

TOWN OF GORHAM
GROWTH MANAGEMENT ORDINANCE

Adopted September 6, 2022

Amended March 7, 2023

SECTION 1. TITLE

This ordinance shall be known and cited as the “Growth Management Ordinance of the Town of Gorham, Maine” and shall be referred to herein as the “Ordinance.”

SECTION 2. LEGAL AUTHORITY

This Ordinance is adopted pursuant to the authority granted by 30-A M.R.S. § 4360, as may be amended, and the Town's home rule authority under Chapter VIII, Part 2, Section 1 of the Maine Constitution and 30-A M.R.S. § 3001, as may be amended.

SECTION 3. PURPOSE

The purpose of this Ordinance is to protect the health, safety and general welfare of the residents of the Town of Gorham by placing reasonable and appropriate limitations on residential development in accordance with the Comprehensive Plan, more specifically:

- a. To provide for the immediate housing needs of the existing residents of the Town of Gorham;
- b. To target residential development to the Growth Areas as identified in the Comprehensive Plan and help protect the Rural Areas from rapid residential growth;
- c. To ensure fairness in the allocation of building permits;
- d. To plan for continued residential population growth in the Town of Gorham and the associated impacts on municipal services including, but not limited to, education, public safety, transportation infrastructure, access to natural resources, waste disposal and health services; and
- e. To avoid circumstances in which the rapid development of new residences—potentially housing many families with school age children—would outpace the Town’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.

SECTION 4. DEFINITIONS

Terms not specifically defined in this Ordinance shall have the same meanings as in the Town of Gorham Land Use and Development Code (LUDC), and if not defined in the LUDC, shall carry their usual and customary meanings.

- a. Accessory dwelling unit: A self-contained dwelling unit located within, attached to or detached from a single-family dwelling unit located on the same parcel of land.
- b. Affordable: Housing for which the occupant or occupants are paying no more than thirty percent (30%) of the household's combined gross income for housing costs, including utilities.
- c. Affordable housing: A decent, safe and sanitary dwelling, apartment or other living accommodation that is affordable for a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended.
- d. Age-Restricted Development: A development that complies with regulations promulgated by the U.S. Department of Housing and Urban Development, 24 C.F.R. Subpart E (Housing for Older Persons), containing standards for housing for persons who are 55 years of age or older. In order to be deemed an age-restricted development under this Ordinance, at least eighty percent (80%) of the occupied units in the development must be occupied by at least one person 55 years of age or older, in accordance with the Fair Housing Act, 42 U.S.C. § 3607(b)(2) and related regulations.
- e. Building permit: A permit issued by the Code Enforcement Officer pursuant to Section 1-3 of the LUDC.
- f. Code Enforcement Officer: The Town of Gorham Code Enforcement Officer, the Building Inspector, or an authorized agent of either.
- g. Comprehensive Plan: The Comprehensive Plan adopted by the Town of Gorham.
- h. Common scheme of development: A plan or process of development that:
 - 1) Takes place on contiguous or non-contiguous parcels or lots in the same immediate vicinity and timeframe;
 - 2) Is reviewed by the Town through:
 - A. The Town's Subdivision Review or Site Plan Review processes; or
 - B. A permitting process of a State or Federal agency; and
 - 3) Exhibits characteristics of a unified approach, method, or effect including, but not limited to:
 - A. Unified ownership, construction, management, or supervision;
 - B. Sharing or use of common equipment or labor; or
 - C. Common financing.
- i. Family gift lot: A lot accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift

does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph can not be given for consideration that is more than 1/2 the assessed value of the real estate.

- j. Gift: The conveyance of property for which the grantor receives no money, property or any other consideration for the conveyance.
- k. Growth permit: A permit issued in accordance with the provisions of this Ordinance, which allows for the issuance of a building permit for the construction, creation or placement of one new dwelling unit within the Town of Gorham.
- l. Subdivision: The division of a tract or parcel of land into three (3) or more lots within any 5 year period, subject to the provisions of 30-A M.R.S.A. § 4401, as may be amended from time to time, and which is approved by the Planning Board in accordance with Chapter 3 of the LUDC.
- m. Workforce housing: A dwelling unit for which the purchase or rental price is affordable to a household earning between 80 and 120% of the Area Median Income as set by the United States Department of Housing and Urban Development.
- n. Mixed-Use Development: A building or structure with a variety of complementary and integrated uses, such as, but not limited to, residential, office, manufacturing, retail, public, entertainment, and light industrial, in a compact urban form.

