

# Rate of Development

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*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Issue Overview** There are a number of ways that municipalities regulate the “rate of development” of residential units. Some municipalities enact town-wide caps limiting the number of units that can come on line annually or biannually. The number of permits is often set at the average in the previous years. Some municipalities require phased growth for individual developments (also known as development scheduling or buildout scheduling) - a technique that allows for the gradual buildout of approved subdivisions over a number of years. Project phasing is usually triggered by a minimum number of units in the project, so small subdivisions can be constructed in one year. Some phasing provisions are only triggered at the town-wide level once a threshold number of units have been permitted. Often the municipality exempts age restricted and affordable units from the caps and phasing. Most of the “rate of development” provisions include an expiration or “sun set” date (some that have expired have been updated and re-adopted). Many include a “point system” where points are awarded for provision of community goods such as open space or affordable units, and projects with more points are given priority for permits.

Municipalities explain that caps and phasing are used to avoid unexpected growth spikes that might hinder the town from keeping pace with new demand for services.

**Research Coding** Relevant sections are often titled “Rate of Development,” “Growth Management” or “Phasing.” When the text of provisions that had expired remained in the zoning bylaw/ordinance, the researcher included that text in the notes field.

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**Abington** *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes** According to Dan Crane, Abington Town Planner, (6/29/04) the cap expired. There is a buildout schedule for subdivisions which replaces the building cap. At the last town meeting, the town approved a management bylaw, a phase development bylaw which limits the number of units in a subdivision.

From ordinance.com:

§ 175-36. Growth management.

[Added 11-26-2001 STM by Art. 8]

A. Purpose and intent. This section is adopted pursuant to the provisions of M.G.L., Chapter 40A and Home Rule Amendment, Article 89 of the Massachusetts Constitution. The purposes of this Bylaw are to promote public health, safety, welfare, education, and community character by limiting growth to a manageable rate, and to provide sufficient time for the Town to expand its infrastructure to accommodate growth, including fire protection, water, sewer, schools, transportation, roads, recreation, and/or police protection. This section therefore has the following purposes;

- (1) To ensure that growth occurs, consistent with recent average growth rates, while avoiding large year-to-year variations in the development rate;
- (2) To relate the timing of residential development to the Town's ability to provide adequate public safety, schools, roads and municipal infrastructure, and human services at the level of quality which citizens expect, and within the Town's ability to pay under the financial limitations of Proposition 2 1/2;
- (3) To provide the Town with time to implement its Master Plan and Open Space Plan, and to perforce a comprehensive review of the Zoning Map;
- (4) To preserve and enhance the existing community character and value of property without unduly restricting an individual landowner's rights;

(5) To study staffing requirements for review and regulation of growth.

B. Applicability. This Bylaw shall apply to all residential building permit applications for construction of new dwelling units after the effective date of this Bylaw, except as exempted herein or by statute.

C. Definitions.

APPLICANT - Individuals, partnerships, corporations, trusts and other legal entities in which the applicant of record holds a legal or beneficial ownership of greater than 1 %.

CALENDAR YEAR - The period beginning January 1 and ending December 31.

DWELLING UNIT - See Article II of this Abington Zoning Bylaw, Definitions.

GROWTH RATE LIMIT - The maximum number of building permits that may be authorized in a single calendar year period, which shall be 50 building permits. The growth rate limit is based upon the average number of residential building permits issued for the last five years in the Town between 1995 and 2000.

DEVELOPMENT - A single parcel or set of contiguous parcels of land held in common ownership at any time on or for which one or more building permits will be sought on the effective date of this Growth Management Bylaw.

D. General. Beginning on January 1, 2002 not more than 50 building permits shall be issued in each of the two full calendar years following said date for the construction of new residential dwelling units.

E. Residential planned growth rate.

(1) The growth rate limit shall be based on a target growth rate of 50 building permits per single calendar year period. Whenever the number of building permits issued for new dwelling units equals or exceeds the applicable growth rate limit, the Building Inspector shall not issue building permits for any additional dwelling unit or units unless exempt herein or by statute.

(2) The Building Inspector shall not issue more than 12 building permits to any one applicant in any single calendar year period.

(3) The Building Inspector shall not issue more than 12 building permits to any one development in any single calendar year period.

F. Procedures. Any residential building permit shall be issued in accordance with the following procedures:

(1) The Building Inspector shall act on each building permit application in order of submittal. All building permit applications shall be date and time stamped by the Town Clerk for filing. Any building permit application that is deemed to be substantially incomplete or inaccurate by the Building Inspector shall be returned to the applicant within two weeks and shall require a new submittal.

(2) Any building permits not issued in any calendar year shall not be available for issuance in any subsequent year.

G. Periodic review and expiration. Section 175-36 shall expire December 31, 2003 unless it is extended prior to the expiration date through amendment of this provision.

H. Exemptions.

(1) This Bylaw shall not apply to building permits issued for restoration, alterations or reconstruction of an existing dwelling where no additional residential dwelling unit(s) are created.

(2) This Bylaw shall not apply to building permits issued for new commercial or industrial structures. This Bylaw shall be in effect for commercial or industrial development containing a residential dwelling unit(s) within the proposed building(s) or on the site. These building permits shall count towards the growth rate limit of 50 building permits if the structure contains a residential dwelling unit or units.

(3) Any tract of land existing on the effective date of this § 175-36 shall receive a one-time exemption for the purpose of creating up to three lots and/or constructing up to three dwelling units on the lot(s). The issuance of a building permit for this purpose shall count toward the growth rate limit of 50 building permits but shall be allowed if applied for even if the growth rate limit has been reached. Any tract of land which receives an exemption under this subsection shall not be eligible for any exemption under Subsection H(4).

(4) Any tract of land existing on the effective date of this Bylaw may be issued a one-time exemption for the purpose of constructing up to 50 dwelling units for senior residents, where occupancy of the unit is restricted to senior persons and their spouses through a properly executed and recorded deed restriction or other restriction approved by the Planning Board. For the purposes of this Bylaw, "senior" shall mean a person 55 years of age and older. Any tract of land which receives an exemption under this subsection shall not be eligible for any exemption under Subsection H(3). Building permits issued under this section shall not count toward the growth rate limit.

(5) It is recognized that under state law, certain subdivision and lots will be grandfathered and will, therefore, not be subject to the 50 building permits

established by this section. Building permits issued for such lots will nonetheless be counted toward the growth rate limit.

I. Severability. If any section of this Bylaw is ruled invalid by a court of competent jurisdiction, such ruling will not affect the validity of the remainder of the Bylaw.

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The phasing schedule for subdivisions is as follows:

Up to 8 lots (can build all in first year); 9-20 lots (can build 50% or up to 20 per year); 21-34 lots (built over 3 years, at 33% or up to 11 each year); 35-50 lots (built over 4 years, 35% of total or 12 lots per year); 51-75 lots (built over 5 years, 20% of the total or up to 15 per year); 76-125 lots (built over 6 years, 7% of the total or up to 20 per year); and 126+ lots (7 year development plan, up to 20 per year).

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**Acton**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**                      Answer based on 7/26 Email response from Kristin Alexander, Assistant Town Planner -- "No."

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**Amesbury**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**                      "E. Building Permit Allocation System

1. Purpose The purpose of this Bylaw are the following:
  1. To ensure that housing growth occurs in an orderly manner, consistent with recent average growth rates, so that the local economy can be insulated from large year-to-year variation in the development rate;
  2. To ensure that the Town can continue to provide adequate municipal services and ministerial support to new and existing housing development, and to allow for orderly planning for infrastructure and other community investment, while at the same time allowing for reasonable housing growth;
  3. To provide the Town with reasonable time and opportunity to study the effect of housing growth on Amesbury's infrastructure, character, municipal services and natural, cultural and historic resources, and to guard against short-term patterns that may be inconsistent with or impede effective implementation of the Town's anticipated new Master Plan;
  4. In accordance with the Town's 1996 Open Space and Recreation Plan, 1998 Downtown Economic Diversification Strategy, 1998 Upper Millyard Market and Feasibility Study, 1999 Preservation Plan, and 2000 Housing Certification process, this Bylaw seeks to preserve and enhance the unique cultural, environmental and historic resources of Amesbury by encouraging infill and adaptive reuse within our existing urbanized areas as well as preserving our rural open space with cluster subdivision design;
  5. To provide an orderly and systematic mechanism for reviewing, evaluating and awarding building permit applications that is fair and equitable;
  6. To continue the active promotion of affordable housing within the urbanized area of Amesbury where existing social, infrastructure, commercial, civic and other public resources are most accessible to new housing developments.
2. Applicability This Bylaw shall apply to all building permit applications for the construction of new single-family dwellings, multiple-family dwellings, condominiums, cooperatives, or other residential uses, submitted after the effective date of the Bylaw, except as expressly exempted herein. The Term of this Bylaw shall be from its first date of adoption until the date the Municipal Council votes to adopt the Master Plan or June 28, 2005, whichever event occurs first. This Bylaw is intended to be in effect for a maximum period of two years from its date of adoption. Its full terms and conditions shall end and be of no further effect at the end of the said two years or when a new Master Plan is voted as finally accepted by the Municipal Council, whichever event occurs first. This Bylaw does not preclude the Town of Amesbury Municipal Council from reviewing and voting on zoning changes which come before the Council, such that said changes may be reviewed to be in conformity with the intent and purpose of a proposed or preliminary Master Plan.
3. Building Permit Allocation Limits:

Upon adoption of this Bylaw, and until such time as said Master Plan has been finally approved by the Municipal Council but not to exceed two (2) years, the Town's Building Commissioner (hereinafter "Commissioner") shall annually issue building permits for no more than forty-eight (48) new residential dwelling units including the installation of a foundation, unless listed as "exempt" in Section V.E.1.8. Such permits shall be awarded by the Building Permit Point Table (hereinafter "Table") as defined in Section V.E.1.7., supervised by the Commissioner. This limit is imposed solely as an interim measure to regulate housing growth in the Town until such time as a Master Plan may be developed and approved.
4. Single & Multi-Unit / Lot Developments: Building permits shall be issued for no more than twelve (12) dwelling units during and twelve (12) month period with no more than one (1) per month issued for the construction of a single unit / lot housing development including but not limited to the following: Approval Not Required Subdivision Plan; Lot of Record; or single unit residential conversions. Building permits shall be issued for no more than thirty-six (36) dwelling units during any twelve (12) month period for the construction of new multi-unit / lot housing development including but not limited to the following: a Definitive Subdivision (Form C); Cluster Residential Developments; Multi-lot ANR Developments; multiple-family dwellings; condominiums; cooperatives and other nonexempt housing uses.
5. Subdivision and Application Restrictions: Unless listed as "exempt" under Section V.E.1.8., no more than twelve (12) of the forty-eight (48) new residential dwelling units described above shall be issued to any one (1) applicant in any twelve (12) month period. For the purposes of this section, an

applicant may not act in an individual capacity in one month and in another capacity (e.g., partnership, realty trust, corporation, LLC, LLP, etc.) in another month to defeat the intent and purpose of this section. Applicants shall not submit during any period more applications than the number of available building permits to which the applicant would be entitled during such period in accordance with this Bylaw. During any twelve (12) month period subsequent to the effective date of the Bylaw, no more than eight (8) new residential dwelling units described above shall be issued for the construction in any one (1) subdivision or development. In the event that the full annual allotment of building permits are not issued, no unissued permits shall carry over into the following year. Nothing herein shall be construed to require the issuance of building permits for at least forty-eight (48) new residential dwelling units. 6. Procedures:

A. All new housing developments, including those listed in Section V.E.1.4, shall be scored by the Board according to the Table in Section V.E.1.7 at the time of approval. In the event that a nonexempt housing unit Application for Building Permit is filed with the Commissioner for a housing unit that was not subject to Board approval under the provisions of this Bylaw, the Commissioner shall evaluate and score such projects. B. The applicant shall complete and file a Building Permit Application (hereinafter "Application") to the Commissioner. Such Application shall require specific information identifying the applicant, the site of the proposed new housing and the total points allocated according to the Table outlined in Section V.E. 1.7. C. During normal business hours, the Commissioner shall accept and date-stamp Application forms from applicants. The Commissioner shall follow the criteria established below for the issuance of all residential building permits. D. In the event the plan approved by the Board has been modified due to other permitting requirements, the Commissioner shall review and assign a revised permit score according to the Table Outlined in Section V.E.1.7. 1.

Obtaining permits for single unit / lot housing developments: Commencing on July 1, 2001, and as long as the Smart Housing Growth Bylaw remains in effect, on the first business day of each month, the Commissioner shall review and rank the applications for single lot / unit developments submitted and issue a building permit to the application with the highest score. In the event applications have equal scores, priority will be given to the first to be filed and date-stamped in the Inspection Office. 2. Obtaining permits for multi unit / lot housing developments: Building permits shall be issued according to the following distribution Table: Number of Points in Project Number of new residential dwelling units available per year Less than 30 1 31-40 2 41-50 4 51-60 6 Over 60 8 The total new residential dwelling units obtained within this section shall not exceed the maximum annual limit and review process established in Sections V.E.1.3.&4. Projects greater than eight (8) lots or eight housing units shall receive building permits in a subsequent annual allotment.

E. Said applications for building permits are not transferable to any other person, other than the applicant identified on the Application, not to any site other than as identified on the Application. The Commissioner shall not, in any instance, issue more building permits than required for forty-eight (48) new residential dwelling units in any calendar year. F. Applications which are not selected by the Commissioner in the monthly applications shall automatically be placed in the following month's applications. G. Any Application that is deemed, in the discretion of the Commissioner, as incomplete shall be rejected, unless the deficiencies cited by the Commissioner are remedied within fourteen (14) days of notification. Any rejected Application shall be returned to the applicant along with a short statement indicating the basis for said rejection. H. If a building permit application is accepted and approved by the Commissioner, a building permit may be issued at any time within thirty (30) days of said approval. Notwithstanding, the building permits are not required to be issued in the order in which the building permit applications were received. I. For the purposes of determining compliance with this Bylaw, the building permit shall be counted as having been issued in the month in which the application was approved, even where a building permit application is approved in one month and the building permit is not issued until a subsequent month.

7. Smart Housing Growth Points Table: A. Location 1. Within the urbanized area 20 B. Disturbance 1. Within the Water Resources Protection District: (one of the following for the project) Zone A / I -20 Zone B / IWPA -10 Zone C - 5 2. Development of slopes: (one of the following for the project) over 25% -20 between 15-25% -10 between 10-15% - 5 3. Wetlands / Floodplain: (one of the following for each jurisdictional wetland/floodplain) Greater than 5000 SF alteration -20 Less than 5000 SF alteration -15 Less than 25 foot buffer -10 Between 25 and 50 foot buffer - 5 C. Roads, Utilities & Drainage: (each of the following sections)4

1. Use of common access driveway 10 Dead-end street over 750 feet in length -0.05 per foot over  
2. Off-site improvements to existing road and sidewalks see table On-site easements for future public road system 5  
3. Off-site improvements to public water system see table On-site easements for future public water system 5 4. Off-site improvements to public sewer system see table On-site easements for future public sewer system 5 5. Off-site improvements to public drainage system see table On-site easements for future public drainage system 5 D. Housing Needs: (each of the following sections) 1. Brownfield Redevelopment 5 20 2. Within a Cluster Subdivision Development 20 Bonus: Affordable Housing 6 10 3. Attached Housing 7 10 E. Open Space Preservation: (each of the following sections) 1. Permanent Conservation Restriction: (one of the following) An area of at least 70% of the property 20 An area of at least 60% of the property 10 2. Private Neighborhood Park 8 10 3. Public Access Trails / Greenways / Conservation Areas / Parks 8 10 F. Historic Preservation & Design Review: (each of the following sections) 1. Relocation Lot for Historic Preservation 9 20 2. Restoration & Reuse of a Historic Structure 10 20 3. Demolition of Historic Structure 11 -20 4. Design Review 12 20 G. Previous Application 13 2 Table Footnotes 1. Includes the R-8, R-20, CBD, ICZD, and PUD Zoning Districts, as shown on the Amesbury Zoning Map. 2. Includes all activities within the proposed "limit-of-work" of construction except for: required health and safety improvements to existing municipal sewer, water or drainage systems; wetlands replication; or establishing/maintaining recreational trails. Note, a slope analysis may be required. 3. Includes all activities within the proposed "limit-of-work" of construction for all wetlands as defined under 310CMR and floodplains defined under Section XII.

