

## RESIDENTIAL GROWTH ORDINANCE

Adopted by Town of Arundel, April 18, 1977

Revised by Town of Arundel, July 18, 1978

Revised by Town of Arundel, June 11, 2003

Revised by Town of Arundel, June 15, 2005, effective July 1, 2005

Revised by Town of Arundel, November 13, 2007

Revised by Town of Arundel, June 11, 2008

### 1.1 TITLE

This ordinance shall be known as the “Residential Growth Ordinance of the Town of Arundel, Maine” and will be referred to herein as “this ordinance.”

### 1.2 DEFINITIONS

In general, words and terms used in this ordinance shall have their customary dictionary meanings. More specifically, any word or term defined in the Arundel Land Use Ordinance shall have the definition contained in that ordinance, unless defined differently below; other words and terms used herein are defined as follows:

**RESIDENT:** An individual who has established his or her primary residence in the Town of Arundel as the place to which he or she intends to return after any period of absence prior to the date on which the person applies for a permit. For the purposes of this Ordinance, an individual must provide evidence that his or her primary residence is in Arundel. Such evidence may include:

- a) registration to vote in the Town of Arundel;
- b) payment of motor vehicle excise tax to the Town of Arundel; or
- c) issuance of a Maine resident fishing and/or hunting license in the Town of Arundel.

**RESIDENTIAL BUILDING PERMIT:** A permit to create a new dwelling unit, issued by the Code Enforcement Officer after ascertaining that the proposed dwelling would meet all of the relevant requirements of this ordinance, the Arundel Land Use Ordinance, and the Arundel Building Code.

### 1.3 PURPOSES:

The purposes of this ordinance are to:

- (a) allow growth of the population of the town at a rate that would not impose an undue burden upon the provision of community services (including education, fire and police protection, road maintenance, waste disposal, health services and welfare) and which would be compatible with the orderly and gradual expansion of said services in accordance with the town’s Comprehensive Plan;
- (b) maintain the predominantly rural character of the town;
- (c) provide for the local housing needs of Arundel’s existing residents, while accommodating Arundel’s “fair share” of population growth in York County and in the immediate subregion (which grew at the rate of about 2% per year between 1990 and 2000);
- (d) ensure fairness in the allocation of building permits;
- (e) ensure that the Building Permit issuance system does not prevent the creation of a reasonable number of multiple dwelling units simultaneously; and
- (f) ensure that the commencement of construction for an approved permit is both imminent and timely.

### 1.4 EXEMPTIONS

- (a) This ordinance shall not apply to the repair, replacement, reconstruction, or alteration of any existing building structure as long as no additional dwelling units are created by such construction.
- (b) This ordinance shall not apply to a Seasonal Cottage that is located within a Seasonal Resort development as defined in Section 2 of the Land Use Ordinance.

- (c) This ordinance shall not apply to up to 4 units of affordable housing in any calendar year period, so long as the developer / builder implements a plan to ensure that the housing units remain affordable in perpetuity. The plan for maintaining affordability shall be submitted to and approved by the Arundel Board of Selectman and, if the units are reviewed by the Arundel Planning Board, by the Planning Board as well. For purposes of this ordinance, “affordable housing” shall mean affordable housing as defined by 30-A M.R.S.A. §5002(2) and any pertinent MSHA regulations. The number 4 in the first sentence of this subsection shall automatically be replaced annually with the whole number that is greater than 10% of the number of permits for new residential dwellings set by this ordinance for the current year.

## 1.5 GENERAL REQUIREMENTS

All new dwelling units within the Town of Arundel, whether year-round or seasonal unless exempted under the provisions of Section 1.4 above, shall be in conformity with the provisions of this ordinance. No new dwelling unit shall be constructed which fails to meet the requirements of this ordinance.

## 1.6 ADMINISTRATION

The procedure for administration of this ordinance shall be as follows:

- (a) The Code Enforcement Officer shall administer the “Building Permit Selection System” as described in paragraph 1.7 below, in the case of *all* residential building permit applications.
- (b) The Code Enforcement Officer shall ensure that all of the endorsements on the Building Permit application form have been completed before issuing any residential Permit. A Residential Building Permit without these endorsements is invalid.
- (c) Every Residential Building Permit shall be displayed in a conspicuous place on the premises under construction, and shall not be removed until all work covered by the permit has been approved.