SECTION 5. APPLICABILITY

This Ordinance shall apply to the construction, creation, or placement of any new dwelling unit within the Town of Gorham.

SECTION 6. EXEMPTIONS

The dwelling units described below are exempt from the requirements of this Ordinance and shall not require a growth permit:

- a. The repair, replacement, reconstruction or alteration of an existing dwelling unit;
- b. A dwelling unit that is created on a family gift lot, provided that no person may obtain more than one building permit pursuant to this exemption during the time this Ordinance is in effect;
- c. A dwelling unit that is created pursuant to a contract zoning agreement that authorizes the unit to be exempt from the requirements of this Ordinance;

- d. A dwelling unit that qualifies as affordable housing, provided that the applicant satisfactorily demonstrates that the dwelling unit qualifies as such;
- e. A dwelling unit that is part of a mixed-use development that is located in a growth area as designated in the Comprehensive Plan;
- f. A dwelling unit that has been deemed exempt by action of the Town Council in accordance with Section 7(e) below;
- g. A dwelling unit within a mobile home park licensed by the Town of Gorham under the Mobile Home Park Ordinance;
- h. Up to ten (10) detached dwelling units that meet the criteria of workforce housing as defined in this Ordinance, if the applicant demonstrates compliance with this requirement; and
- i. A dwelling unit that meets the definition of an accessory dwelling unit under this Ordinance.
- j. Up to twenty-five (25) dwelling units in a development that meets the definition of an age-restricted development; provided that if any of these 25 exempted units is converted to remove the age restriction, the developer would be required to obtain a growth permit for the converted unit(s).

The Code Enforcement Officer is responsible for determining if a dwelling unit qualifies as exempt under this Section.

SECTION 7. ADMINISTRATION

- a. Commencing on January 1, 2023, the creation of each new dwelling unit in the Town of Gorham shall require one growth permit.
- b. The number of growth permits allocated annually and the process for the issuance of growth permits from this annual allocation are as set forth in this Section 7, and shall be allocated on a calendar year basis.
- c. Unless amended pursuant to Section 8 of this Ordinance, the maximum number of growth permits annually issued between January 1st and December 31st shall be 125. Any growth permits that are not issued during the calendar year shall expire and shall not be carried forward to the next year.
- d. Annual allocation of growth permits.
 - 1) During each calendar year, no more than 25 growth permits shall be issued for dwelling units located in the Rural and Rural-Manufactured Housing Districts or in any area designated as a Rural Area in the Comprehensive Plan. Of the 25 growth permits allowed under this subsection, no more than 15 growth permits shall be issued for

developments proceeding through subdivision review and approval under the LUDC, and no more than 10 growth permits shall be issued for projects not requiring subdivision review and approval.

- 2) During each calendar year, no more than 100 growth permits shall be issued for dwelling units located in the remaining residential and mixed-use zoning districts in the Town of Gorham. Of the 100 growth permits allowed under this subsection, no more than 75 growth permits shall be allowed for developments proceeding through subdivision review and approval under the LUDC, and no more than 25 growth permits shall be issued for those projects not requiring subdivision review and approval.
 - 3) During each calendar year, no more than five growth permits shall be issued to a common scheme of development in any area of the Town designated as a Rural Area in the Comprehensive Plan.
 - 4) During each calendar year, no more than 10 growth permits shall be issued to a common scheme of development in any area of the Town designated as a Growth Area in the Comprehensive Plan.
- e. Application procedure for growth permits.
- 1) A growth permit application shall be submitted to the Code Enforcement Officer either by mail or in person during normal business hours. Applications shall not be accepted until after the effective date of this Ordinance.
 - 2) The Code Enforcement Officer or his/her designee shall indicate on the application form the date and time the growth permit application was received and provide the applicant with a receipt. Each application shall be reviewed in the order in which it was received. Only complete applications will be accepted and reviewed for processing.
 - 3) The growth permit application shall be accompanied by (i) a nonrefundable application fee as set forth in the Town of Gorham Fee Schedule, and (ii) documentation establishing the applicant's right, title and interest to the property.
 - 4) A separate growth permit is required for each dwelling unit to be created, although multiple growth permits may be requested on a single application.
- f. Issuance procedure for growth permits from the annual allocation.
- 1) Growth permits shall be issued on a first-come, first-served basis according to the dates and times the applications are accepted as complete by the Code Enforcement Officer under Section 7(e)(2) of this Ordinance.
 - 2) If all available growth permits are issued during a calendar year, no more growth permits may be issued and no more applications may be accepted until such time as additional permits become available.
 - 3) Within six months of the issuance of a growth permit, the applicant shall submit a complete building permit application and associated documentation to the Code Enforcement Officer for review and approval, and the construction of the project shall commence within nine months of issuance of the growth permit. Upon the expiration of either of the deadlines set forth in this subsection, the Code Enforcement Officer shall notify the applicant in writing that the growth permit is null and void and shall issue that growth permit to the next qualified applicant as identified under Section 7(e)(1). Growth

permits that expire under this subsection shall be available for reissue during the same calendar year in which it expired.