4. Off-site improvements include only those improvements directly linked to the specific project and not required for approval due to public health and safety requirements. Any off-site improvements will be evaluated using the following distribution table: Road, Utilities & Drainage\* Points per linear foot Concrete Sidewalks 0.01 Full-Width Road - overlay 0.01 Full-Width Road - partial reconstruction 0.01-0.35 Full-Depth Road - reconstruction 0.5 Granite Curbing 0.04

Water line 0.03 Sewer line 0.04 Drainage line 0.03 Other utility improvements \* \* In order to receive points for off-site improvements, the Town Engineer shall review, classify and report in writing to the Planning Board prior to the final approval.

5. Includes all properties identified through the DEP as Tier Classified Sites.

6. At least 10% off the development must be consistent with the definition of low and moderate income housing under MGL 40B s.20. Note, all affordable unit(s) / lot(s) are exempt from the total units / lots permitted annually in this Bylaw.

7. At least 20% of the total development units shall be attached housing units.

8. At least 10% of the tract dedicated and maintained as common open space to the homeowners in the development or the public and be developed with landscaping, park equipment or other recreational use as determined by the Planning Board.

9. In meeting the objectives of the Town's 1999 Preservation Plan, the Planning Board may grant an Applicant a density bonus of one (1) buildable lot provided the overall tract of land in the subdivision is greater than five (5) acres in area outside the R-8 Zoning District or greater than one (1) acre within

the R-8 Zoning District and the bonus lot be donated and deeded to a nonprofit (501c.3) organization for the exclusive purpose of at least one of the following:

&#8999; permanent open space protection for existing, or access to, significant historic resources;

&#8999; relocation, restoration & sale of a historic structure (as defined in Article 40 - Demolition Bylaw, Town Bylaws) for use as a single family dwelling unit of for a historic/cultural educational facility;

In determining the appropriate use, size and location of the bonus lot, the Planning Board shall review the specific applicant, neighborhood input at the public meeting as well as input from the Amesbury Historic Commission. Within the R-8 Zoning District, the Planning Board may waive the frontage requirement to sixty (60) feet for the bonus lot. Prior to final approval, the Board shall also require a deed document to the bonus lot with all necessary restriction, covenants and /or conditions of conveyance.

10. Restoration and reuse of all Historic Structures as defined under Article 40-Demolition Bylaw (Town Bylaws) for use as new residential dwelling units with Design Review only.

11. Demolition includes all Historic Structures as defined under Article 40-Demolition Bylaw (Town Bylaws) that have been determined historically significant by the Amesbury Historic Commission and subject to a Demolition Delay period. Note, partial demolition may be permitted without point reduction at the discretion of the Historic Commission. 12. Design Review includes review of the Architectural Design Criteria listed in the "Amesbury Design Guidelines", Section I-IV. Points will be awarded for those applicants that receive a recommendation from the Design Review Committee indicating consistency with either the New Construction or Renovation, Rehabilitation or Restoration sections of the Design Review Guidelines adopted March, 1999. 13. Applications for single unit / lot developments that have been previously denied under the provisions of this Bylaw will be awarded two (2) additional points per month.

8. Exemptions:

A. Building permits for dwelling units to be constructed within any subdivision approved under the Subdivision Control Law, M.G.L.c 41, Section 81L, et seq., during the exemption period provided in M.G.L., Chapter 40A, Section 6 are specifically exempt for this Bylaw. Similarly, dwellings and dwelling units to be constructed within a development under a Special Permit issued during the exemption period provided in M.G.L., Chapter 40A, Section 6 are exempt from this bylaw.

B. The provision of this Bylaw shall not apply to building permits for the construction of the following:

1. Provided at least twenty five (25) percent of the following uses contain low and moderate income housing under M.G.L. 40B s.20.

&#8999; Housing developments to be built as age-restricted or so-called "Supportive Housing or Assisted Elderly Housing" as defined in section V.D.

&#8999; Multifamily housing developments in existing structures in the CBD and IC Zoning Districts as described in section XI.J.

&#8999; Planned Unit Developments as described in sections XI.H and XI.L.

&#8999; Residential Conversions as defined under XI.K.

&#8999; All other housing units constructed or structures to be maintained as low or moderate housing as defined by MGL 40B within the R-8, R-20, PUD, IC and CBD Zoning Districts only.

2. The following housing units: &#8999; In-law apartments as defined under XI.K.2.

3. Restoration, expansion, alteration or partial reconstruction of an existing residential dwelling that does not create a new housing unit.

4. All permitted nonresidential projects.

9. Definitions:

A. "Applicant." For the purposes of this Bylaw, an applicant shall be deemed to include an individual, a trustee of a trust, partner or partnership, the beneficiary of a trust, corporation, corporate office or other legal entity in which the entity requesting to submit an application for a building permit holds any legal, beneficial or equitable ownership in the property to be affected.

B. "Multiple-family dwellings." For the purposes of this Bylaw, a multiple family dwelling shall mean a building containing two (2) or more dwelling units.

C. "Subdivision." For the purposes of this Bylaw, a subdivision shall have the same meaning as a development.

D. "Housing Development." For the purposes of this Bylaw, housing development shall mean the establishment of any new dwelling unit, whether on a single lot or unit within a multi-family development.

E. "Dwelling Unit." For the purposes of this Bylaw, a dwelling unit shall mean one or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate toilets and facilities for cooking and sleeping.

10. Construction: This Bylaw shall be construed so as to regulate the design, impact and overall rate of housing development in Amesbury. Any perceived ambiguities shall be resolved so as to promote the intent and purpose of this Bylaw.

11. Severability: The provisions of this Bylaw are hereby declared to be severable, and if any such provision or the application of such provision to any person, entity or circumstance shall be held invalid or unconstitutional, such invalid or unconstitutional provision shall not be construed to affect the validity or constitutionality of any of the remaining provisions of this Bylaw or the application of such provisions to any person, entity or circumstance other than those as to which such provision is held to be invalid."

Amesbury Zoning Bylaw and Map, Adopted April 12, 1971 with Revisions Through October 14, 2003. Section V.E Building Permit Allocation System.

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Does the zoning bylaw or ordinance or subdivision regulations limit the maximum number of permits by project each year, sometimes called project phasing or buildout schedules?

Yes, 8 of the 48 permits per year.

"5. Subdivision and Application Restrictions:

Unless listed as "exempt" under Section V.E.1.8., no more than twelve (12) of the forty-eight (48) new residential dwelling units described above shall be issued to any one (1) applicant in any twelve (12) month period. For the purposes of this section, an applicant may not act in an individual capacity in one month and in another capacity (e.g., partnership, realty trust, corporation, LLC, LLP, etc.) in another month to defeat the intent and purpose of this section.

Applicants shall not submit during any period more applications than the number of available building permits to which the applicant would be entitled during such period in accordance with this Bylaw.

During any twelve (12) month period subsequent to the effective date of the Bylaw, no more than eight (8) new residential dwelling units described above shall be issued for the construction in any one (1) subdivision or development. In the event that the full annual allotment of building permits are not issued, no unissued permits shall carry over into the following year. Nothing herein shall be construed to require the issuance of building permits for at least forty-eight (48) new residential dwelling units."

- Amesbury Zoning Bylaw and Map, Adopted April 12, 1971 with Revisions Through October 14, 2003. Section V.E Building Permit Allocation System.

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Town of Amesbury Master Plan, June 2004:

"In 2000, Amesbury enacted a rate of development bylaw which limits the number of new houses that can be built during the year. The intent of the bylaw is to ensure that housing growth occurs in an orderly manner and that adequate municipal services can be provided to support new and existing development. The bylaw seeks to preserve and enhance the unique cultural, environmental and historic resources in the community by encouraging infill and adaptive reuse within the existing urbanized area while preserving rural open space with cluster subdivision design. The permit allocation bylaw, currently being extended and revised by the Municipal Council, limits the annual number of building permits to 48 new dwelling units, including 12 single units/lots and 36 multi-family units in a given year. Applicants are awarded points for development proposals that meet a stated list of criteria, with permits awarded to those applications that receive the highest number of points. One of the key elements of the bylaw is to provide the Town with reasonable time and opportunity to study the effect of housing growth and to guard against short term patterns that may be inconsistent or impede effective implementation of this Master Plan. As will be shown in later sections of this chapter, new development has significantly decreased since the inception of the Permit Allocation Bylaw, going from a high of 68 new single-family units in 1997, to a low of 27 new units in 2001."

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**Andover**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**                    Paula Hamel, Planning Administrative Secretary, in a telephone conversation on 7/15, said that the town of Andover does not have any form of building cap.

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**Arlington**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**                    Laura Weiner, Planner, confirmed (9/14/04) that Arlington does not have growth caps, phasing or limits on permits by firm.

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**Ashland**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**                    According to Robert Hill, Ashland Building Inspector, in a telephone conversation on 7/22/04, Ashland does not currently have a building cap. The Town did have a cap years ago, but, according to Mr. Hill it may have caused the reverse effect to happen. Once the Town announced that a building cap was going into effect builders rushed to submit projects that would qualify under the old rules. There may have been more projects built than there would have been had their not been the threat of the cap.

From ordinance.com:

Section 282-25 The Moratorium District comprises all areas within three hundred (300) feet of the existing right-of-way line of Pond Street (Route 126). No new buildings or part thereof shall be constructed for any permissible or conditional use for the specified from the date of approval of this section to June 30, 2004 or unless repealed sooner by Town Meeting. Whereas the town of Ashland is in the process of creating a Route 126 Comprehensive Sector Plan, it is desired to protect this part of Town of Ashland from ill advised development pending the period completion and adoption of the Route 126

Comprehensive Sector Plan.

\*\*Webmasters Note: The previous section has been added as per an update approved at a town meeting held on 5/14/03.

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Section 282-37. New dwelling unit scheduling.

A. Applicability. This Section 282-37 shall apply to the issuance of building permits for single- and two-family structures, with exemptions as indicated in Subsection E.

B. New dwelling unit limitation town-wide.

(1) Building permits shall not be issued authorizing construction of (or conversion to) more than sixty (60) dwelling units town-wide in single-family and two-family dwellings in any twelve-month period. The number of units to be allowed in any month shall be determined by subtracting from sixty (60) units the total authorized (minus permits withdrawn or expired without use) in the preceding eleven (11) months. The eleven (11) months prior to enactment of this provision shall be used to establish unit availability during the first year after enactment.

(2) Applications refused because of this limitation shall be held and acted upon in chronological sequence based upon the time of complete application to the Building Commissioner's office.

C. Individual development phasing. Building permits shall not be issued authorizing construction of more than ten (10) dwelling units in single-family or two-family dwellings in any twelve-month period on any set of lots which were created from land which was contiguous and in the same ownership at any time subsequent to the adoption of this provision, except that units allowable under this rule, if not utilized in one (1) twelve-month period, may be utilized in a subsequent period, provided that the limits of Subsection B are not thus exceeded.

D. Zoning change protection. Any protection against zoning change provided by this chapter (e.g., Section 282-24A) or statute (e.g., M.G.L.A. C. 40A, Section 6) shall be extended to the earliest date on which the final unit in the development could be authorized subject to the provisions of this Section 282-37.

E. Exemptions. The provisions of this Section 282-37 shall not apply to the following:

(1) Enlargement, restoration or reconstruction of a dwelling in existence as of the effective date of this provision.

(2) Development not subject to this section because of the provisions of M.G.L.A. C. 40A, Section 6.

(3) Development granted a special permit by the Planning Board, upon its determination that the housing development would serve a salient community need, would be infeasible if subject to the limitations of this Section 282-37 and would not result in overburdened public services.

F. Time limit. Section 282-37, new dwelling unit scheduling, shall be extended beyond March, 1997, the previous time limit, to remain in effect until May 30, 2000, so that the Town may re-address the effectiveness of enacted comprehensive plan changes, combined with the need to locate additional municipal public water sources, and the need to provide sewerage capacity, dependent upon additional State allocations. The Town is committed to work expeditiously, given the cooperation of State regulatory authorities, to provide an adequate level of public services to meet the excessive demands of continued high-level residential growth. [Amended 10-16-1996 ATM, Art. 13]

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Phasing:

According to Robert Hill, Ashland Building Inspector, in a telephone conversation on 7/22/04, there is a buildout schedule for multifamily housing. The limit is 105 units per year. However, Mr. Hill stated that the number is generous as the town does not come close to that number of permits per year.

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**Attleboro**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

Doug Semple of the Building Department confirmed that Attleboro does not have growth caps or phasing schedules. He said that his office has 600 permitted projects currently active. (11/3/04)

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**Auburn**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Avon**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

Answer confirmed during 6/25/04 phone call with Mr. Comeau.

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**Ayer**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**

ARTICLE IX. RATE OF DEVELOPMENT BY-LAW

1. Purpose

The purpose of this section, Rate of Development, is to promote orderly growth in the Town of Ayer, to phase growth so that it will not unduly strain the community's ability to provide basic public facilities and services to the town, to provide its boards and its agencies information, time and capacity to incorporate such growth into the Master Plan for the community, and to preserve and enhance existing community character and the value of property.

2. General

Beginning on November 16, 1999, building Permits for not more than thirty-two (32) dwelling units shall be issued in each of the five (5) calendar years following said date, for the construction of new residential dwellings. Further, no one person or entity nor their successors in interest, nor any entity in which they hold a legal or beneficial ownership shall be issued more than six (6) of the total number of permits available in any one year. For the purpose of this section, an accessory apartment shall constitute a dwelling unit.

3. Procedures

Any building permits issued shall be issued with the following procedures:

3.1 The Building Inspector shall act on each permit in order of submittal. Any permit application that is incomplete or inaccurate shall be returned to the applicant within three (3) business days and shall require new submittal.

3.2 The Building Inspector shall accept applications and issue permits one year at a time.

3.3 The Building Inspector shall mark each application with the time and date of submittal.

3.4 Any building permits not issued in any calendar year shall not be available for issuance in any subsequent year.

3.5 At the end of each calendar year in which this bylaw is in effect, the Building Inspector shall retain all applications for which a building permit has not been issued. Upon being informed in writing by the applicant before the tenth of January of the succeeding calendar year that the applicant desires the application to remain in effect, the Building Inspector shall treat said application in accordance with section 3.1 above.

4. Exemptions

The provisions of this section shall not apply to, nor limit in any way, the granting of building or occupancy permits required for enlargement, restoration, or reconstruction of dwellings existing on lots as of the date of passage of this by-law, or assisted living facilities, but shall apply to the conversion of single-family to two-family dwellings.

5. Time Limitation and Extension

To extend the existing Rate of Development by-law in like manner, for a period not to exceed December 10, 2005, to be succeeded by a balanced Development by-law wherein the awarding of building permits beyond the minimum entitled quantity under the Rate of Development by-law shall be tied to the provision of public benefits in the areas of open space preservation or affordable housing, as a means of uniformly sharing the responsibilities for



achieving a greater balance between development, open space preservation and enhanced housing opportunity within the community;

\*\*Webmasters Note: The previous subsection has been amended as per an update approved at a town meeting held on 5/10/04.

6. General

The invalidity of any section or provisions of this by-law shall not invalidate any other section or provision thereof.

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**Bedford**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**

Richard Joly, Director of Planning, confirmed (9/2/04) that Bedford has no caps.

PHASING

Richard Joly, Director of Planning, said "If we go over in a two year period 100 units, then it doesn't cap them, but you have to phase in developments after that - for PRD, cluster and traditional subdivisions. There is no trouble with it because it exempts the smaller developments and the larger ones seem to take that long anyway. It hasn't been a difficulty for developers. It doesn't give a cap in any given year. We may have lots of developments in a year, but we ask developers to phase it in."

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Town of Bedford Zoning Bylaw, Section 12 (from ordinance.com, updated 2002)

12. RESIDENTIAL DEVELOPMENT RATE LIMITATION

12.1 Applicability

This section applies to the issuance of building permits for new dwelling units that are located in one of the following:

- (a) Subdivisions consisting of ten (10) or more dwelling units for which the Certificate of Action was filed with Town Clerk on or after May 1, 1989;
- (b) Cluster Developments for which the detailed Record of Proceedings was filed with Town Clerk on or after May 1, 1989;
- (c) Planned Residential Developments for which the Detailed Record of Proceedings was filed with Town Clerk on or after May 1, 1989. For purposes of this section, new dwelling units located in contiguous Subdivisions or contiguous Cluster Developments or contiguous Planned Residential Developments, or any combination of them, owned in common ownership at any time on or after May 1, 1989, shall be considered new dwelling units located within a common development.

