

**Town of Baldwin
Growth Ordinance
Adopted March 8, 2003
Amended March 26, 2005**

1. Title

This ordinance shall be known as the "Growth Ordinance of the Town of Baldwin, Maine" and shall be referred to herein as the "Ordinance".

2. Legal Authority

This Ordinance is adopted pursuant to the home rule powers as provided for in VIII-A of the Maine Constitution, 30-A M.R.S.A. section 3001 and 30-AM.R.S.A. section 4323.

3. Purpose

The purpose of these Amendments is to further protect the health, safety and general welfare of the residents of Baldwin by ensuring that applicants are fairly treated and that no person shall gain advantage in the permit process by commencing construction of a residential structure prior to obtaining a growth permit.

A. to provide for the immediate housing needs of the existing residents of the Town of Baldwin;

B. to ensure fairness in allocation of building permits;

C. to plan for continued residential population growth in Baldwin which will be compatible with orderly and gradual expansion of community services including, but not limited to, education, public safety, transportation infrastructure, and waste disposal services;

D. to avoid circumstances in which the rapid development of new residences, potentially housing many families with school age children, would outpace the Town's, and region's, capability to expand its schools and other necessary services soon enough to avoid serious school overcrowding and a significant reduction in the level and quality of other municipal services.

4. Definitions

A. Applicant: The person or entity in whose name a growth permit application is submitted to the Code Enforcement Officer.

1) If the named applicant is a natural person, the term "applicant" shall also include: all persons related to the named applicant and all entities in which the named applicant, or

any person related to the named applicant, owns or controls a 10% or greater interest:

2) If the named applicant is other than a natural person, the term "applicant" shall also include: all persons related to stakeholders of the named applicant and all entities in which a stakeholder or any person related to a stakeholder owns or controls a 10% or greater interest.

B. Building permit: A permit issued by the Code Enforcement Officer pursuant to Article 4.2 of the Land Use Ordinance of the Town of Baldwin.

C. Code Enforcement Officer: The Town Of Baldwin Code Enforcement Officer, as defined in Article 2.2 of the Land Use Ordinance of the Town of Baldwin, or an authorized agent thereof

D. Dwelling Unit: A dwelling unit as defined in Article 2.2 of the Land Use Ordinance of the Town of Baldwin.

E. Elderly household: A household which includes at least one elderly person and no occupant less than 55 years of age other than a full-time caregiver to or a spouse Of companion of the elderly person.

F. Elderly person: A person aged 55 years or older.

G. Family Gift Lot; A lot which is not within a subdivision (as defined herein) and which has been created by a gift from a parent (or grandparent) to a child (including an adopted child, or stepchild or grandchild) or from a child (or grandchild) to a parent (including an adoptive parent; stepparent or grandparent:)

H. Gift: The conveyance of property for which the grantor receives no money, property or any other value as consideration for such conveyance.

I. Giftee: A person receiving a gift of a family gift lot.

J. Gifto: A person who gifts a family gift lot.

K. Growth Permit: A permit, issued in accordance with the provisions of this Ordinance, which allows the issuance of a building permit for the construction, creation or placement of one new dwelling unit within the Town of Baldwin.

L. Persons related to: A person who is a spouse, parent, brother, sister or child by blood, marriage or adoption.

M. Subdivision: A subdivision as defined in 30-A M.R.S.A. section 4401, as such may be amended from time to time, and approved by the Baldwin Planning Board pursuant to the Subdivision Ordinance on or after March 10, 2001.

5. Applicability

Except as provided in Section 6 below, this Ordinance shall apply to the construction, creation or placement of any new dwelling unit within the Town of Baldwin.

6. Exemptions

This Ordinance shall not apply to:

- A. the repair, replacement, reconstruction or alteration of an existing dwelling unit.
- B. construction of dwelling units in housing for the elderly which is constructed, operated, subsidized or funded (in whole or in part) by any agency of state or federal government.
- C. construction of dwelling units in the village commercial district as set forth by the Town of Baldwin's Zoning Map.
- D. a dwelling unit on a family gift lot, provided that the giftor has maintained legal ownership of the family gift lot for a minimum of five(5) consecutive years prior to the gift and provided that no more than one building permit can be issued to anyone giftee pursuant to this exemption during any rolling five (5) year period.