- 4) The Code Enforcement Officer shall not issue a building permit for a dwelling unit unless the applicant has a valid growth permit or is exempt from this requirement under Section 6 of this Ordinance.
- g. Town Council exemptions.
- 1) A property owner or his/her representative may request that the Town Council exempt from the requirements of this Ordinance a dwelling unit(s) that meets the following criteria:
 - A. The dwelling unit(s) is located within a Growth Area of the Town, as designated by the Comprehensive Plan; and
 - B. The dwelling unit(s) is part of a mixed-use development or multifamily housing.
 - 2) Exemptions under this subsection shall require the affirmative vote of at least two thirds of the Town Council members present and voting, but in no event less than four votes.
- h. Transferability. Growth permits are issued only for the 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 issuance of a building permit. Transfer of ownership does not change the date of issuance for an approved growth permit. An application for a growth permit is not transferable.
- i. Expiration. A growth permit shall expire with the building permit issued by the Code Enforcement Officer for that dwelling unit.

SECTION 8. PERIODIC REVIEW AND AMENDMENT OF ORDINANCE

The Town Council shall conduct a review of this Ordinance at least every two years to determine if it remains consistent with the Town's ability to absorb growth and to achieve the priorities outlined within the Comprehensive Plan. The Town Council shall determine if the number of growth permits available under Section 7 of this Ordinance is required to be adjusted by amendment of the Ordinance in order to comply with applicable law. During its review, the Council shall set the number of growth permits available under Section 7(c) of this Ordinance at 105% or more of the mean number of growth permits issued during the 10 years immediately prior to the year in which the number is calculated, in accordance with 30-A M.R.S. § 4360(3)(B), as may be amended from time to time. The Town Council may seek assistance or advice from the Planning Board in connection with such review. This section does not limit the Council's authority to review and/or amend the Ordinance at any other time, provided such amendment complies with all applicable laws.

SECTION 9. VIOLATION, PENALTIES AND ENFORCEMENT

Any person or entity who (1) constructs, creates or places a dwelling unit within the Town of Gorham without a growth permit as required by this Ordinance, or (2) owns or occupies a dwelling unit constructed, created or placed within the Town of Gorham without a growth permit as required by this Ordinance, commits a violation of this Ordinance and is subject to the fines, penalties and remedies

provided in 30-A M.R.S. § 4452. Each day a violation continues to exist after notice of the violation constitutes a separate violation. This Ordinance shall be enforced by the Code Enforcement Officer in the manner provided for enforcement of land use violations under Section 1-3(B) and (C) of the LUDC.

SECTION 10. APPEALS

Any decision made by the Code Enforcement Officer or Town Council under the provisions of this Ordinance may be appealed to the Board of Appeals within 30 days of issuance, in accordance with the appeals procedure established in Chapter 1, Section 1-4(D) of the LUDC, as may be amended from time to time. The Board of Appeals shall conduct a de novo review of any appeal filed under this Section 10.

SECTION 11. REPORTING

The Code Enforcement Officer shall maintain a database of all growth permits issued under this Ordinance and all exemptions granted, which shall be made accessible to the public on file at the Town Office and on the Town's website. The database shall include the following information:

- a. Owner name;
- b. Assessing tax map and lot number;
- c. Building number (as input in the assessing database);
- d. Permit or exemption number;
- e. Number of bedrooms;
- f. Number of residential dwelling units;
- g. Date of issuance of the growth permit or exemption;
- h. Date of issuance of the building permit; and
- i. Date of issuance of the certificate of occupancy.

SECTION 12. EFFECT ON OTHER REGULATIONS

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 than another applicable provision of law, the provisions of this Ordinance shall prevail.

SECTION 13. SEVERABILITY

If any section, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the validity of the remainder of this

ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

SECTION 14. EFFECTIVE DATE

This Ordinance shall become effective on January 1, 2023.