12.2 Building Permit Limitations

If the issuance of a building permit for a new dwelling unit pursuant to Section 12.1 will result in one hundred (100) or more building permits for new dwelling units, having been issued town-wide within the previous twenty-four (24) month period, such building permits pursuant to Section 12.1 shall only be issued in accordance with the following: In a Subdivision, Cluster Development or Planned Residential Development, ten (10) lots or dwelling units or forty percent (40%) of the total number of lots or dwelling units approved for the development, whichever is greater, may be built in the first twenty-four (24) month period; Each year thereafter, twenty percent (20%) of the total number of lots or dwelling units approved for the development may be built; The developer is allowed to accumulate lots or dwelling units and is not required to build within the year that the lot or dwelling unit becomes eligible to be built.

**Bellingham**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Belmont**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

Answer is confirmed via 6/16 email from Mr. Higgins, Town Planner.

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**Berkley**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**

SECTION 7. RATE OF DEVELOPMENT

A. The purpose of this section is to regulate the timing of development of building lots in residential subdivision and street lots (ANR - FORM A) in a manner which promotes the health, safety, convenience and welfare of the inhabitants of the Town of Berkley. This bylaw has the following broad objectives:

- 1). To prevent the development of traffic conditions which are hazardous to citizens due to heavy vehicular travel or usage.
- 2). To coordinate the timing of land development in Berkley with the economic feasibility of the expansion of public services.
- 3). To preserve the unique rural character and natural resources of the Town.

B. For the purpose of administering Section 7 (Rate of Development), the Planning Board shall be the Special Permit granting Authority.

C. The Building Commissioner shall not issue building permits authorizing more than ten (10) dwelling units during any twelve month period to any parcel or parcels of land which, as of the effective date of this bylaw, were contiguous and in the same ownership as several lots; or of continuous street frontage as one large parcel sufficient to create two or more lots in accordance with zoning regulations; or in different ownership's each involving one (1) or more of the same principals; or to any one (1) applicant or set of applicants involving one (1) or more of the same principals, unless the Special Permit Granting Authority (S.P.G.A.) has granted a Special Permit for rapid development. Such Special Permit shall be granted only upon determination of the S.P.G.A. that all Special Permit criteria as set forth in MGL Chapter 40A Section has been fulfilled and that such development, after a public hearing, in the opinion of the S.P.G.A. as expressed in an affirmative vote thereof;

- (a) would serve a salient housing need;
- (b) would be economically infusible if limited to ten (10) construction permits over a twelve month period and (note "or)
- (c) would not overburden existing public services. (Public services shall include, but are not limited to, fire, police, and ambulance services, public highway maintenance, and public school transportation services.) This bylaw shall apply to all legally created lots as defined by MGL Chapter 40A (The Zoning Act), especially Section 6, in addition to lots legally created under the provisions of MGL Chapter 41 Sections 81K-81GG (The Subdivision Control Law) and all current conditions of zoning control as set forth in the Town of Berkley Zoning Bylaw and as it may, from time to time, be amended.

Information from: Ordinance for Town of Berkley, MA (last updated 9/18/2002) at: [www.ordinance.com](http://www.ordinance.com)

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**Berlin**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**

ARTICLE 15: GROWTH MANAGEMENT

1510 INTENT AND PURPOSE

The purpose of this section, GROWTH MANAGEMENT, is to promote orderly growth and development in the Town of Berlin, consistent with the rate of residential growth over the last five (5) calendar years. This will allow the Town to provide, in a planned and rational manner, the basic facilities necessary for the health, safety, and welfare of its citizens, and to adequately support Berlin's existing and future population, through the adoption of growth criteria which will coordinate residential growth with the provision of community services and the preservation of community character.

1520 APPLICABILITY

a. Beginning on June 1, 1999, no building permit for a new dwelling unit or units shall be issued unless in accordance with the regulations of this Article 15, or unless exempted by Section 1560, herein. This by-law shall apply to all definitive subdivisions plans, divisions of land pursuant to M.G.L. Chapter 41, Section 81P (hereafter called "A-N-R division"), variances and special permits which would result in the creation of a new dwelling unit or units.

b. The provisions of Article 15 shall expire on June 1, 2005: however, by vote of the Town Meeting before said date, the provisions of this Article 15 may be extended in order to continue municipal comprehensive planning and studies necessary to promote the orderly growth.

1530 IMPLEMENTATION

a. When the number of building permits for new dwelling units issued and the number of building permit applications for such units submitted in the current month, together with the number of such building permits issued in the previous eleven months exceeds 15 in number, then the building inspector shall issue building permits for additional dwelling units only in accordance with a development schedule as established under Section 1540 or pursuant

to an exemption under section 1560.

b. The building inspector shall apply the provisions of this Article 15 to building permits in the order in which they are submitted. The Planning Board may establish forms and regulations for the implementation of this Article by vote of the Board after public hearing that complies with notice requirements of the Subdivision Control By-Law.

c. In a single development where the number of new dwelling units are 1 to 3 in total, building permits may be issued even in the 15 unit limit has been reached. Once issued, these exempt permits shall be calculated in the 15 building permit limit as noted in Section 1530.a.

#### 1540 DEVELOPMENT SCHEDULE

a. All Definitive Subdivisions and ANR divisions that are affected by the limits contained in Section 1530(a) must apply to the Planning Board for the establishment of a development schedule. The Planning Board shall establish a development schedule consistent with the terms of subsection 1530(b). The development schedule shall set forth the units to be developed and the date upon which each unit or group of units may be developed. Once approved, the development schedule (and any amendments thereto) shall be recorded at the Registry of Deeds and shall have not effect unless so recorded.

b. The Planning Board shall establish a development schedule only in accordance with the following guidelines:

Number of New Units in development/%Dwelling Units per Year

1-3 100%

4-10 up to 50%

11-20 up to 33%

21-40 up to 24%

41+ up to 20%

c. Where the applicable growth rate limit does not allow development consistent with the table set forth above, the Planning Board shall establish a development schedule which allows fewer than the maximum number of dwelling units per year. However, the Planning Board shall not establish any development schedule which phases development for longer than a ten (10) year period.

#### 1550 ZONING CHANGE PROTECTION

The protection against zoning changes as granted by Mass. General Law Chapter 40A, Section 6 shall be extended for the period imposed by the development schedule established pursuant to Section 1540.

#### 1560 EXEMPTIONS

The following developments are specifically exempt from limits of the Growth Management by-law and shall not affect the number of 15 building permits that shall be issued in any 12-month period.

a. An application for a building permit for the enlargement, restoration, or reconstruction of a dwelling in existence as of the effective date of this by-law, provided that no additional residential unit is created.

b. Dwelling units built pursuant to an SRD special permit pursuant to Section 720 of the Zoning by-law, provided (and to the extent) that the Planning Board shall establish as a part of the Special Permit that the units shall be entitled to exemption hereunder.

c. Any tract of land existing and not held in common ownership with an adjacent parcel on the effective date of this by-law shall receive a one-time exemption for the purpose of constructing one single family dwelling unit on the parcel owned, provided that the single-family dwelling unit shall be owned and occupied by the owner of the parcel of land.

d. Dwelling units to be built under any program or statute categorizing said unit(s) as low or moderate income housing, or other wise defined as affordable housing units provided that such housing units have deed restrictions to ensure that they remain affordable for no less than the period specified by the program or statute.

[Town of Berlin Zoning Bylaws - revised through 2004] bylaws obtained from ordinance.com

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GROWTH RATE LIMIT : The maximum number of building permits for new dwelling units that may be authorized in a twelve-month period, which shall be 15 permits. The growth rate limit is based upon the average number of building permits issued for new dwelling units in each of the five preceding years beginning in 1994. (Amended STM 3/29/99, approved 4/14/99)

**Beverly**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No** Answer confirmed (6/04) by Tina Cassidy, Beverly City Planner.

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**Billerica** *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No** Peter Kennedy, Planning Director, on 7/13/04 confirmed the answer.

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**Blackstone** *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No** Section 123-14. Rate of development.  
[Added by 12-10-79 STM, Art. 10, amended by 4-7-80 ATM, Art. 18, Amended 5-28-96 ATM, Art. 23]

A. Intent. The intent of the development rate limitation is to avoid large year-to-year variations in development rate in Blackstone while allowing development which, unless consistent with historic average rates, broadens housing affordability or makes substantial contributions towards meeting municipal infrastructure needs beyond those created by the development itself, while providing for the housing needs of all population groups.

B. Basic Requirements. Issuance of building permits authorizing creation of dwelling units through construction, placement or conversion shall be allowed only under the Priority procedures of Section 123-14C unless exempted from them for one or more of the following reasons.

(1) Individual Applicant: this applicant has not been authorized building permits for more than one dwelling unit within the past 24 months.

(2) Contributing Development: the Blackstone Planning Board has granted the development a special permit as a Contributing Development, following Town Meeting approval of a Concept Plan for the proposal, following procedures and with required votes as required under Chapter 40A, G.L. for an amendment to the Zoning Bylaw. In its report on the proposal to the Town Meeting, the Planning Board shall cite its findings regarding whether and how the proposed development would meet the intent stated at Section 123-14A.

(3) Protected Development: the proposal is not subject to Section 123-14C because of the provisions of Section 6 of Chapter 40A, G.L.

C. Development Priorities.

(1) Applications for building permits for construction of one or more dwelling units, unless exempted under paragraphs B(1), B(2), or B(3) above, shall be examined for completeness, then complete applications shall be accumulated and acted upon by the Building Inspector within the first seven days of each month.

(2) Applications shall be granted monthly beginning with the highest priority category, and within each category in order of the date of initial complete application, until the quota for the month has been reached. However, no one applicant (or different applicant entities involving one (1) or more of the same principals) shall be authorized more than ten (10) dwelling units under this section within any twelve (12) month period. Authorization for more than ten (10) dwelling units within a twelve (12) month period requires a special permit as a Contributing Development, as provided at subsection Section 123-14,B(2), or documentation that these provisions do not apply because of the provisions of subsection 6 of Chapter 40A, G.L.

(3) The monthly quota shall equal six (6) dwelling units, minus the number of units for Individual Applicants, Contributing Development, or Protected Development granted building permits during the preceding month under Paragraphs B(1), B(2), and B(3), increased by any unutilized units from the quotas for the eleven preceding months.

(4) Priority categories are as follows:

(1) dwelling units to be served by Town water and sewerage, with dwelling structures at least 200 feet from, and having no driveway access onto, any street other than one created by the subdivision which created that lot;

(2) other dwelling units served by Town water and sewerage;

(3) all other dwelling units.

D. Expiration. Section 123-14 shall expire December 31, 2001, unless it is earlier extended through amendment of this provision. Upon its expiration, any timing limitations previously placed on building permit availability shall no longer be enforced, but any housing cost or income eligibility stipulations upon which permits were earlier qualified shall remain in full force and effect.

E. Protection Against Zoning Change. Any protections against zoning change provided by this Bylaw (e.g. Section 123-10) or by Statute (e.g. Section 6, Chapter 40A) shall be extended one month each month that a building permit application for the dwelling unit in question has been denied.

MAJOR RESIDENTIAL DEVELOPMENT : The creation of more than eight lots (unless restricted from residential use) or construction of more than eight detached single-family dwelling units within a two-year period from or on a property or a set of contiguous properties in common ownership as of July 1, 1996. [Added by 5-28-96 ATM, Art. 22]

Zoning Bylaw for Town of Blackstone, MA (last updated 5/28/2002) at: [www.ordinance.com](http://www.ordinance.com)

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*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**

2.5.8 Rate of Development

2.5.8.1 Purpose and Intent

The purpose of this bylaw is to ensure orderly growth and development consistent with the town's rate of residential growth over the last fifteen (15) years, and to promote the public health, safety, and general welfare by ensuring that adequate time and resources exist to accommodate growth and provide

services necessary to meet the community's educational, infrastructure, and public safety needs. A further purpose of this bylaw is to ensure that residential growth can be accommodated in a manner that provides for adequate provision of services to current and future residents, while preserving the town's rural character.

2.5.8.2 Applicability

This bylaw shall apply to the issuance of all building permits for construction of new dwellings, except for those exemptions and exceptions set forth in subsections 2.5.8.5 and 2.5.8.6.

2.5.8.3 New Dwelling Unit Limitation

Commencing upon the date of adoption of this bylaw, building permits shall not be issued for the construction of, or conversion to, more than thirty-seven (37) new dwelling units in any twelve (12)-month period. Following adoption of this bylaw, the number of units to be allowed in such period shall be determined by subtracting from the thirty-seven (37)-unit limit the total number of permits authorized, minus those permits withdrawn or expired without use.

Building permit applications refused because of this limitation shall be held and acted upon in chronological sequence, based upon the date of receipt by the Building Inspector. In order to ensure a fair distribution of permits, building permits granted to any one (1) applicant in any twelve (12) month period shall be limited to a total of six (6) new dwelling units, unless a special permit is granted pursuant to subsection 2.5.8.6.

2.5.8.4 Procedures and Permit Phasing

No applicant may have more than two (2) complete applications for a new single family building permit before the Building Inspector in any given month. Building permits shall not be issued to any applicant authorizing the construction of more than six (6) new single family dwelling units (exclusive of unused authorizations that have lapsed or have been withdrawn) in any twelve (12)-month period for any lots that are, as of date of adoption of this bylaw, contiguous or held in the same ownership, unless the Planning Board has granted an exemption from this requirement pursuant to a special permit, as

provided in subsection 2.5.8.6. The procedures for issuing the new single family building permits referred to herein shall be as follows:

a. Applications for a building permit must be completed and filed. Improperly filed or rejected permits shall not be deducted from the available units to be authorized in any month, will not be included in the chronological sequence described in 2.5.8.4, and will require a new submittal.

b. The Building Inspector must process and issue permits for all complete and properly filed permit applications pursuant to this bylaw, in the chronological sequence in which such applications are received. 10/6/04 91

c. To assist the Building Inspector, the Planning Board shall establish procedures, and may adopt reasonable rules and regulations, to ensure the proper administration of this bylaw and the orderly phasing of residential development associated with building permits for any land subdivided pursuant to the provisions of MGL Chapter 41, the Subdivision Control Law.

2.5.8.5 Exemptions

The permit limitation provided in this bylaw shall not apply to building permits for the construction of the following:

a. Any housing unit to be built under any program or statute intended to assist in the construction of low or moderate income or elderly housing as defined in

any applicable statute or regulation, including Town bylaws.

b. Reconstruction of an existing dwelling after catastrophic loss, or repairs, expansion, alteration or historic restoration to an existing dwelling.

c. Applications for permits that have been exempted from the limitations of this bylaw, as provided in subsection 2.5.8.6 below.

d. The construction of a single family dwelling on land that, as of the effective date of this bylaw, was part of a lot held in separate ownership and containing one single-family dwelling, provided that only one (1) such new dwelling may be constructed in any year, and provided that no more than two (2) dwellings may be created from the original lot, with the existing and new dwelling each on separate lots, complying with all zoning requirements of the district in which they are located.

e. Permits for non-residential purposes.

2.5.8.6 Special Permit for More Rapid Development

For purposes of this bylaw, the Planning Board shall be the special permit granting authority. Notwithstanding the requirements of subsections 2.5.8.3 and 2.5.8.4 above, the Planning Board may issue a special permit authorizing the immediate issuance of a building permit for up to ten (10) single-family dwelling units upon making all of the following determinations and findings:

a. A salient and unmet housing need would be addressed by the granting of such permit; and

b. Adequate infrastructure and other mitigating measures are being provided to ensure that municipal services will not be overburdened; and

c. Expected benefits to the community outweigh anticipated adverse impacts upon municipal service or public facilities associated with the issuance of a Special Permit.

2.5.8.7 Periodic Review

Every four (4) years following the adoption date of this bylaw, the Planning Board shall report to Town Meeting on the effectiveness of the bylaw, the need

for its continuation, and any recommended amendments that deserve consideration.

2.5.8.8 Zoning Change Protection

The protection against subsequent zoning change provided by MGL c. 40A, §6, to land in a subdivision shall, in the case of a residential development

whose completion has been limited by subsection 2.5.8.3 above, be extended by a time period to enable completion.

#### 2.5.8.9 Severability

Each provision of this bylaw shall be construed as separate, to the end that if any part of it shall be held invalid for any reason, the remainder shall continue in full force and effect.

