year shall be limited to thirty-six(36), plus two(2) additional Growth Permits that shall be for affordable housing constructed by Habitat for Humanity or a similar not for profit organization. Section 5 Exemptions, issued by the CEO for dwelling units which satisfy an exemption set forth in Section 5 above, shall not be included in this maximum number.**
 - 1. The Single Family Seasonal Residence (SFSR) zoning district shall be limited to 50%, or eighteen (18), of the total number Growth Permits issued in any calendar year. This is necessary to ensure an adequate and safe water supply to all residents without additional shortages to present residents or a complete breakdown in the system that would burden homeowners with reasonable or overwhelming expenses.**
 - 2. No more than 50% of the remaining Growth Permits, or nine (9), shall be issued annually for dwelling units within subdivisions that are approved by the Limerick Planning Board on or after January 1, 2003, and no more than three (3) of these Growth Permits shall be issued to any single subdivision so approved.**
 - 3. No person, partnership, or corporation shall be entitled in any calendar year to more than two (2) of the thirty-six (36) Growth Permits. For this purpose, two (2) or more corporations shall be deemed to be and shall be**

treated as one corporation 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 that is a partner in a partnership shall also be considered the same person as the partnership.

B. Application Procedure

1. All Growth Permit Applications and Applications for Section 5 Exemptions (hereinafter “Application”), shall be submitted in person to the CEO or his/her authorized and designated assistant or agent during normal office hours on the appropriate form entitled “Growth Permit Application” or “Application for Section 5 Exemption”, as the case may be.

1. No Application shall be accepted by mail.
2. Only complete Applications will be accepted.
3. The CEO shall indicate on the Application form the date and time the Application was received and provide the Applicant with a receipt.
4. Applications shall be accompanied by:
 - I. A non-refundable administrative fee in the amount of One Hundred (\$100.00) Dollars;
 - II. Documentation establishing the applicant’s right, title and interest to the property;
 - III. One (1) copy of a subsurface wastewater disposal system application form (HHE200), and/or confirmation for eligibility of a sewer user unit.
5. A separate Application shall be required for each dwelling unit.

C. Issuance Procedure

1. Applications shall not be accepted by the CEO until on or after the effective date of this Ordinance. From that time on, Applications will be accepted, and Growth Permits and Section 5 Exemptions issued, as provided for herein:
 - I. The CEO shall review Applications in the order received. [moved from Section 6(B)
 - II. The CEO shall issue Growth Permits for all complete Applications on a first-come, first-served basis until all available Growth Permits have been issued.
 - III. The CEO shall issue Section 5 Exemptions for all complete Applications that he/she determines satisfy one of the exemptions set forth in Section 5.
 - IV. The CEO shall notify an Applicant once the Applicant is entitled to have a Growth Permit or a Section 5 Exemption issued.
 - V. Applications shall remain on file with the CEO.
 - VI. Expired Growth Permits and Section 5 Exemptions shall be available for reissue.

2. If Growth Permit Applications exceed supply for any given year, Growth 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 Growth Permit for that year shall have first priority to get a Growth Permit in the next year, in the order in which the Applications were deemed to be complete.
3. If, at the end of any calendar year, there are Growth Permits still available, they shall be carried over to the next year.

D. Replacement with Building Permit and Expiration

1. The Growth Permit or the Section 5 Exemption, as the case may be, shall be replaced by a building permit for a dwelling unit on the specific site for which the Growth Permit or Section 5 Exemption issued.
2. A Growth Permit or Section 5 Exemption that has not been replaced with a building permit within ninety (90) days of issuance shall expire.
3. Expired Growth Permits and expired Section 5 shall be available for re-issuance.
4. Resubmitted Applications shall not have any priority over other applications.
5. The expiration of building permits shall be in conformity with the Town of Limerick Building Code.

E. Transferability

1. Growth Permits and Section 5 Exemptions are not transferable to other lots, dwelling units, persons, corporations or partnerships. They shall be valid for construction only on the lot specified on the Application and only by the Exemptions may be transferred to new owners of the lot or property in question, in the event the lot or property changes hands in the ordinary course of business and not for the purpose of attempting or intending to avoid the intent, purposes and limitations of this Ordinance.
2. The date of issuance of any Growth Permit or Section 5 Exemption transferred as allowed pursuant to Section 6 (E)(1) shall remain 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, regulations, or ordinances. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall prevail.

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 AND DURATION

The effective date of this Ordinance shall be March 8, 2003. The total number of Growth Permits available through December 31, 2003 shall be no more than the maximum allowed by Section 6(A) above. This Ordinance shall automatically terminate three (3) years from the date enactment, unless specifically extended by vote at an Annual or Special Town Meeting.

10. REVIEW PROCEDURE

This Ordinance shall be reviewed annually by the Planning Board to assess the efficacy of the Ordinance and to ensure that the maximum annual growth rate in dwelling units remains consistent 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 below.

11. AMENDMENTS

- A. A proposal to amend this Ordinance may be initiated by one of the following:
 - I. The Planning Board.**
 - II. The Selectmen.**
 - III. The residents, pursuant to state law.****
- B. Any amendment to this Ordinance, following public notice and public hearing, shall become effective upon majority vote at an Annual or Special Town Meeting.**

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 Exemption, as the case may be, from the CEO.**
- B. If the dwelling unit has been constructed or placed, without a valid Growth Permit or Section 5 Exemption, as the case may be, 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

- A. When a violation of any provision of this Ordinance shall be found, the CEO shall send written notice of the violation to the responsible party or parties and shall notify the Town of Limerick Selectmen of the violation.**
- B. If said notice does not result in the responsible party's or parties' prompt (within seven (7) days) correction of the violation, the Selectmen may institute any and all actions and proceedings, legal and equitable, including the seeking of injunctive relief, the imposition of fines, the removal of the structure, and**

any other action they deem appropriate or necessary to enforce the provisions of this Ordinance.

- C. The remedies set forth herein are intended to be cumulative and not exclusive of each other.
- D. 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 Ordinance shall be liable to be fined not less than One Hundred Dollars (\$100.00) or more than Two Thousand Five Hundred Dollars (\$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 Ordinance and is then occupied, for residential use, the owner may be fined as provided in Section 14 (A) above.
- C. If a dwelling unit has been found by the CEO to have been constructed or placed, without a *valid* Growth Permit or Section 5 Exemption, as the case may be, it shall be deemed a violation for any person, firm, or corporate entity to sell, lease, rent or occupy such dwelling unit until such Growth Permit or Section 5 Exemption has been duly issued.

15. APPEALS

- A. The Zoning Board of Appeal in accordance with the Limerick Zoning Ordinance, may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the CEO in the administration of this Ordinance.
- B. Following such hearing, the Zoning Board of Appeals may reverse the decision of the CEO 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 Limerick Building Code.
- 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 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. 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.

D. 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, by qualifying pursuant to Section 6(A).

E. Manufactured Housing: Manufactured Housing means a structural unit or units designed for occupancy, and constructed in a manufacturing facility and then transported by the use of its own chassis, or placed on an independent chassis, to a building site. The term includes any type of building which is constructed at a manufacturing facility and the transported to a building site where it is utilized for housing and may be purchased or sold by a dealer in the interim. For a list of included types of manufactured housing, refer to the Limerick Zoning Ordinance.

F. Person: A person shall be defined to include an individual's spouse, parents, siblings and members of his or her 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.

G. Section 5 Exemption: A permit issued, in accordance with the provisions of this Ordinance, by the CEO, to allow the establishment of a new dwelling unit, by satisfying one of the exemptions set forth in Section 5.

H. 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 on or after January 1, 1960. 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.