7. Administration

- A. Maximum number of growth permits per calendar year.

1. Commencing on January 1, 2004, the maximum number of growth permits issued between January 1st and December 31st each year shall be fifteen(15) plus any growth permit available at the end of the previous calendar year.

For the calendar year 2003 only, from March 8, 2003 to December 31, 2003, the maximum number of growth permits shall be Fifteen (15) minus the number of building permits issued during the calendar year 2003 before effective date of this Ordinance March 8, 2003.

2. Until October 1st of each year, no more than 4 growth permits shall be issued for lots Within subdivisions; and no more than 15 growth permits shall be issued for lots not within subdivisions.

Between October 1st and December 31st of each year, any growth permits not yet issued, up to the maximum number established by subparagraph 1 above, may be issued without regard to whether the lot for which application is made is "within a subdivision" or not within a subdivision.

3. During each calendar year no more than 4 growth permits shall be issued for lots within any one subdivision.

B. A growth permit application must be completed and signed by a record owner of the lot for which the growth permit is sought, on a Growth Permit Application form provided by the Code Enforcement Officer.

2. The growth permit application shall be accompanied by:

A. A nonrefundable application fee as specified in the Schedule of License, Permit and Application fees established by order of the Town Selectmen, which shall be credited toward the building permit fee if the growth permit is replaced by a building permit under Section 7 (C) (2) below;

B. A deed or other instrument establishing the applicants ownership interest in the property; and

C. either a copy of the completed subsurface wastewater disposal system application (Form HHE-200) for the lot for which the growth permit is sought or evidence that the lot will be served by public sewer.

3. The growth permit application shall be submitted to the Code Enforcement Officer either by mail or by hand during normal business hours at the Town Office. The Code Enforcement Officer shall endorse each application with the date and time of receipt. In the event two (2) or more growth permit applications are received simultaneously, the Code Enforcement Officer shall determine their order by random selection.

4. The Code Enforcement Officer shall review growth permit applications for completeness and accuracy in the order in which they are received. If an application is incomplete, the Code Enforcement Officer shall notify the applicant of the additional information or material needed to complete the application and shall resume review of the application only when such additional information or materials are provided. Once the Code Enforcement Officer determines that an application is complete, he or she shall approve the application as complete, endorsing the date and time of such approval on the application.

5. A separate growth permit application is required for each dwelling unit.

6. No growth permit application shall be accepted from an applicant who already holds the maximum number of permits allowed under this Article, subsection D. If such an application is submitted, the application will be rejected and the Code Enforcement Officer shall notify the applicant of such.

7. No growth permit application shall be accepted by the Code Enforcement Officer within six (6) months of the commencement of any construction on the lot which was not authorized by a building permit at the time that such construction commenced.

8. The Code Enforcement Officer shall ensure that the issuance, or the reissuance (after surrender or expiration) of any growth permit, shall be part of a public process which is perceived to be fair by members of the public. To that end, no growth permit shall be issued

except at the time and place described in a public notice published at least seven(7) days prior to the date that such permits are made available to the public. To ensure that permits are issued first come, first served basis, the Code Enforcement Officer shall accept applications only from persons in the order that they first appear, or the order in which they are queued at the front entrance to said appointed place at the appointed time.

C. Issuance procedure

1) Growth permits shall be issued first- come, first-served basis according to the dates and times the applications are approved as complete by the Code Enforcement Officer under section 7 (B) (4) above. If a growth permits available under section 7 (A) on the date the Code Enforcement Officer approves an application as complete, the Code Enforcement Officer shall issue the growth permit by endorsing the date of issuance on the application and mailing a copy to the applicant at the address provided by the applicant on the application. If no growth permit is available at the time the application is approved as complete, the application shall remain pending, and as growth permits subsequently become available, the Code Enforcement Officer shall issue permit in the order in which the applications were approved as complete, mailing the issued permits to the applicants as provided above.