Researcher obtained information from: Town of Bolton Bylaws, May 2004 at:

[http://www.townofbolton.com/pages/BoltonMA\\_Clerk/Bolton%20Bylaws%20May%202004%20web.pdf](http://www.townofbolton.com/pages/BoltonMA_Clerk/Bolton%20Bylaws%20May%202004%20web.pdf)

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## **Boxborough**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**      There is nothing in the by-laws about growth caps or phasing but the master plan (1/29/02) has a chapter on land use that discusses (at length) potential ways to cap or phase growth. This chapter includes a build out analysis and estimates rates of growth and development based on past and present trends. This chapter does not make specific recommendations.

Information from:

Boxborough Master Plan, January 29, 2002 at: <http://town.boxborough.ma.us/boxborough/cgi-bin/makepage.cgi?frame=/boxborough/documents/MasterPlan.pdf>

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## **Boxford**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**      Leonard Phillips, Planning Administrator, in a telephone conversation on 7/15/04, said that there are provisions for growth management in the Phase Growth Plan.

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Boxford Town Code, Chapter 196, Zoning, Article VI, Section 196-32. Phased growth.  
[Added 5-22-1997 ATM, Art. 40]

A. Purpose. The purposes of phased growth are to protect and promote the public health, safety and welfare of the Town of Boxford by phasing the growth of the town at a manageable rate to ensure that the town has adequate time to expand its resources and to provide the necessary services to meet the educational, infrastructure and public safety needs of its residents in accordance with its Master Plan.

B. Applicability. This section shall apply to every new residential development. "Development" shall mean a single parcel or set of contiguous parcels of land held in common ownership, regardless of form, at any time on or after the effective date of this section for which one or more building permits will be sought.

C. Phasing schedule. [Amended 5-11-1999 ATM, Arts. 31 and 32]

(1) Building permits for each development shall be granted at an annual rate not greater than that permitted by the following schedule:

Maximum Number of Building Permits for New Dwellings Per Year, Beginning with the Number of New Dwellings Filing Date with the Registry Projected in Total of Deeds of the Definitive Development Subdivision Plan:

1-10 - 5

11-20- 6

21-30 - 7

31-40 - 8

41-50 - 9

More than 50 - 10 plus 5% of number Over 50

(2) The phasing schedule shall be set forth on the definitive recorded subdivision plan.

D. Subsequent changes in the shape or ownership of lots shall not affect the applicability of this section. Lots can be sold at any time for construction of dwellings in future years; however, any lots covered by the provision, hereafter sold or otherwise transferred, shall include in the deed the earliest date on which construction may be commenced.

E. This section shall be effective until May 1, 2007.

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Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?

Yes

Zoning Bylaws Town of Boylston, 2004

SECTION 12 - GROWTH MANAGEMENT

12.01 Intent and Purpose

This Section is adopted pursuant to the provisions of M.G.L. c. 40A and the Home Rule Amendment, Article 89 of the Massachusetts Constitution. The purposes of this By-law are to promote public health, safety, welfare, education, and community character by limiting growth to a manageable rate, and to provide sufficient time for the town to expand its infrastructure, accommodate growth, including fire protection, water, sewer, schools, transportation, roads, recreation, and/or police protection. This section therefore has the following purposes:

1. To ensure that growth occurs in an orderly and planned manner, consistent with recent average growth rates, while avoiding large year-to-year variations in the development rate;
2. To relate the timing of residential development to the Town's ability to provide adequate public safety, schools, roads and municipal infrastructure, and human services at the level of quality which citizens expect and within the Town's ability to pay under the financial limitations of Proposition 2-1/2;
3. To provide the Town with time to study the effects of residential growth on the municipality's infrastructure character, and municipal services, and to prepare a comprehensive plan for the implementation of said study; and
4. To preserve and enhance the existing community character and value of property without unduly restricting an individual landowners' rights.

12.02 Applicability

Beginning on June 1, 2000, no building permit for a new dwelling unit or units shall be issued unless in accordance with the regulation of this Section 11, or unless exempt by Section 11.08, herein. This by-law shall apply to all definitive subdivisions plans, divisions of land pursuant to M.G.L. Chapter 41; Section 81P (hereafter called "A-N-R division"), variances and special permits which would result in the creation of a new dwelling unit or units.

12.03 Definition

1. "Growth rate limit" shall mean the maximum number of building permits for new dwelling units that may be authorized in a twelve-month period, which shall be twenty (20) permits. The growth rate is based upon the average number of building permits issued for new dwelling units in each of the eight preceding years beginning in 1992.
2. "Development" shall mean a single parcel or set of contiguous parcels of land to include subdivisions, A-N-R divisions and special permits either held in common ownership or held by separate entities at any time on or after the date of adoption of this by-law, for which one or more building permits will be sought.
3. "Residential building" shall mean dwelling unit or units.
4. "Dwelling Unit" shall mean either a single family dwelling, one unit of a duplex, one unit of a multi-family dwelling (Examples: 40 unit apartment equals 40 individual dwelling units; 2 family duplex equals 2 individual dwelling units).

12.04 Implementation

1. For the purpose of implementing the twenty (20) permit limitation, the Building Inspector on the first of each month shall total the number of building permits per dwelling unit issued during the previous twelve (12) months. The calculation is based on a rolling twelve (12) month total of building permits issued and limited to twenty (20) dwelling units. If the number of dwelling units for which new building permits have been issued exceeds twenty (20) in number, then the Building Inspector shall issue building permits for any additional dwelling unit or units in the then current month, except as permitted Section 12.08.
2. The Building Inspector shall act on each permit in order of submittal. At the end of the calendar year in which the By-law is in effect, the Building Inspector shall retain all applications for which a building permit has not been issued. Upon being informed in writing by the applicant before the second Wednesday in January of the succeeding calendar year that the applicant desires the application to remain in effect, the Building Inspector, treat said application in accordance with subsection 12.04(1) above.
3. In a single development where the number of new dwelling units are one (1) to three (3) in total, building permits may be issued even if the new combined total of building permits issued in the previous twelve (12) months exceeds twenty (20). Once issued, these exempt building permits shall be calculated in the building permit total going forward as noted in Section 12.04 (1).

12.05 Development Schedule

1. All Definitive Subdivisions, A-N-R divisions, Special Permits, and variances shall include a proposed development schedule by the applicant. Development schedules as proposed or modified shall be approved by the Permit Granting Authority, shall be recorded at the Registry of Deeds and shall have no effect until recorded.

2. Building Permits for new dwelling units shall be authorized only in accordance with the following schedule:

Number of new units in development    Dwelling Units/Year

- 1-3    100%
- 4-10    up to 50%
- 11-20    up to 33%
- 21-40    up to 24%
- 41+    up to 20%, not to exceed 10 building permit in any 12 month period

3. Where the applicable growth rate limit does not allow development consistent with the table set forth above, the Planning Board shall establish a development schedule which allows fewer than the maximum number of the dwelling units per year. However, the Planning Board shall not establish any development schedule which phase development for longer than a ten (10) year period.

12.06 Zoning Change Protection

The protection against zoning changes as granted by Mass. General Law Chapter 40A. Section 6 shall, in the case of a development whose completion has been constrained by this by-law, be extended to the minimum time for completion allowed under this by-law.

12.07 Periodic Review

The provisions of Section 11 shall expire on June 1, 2005; however, by vote of the Town Meeting before said date, the provisions of this section may be

extended in order to continue municipal comprehensive planning and studies necessary to promote orderly growth.

#### 12.08 Exemptions

The following developments are specifically exempt from the limits of the Growth Management by-law and shall not affect the number of twenty (20) building permits that shall be issued in any twelve (12)-month period.

1. An application for a building permit for the enlargement, restoration or reconstruction of a dwelling in existence as of the effective date of this by-law, provided that no additional residential unit is created.
2. Dwelling units for senior residents, where occupancy of the units is restricted to senior persons through properly executed and recorded deed restriction running with the land. For the purpose of this section "senior" shall mean person over the age of fifty-five (55).
3. Any tract of land existing and not held in common ownership with an adjacent parcel on the effective date of this by-law shall receive a one-time exemption for the purpose of constructing one single family dwelling on the parcel owned, provided that the single-family dwelling unit shall be owned and occupied by the owner of the parcel of land. Once issued, these exempt building permits shall be calculated in the building permit total going forward as noted in Section 21.04 (1).
4. Dwelling units to be built under any program or statute categorizing said units as low or moderate housing, or otherwise defined as affordable housing units provided that such housing units have deed restrictions to ensure that they remain affordable for no less than the period specified by the Program or statute.

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**Braintree**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**      Peter Loppola, Director of Planning and Conservation, explained that Braintree is largely built out and that it averages about 25+ units of single family per year. He said that caps are usually 100-200 units per year, so they do not have enough to cap. They have not sustained that level of development since the 1960s or 70s.

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**Bridgewater**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Brockton**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Brookline**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Burlington**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**



**Cambridge**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

**Canton**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

**Carlisle**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**      According to George Mansfield, Carlisle Town Planner (telephone interview on 7/19/04), there are no building caps in Carlisle nor have there ever been any. Carlisle also does not require project phasing.

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**Carver**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**      Town of Carver Zoning Bylaws (Adopted 1963, Revised 2003)

2400. RATE OF DEVELOPMENT

2410. Purpose. The purpose of this section, "Rate of Development," is to promote orderly residential growth in the Town of Carver, consistent with the rate of residential growth, to phase growth so that it will not unduly strain the community's ability to provide basic public facilities and services, to provide the Town, its boards and its agencies information, time, and capacity to incorporate such growth into the Town's Master Plan for the community, and to preserve and enhance existing community character and the value of property.

2420. General. Beginning on May 4, 1998 building permits for not more than 30 dwelling units shall be issued in each of the seven full calendar years following said date, for the construction of new residential dwellings. For the purposes of this section, a two-family structure shall constitute two dwelling units, and so on. An accessory apartment shall constitute a dwelling unit, unless it is attached to the principal residential structure, and/or occupied by residents not less than 55 years of age.

2430. Procedures. Any residential building permits issued shall be issued in accordance with the following procedures:

2431. The Building Inspector shall act on each permit application in order of submittal. Any permit application that is incomplete or inaccurate shall be returned to the applicant and shall require new submittal. No party shall submit more than three permit applications in a calendar month.

2432. Two (2) permits shall be issued in the months of January, February, March, October, November and December. Three (3) permits shall be issued in the months of April, May, June, July, August, and September. Permits not issued in any month of the calendar year in accordance with this schedule shall be available in any subsequent month of that calendar year for issuance by the Building Inspector.

2433. The Building Inspector shall mark each application with the time and date of submittal, and shall act on each application in a timely manner.

2434. Any Building Permits not issued in any calendar year shall not be available for

issuance in any subsequent year, except any of the two (2) permits available for the month of December can be carried over only into the month of January.

2435. At the end of the calendar year in which this by-law is in effect, the Building Inspector shall retain all applications for which a building permit has not been issued. Upon being informed in writing by the applicant before the first Monday in January of the succeeding calendar year that the applicant desires the application to remain in effect, the Building Inspector shall treat said application in accordance with subsection 2431, above.

Carver Zoning Bylaw 14 Amended June 2003

2440. Exemptions. The provisions of this section shall not apply to, nor limit in any way, the granting of building or occupancy permits for:

2441. the enlargement, restoration, replacement, or reconstruction of dwellings existing on lots as of the date of passage of this by-law, but shall apply to the creation of an accessory apartment in accordance with subsection 2420 above.

2442. permits for dwelling units within a division of land awarded a special permit pursuant to Section 2540 below.

2443. a single permit issued to an individual for the construction of a dwelling unit on a property or a set of contiguous properties in common ownership as of May 4, 1998.

2444. permits for commercial and industrial uses.

2450. Extension. This section may be extended without lapse of its provisions and limitations, by vote of the Town Meeting prior to January 1, 2006.

#### 2500. SUBDIVISION PHASING

2510. Purpose. The purpose of this section, "Subdivision Phasing," is to assure and promote orderly growth that shall be phased so as not to unduly strain the town's ability to provide reasonable public facilities and services, so that it will not disturb the social fabric of the community, and so that it will be in keeping with the community's desired rate of growth, in accordance with the goals and objectives of the Town's Master Plan.

2520. Applicability. The issuance of building permits for the construction of residential dwellings on any tract of land divided pursuant to G.L. c. 41, ss. 81K - 81GG, the Subdivision Control Act, into more than seven (7) lots after the effective date of this by-law shall be subject to the following regulations and conditions set forth herein. The provisions of this by-law shall be applicable to all divisions of land within the Town of Carver even if approval under the Subdivision Control Law, G.L. c. 41, is not required (ANR). For the purposes of this by-law, a "tract of land" shall mean a property or combination of properties which were in the same ownership and contiguous as of May 4, 1998.

2530. Permit Issuance Limitations. Not more than seven (7) building permits shall be issued in any twelve month period for construction of residential dwellings on any tract of land divided into more than seven (7) lots.

2540. Special Permit. More than seven (7) building permits on a tract of land in a twelve month period may be allowed upon the award of a special permit from the Planning Board. The Planning Board may grant a special permit for such permits only where the Board determines that two or more of the following goals are likely to be promoted by the award of a special permit:

Carver Zoning Bylaw 15 Amended June 2003

2541. the impact of the proposed division of land on schools, recreational facilities, and other public facilities is projected to be less than 50% of that feasible by orthodox development on the parcel; or

2542. the proposed division of land preserves open space, unique natural features, and/or agricultural resources; or

2543. the proposed division of land promotes housing for citizens over the age of fifty-five (55).

2550. Divisions Of Land With More Than 70 Lots. Where a tract of land will be divided into more than seventy (70) lots, the Planning Board may, by special permit, authorize development at a rate not to exceed ten percent (10%) of the units per year, in order to permit build-out of the project within a reasonable time.

2560. Extension of Zoning Freeze. The protection against subsequent zoning change granted by G.L. c. 40A, s.6 to land in a subdivision shall, in the case of a development whose completion has been constrained by this section, be extended to ten years.

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**Chelmsfor**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

No

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**Chelsea**      Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?

No

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**Clinton**      Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?

No

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**Cohasset**      Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?

No

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**Concord**      Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?

No

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**Danvers**      Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?

No

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**Dedham**      Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?

No

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**Dighton**      Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?

**Yes**

Town of Dighton Zoning Bylaw

"2800. SUBDIVISION PHASING.

2810. Purpose

The purpose of this section, "Subdivision Phasing," is to assure that growth shall be phased so as not to unduly strain the Town's ability to provide public facilities and services, so that it will not disturb the social fabric of the community, so that it will be in keeping with the community's desired rate of growth; and so that the Town can study the impact of growth and plan accordingly.

2820. Applicability

Areas of land subject to the jurisdiction of the Planning Board under the subdivision control law shall not be developed by the construction of dwelling units at a greater rate than permitted below. Subdivisions containing eight (8) or more building lots shall not be developed by the construction of dwelling units at a rate greater than eight lots or ten percent of the total number of lots shown on the approved definitive subdivision plan per year, whichever is greater.

2830. Exceptions

Issuance of more than eight building permits for the same tract of land in a twelve-month period may be allowed by special permit. The Planning Board may grant such special permit only if it determines that the probable benefits to the community outweigh the probable adverse effects resulting from granting such special permit, after considering the impact on schools, other public facilities, traffic and pedestrian travel, recreational facilities, open spaces and agricultural resources, traffic, preservation of unique natural features, rate of development, and housing for senior citizens and people of low or moderate income. The Planning Board shall give particular consideration to proposals that demonstrate a reduction in allowable density of fifty percent (50%) or more, or that provide significant open space.

2840. Zoning Change Protection

The protection against subsequent zoning change granted by G.L. c. 40A, s.6 to land in a subdivision shall, in the case of a development whose completion has been constrained by this section, be extended to ten years.

2850. Relation to Real Estate Assessment

Any land owner denied a building permit because of these provisions may appeal to the Board of Assessors, in conformity with G.L. c. 59, s. 59, for a determination as to the extent to which the temporary restriction on development use of such land shall affect the assessed valuation placed on such land for purposes of real estate taxation, and for abatement as determined to be appropriate."