## 1.7 BUILDING PERMIT SELECTION SYSTEM:

- (a) Up to four (4) dwelling units shall be granted Residential Building Permits in any calendar month, provided that no more than forty (40) dwelling units shall be granted Permits in each calendar year.
- (b) Applications for Residential Building Permits shall be submitted to the Code Enforcement Officer only by the owner of record of the property.
- (c) Upon submittal of an application, the Code Enforcement Officer shall note the date and time the application was received. Within three business days after submission of the application, but before the end of the calendar month in which the application is submitted, the Code Enforcement Officer shall determine if the application is complete under the requirements of the Arundel Land Use Ordinance, the Arundel Building Code and any other pertinent ordinance or regulation. If an application is incomplete, the Code Enforcement Officer shall return the application to the applicant with a written statement as to what information must be submitted in order to be complete. Upon submission of the necessary information to render the application complete, the Code Enforcement Officer shall again note the date and time the additional information was submitted. Only complete applications shall be considered for selection in the subsequent calendar month.
- (d) Applications for residential building permits shall be issued on a monthly basis from all pending applications.
- (e) In the event that there are more applications than permits available, permits shall be issued by the Code Enforcement Officer on the basis of points earned according to the following system:
  - 4 points for each year (six months or more) for which the applicant has been a resident of the town of Arundel on a continuous basis immediately preceding submission of the application;
  - 4 points for each year (six months or more) which the applicant has been the owner of record of the subject property;
  - 3 points for each year (six months or more) which the subject property has been a lot in an approved subdivision;
  - 2 points for each month the application has been waiting for a permit.

In the case of a tie, Permits shall be awarded in the order in which a complete application was submitted.

No more than two (2) Residential Building Permits shall be granted in any single month to any one person, firm, or corporation. No more than six (6) Residential Building Permits shall be granted in any calendar year to any one person, firm, or corporation. In the case of a duplex or multi-family dwelling, the permit shall not be issued until the application has been selected to adequately cover all of the proposed dwelling units in the structure.

#### 1.8 EXPIRATION OF PERMITS

- (a) Residential Building Permits selected and issued in accordance with this ordinance shall expire after four (4) months, unless foundations have been completed
- (b) Upon expiration of a permit, that permit shall become available to be issued to another applicant during the same calendar year in which it was issued.

#### 1.9 NON-TRANSFERABILITY:

Residential Building Permits shall be site-specific, and shall be valid for construction only on the lot specified on the application. However, said permits shall be transferable to new owners of the lot, should the property change hands. A Residential Building Permit, which is transferred not in accordance with this ordinance, shall be nullified and revoked by the Code Enforcement Officer.

#### 1.10 CONFLICT WITH OTHER ORDINANCES:

This Ordinance shall not repeal, annul, or in anyway impair or remove the necessity of compliance with any other rule, regulation, by-law, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall prevail.

#### 1.11 VALIDITY AND SEVERABILITY

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

#### 1.12 EFFECTIVE DATE:

The effective date of this Ordinance is the date of adoption of Town vote.

#### 1.13 REVIEW PROCEDURE

In accordance with Title 30-A MRSA, §4360, this ordinance shall be reviewed by the Planning Board every three (3) years. In its review, the Planning Board shall conduct at least one (1) public hearing in order to determine whether this ordinance is still necessary and if it should be adjusted to meet current conditions. Following the public hearing the Planning Board shall make its recommendations to the Board of Selectmen.

#### 1.14 AMENDMENT PROCEDURE

An amendment to this Ordinance may be initiated by:

- (a) a majority vote of the Planning Board;
- (b) a majority vote of the Municipal Officers; or
- (c) a written petition signed by registered Arundel voters numbering at least 10% of the votes cast in the Municipality at the last gubernatorial election.

An amendment to this Ordinance may be adopted by:

- (d) a simple majority vote of Town Meeting if the proposed amendment is recommended by both the Planning Board and Board of Selectmen .
- (e) A 2/3 majority vote of Town Meeting if the proposed amendment is not recommended by both the Planning Board and the Board of Selectmen.

In either case, the Planning Board shall hold a public hearing on the proposed amendment at least 30 days prior to the town meeting at which it will be voted upon. Notice of the hearing shall be posted at least ten (10) days in advance in a newspaper of general circulation in the area.

#### 1.15 VIOLATIONS

- (a) A violation of this ordinance shall be deemed to exist when any person, firm or corporation engages in any construction activity directly related to the erection or placement of a dwelling unit upon any land within the town of Arundel, without having first obtained a Residential Building Permit from the Code Enforcement Officer.
- (b) If a dwelling has been constructed or placed without a Residential Building Permit, it shall also be deemed a violation for any person firm or corporation to sell, lease, rent or convey such dwelling, or for any person or family to occupy such dwelling until such permit has been duly issued.

#### 1.16 PENALTIES:

- (a) Any person, firm, or corporation being the owner or having control or use of any residential building constructed in violation of any of the provisions of this Ordinance, shall be penalized in accordance with Title 30-A MRSA, §4452 Each day such a violation (construction activity) continues after notification by the town or its agents shall be considered a separate offense.
- (b) If a dwelling unit has been constructed contrary to the provisions of this ordinance and then sold, leased, rented or conveyed for residential use, the vendor, lessor, landlord or conveyor shall be penalized in accordance with Title 30-A MRSA, §4452.
- (c) If a dwelling unit has been constructed contrary to the provisions of this ordinance and is then occupied by the builder or his family, for residential use, the builder shall be penalized in accordance with Title 30-A MRSA, §4452.