2) Once issued, a growth permit must be replaced by a building permit for construction, placement or creation of a dwelling on the specific lot for which the growth permit was issued, no later than 90 days after date of issuance. A growth permit may not be extended or renewed beyond 90 days after issuance. A growth permit which is not replaced by a building permit within such 90 day period shall automatically expire. If a growth permit expires, a subsequent application for a growth permit on the same lot shall be processed and ranked as a new application pursuant to Section 7 (B) above. Expired growth permits shall not be counted in determining the maximum number of permits which may be issued during any calendar year.

3)At the end of each calendar year: (a) if the number of approved applications for growth permits exceeds the number of permits available for issuance, such approved applications shall remain pending into the next calendar year and shall retain their ranking according to the order in which they were approved as complete; (b)if the number of available growth permits exceeds the number of growth permits issued, such unissued growth permits shall be added to the maximum number of growth permits available during the next calendar year.

4) At any time prior to the issuance of a building permit or the expiration of a growth permit, the holder of a growth permit may surrender the permit and receive a refund of 50% the growth permit fee. Surrendered growth permits shall not be counted. in determining the maximum number of permits which may be issued during any calendar year.

5) At any time after an application for a growth permit is made and prior to the issuance of a growth permit; the applicant may withdraw the application and receive a refund of 75% the growth permit fee.

D. Applicant maximums

There will be a limit of three (3) growth permits issued per applicant per calendar year. No applicant may hold more than two (2) unused growth permits at anyone time. For the purposes of this section, a growth permit shall be considered "used" when the Code Enforcement Officer has issued a certificate of occupancy for the dwelling unit for which it was issued.

E. Transferability

Growth permits are issued only for a specific lot identified in the growth permit application. A growth permit may be transferred to a new owner of the lot; provided notice of the transfer of ownership is given in writing to the Code Enforcement Officer before the growth permit is replaced by a building permit and transfer does not result in anyone person having more growth permits than allowed under this Article. Transfer of ownership does not change the date of the issuance or the ranking of an issued growth permit. An application for a growth permit is not transferable.

8. Periodic review of Ordinance

Prior to December 31, 2005 the Town Selectmen shall conduct a review of this Ordinance to evaluate whether the rate of residential growth remains constant with the Town's ability to absorb the growth, and shall determine whether the number of growth permits available under this Ordinance should be adjusted by amendment to this Ordinance: The Town Selectman may, at their discretion, seek assistance or advice from the Planning Board, and/or hold public hearings, in connection with such review. If the Town Selectmen do not conduct such review, this Ordinance shall expire December 31, 2005. If the Town Selectmen conduct such review, this Ordinance shall continue in effect, reviewing this Ordinance prior to December 31st of each year or this Ordinance shall expire on December 31st of that year. This Ordinance may only be amended at the annual Town meeting.

9. Violation, Penalties and Enforcement

Any person who constructs, creates or places a dwelling unit within the Town of Baldwin without a growth permit required by this Ordinance or who owns or occupies a dwelling unit constructed, created or placed within the Town of Baldwin without a growth permit required by this Ordinance commits a civil violation and is subject to the fines, penalties and remedies provided in 30-A M.R.S.A. section 4452. Each day a violation continues to exist after notice of the violation constitutes a separate violation. This Ordinance shall be enforced by the Town of Baldwin Code Enforcement Officer in the manner provided for enforcement of violations of the Land Use Ordinance of the Town of Baldwin as is set forth in Article 4.4 of such Land Use Ordinance.

10. Appeals

An applicant for a growth permit who is adversely affected by a decision or action of the Code Enforcement Officer in the administration of this Ordinance may appeal to the Baldwin Board of Appeals under provisions governing administrative appeals under Articles 7.2 and 7.3 of the Land Use Ordinance of the Town of Baldwin.