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**Douglas**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**

Town of Douglas Zoning Bylaw (Adopted 2004)

4.2 PHASED DEVELOPMENT

4.2.1 Purpose

The purpose of this section, "Subdivision Phasing," is to ensure that growth shall be phased so as not to unduly strain the town's ability to provide public facilities and services; to avoid disturbance of the social fabric of the community; to maintain the community's desired rate of growth; and to provide the town an opportunity to study growth and plan accordingly.

4.2.2 Applicability

The issuance of building permits for any tract of land divided or subdivided pursuant to any provision of G.L. c. 41, ss. 81K - 81GG, the Subdivision Control Act, into more than fifteen (15) lots after the effective date of this by-law shall be subject to the regulations and conditions set forth herein. This provision shall apply to any proposed division or subdivision of combination of adjacent properties which were in the same ownership as of [date of town meeting]. This provision shall not apply to any land subject to a special permit for Flexible Development as set forth in Section 7.2.

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4.2.3 Phasing

Not more than fifteen (15) building permits shall be issued in any twelve month period for construction of residential dwellings on any tract of land divided or subdivided into more than

fifteen lots pursuant to any provision of G.L. c. 41, ss. 81K - 81GG, the Subdivision Control Act. This bylaw shall be in effect for five years after the vote of Town Meeting to adopt this section

4.2

#### 4.2.4 Special Permit Relief

Issuance of more than fifteen (15) building permits for the same tract of land in a twelve-month period may be allowed in the following circumstances:

1. The owner of said land may apply for a special permit from the Planning Board for the issuance of more than fifteen building permits in any 12-month period. The Planning Board may grant a special permit only if the Board determines that the probable benefits to the community outweigh the probable adverse effects resulting from granting such permit. In making such determination, the Board shall consider whether the applicant has offered one or more of the following improvements or amenities which have a positive impact upon:

- a. schools and other public facilities;
- b. traffic and pedestrian safety;
- c. recreational facilities, open spaces, agricultural resources, and unique natural features;
- d. housing for senior citizens and people of low or moderate income;
- e. conformance with Master Plan or Growth Management Plans prepared by the Planning Board pursuant to G.L. c. 41, s. 81D.
- f. reduction in otherwise allowable residential density. Particular consideration shall be given to special permit applications that demonstrate a reduction in allowable density of twenty-five percent (25%) or more.

2. Where the tract of land will be divided into more than one hundred fifty (150) lots, the Planning Board may, by special permit, authorize development at a rate not to exceed ten percent (10%) of the units per year.

#### 4.2.5 Zoning Change Protection

The protection against subsequent zoning change granted by G.L. c. 40A, s.6 to land in a subdivision shall, in the case of a development whose completion has been constrained by this section beyond eight (8) years, be extended to ten years.

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#### 4.2.6 Relation to Real Estate Assessment

Any land owner denied a building permit because of these provisions may appeal to the Board of Assessors, in conformity with G.L. c. 59, s. 59, for a determination as to the extent to which the temporary restriction on development use of such land shall affect the assessed valuation placed on such land for purposes of real estate taxation, and for abatement as determined to be appropriate.

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**Dover**                      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

*No*

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**Dracut**                      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

*No*

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**Dunstable**                      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

Yes

Dunstable Zoning Bylaw, 2004

11.8. Growth Rate Limitation. The rate of development in Dunstable should not exceed the ability of the Town to provide necessary schools, roads, police, fire protection, water and other municipal services. The purpose of controlling the rate of residential development is to ensure that Dunstable is able to provide the necessary municipal infrastructure and services needed to protect and promote public health, safety and welfare while maintaining a steady growth and avoiding wide variations in the rate of development.

11.8.1. Applicability. The rate of development established hereunder shall apply to the issuance of all building permits for construction of new dwelling units on lots created after the effective date of this section. This bylaw shall lapse five (5) years from its effective date provided that it may be extended without lapse of its provisions pursuant to a vote of the Town Meeting following hearing and notice duly carried out according to the requirements of Chapter 40A of the General Laws. Prior to, or at that time the Planning Board shall report to Town Meeting the effectiveness of the rate of development Limitations and the need-, if any, to continue and/or amend said limitation.

Nothing in this Bylaw shall be deemed to alter any requirement that building permit applications be referred to the necessary Boards and/or Departments for review or approval.

11.8.2. General

a) Unless exempted by Section 11.8.3. (below), building permits shall not be issued authorizing construction of more than forty-eight (48) dwelling units in any twenty-four (24) month period, with the first such period beginning with the effective date of this bylaw.

b) No more than twenty-four (24) permits in any twenty-four (24) month period may be issued for Approval Not Required (ANR) lots, and no more than twentyfour (24) permits in any twentyfour (24) month period may be issued for dwelling units in a subdivision, subject to the exemption provisions of Section 11.8.3.

c) 'Applicant' within the meaning of this section shall mean the owner, beneficial owner, or person/entity in lawful control of ownership of the premises which are the subject of an application~ without regard to 'straws' or other forms of nominal ownership.

d) No applicant shall be issued more than seven (7) building permits for new dwelling units on lots within the scope of this Section in any twelve (12) month period, regardless whether the permits pertain to subdivision lots, ANR lots, or any other lots.

e) Further in limitation, no more than five (5) building permits shall be issued in any one subdivision for new dwelling units per year regardless of the identity of the applicant. The limitation imposed under this § shall be in addition to and independent of any limitation arising out of Section 11.6.2.

f) In the case of any lot created after the effective date of this Section by a process involving neither an ANR plan nor a subdivision plan, such lot shall be treated under the provisions hereof as though it were an ANR lot and shall be counted towards the maximum complement of ANR lots.

11.8.3. Exemptions.. Building Permits for the following types of dwelling units are exempt from the Growth Rate Limitation provisions of this Bylaw:

a) Dwelling units created under any statute or statutory program, the provisions of which, including any regulations duly adopted thereunder, specify a purpose of assisting or fostering the construction of low or moderate income housing.

b) Any lot created prior to the effective date of this Section by Special Permit, subdivision plan, ANR plan, or other lawful process.

c) Any lot created in any lawful manner which has an area of one hundred percent (100%) over the required minimum excluding Land Unsuitable for Development as defined in Section 20.

d) Any lot created in an Open Space Development, Section 6.6. of this Bylaw and pertinent subsections, where the open space is at least one hundred percent (100%) over the required minimum excluding Land Unsuitable for Development as defined in Section 20.

11.8.4 Procedures. The procedure for establishing priority in the issuance of building permits shall be as follows:

a) Initial priority will be established on a 'first come, first served' basis by the submittal of a complete application for a building permit to the Building Inspector in the manner authorized by law.

b) The Building Inspector will assign consecutive numbers (RD Numbers) to each application for building permits as each is received and time stamped at the

office of the Building Inspector.

c) Building permit application packages that are incomplete or rejected for any valid reason will be returned to the applicant, and that application will be deemed to have lost its priority position. Such applicant may re-submit a corrected or amended application and receive the next available RD Number in the manner provided herein.

d) For purposes of calculating numbers of building permits issued within applicable time frames under Section 11.8.2., the date of issuance of any permit shall be  
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deemed to be the date of receipt of the properly completed application by the Building Inspector.

e) Building permits issued, but subsequently abandoned under applicable laws, rules or regulations shall be deemed lapsed and shall not be counted towards the forty-eight (48) new dwelling units allotted under Section 11.8.2.; and the lot for which the permit was issued shall lose its priority position. Building permits for which an extension has been duly granted pursuant to the State Building Code, or other applicable law, rule or regulation, shall retain their priority position. Lots subject to the Growth Rate Limitation section of this bylaw, for which a building permit formerly issued has lapsed, may be the subject of the reapplication provided all of the requirements and provisions of the bylaw are met.

- Dunstable Zoning Bylaws, Section 11.8. October 2004 Edition. (Added May 14, 2001)

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11.6. Subdivision Phasing. In order to encourage a steady pace of residential development, provide long-term support to the local building industry, stabilize property values and facilitate adequate provision of public services to individual developments and the Town in general, the following regulations shall apply to development upon lots created in accordance with the Massachusetts Subdivision Control Law, as amended.

11.6.1. Applicability. The following regulations shall apply to all subdivisions of land into more than ten (10) lots in any twelve (12) month period. They shall not apply to divisions of land pursuant to Section 81P of the Act, pertaining to so-called "Approval-Not-Required" plans.

11.6.2. Building Limitations. Within any approved subdivision, no more than ten (10) lots or twenty (20%) percent of the total number of lots within the approved subdivision, whichever is greater, may be built upon for residential purposes in any twelve (12) month period commencing on the date of final approval of such subdivision. Any lot existing at the time of adoption of this Section 11.6. shall be considered as a single unit for the purpose of this Section 11.6. and the subdivision of such a lot by two or more definitive subdivision plans shall be considered as a single subdivision plan for the purposes of this Section 11.6.

11.6.3. Exemptions. The provisions of this Section 11.6. shall not apply to, nor limit in any way, the granting of building or occupancy permits required for enlargement, restoration or reconstruction of dwellings existing on lots as of the effective date of this Section 11.6."

- Dunstable Zoning Bylaws, Section 11.6. October 2004 Edition. (Added May 14, 2001)

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**Duxbury**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

*No*

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**East Bridge**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**

Town of East Bridgewater Zoning Bylaw, Section V(v)(Last Amended 2004).

"V. DEVELOPMENT PHASING

(Amended June 6, 1998)

(0). Intent

The Town is anticipating a significant increase in the rate of residential growth in excess of what has historically been experienced in the past due to the restoration of commuter rail service and the expected construction of municipal waste water treatment system. In the past, the Town has been marginally successful in accommodating the impacts of residential growth on municipal services and facilities, the preservation of open space, and the rural character of the Town.

It is the Intent of this bylaw to provide a mechanism to help insure a more orderly, predictable rate of residential growth consistent with the Master Plan, to help provide for the preservation of open space which can help control the impact of growth, and to minimize the amount of new roadway construction and appurtenant municipal utilities, while continuing to allow fair and reasonable land use.

(1). Applicability

(a). This section shall apply to all land held in contiguous ownership on or after January 1, 1982, except as specifically exempted under Section 5.(3).

(b). The number of Building Permits in a residential development, which may be issued in any twelve (12) month period, for new dwelling units is to be based on the total number of lots or dwelling units as shown on one of the following:

1. An endorsed Definitive Subdivision Plan; or
2. A plan endorsed as "Approved under Subdivision Control Law not required," or
3. A Special Permit Plan, approved and/or endorsed by the Planning Board and/or Zoning Board of Appeals.

(2). Phasing Schedule

All residential developments, except for those specifically exempted under Section 5.(3). shall be built according to the following phasing schedule:

[Table]

TOTAL

DEVELOPMENT PHASING - LOT SCHEDULE FOR BUILDING PERMIT ELIGIBILITY TABLE 5.v.-1

In calculating the number of permits issued, the following shall apply:

All unused permits from the preceding months may be carried over without penalty, it being the express intent of this bylaw to phase a development over a seven (7) year period.

(3). Exemptions

The following are exempt from the provisions of this section of the Zoning By-law:

- (a). Residential developments approved under the provision of Section 5.5 - Planned Open Space Residential Development
- (b). Lots created by an "Approval Not Required" plan under the provisions of Section 5.R - Estate Lots
- (c). Residential developments approved under the provisions of Section 5.E.(a) - Adult Retirement Planned Unit Development
- (d). Residential developments approved under the provisions of Section 5D.(3).(a).(b). - Historic Residential Overlay District
- (e). Residential developments with average lot areas of 88,000 square feet or greater per lot, with each lot having a minimum of 35,000 square feet of upland area
- (f). Land exempt under the provisions of Massachusetts General Law, Chapter 40A, The Zoning Act."

The phasing schedule chart states the following specifications for maximum number of lots that can be built after approval:

1-12 months: 8 lots  
13-24 months: 6 lots



25-36 months: 6 lots  
37-48 months: 6 lots  
49-60 months: 6 lots  
61-72 months: remaining lots to maximum 80% of total on plan.  
73-84 months: all remaining lots on plan

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**Easton** *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Essex** *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Everett** *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Foxboroug** *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Framingha** *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No** Framingham does cap the number of building permits issued annually in its mixed-used districts, but not town-wide.

Town of Framingham  
Zoning By-Laws (Last updated 3/17/2003)  
V. ADMINISTRATION  
3. Mixed Use Building Permit Limitations

a. Purpose

The purpose of the limitation (or cap) on the number of dwelling units permitted in a Mixed Use development is to promote orderly growth in a planned manner so that it will not unduly strain the community's ability to provide basic public facilities and services for an expanded residential population.

b. Applicability

This section shall apply to the issuance of all building permits for construction of dwelling units located in a Mixed Use development for which a special permit decision of the Planning Board approving such development was filed with the Town Clerk on or after the time of the adoption of this bylaw.

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Town of Framingham  
Zoning By-Laws (Last updated 3/17/2003)  
V. ADMINISTRATION  
B. Building Permit  
3. Mixed Use Building Permit Limitations  
d. Administration

Building permits for new dwellings will be available starting on January 1 of each calendar year. Permits will be issued on a first-come, first-served basis. An applicant will not be issued a building permit for more units than has been specified in a Special Permit for Mixed Use by the Planning Board. Mixed Use development projects may be phased in over more than one year.

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**Franklin**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**      Town of Franklin Zoning Bylaw, Section 185-46

"§185-46. Growth management.

[Added 7-23-1997 by Bylaw Amendment 97-338]

1. Intent and purpose. [Amended 10-1-1997 by Bylaw Amendment 97-345]

This section is adopted pursuant to the provisions of MGL c. 40A and the Home Rule Amendment, Article 89 of the Massachusetts Constitution. This section has been adopted based upon a report entitled "Franklin Impact Fee System," dated August 1995 and prepared by Applied Economic Research, Inc. and further supported by data reported in the 1997 Franklin Master Plan, that the cumulative effect of its accelerated residential growth sustained through the 1990's threatens the town's current capacity to service and keep pace with increased demands upon municipal infrastructure and services necessary to accommodate growth, including fire protection, water, sewer, schools, transportation, recreation and/or police protection. This section therefore has the following purposes:

- (1) To ensure that growth occurs in an orderly and planned manner, consistent with recent average growth rates, while avoiding large year-to-year variations in the development rate.
- (2) To provide the town with time to study the effect of residential growth on the municipality's infrastructure, character and municipal services and to prepare a Comprehensive Plan for the implementation of said study.
- (3) To relate the timing of residential development to the town's ability to provide adequate public safety, schools, roads and municipal infrastructure and human services at the level of quality which citizens expect and within the town's ability to pay under the financial limitations of Proposition 2-1/2, as outlined in the town's February 10, 1977 Master Plan.
- (4) To preserve and enhance the existing community character and value of property.
- (5) To allow departures from the strict application of the growth rate measures herein in order to encourage certain types of residential growth which address the housing needs of specific population groups or which provide significant reductions in the ultimate residential density of the town.

2. Applicability, effect and definitions: [Amended 10-1-1997 by Bylaw Amendment 97-345]

- (1) Beginning on October 2, 1997, and for 18 months thereafter, no building permit for a new dwelling unit or units shall be issued, unless specifically exempted in Subsection 6 below.
- (2) Beginning on October 2, 1997, no building permit for a new dwelling unit or units shall be issued unless in accordance with the regulations of this 185-46, or unless specifically exempted in Subsection 6 below.

(3) The provisions of this 185-46 shall expire on June 30, 2004; provided, however, that by vote of the Town Council before said date, the provisions of this 185-46 may be extended for an additional five years in order to continue municipal comprehensive planning studies necessary to promote orderly growth. In the event that such action is taken by Town Council vote prior to June 30, 2004, these provisions shall not be construed to have lapsed on such date.

(4) For the purposes of this 185-46, the following terms shall have the following meanings:

(a) GROWTH RATE LIMIT shall mean the maximum number of building permits that may be authorized in a one-year period, which shall be 100 permits. The growth rate limit is based upon the February 10, 1997 Master Plan's policies and implementation strategies to change the current high level of residential growth in the town. Units exempt under Subsection 6 are included within the calculation of the growth rate limit.

(b) DEVELOPMENT shall, mean a single parcel or set of contiguous parcels of land held in common ownership at any time on or after the date of

adoption of this 185-46, for which one or more building permits will be sought.

(c) PHASING SCHEDULE shall mean the phasing schedule set forth in Subsection 4(4).

(d) DEVELOPMENT SCHEDULE shall mean a schedule authorized by the Planning Board in accordance with Subsection 5.

