

Growth Management and Establishment of Districts Ordinance of the Town of Durham, Maine

Article I. Title

This Ordinance shall be known as the “Growth Management and Establishment of Districts Ordinance of the Town of Durham, Maine” and will be referred to herein as the Ordinance.

Article II. Purpose

- 1) The purpose of the Ordinance is to set forth standards managing the growth of the Town of Durham, Maine in a manner consistent with the State of Maine Comprehensive Planning and Land Use Regulation Act (30-A MRSA 4312 et seq.), and the Town of Durham Comprehensive Plan adopted by vote of the inhabitants of the Town Of Durham, Maine on March 2, 2002.
- 2) To prevent unreasonable burden on, and failure or shortage of, public facilities that is likely to result from unlimited growth.
- 3) To maintain the predominantly rural character of the town.
- 4) To provide for the local housing needs of Durham’s existing residents, while accommodating Durham’s “fair Share” of population growth in Androscoggin county and immediate sub-region.
- 5) To ensure fairness in the allocation of building permits.

Article III. Definitions

Unless otherwise indicated, all terms used in this Ordinance will be construed to have the same meanings as defined in the Town Land Use Ordinance, or if not defined will be construed to have their plain and ordinary meaning.

- 1) Town shall mean the Town of Durham, in the County of Androscoggin in the State of Maine.
- 2) State shall mean the State of Maine.
- 3) Annually shall mean the period between January 1st and December 31st of any given year.
- 4) For the purposes of this Ordinance, the term “applicant” shall mean the person or entity in whose name an application for a building permit for new residential construction is submitted to the Code Enforcement Officer (the “named applicant”);
 - a. If the named applicant is a natural person,
All persons related to the named applicant;
All entities in which the named applicant or any person related to the named applicant who owns or controls a 10% interest or greater.
 - b. If the named applicant is other than a natural person,
All natural persons or entities with any ownership interest in the named applicant (stakeholders);

- All persons related to stakeholders of the named applicant
All entities in which a stakeholder or any person related to a stakeholder owns or controls a 10% or greater interest.
- c. Any other person or entity when, in the discretion of the Code Enforcement Officer, the failure to deem the person or entity to be an applicant would circumvent the purposes of this ordinance.
 - 5) For the purposes of this Ordinance, the term “persons related to” shall mean: spouse, parent, brother, sister, or child related by blood, marriage or adoption.
 - 6) Dwelling Unit: shall mean a room or group of rooms, used primarily as living quarters for one family, including provisions for living, sleeping, cooking, and eating. The term shall not include hotel or motel rooms or suites, rooming house rooms, or similar accommodations.
 - 7) Accessory apartment shall mean a dwelling unit designed to provide a diversity of housing for town residents while protecting the single family character of residential neighborhoods. There shall be only one accessory apartment per lot; the accessory apartment shall contain no more than 50% of the floor area of the main dwelling unit, while the main dwelling unit shall have at least 1500 square feet, not including unfinished attic, basement or cellar spaces, nor public hallways or other common areas.

Article IV. Establishment of Districts

The Town shall be divided into three Zoning Districts as shown on the Official Zoning Map and further described in the Durham Land Use Ordinance:

Southwest Bend/Growth District
Resource Protection/Rural District
Rural Residential/Transitional District

There are also two other recognized districts, which are imposed over the above three zoning districts, these are:

Southwest Bend Historic Overlay District
Aquifer Overlay District

1. There shall be established a **Growth District** in the Town. This Growth District shall be identified as follows:

1. Southwest Bend/Growth District shall consist of the area identified as follows: (Refer to tax maps dated April 1, 2003.)