3. Planned growth rate.

(1) The growth rate limit shall be based on a target growth rate of 100 dwelling units per year. In order to reflect the large number of potential building permits that are statutorily exempt from the provisions of this Subsection 185-46 at the time of its adoption (due to the prior approval of subdivision plans, plans subject to MGL .c. 41, 81P, special permits and building permits), the growth rate limit in effect at any point in time shall be adjusted by subtracting from the target rate- 50% of the number of building permits issued for the construction of dwelling units on lots exempt from this 185-46 pursuant to Subsection 6, during that calendar year. In no case; however, shall the growth rate limit be reduced below 50 permits in any twelve-month period. Because of the large number of approved lots which are exempt from the provisions of this 185-46 and expected to be built upon during the first year of this chapter, the first year number of permitted new dwelling units is reduced to 50. In addition, if more than 100 exempt units are built in any one year, 50% of the excess number of units above 100 shall be automatically subtracted from the following. year's allocation- However, in no case shall that number be less than 50 units.

(2) Whenever the number of building permits issued for new dwelling units exceeds the applicable growth rate limit, the Building Commissioner shall not issue building permits for any additional dwelling unit or units unless such unit or units are exempt from the. provisions of this 185-6 under Subsections 5 or 6 below.

(3) The Building Commissioner shall not. issue more than 10 building permits to any one applicant in any twelve-month period.

(4) The Planning Board shall not approve any development schedule under Subsection 5 which, at that time, would result in authorizations exceeding the applicable growth rate limit.

(5) Building permits issued, but subsequently abandoned under the provisions of the State Building Code, shall not be counted in computing the applicable growth rate limit.

4. Phased development.

(1) This subsection shall apply to the following types of development which would result in the - creation of new dwelling units:

- (a) definitive subdivision plans;
- (b) plans subject to MGL c. 41, 81P;
- (c) special permit developments subject to 185-38; except condominium developments, and 185-43 of this Zoning Bylaw; and
- (d) use variances.

(2) In addition to the types of development covered under Subsection 4(1), the Planning Board is authorized, upon request, to approve phased development for any other building lot or dwelling unit specifying the month and year in which such lot/unit shall be eligible for a building permit.

(3) Dwelling units shall be considered as part of a single development for purposes of phased development if located on either a single parcel or on a set of contiguous parcels of land which have been held in common ownership at any time on or after the date of adoption of this 185-46.

(4) Where the applicable growth rate limit allows development consistent with the table set forth below, the Planning Board shall establish a development schedule pursuant to Subsection 5 which allows the maximum number of dwelling units per year."

\*\*\*

Number of New units: Maximum Number of Dwelling Units/Yr

1 to 5	total in development
6 to 10	7
11 to 20	8
21 to 30	9
31 or more	10 or 10%

\*\*\*

According to Dave Roche, Building Commissioner, (7/12/04) Franklin voted to renew the cap as is, at 100 per year.

**Freetown**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Georgetown**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**

Georgetown Zoning Bylaw, Chapter 165, last revised 2002

ARTICLE III Rate of Development  
[Added 6-26-1995 ATM, Art. 6 (Amdt. No. 92)]  
Section 165-12. Purpose.

The purpose of this Article is to protect and promote the public health, safety, welfare, education and preserve rural community character of the Town of Georgetown (the town) by maintaining the growth of the town at a manageable rate and to ensure that adequate time exists for the town to expand its resources to provide those services necessary to meet the educational, infrastructure and public safety needs of the residents. The rate of development in the town should not exceed the ability of the town to provide adequate schools, roads, police, fire protection and other services necessary and appropriate to safeguard the health, welfare and safety of the current and future residents.

Section 165-13. Applicability.

This Article shall apply to the issuance of all building permits for construction of all new Residential Dwelling Units including Residential Condominiums and/or Cooperatives with exemptions as set forth in Section 165-17 herein. This Article shall be effective through December 31, 2005. This chapter may be extended without lapse of its provisions, conditions and limitations by vote of a town meeting of the town prior to December 31, 2005. [Amended 6/14/99; approved 9/20/99]

Section 165-14. New dwelling unit limitation town-wide.

A. Building permits shall not be issued authorizing construction of (or conversion to) more than twenty (20) Residential dwelling units town-wide in single-family and two-family structures including Residential Condominiums and/or Cooperatives in any twelve-month period. The numbers of Residential Dwelling Units to be allowed in any month shall be determined by subtracting from twenty (20) units the total authorized (minus permits withdrawn or expired without use) in the preceding eleven (11) months. The eleven (11) months prior to enactment of this provision shall be used to establish unit availability during the first year after enactment. [Amended 6/14/99; approved 9/20/99] (Amended STM 10/24/2000; Approved by AG 1/25/2001)

B. Applications refused because of this limitation shall be held and acted upon in chronological sequence based upon the time of complete application to the Building Commissioner's office.

Section 165-15. Individual development phasing.

Building permits shall not be issued authorizing construction of more than five (5) Residential dwelling units (exclusive of unused authorizations which have lapsed or have been withdrawn) in any twelve-month period on any set of lots which were created from land which, as of July 1, 1994, was contiguous and in the same ownership [or in different ownerships each involving one (1) or more of the same principals] or to any one (1) applicant [or set of applicants involving one (1) or more of the same principals] unless the Planning Board has granted a special permit for rapid development. Such special permit shall be granted only upon Planning Board determination that in addition to the special permit criteria of Section 165-9, such development also would serve a salient housing need, would be infeasible if limited to five (5) units over twelve (12) months and would not overburden public services. [Amended 6/14/99; approved 9/20/99] (Amended STM 10/23/2000; approved by AG 1/25/2001)

Section 165-16. Procedures.

No applicant may have more than two (2) requests for a residential Dwelling Unit building permit pending before the Building Inspector in any given month. No more than five (5) residential Dwelling Unit building permits shall be issued to any one (1) applicant in any twelve-month period. The procedures for issuing the residential Dwelling Unit building permits referred to herein shall be as follows: [Amended STM 10/23/2000; Approved by AG 1/25/2001]

A. The applicant must complete and file a request to submit an application for a building permit to the Building Department. The applicant should submit the request to submit an application for a building permit only after having completed a building permit application package for the subject property.

B. The Building Department will accept requests to submit an application for a building permit on a first-come-first-served basis during normal business hours. The Department will assign consecutive numbers to requests to submit an application for building permits as each is received and will stamp the date of receipt of each request. Applicants may not submit during any period more requests to submit an application for building permits than the number of Residential Dwelling Unit building permits to which the applicant would be entitled during such period in accordance with this Article. [Amended STM 10/23/2000; Approved by AG 1/25/2001]

C. The Building Department will notify each applicant in the order that requests to submit an application for a building permit are received of its standing, based on the order of submission of requests, to submit a building permit application, such standing to be on a first-come-first-served basis. The Department shall not accept a greater number of applications than the number of Residential Dwelling Unit building permits that may be issued during any month in accordance with this Article. [Amended STM 10/23/2000; Approved by AG 1/25/2001]

D. The applicant must submit the building permit application by delivery in hand within ten (10) days after notification from the Building Department that it will accept a building permit application. If a building permit application is not received within such ten-day period, the applicant must submit a new request to submit an application for a building permit, and will be assigned the then next consecutive request number. No building permit application will be accepted other than by delivery in hand. Building permit applications will be accepted during regular office hours only.

E. Building permit application packages that are incomplete or rejected for any reason will be returned to the applicant. The applicant may then file a new request to submit an application for a building permit and will be assigned the then next consecutive request number.

F. If a building permit location is accepted by the Building Department, a building permit may be issued at any time within thirty (30) days of such submission, but not necessarily in the order of which applications were received.

G. If a building permit application is submitted in one (1) month and the building permit is not issued until a subsequent month, the permit shall be counted as having been issued in the month in which the application was submitted, for the purpose of determining compliance with this Article.

#### Section 165-17. Exemptions.

This Article shall not apply to building permits for the construction of the following:

A. Any unit of affordable housing to be built under any program or statute intended to assist the construction of low- or moderate-income housing, as defined in the applicable statute or regulation, including town bylaws. (Amended STM 10/24/2000; Approved by AG 1/25/2001)

B. Restoration, expansion, alteration or reconstruction of a dwelling in existence as of the effective date of this provision.

C. Permits for nonresidential purposes.

D. Independent Senior Housing permitted under Article XVII of the Code of the Town of Georgetown. (Added STM 10/24/2000; Approved by AG 1/25/2001)

#### Section 165-18. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

APPLICANT - Individuals, partnerships, corporations, trusts and other legal entities in which the applicant of record holds a legal or beneficial ownership of greater than one percent (1%).

DEVELOPMENT - Lots which were at any time after January 1, 1980, part of contiguous property under common ownership, or a development approved pursuant to Chapter 365, Subdivision Regulations, Chapter 165, Zoning, or any other applicable land use regulation.

#### Section 165-19. Separability.

The provisions of this Article are hereby declared to be separable, and if any such provision or the application of such provision to any person or circumstance shall be held invalid or unconstitutional, such invalidity or unconstitutionality of any of the remaining provisions of this Article or the application of such provision to any person or circumstance other than those as to which such provision is held to be invalid.

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**Gloucester**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

City of Gloucester Zoning Ordinance (Adopted 1950, Amended 2002)

I. WEST GLOUCESTER INTERIM PLANNING OVERLAY DISTRICT (Adopted 5/30/00)

A. INTENT AND PURPOSE

This Section is in anticipation of the City of Gloucester and the Town of Essex entering into an intermunicipal agreement to install sewer lines in West Gloucester and the completion of the sewer construction required by the agreement that threatens the City's current capacity to service and keep pace with subsequent increased demands upon municipal infrastructure, environmental quality and services necessary to accommodate growth and preserve quality of life, including fire protection, water, sewer, schools, transportation, recreation, and/or police protection, preservation of open space, water quality, wildlife habitat and prevention of congestion and sprawl.

C. REGULATIONS AND USE RESTRICTIONS

To accomplish the intents and purposes of Section "A" as enumerated in Sections One through Seven (1-7),

- 1) For five (5) years from the date of enactment, and no later than July 1, 2005 (unless extended), all applications for:
  - a) Approval Not Required parcels resulting in the creation of four or more lots within the interim overlay district; and
  - b) any divisions of a parcel of land within the interim overlay district which would cumulatively result in the development of four (4) or more lots, within the interim overlay district, shall require a Special Permit from the Planning Board. Any extension of this five (5) year period shall require a two thirds (2/3) vote of the City Council and shall be for no more than one year (July 1, 2006).
- 2) During the period that the overlay district is in effect, no approval shall be granted and no building permit issued unless each resulting lot can be permitted under the provisions of the requirements of the Gloucester Board of Health for a Title V system and 310 CMR 15.00. The Planning Board shall note this requirement on all approved plans which are subject to this section.
- 3) The issuance of a Special Permit for subdivisions of four (4) or more lots and cluster developments of four (4) or more units shall be subject to the Subdivision Rules and Regulations of the Gloucester Planning Board and Section 5.9 of the Gloucester Zoning Ordinance for cluster developments. The Special Permit may also include but not be limited to conditions as to the layout of lots, the design and location of public improvements, and the establishment of permitted building envelopes, so as to minimize potentially adverse effects on the environment and its scenic integrity.
- 4) Construction of private sewer lines is prohibited in the overlay district until such time as this ordinance is amended by a two-thirds (2/3) vote of the City Council to specifically allow private sewage lines and treatment facilities within the overlay district or until such time as this ordinance section expires.
- 5) The effective period of the Interim Overlay District may be extended or reduced by a two-thirds (2/3) vote of the City Council following the procedures established in Section 1.5 of the Gloucester Zoning Ordinance, but under no circumstances may the total extension period exceed one (1) year (July 1, 2006).

**Grafton**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**                    Town Planner Wayne Nicholas (11/23/04) confirmed that the town has no growth caps or phasing. He said that growth management went to vote at one point but that it did not pass.

**Groton**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**                    Town of Groton Zoning Bylaw, Chapter 218 (Adopted 1987)

~218-28. Development rate limitation.

A. Basic limitation. The Building Inspector shall issue building permits for construction of new single-family or two-family dwelling units on lots created after May 1, 1980, only if one or more of the following is true:

(1) Moderate town-wide building: Permit issuance will bring the town-wide total of new dwelling units authorized to fewer than 120 dwelling units within the previous 24 months.

(2) Small development: Permit issuance will result in not more than 10 new dwelling units having been authorized within that subdivision, or contiguous parcels which have been in the same ownership at any time subsequent to May 1, 1980, or an area of development for which access is provided by a common road network approved by the Planning Board under the Subdivision Control Law after April 24, 2000, within the previous 24 months, except that up to six additional dwelling units per year may be authorized on lots established under the provisions of ~ 218-26G, Transfers. At the option of the owner, each right to develop a dwelling unit authorized under ~ 218-26C may alternatively be used for the purpose of increasing by two the number of dwelling units allowed in a twelve-month period under this section, instead of increasing density under ~ 218-26C(1), subject to whatever limitations may have been imposed in the special permit granted under ~ 218-26F(1) or (2). [Amended 4-29-1989 ATM, Art. 36; 2-7-1994 STM, Art. 17; 4-24-2000 ATM, Art. 35]

(3) Special development: A special permit has been granted by the Board of Appeals authorizing more rapid development than allowed under Subsection A(2) for housing development determined by that Board to have unusually low impact on public services because of its location, occupancy or design or to serve an important unmet housing need of Groton residents without overburdening town services.

B. Multifamily limitation. In authorizing multifamily use, the special permit granting authority shall establish an annual limit for the number of units to be authorized, taking into consideration the town-wide building rate over the previous two years, the needs which the housing will serve, the ability of the town to provide services in a timely manner and the housing costs and feasibility consequences of the limitation.

C. Zoning change protection. The protection against subsequent zoning change granted by MGL c. 40A, ~ 6, to land in a subdivision shall, in the case of a development whose completion has been constrained by ~ 218-28, be extended to the minimum time for completion allowed under ~ 218-28.

D. Periodic review. Commencing at the 1995 Annual Town Meeting, the Planning Board shall report to the Annual Town Meeting every five years concerning its evaluation of the effectiveness of the development rate limitation and the need to continue said limitation. The Planning Board report shall include the recommendations as to whether ~ 218-28 should be retained, amended or eliminated. [Added 1-11-1988, STM, Art. 30; amended 2-7-1994 STM, Art. 17; 4-24-1995 ATM, Art. 38]

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According to Michelle Collette, Planning Administrator, (10/21/04) the phasing schedule is 5 in 24 months (but only if the town-wide issuance is greater than 120 units in 24 months - this rarely happens). The phasing schedule was established in 1980 and is up for renewal in 2005. Administrator says that the Hadley Decision will have an impact on the town's policy.

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**Groveland**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**      Groveland Zoning Bylaw (Adopted 1996)

109. Growth Management

109.1. Purpose:

The purpose of the Growth Management Zoning By-law (the By-law) is to protect and promote the public health, safety, welfare, education, and preserve rural community character of the Town of Groveland, (the town) by maintaining the growth of the town at a manageable rate, to allow time for the town to update its Master Plan in order to protect the town from uncontrolled development pending adoption of the Master Plan, and to ensure adequate time exists for the town to expand its resources to provide those services necessary to meet the educational, infrastructure, and public safety needs of the residents, and to protect the Town from uncontrolled development pending the final adoption of a revised Master Plan. The rate of development in the town should not exceed the ability of the town to provide adequate schools, roads, police and fire protection, and other services necessary and appropriate to safeguard the health, welfare, and safety of the current and future residents.

109.2 Applicability. This Bylaw shall apply to the issuance of all building permits for construction of new single family and two-family structures, with exemptions as set forth in Section 109.6 herein. This Bylaw shall be effective on July 1, 1996. The Bylaw may be extended without lapse of its provisions, conditions and limitations, by vote of a town meeting of the town prior to June 30, 2003.

\*\*Webmasters Note: The previous subsection has been amended as per an ordinance approved at a town meeting held on 4/30/01.

109.3. New Dwelling Unit Limitation Town Wide:

109.3.1. Building permits shall not be issued authorizing construction of (or conversion to) more than 36 dwelling units town-wide in single-family and two-family dwellings in any fiscal year of the town.

109.3.2. Applications refused because of this limitation shall be held and acted upon in chronological sequence based upon the time of complete application to the Building Inspector's Office.

109.4. Individual Development Phasing:

109.4.1. Building Permits shall not be issued authorizing construction of more than nine (9) dwelling units in single-family or two-family dwellings (exclusive of unused authorizations which have lapsed or have been withdrawn) in any fiscal year of the Town on any set of lots which were created from land which, as of the date of adoption of this Law, was contiguous and in the same ownership (or in different ownership each involving one (1) or more of the same principals).

109.5. Procedures:

109.5.1. No more than nine (9) single-family residential building permits shall be issued to any one applicant in any fiscal year. The procedures for issuing the single-family residential building permits referred to herein shall be as follows:

109.5.1.1. The applicant must complete and file a "Request to Submit an Application for a Building Permit" (RSAPB) to the building department. The applicant should submit the RSAPB, only after they have completed a building permit application package for the subject property.

109.5.1.2. The building department will accept RSAPB on a first-come, first-served basis during normal business hours. The department will assign consecutive numbers to RSAPBs as each is received, and will stamp the date of receipt of each request. Applicants may not submit during any fiscal year, RSAPBs, than that number of single-family residential building permits, to which the applicant would be entitled during such year in accordance with this By-law.

109.5.1.3. The building department will notify each applicant in the order that RSAPBs are received of its standing, based on the order of submission of RSAPBs, such standing to be on a first-come, first-served basis.

109.5.1.4. The applicant must submit the building permit application by delivery in hand within 10 days after notification from the building department, that it will accept a building permit application. If a building permit application is not received within such 10 day period, the applicant must submit a new

RSAPB, and will be assigned the then next consecutive request number. No building permit application will be accepted other than by delivery in hand. Building permit applications will be accepted during regular office hours only.

109.5.1.5. Building permit application packages that are incomplete or rejected for any reason will be returned to the applicant. The applicant may then file a new RSAPB and will be assigned the next consecutive request number.

109.5.1.6. If a building permit application is accepted by the building department, a building permit may be issued at any time within thirty (30) days of such submission, but not necessarily in the order of which applications were received.

109.5.1.7. If a building permit application is submitted in one (1) year and the building permit is not issued until a subsequent year, the permit shall be counted as having been issued in the month in which the application was submitted, for the purpose of determining compliance with this By-law.

109.5.1.8. Any landowner who has been denied a building permit because of this by-law may appeal to the Board of Assessors in conformity with M.G.L. ch. 59, sec. 59 for a determination as to the extent, if any, to which the temporary restriction on development use of such land may affect the assessed valuation placed on such land for the purpose of real estate taxation and abatement, if determined to be appropriate.

109.6. Exemptions:

This By-law shall not apply to building permits for the construction of the following:

109.6.1. Any unit of housing to be built under any program or statute intended to assist the construction of low or moderate income housing, as defined in the applicable statute or regulation, including Town by-laws.

109.6.2. Restoration, expansion, alteration, or reconstruction of a dwelling in existence as of the effective date of this provision.

109.6.3. Permit for non-residential purposes.

109.6.4. For the purpose of this By-law, any person who owned land in Groveland prior to the adoption of this Article shall receive a one-time exemption (one building permit) from the provisions of this By-law for the purpose of construction a single-family dwelling on the parcel owned, provided that the single-family dwelling shall be owned and occupied by the owner of that parcel of land.

109.7. Definitions:

APPLICANT : Individuals, partnerships, corporation, trusts, and other legal entities, in which the applicant of record holds a legal or beneficial ownership of greater than 1%.

DEVELOPMENT : Lots which were at any time after January 1, 1980, part of contiguous property-under common ownership, or a development approved pursuant to the Town of Groveland's Subdivision control regulations, zoning by-law regulations, or any other applicable land use regulation.

109.8. Separability:

The provisions of this By-law are hereby declared to be separable, and if any such provision or the application of such provision to any person or circumstance, shall be held invalid or unconstitutional, such invalidity or unconstitutionality of any of the remaining provisions of this By-law, or the application of such provision to any person or circumstance other than those as to which such provision is held to be invalid. Adopted May 13, 1996.

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ZBA Chairman James Doyle said in a phone interview (11/2/04) that caps must be temporary, and he thought that their cap expired after 5 years. He said that he didn't think that the cap had ever been renewed.

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## Halifax

### *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

## Yes

ARTICLE VI Administration  
Section 167-19. Building or use permit.  
[Amended May 11, 1998]

### 1. Purpose

The purpose of this section is to protect and promote the public health, safety, welfare, and education and preserve the rural community character of the Town of Halifax (the town) by maintaining the growth of the town at a manageable rate and to ensure that adequate time exists for the town to expand its resources to provide those services necessary to meet the educational, infrastructure and public safety needs of the residents. The rate of development in the town should not exceed the ability of the town to provide adequate schools, roads, police, fire protection and other services necessary and appropriate to safeguard the health, welfare and safety of the current and future residents.

### 2. Regulations

(a) Beginning May 11, 1998 and continuing until Annual Town Meeting of 2003, or a longer period if authorized by a Town Meeting vote, no building permit for a residential unit or units shall be issued unless in accordance with the Regulations of this Section.

(b) The Regulations of this Section shall apply to all definitive subdivision approval, plan approvals and Special Permits which would result in the creation of a new dwelling unit or units. Dwelling units shall be considered as part of a single development, for purposes of Phased Growth, if located either on a single parcel or contiguous parcels of land which have been in the same ownership at any time subsequent to the adoption of this bylaw.



(c) Issuance of Residential Building Permits. [Amended 9/28/98]

(1) Building permits shall not be issued authorizing construction of (or conversion to) more than forty (40) dwelling units town-wide in single-family and two-family dwellings in any twelve-month period. The number of units to be allowed in any month shall be determined by subtracting from forty (40) units the total authorized (minus permits withdrawn or expired without use) in the preceding eleven (11) months. The eleven (11) months prior to enactment of this provision shall be used to establish unit availability during the first year after enactment.

(2) Except as provided below, no more than ten (10) permits for new dwellings shall be issued in any 2 years from the date of issuance of the first permit for any property in the same ownership as of May 11, 1993 even though the property may have been broken up or otherwise transferred to another subsequent to that date. This subsection (2) shall not apply to property shown on a subdivision plan approved after June 1, 1999 by the Planning Board pursuant to MGL Chapter 41, Subsection 81L, et seq. [Amended 5/10/99]

(3) Applications refused because of this limitation shall be held and acted upon in chronological sequence based upon the time of complete application to the Building Commissioner's office.

(4) General Applicants. Not more than six dwellings shall be authorized for any one applicant within any twelve-month period.

(5) Each unit of housing built under a "Comprehensive Permit", except those units under the jurisdiction of the Halifax Housing Authority issued under MGL Chapter 40B, shall count as one (1) toward the annual town wide total of forty (40).

(6) Building permits issued to lots exempt from the provisions of this Section under MGL Chapter 40A, Section 6 shall count toward the annual town wide total of forty (40).

(7) In-law apartments will be exempt from the Building Permit Limitation as described in this section. For property shown on a subdivision plan approved after June 1, 1999 by the Planning Board pursuant to MGL Chapter 41, Subsection 81L, et seq., no more than twelve (12) permits for new dwellings shall be issued in any one year from the date of issuance of the first such permit and no more than two (2) permits shall be issued in any one calendar month. The total number of permits issued in the Town for all properties shown on subdivision plans approved after June 1, 1999 by the Planning Board pursuant to MGL Chapter 41, Subsection 81L, et seq., shall not exceed twenty (20) such permits in any consecutive twelve-month period. Permits issued under this subsection (7) shall be issued in order that each respective application was properly filed. [Amended 5/10/99]

(8) Replacement homes, providing that the home being replaced has not been abandoned for more than two years, will be exempt from the Building Limitation as described in this section.

[Town of Halifax Zoning Bylaws ~ 2003] bylaws obtained from ordinance.com

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**Hamilton**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Hanover**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**                    The Land Use Ordinance of Hanover (Town of)  
PLYMOUTH COUNTY, MASSACHUSETTS  
ZONING BY-LAW

SECTION 5 GENERAL REGULATIONS FOR NEW CONSTRUCTION AND USES AND GENERAL PROVISIONS FOR ALL ZONING DISTRICTS

5.100 Rate of Development:

5.110 For the purpose of protecting the public health, safety and welfare, and to ensure that there is an adequate infrastructure to accommodate new growth, all construction of dwelling units located within areas of land subject to the jurisdiction of the Planning Board under the Subdivision Control Law, Sections 81K - 81GG of Chapter 41 of the Massachusetts General Laws, as amended, shall not be developed at a rate greater than that determined by the schedule below. Infrastructure improvements shall include, but not be limited to, water service, roadways, sidewalks, police and fire protection, education, and municipal facilities.

5.120 Subdivisions containing sufficient area to provide for more than fifty (50) building lots shall not be developed by the construction of dwelling units at a rate greater than one-fifth (1/5) each year of the total lots shown on an approved definitive subdivision plan.

5.130 Subdivisions containing sufficient area to provide for fifty (50) building lots or less shall not be developed by the construction of dwelling units at a rate greater than one fifth (1/5) each year of the total lots shown on an approved definitive subdivision plan or by construction at a rate of not more than ten (10) dwelling units per year, whichever is greater.

5.140 If the determination of one-fifth (1/5) of the total lots produces a fraction of a lot, the authorization for each year is increased to the next whole number.

5.150 In any subdivision, the first year in which construction may begin pursuant to this Section starts on the date the Planning Board endorses its approval on the plan and subsequent years start on the anniversaries of that date of endorsement.

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**Hanson**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Harvard**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**                    According to Marie Nader, Planning Board Administrator, (11/2/04) there is no buildout schedule. Ms. Nader explained that the town is currently reviewing the first subdivision plan that she's seen (in six years), and so there is little need for project phasing.

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**Haverhill**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**                    City of Haverhill Zoning Ordinance

Section 255-62. Permit required.

D. Growth management. [Added 3-4-1997 by Doc. 21-B]

(1) Intent and purpose. This Subsection D is adopted for the following purposes:

(a) To ensure that growth occurs in an orderly and planned manner, at a rate that can be supported by city services, while avoiding large year-to-year variations in the development rate;

(b) To provide the City with time to study the effect of growth on the municipality's infrastructure, character and municipal services; to install a water transmission facilities, and to address required additional supply and distribution system improvements so as to be able to achieve a positive safe yield capacity in order to support additional new growth. [Amended 6-27-2000 by Doc. 79-F]

(c) To relate the timing of residential development to the city's ability to provide adequate public safety, schools, roads and municipal infrastructure and human services at the level of quality which citizens expect and to the city's ability to pay under the financial limitations of Proposition 2 , as outlined in the city's Master Plan of 1990;

(d) To preserve and enhance the existing community character and value of property; and

(e) To allow departures from the strict application of the growth rate measures herein in order to encourage certain types of residential growth which address the housing needs of specific population groups or which provide significant reductions in the ultimate residential density of the city.

(2) Applicability; effect; definitions.

(a) Beginning on March 4, 1997, no building permit for a new dwelling unit or units shall be issued unless in accordance with the regulations of this Subsection D, unless exempted herein.

(b) The provisions of this Subsection D shall expire on December 31, 2003. [Amended 2-16-1999 by Doc. 162-B; 6-27-2000 by Doc. 79-F]

\*\*Webmasters Note: The previous subsection has been amended as per Document No. 189-B.

(c) For the purposes of this Subsection D, the following terms shall have the following meanings:

DEVELOPMENT - A single parcel or set of contiguous parcels of land held in common ownership at any time on or after the date of adoption of this subsection, for which one or more building permits will be sought.

DEVELOPMENT SCHEDULE - A schedule authorized by the Planning Board in accordance with Subsection D(4).

GROWTH RATE LIMIT - The maximum number of building permits that may be authorized will be 100 permits per year. [Amended 6-27-2000 by Doc. 79-F]

(3) Planned growth rate.

(a) The growth rate limit shall be based on a growth rate of 100 permits per year. [Amended 6-27-2000 by Doc. 79-F]

(b) Whenever the number of building permits issued for new dwelling units exceeds the applicable growth rate limit, the Building Inspector shall not issue building permits for any additional dwelling unit or units unless such unit or units are exempt from the provisions of this Subsection D.

(c) The Planning Board shall not approve any development schedule under Section 255-62C which would result in authorizations exceeding the applicable growth rate limit.

(d) Building permits authorized by a development schedule, but not acquired during the scheduled period set forth in Section 255-62C shall not be counted in computing the applicable growth rate limit. Building permits issued, but subsequently abandoned under the provisions of the State Building Code, shall not be counted in computing the applicable growth rate limit.

(4) Development scheduling.

(a) This Subsection D(4) shall apply to the following types of development which would result in the creation of new dwelling units:

[1] Definitive subdivision plans;

[2] Plans subject to MGL c. 41, Section 81P;

[3] Special permit developments subject to this chapter; and

[4] Use variances.

(b) In addition to the types of development described in Subsection D(4)(a), the Planning Board is authorized, upon request, to approve a development schedule for any other building lot or dwelling unit, specifying the month and year in which such lot/unit shall be eligible for a building permit.

(c) Dwelling units shall be considered as part of a single development for purposes of development scheduling in accordance with Section 255-62C.

(d) Where, consistent with the applicable growth rate limit, building permits or the construction of new residential units in the types of development set forth in Subsection D(4)(a) shall be authorized only in accordance with Section 255-62C.

(e) Where the applicable growth rate limit does not allow development consistent with the table set forth above, the Planning Board shall establish a development schedule which allows fewer than the maximum number of dwelling units per year. However, the Planning Board shall not establish any development schedule which phases development for longer than a ten-year period.

(5) Procedures for development schedules.

(a) In order to facilitate review, the developer may submit a written proposed development schedule to the Planning Board as part of any application for a preliminary or definitive subdivision approval or any application for approval of a plan subject to MGLA c. 41, Section 81P.

(b) In cases where the developer has elected not to submit a development schedule in accordance with Subsection D(5)(a) above, the Building Inspector shall refer any application for a building permit on a lot within these types of plans to the Planning Board for development scheduling.

(c) The developer shall submit a written proposed development schedule as part of any application for a special permit or use variance. In the case of a use variance, the Board of Appeals shall forthwith refer said document to the Planning Board.

(d) The Planning Board shall approve a development schedule which is consistent with the provisions of this subsection.

(e) Approved development schedules for the types of development described in Subsection D(4)(a) shall be incorporated, where appropriate, as part of the decision filed with the City Clerk, whether inscribed on the plan and/or filed as a separate, attached document. In the alternative, development schedules pertaining to plans subject to MGLA c. 41, Section 81P shall be separately recorded if the developer does not elect to use the procedures of Subsection D(3)(b).

(f) No approved development schedule shall take effect for the purposes of obtaining building permits until recorded separately or as part of the decision.

(g) After approval of a development schedule by the Planning Board in accordance with Subsection D(4), an application for a building permit in conformance with the approved schedule shall be approved and the permit issued even if the applicable growth rate limit calculated pursuant to Subsection D(3)(b) has been reached.

(h) If applications for building permits are made at a slower rate than authorized in a development schedule, applications for the unused permits from one period may be made in a later period; and such applications shall be approved and the permits issued even if the applicable growth rate limit has been reached in the later period.

(i) Upon transfer of any lot or unit in the types of development subject to development scheduling, the deed shall reference the development schedule and state the earliest date on which construction may be commenced in accordance with the provisions of this subsection.

(6) Exemptions. The following developments are specifically exempt from the planned growth rate and development scheduling provisions of this subsection. [Amended 6-27-2000 by Doc. 79-F]

(a) Dwelling units in the types of development set forth in Subsection D(4)(a) which are exempt by virtue of the provisions of MGLA c. 40A, Section 6.

(b) An application for a building permit for the enlargement, restoration or reconstruction of a dwelling in existence as of the effective date of this subsection, provided that no additional residential unit is created.

(c) Dwelling units for low- and/or moderate-income families or individuals, where all of the following conditions are met:

[1] Occupancy of the units is restricted to households qualifying under the Local Initiative Program as administered by the Executive Office of Communities and Development.

[2] The affordable units are subject to a properly executed and recorded deed restriction running with the land which shall limit each succeeding resale price to an increase of 10%, plus any increase in the consumer price index, plus the cost of any improvements certified by the Building Inspector.

(d) Any single or two family dwelling in the RH and RU zone which is otherwise properly allowed by this chapter.

\*\*Webmasters Note: The previous subsection (d) has been amended as per Document No. 189- B.