The Southwest Bend/Growth District shall include that area bounded and described as follows: Beginning at the intersection of Newell Brook Road and Plummer Mill Road as shown on Tax Map 6; thence running southwesterly along the westerly side of Plummer Mill Road to its intersection with the Old Brunswick Road; thence continuing southwesterly across the Old Brunswick Road along the westerly side of Emerson Road as shown on Tax Map 7; thence proceeding westerly to the intersection of Emerson Road with Royalsborough Road (Rt. 136); thence proceeding due west across Royalsborough Road to the westerly sideline of Royalsborough Road; thence turning and running southerly along the westerly boundary of Royalsborough Road until it's intersection with the southerly boundary line of Lot 74 as shown on Tax Map 7; thence turning and running westerly and southwesterly along the said boundary of Lot 74 to its intersection with the northeast corner of Lot 78 as shown on Tax Map 7; thence turning and running along the northerly boundary of the said Lot 78 to its intersection with the western boundary of lot 52D as shown on Tax Map 7; thence turning and running northerly along the westerly boundary line of Lot 52D to the northeasterly corner of Lot 52D and the southeasterly corner of 49 as shown on Tax Map 7; thence turning and running northwesterly along the northerly boundaries of the said Lot 52D and Lot 50 as shown on Tax Map 7 to the westerly side of Hallowell Road; thence turning and running southwesterly along the western boundary line of Hallowell Road to the southwesterly boundary of Lot 26 as shown on Tax Map 7; thence turning and running northwesterly along the southwesterly boundary line of the said Lot 26 to its intersection with the easterly boundary of Lot 16 as shown on Tax Map 7; thence continuing along the same southwesterly bearing as the southwesterly boundary of lot 26 to the eastern boundary of the Davis Road; thence turning and running northeasterly along the eastern boundary of the Davis Road to it's intersection with the southerly boundary of Royalsborough Road (Rt. 136); thence turning and running southeasterly along the southern boundary of Royalsborough Road and then across said road until the boundary intersects with the southern boundary of Newell Brook Road; thence turning and running first northerly and then easterly along the southern boundary of Newell Brook Road to the point of beginning, but excluding therefrom any part of such area as bounded above which is in the Resource Protection/Rural District.

2. *Rural Residential/Transitional is defined as that area not in either the Southwest Bend/Growth District or in the Resource Protection/Rural District as shown on the Official Zoning Map.*
3. *The Resource Protection/Rural District boundaries shall be those defined on the Official Zoning Map of the Town for Resource Protection.* This is a change of name only. With all ordinances and codes ascribing to the former **Resource Protection District** ascribing unabated and unchanged to the newly named **Resource Protection/Rural District**.

Article V. Limitation on the Awarding of Building Permits

Building Permits for new residential construction shall be limited to 45 dwelling units annually for the entire Town. (Refer to Housing Section-Comprehensive Plan for the Town of Durham, adopted March 2002 for details on how this number was derived.) Building Permits are to be awarded on a “first come, first served” basis. Building permits shall be valid only for the lot specified on the application and are not transferable.

Southwest Bend/Growth District

No applicant shall be awarded more than 5 Building Permits for new dwelling units in the Southwest Bend/Growth District in any one year. This limit may only be exceeded if by the last day of the year the forty-five (45) town wide building permits have not been issued.

Rural Residential/Transitional District

In the Rural Residential/Transitional District, no more than 3 Building Permits for new dwelling units will be awarded annually to any applicant. This limit may only be exceeded if by the last business day of the year the forty five (45) town wide building permits have not been issued.

Subdivisions in the Rural Residential/Transitional District are limited to five (5) lots.

The Code Enforcement Officer will maintain a list located at the Town Hall on a first-come “first-served” basis of completed applications for building permits which would have been issued but for the limitations as to the number of permits permitted per applicant. Each application will be marked by the Code

Enforcement Officer with the date and time the completed application was received.

On the last day of each year, to the extent that the number of Residential Building Permits allowed have not been used, the remaining Residential Building Permits on said list will be granted in the order received until total number of permits allowed have been issued without regard to District. Permits not issued during any year will not be carried over to the next year.

Article VI. Applicability

1. This Ordinance shall apply to all new dwelling units, excluding Accessory Apartments and including manufactured homes moved into the Town of Durham for the first time, and the construction of an additional dwelling unit or units within an existing structure. No new dwelling unit that fails to meet the requirements of this Ordinance shall be constructed or placed within the Town of Durham.
2. This Ordinance shall not apply to the replacement of an existing dwelling unit or units with a new dwelling unit or units of the same number.

Article VII. Administration

A maximum of forty-five (45) Building Permits for new residential dwelling units shall be issued by the Code Enforcement Officer during a twelve (12) month period January 1st to December 31st of any given year that this Ordinance remains in force.

Article VII. 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.

Article IX. Separability

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

Article X. Effective Date

This effective date of this Ordinance shall be March 6, 2004.

Article XI. Amendments

This Ordinance shall be amended in accordance with procedures specified in the Durham Land Use Ordinance.

Article XII. Violations

A violation of this Ordinance shall be deemed to exist when any person, firm or a 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 Building Permit from the Code Enforcement Officer.

Article XIII. Penalties

Any person who violates any provision of this Ordinance shall be guilty of a civil violation and subject to the penalties provided in Title M.R.S.A. 30-A Section 4452 including injunctive relief and payment of reasonable attorneys' fees.

Article XIV. Appeals

1. Administrative Appeals

The Board of Appeals, 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. Such hearings shall be held in accordance with the Durham Land Use Ordinance.