(e) Any tract of land existing and not held in common ownership with an adjacent parcel on the effective date of this Subsection D shall receive a one-time exemption from the Planned Growth Rate and Development Scheduling provisions for the purpose of constructing one single or two family dwelling, which is otherwise allowed by this chapter, on the parcel.

\*\*Webmasters Note: The previous subsection (e) has been amended as per Document No. 189- B.

(7) zoning change protection. Any protection against zoning changes provided by MGLA c. 40A, Section 6, shall be extended to the earliest date on which the final unit in the development could be authorized under this subsection.

(8) Severability. The provisions of this subsection are hereby declared separable and if any provision shall be held invalid or unconstitutional, it shall not

be construed to affect the validity or constitutionality of any of the remaining provisions of this subsection or act in relation thereto.

\*\*\*

C. Phased Development - Subdivisions and Form A lots. [Amended 6-27-2000 by Doc. 79-D]

(1) Building permits for the construction of single- family, two-family and three-family dwellings in a subdivision or on contiguous Form A lots held in common or related ownership on the effective date of the provision shall not be granted at a rate per annum greater than as permitted by the following schedule: [Amended 6-27-2000 by Doc. 79-D]

MINIMUM LOT DEVELOPMENT

(2) Lots can be sold any time for the construction of dwellings in the designated future years. However, any lots covered by this provision hereafter sold or otherwise transferred to another owner shall include in the deed the earliest date on which construction may be commenced in accordance with these provisions.

(3) If there is a proposed subdivision with any lots that are within one thousand (1,000) feet of lots in another subdivision held by common or related ownership, then both subdivisions shall be construed to be a single subdivision for the purpose of this Subsection C.

(4) Lot lines for Form A lots shall be defined when the Form A lots have been endorsed by the Planning Board. Subsequent changes in the shape or ownership of lots shall not render the provision of this Subsection C void.

(5) The anniversary date of each subdivision or contiguous Form A lots under this provision shall be no earlier than the date on which all approvals required for the first building permit have been obtained.

(6) Each year in which any building permit is issued after the anniversary date as defined above and before the next and succeeding anniversary date shall be considered one (1) year of development for purposes of Subsection C(1) hereof. Only those years during which a building permit is issued shall constitute a year of development. Intervening years in which no building permit is issued shall not constitute a year of development and shall not be considered when determining minimum years of development for purposes of Subsection C(1) hereof.

(7) The Planning Board, in conjunction with the Building Inspector, shall be responsible for administering this section of the chapter.

(8) The invalidity of one (1) or more provisions or clauses of this section shall not invalidate or impair the section as a whole or any other part thereof.

(9) The provisions of this Subsection C shall apply to building permits issued by the City of Haverhill. [Amended 6-27-2000 by Doc. 79-D]

(10) The provisions of this Subsection C shall not apply to definitive subdivision plans or Form A plans which have been approved or endorsed by the Planning Board prior to adoption of this subsection.

\*\*\*

Economic Development and Planning Director Bill Pillsbury said (11/23/04) that the cap was allowed to expire in 2003 and that the town has no plans to re-enact it.

\*\*\*

Section 255-62. Permit required.

Number of Lots/ Minimum years of development/ Maximum Lots Developed per year

- 1-6 / 1 / All
- 7-20 / 2 / 50%
- 21-34 / 3 / 33%
- 35-50 / 4 / 25%
- 51-75 / 5 / 20%
- 76-125 / 6 / 16.7%
- 126+ / 7 / 14.3%

**Hingham**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

**Holbrook**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

No

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**Holden**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**                    Zoning Bylaws of the Town of Holden (Adopted 1954, Amended 2004)

"SECTION XV PHASED GROWTH ZONING BYLAW

1) Intent and Purpose

1.0 - Whereas, the Town of Holden wishes to encourage a steady manageable growth rate in the community and reduce extreme fluctuations in the growth rate, and;

Whereas, the Town desires to relate the timing of future residential development to the community's ability to provide public services to such development, including adequate water supply amounts and water supply pressure for the purposes of domestic usage and fire protection usage, and;

Whereas, the Town desires to protect the Community's character, and the health, safety, welfare and convenience of its residents, and:

Whereas, the growth rate in the Town of Holden in recent years threatens to outstrip the Town's ability to provide water and other community services such as fire and police protection and adequate educational facilities:

Now, therefore the Town of Holden hereby adopts the following bylaw which shall be issued unless in accordance with this bylaw.

2) Regulations

2.0 - No building permit for a new residential dwelling unit or units shall be issued unless in accordance with this bylaw.,

This bylaw shall apply to all definitive subdivision plans, divisions of land pursuant to M.F.L. Chapter 41, Section 81P (hereafter called "A-N-R division,") variances and special permits which would result in the creation of a new dwelling unit or units. Dwelling units shall be considered as part of a single development, for all purposes of this section if located either on a single parcel or contiguous parcels of land which have been in the same ownership at any time subsequent to the date of adoption of this bylaw.

3) Planned Growth Rate

3.0 - All authorizations shall count toward the planned growth rate permitted by this bylaw. Building permits shall not be issued under any development schedule approved under Section 5 during periods when said building permit issuance would result in authorizations of more than 200 dwelling units over a 24-month (two year) period.

3.1 - For the purposes of implementing the 200 dwelling unit limitation, the Building Commissioner shall on the first of each month total the number of building permits issued during the previous 24 months. If the number of dwelling units for which new building permits have been issued during the previous 24 months meets or exceeds 200 in number, then the Building Commissioner shall not issue building permits for any additional dwelling unit or units in the then current month, except as permitted by Section 3.2.

3.2 - In a single development where the number of new dwelling units are 1 to 3 in total, building permits may be issued even if the 200 limit has been reached. once issued, these exempt building permits shall be counted in calculating the 200 building permit limit, as noted in Section 3.0.

3.3 - For the purposes of determining the number of allowable units under phased growth in a Retirement Community three dwelling units will be counted as one dwelling unit or act or do anything relative thereto.

\*\*Webmasters Note: The previous subsection 3.3 has been added as per Case No. 1629 Annual Town Meeting dated 5/21/01.

4) Development Schedule

4.0 - Building permits for new dwelling units shall be authorized only in accordance with the following schedule:

Number of New Units

In Developments Dwelling Units/Year\*

1 - 3 100%

4 - 10 Up To 75%

11 - 20 Up To 33%

21 - 40 Up To 24%

41+ Up To 20%

\*Percent of dwelling units in the development for which building permits may be authorized each year. The yearly schedule shall commence from the date of the Planning Board signing of the definitive subdivision plan or A-N-R division plan or the granting of a special permit or variance if applicable, for the development.

4.1 - Once a development schedule for a single development is approved in accordance with Section 5, building permits shall not be issued in excess of said schedule, subject to the 200 dwelling unit cap detailed in Section 3.1.

5) Requirements

5.1 - All Definitive Subdivisions, A-N-R divisions, Special Permits and variances shall include a proposed development schedule by the applicant.

5.2 - Development schedules as proposed or modified shall be approved by the appropriate body (Planning Board or Board of Appeals, as appropriate), shall be recorded at the Worcester County Registry of Deeds and shall have no effect until recorded.

5.3 - In the case of a cluster subdivision, a development schedule shall be approved by the Planning Board at the time of Definitive Subdivision Plan approval. If the plan requires modifications to the development schedule based upon Board of Appeals actions or conditions, the applicant shall return to the Planning Board for approval of a revised development schedule.

6) Zoning Change Protection

6.0 - The protection against zoning changes as granted by Mass. General Law Chapter 40A, Section 6 shall, in the case of a development whose completion has been constrained by this bylaw, be extended to the minimum time for completion allowed under this bylaw."

\*\*\*

According to Town Planner Pam Harding, "We have attempted to revise the phased growth by law to reduce the count of retirement community units and affordable but they did not pass Town Meeting. So the by law remains the same as in 1991 when it was adopted."

- e-mail communication with Pam Harding, 1/03/05

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**Holliston**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Hopedale**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Hopkinton**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

Yes

TOWN OF HOPKINTON  
ZONING BYLAW  
ARTICLE XVIB

Subdivision Phasing

[Added 5-2-2000 ATM, Art. 32]

~ 210-105.5. Intent and purpose.

The intent and purpose of this article are as follows:

A. To ensure that growth and development occur in accordance with the planning objectives of the town, in an orderly manner and at a rate that can be supported by Town services, without large year-to-year variations in rate;

B. To provide the Town with the opportunity to study the effect of growth on the infrastructure, finances, character and municipal services of the Town and to plan for such capital improvements as may become necessary;

C. To ensure that the pace of residential development is related to the town's ability to provide adequately for public safety, schools, roads, municipal infrastructure and human services at the quality which citizens expect, and which is within the town's ability to pay;

D. To preserve and enhance the existing character of the community and its property values; and

E. To allow departures from the strict application of the growth rate measures in this article when appropriate to encourage those types of residential growth which address the housing needs of specific population groups or which significantly reduce the residential density of the town.

~ 210-105.6. Applicability.

A. This article shall apply to dwelling units in all subdivisions approved by the Planning Board pursuant to the Subdivision Control Law, MGL c. 41, ~ 81K through 81GG, after the effective date of this article. It shall also apply to dwelling units on lots which obtain legal frontage on a street shown on an approved definitive subdivision plan approved after the effective date of this article. For the purposes of this article, subdivisions on adjoining properties held under common ownership at the time of the effective date of this article shall be considered a single subdivision. Common ownership shall mean ownership by the same person or persons or legal entities or ownership by any two or more persons or entities, when there is active or pervasive control of those legal persons or entities by the same controlling person and there is a confusing intermingling of activity among those persons while engaging in a common enterprise.

B. The provisions of this article shall expire on July 1, 2010; however, Town Meeting may extend the provisions of this article for such additional term as it deems appropriate.

~ 210-105.7. Issuance of building permits.

A. No more than 12 building permits for the construction of new residential dwelling units which are situated within any subdivision as referred to above or which obtain their legal frontage on streets shown on any of the subdivision plans as defined above, shall be issued in any twelve-month period.

B. Lots fronting on a street shown on a subdivision plan approved after the effective date of this article, but not contained within the limits of the subdivision plan, shall be included in the calculation of the total number of lots shown on the subdivision plan pursuant to which the street was created.

C. The Planning Board may authorize the issuance on one occasion only of up to three additional building permits for dwelling units during the last 12 months of construction of the subdivision road and infrastructure if, in the opinion of the Planning Board, the issuance of the permits would result in or facilitate the prompt completion of the subdivision.

~ 210-105.8. Exemptions.

The provisions of this article shall not apply to the following types of residential development and properties:

A. Applications for building permits for the enlargement, restoration or reconstruction of a dwelling.

B. Individual building lots not created by a definitive subdivision plan approved pursuant to MGL c. 41, ~ 81U.

C. Individual building lots created by a definitive subdivision plan approved by the Planning Board prior to the effective date of this article.

D. Dwelling units approved by the issuance of a comprehensive permit by the Board of Appeals pursuant to MGL. c. 40B.

E. Dwelling units approved pursuant to Article XIII, Garden Apartments in Residential Districts, or Article XVIA, Senior Housing Development, of the Hopkinton Zoning Bylaw. Such developments may, however, be approved with conditions which regulate the phasing of the construction of the particular development.

F. Subdivisions in which the applicant agrees to permanently reduce the density of buildable lots to not more than 40% of the density permitted by the applicable zoning regulations and which are feasible for development taking into account environmental conditions affecting the parcel and the application of all other local and state regulations and requirements. The surplus land must exceed 10 contiguous acres and must be permanently designated as open space and/or farmland. The land to be preserved shall be permanently protected from development by an agricultural preservation restriction, conservation restriction, dedication to the town, or other similar mechanism approved by the Planning Board.  
~ 210-105.9. Zoning change protection.  
The protection provided by MGL c. 40A, ~ 6, shall continue until that date which would be the earliest date that application could be made for a building permit for the final dwelling unit in the subdivision pursuant to this article.

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**Hudson**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

*No*

**Hull**                        *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

*No*

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**Ipswich**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

*No*                    The only mention of phasing in the by-laws is the following:

Town of Ipswich Protective Zoning Bylaw (Adopted 1977, Amended 2004)

H. Great Estate Preservation Development (GEPD)

Adopted at Special Town Meeting 10/20/97; approved by Attorney General 2/10/98; and revised at Annual Town Meeting 4/6/98; approved by Attorney General 6/2/98; Special Town Meeting 4/5/99, and Annual Town Meeting 4/5/99; approved by Attorney General 8/2/99, and 7/28/99 respectively)

The following density standards and development requirements shall apply to a GEPD approved by a special permit from the Planning Board in lieu of the zoning provisions otherwise applicable in the RRA zoning district.

f. Phasing: Phasing of the GEPD, as approved by the Planning Board, shall be permitted either pursuant to phasing described in the initial special permit application or in subsequent special permit or site plan review applications. The special permit and site plan approval shall not be deemed to have lapsed so long as the applicant shall have commenced use of the Great Estate Preservation special permit or site plan approval in substantial accordance with the phasing time frames set forth in the special permit and site plan approval application. The Planning Board shall have the authority to require a performance bond or other similar mechanism if it determines that such a mechanism is necessary to ensure that the key components of the project are satisfactorily completed.

**Kingston**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*



**Yes**

Town of Kingston Zoning Bylaw (Adopted 1955, Amended 2004)

Section 6.10. Residential Development Scheduling

6.10.1. Intent and Purpose

6.10.1.1. It is the intent and purpose of this Bylaw to regulate the timing of development in residential subdivisions and other developments in a manner that promotes the health, safety, convenience, and welfare of the inhabitants of Kingston. It is the intent of this section to regulate the rate at which residential construction occurs without imposing undue economic burden on those involved in housing development. Residential development scheduling will insure that periods of accelerated residential growth will not disrupt the Town of Kingston's long-term capital improvement process nor adversely affect public safety or general welfare of Town residents. This Bylaw has the following purposes;

- a. To promote a manageable growth rate in Kingston and reduce extreme fluctuations in the Town's growth rate,
- b. To prevent the development of traffic conditions that are hazardous to pedestrian and vehicular travel,
- c. To allow development to proceed in a manner that allows a proper and complete evaluation of demand on municipal services; namely, public schools, water supplies, fire and police protection, solid waste, and other public services,
- d. To coordinate the timing of land development in Kingston with the provision of public services,
- e. To preserve unique natural, historic and cultural features,
- f. To allow the implementation of appropriate mitigation methods in order to minimize potentially adverse impacts of development on the natural environment.

6.10.2. Definitions

APPLICANT: Individuals, partnerships, corporations, trusts, and other legal entities in which the applicant of record holds a legal or beneficial ownership of greater than one (1) per cent.

CALENDAR YEAR: The period beginning January 1 and ending December 31.

6.10.3. General Requirements

6.10.3.1. No building permit for a new residential dwelling unit or units shall be issued unless in accordance with this bylaw.

6.10.3.2. Applicability. This Bylaw shall apply to definitive subdivision plans, division of land pursuant to Massachusetts General Laws, Chapter 41, Section 81P, and variances and special permits which would result in the creation of a new dwelling unit or units. Dwelling units shall be considered as part of a single development, for all purposes of this section if located either on a single parcel or contiguous parcels of land which have been in the same ownership at any time subsequent to the date of the adoption of this bylaw. Two-family and multi-family dwellings shall be considered to have one building permit per dwelling unit for the purpose of this Bylaw.

6.10.3.3. Activation: This Bylaw shall be activated upon vote of Town Meeting. During the first calendar year it is in effect, the total number of building permits for residential units issued between January 1 of that year and the vote of Town Meeting shall count toward the seventy- (70-) permit total described in Section 6.10.4.

6.10.4. Procedure

6.10.4.1. Rate of Residential Development. The Building Inspector shall issue permits for construction of new residential dwelling units only if permit construction will not result in authorizing construction of a total of more than seventy (70) dwelling units in a single calendar year. This rate is intended to insure that the Town, with prudent reliance on local and other financial resources, and in compliance with the revenue generating limitations of Proposition 2 1/2, can and will provide infrastructure and operate in a manner that provides an adequate and responsible level of town services.

6.10.4.2. The Building Inspector shall issue building permits for construction of new dwelling units in residential subdivisions (or contiguous parcels which have been in the same ownership at any time subsequent to the adoption of this bylaw) given final approval after passage of this bylaw, only if permit issuance will result in authorizing construction within a twelve (12) month period of up to fifteen (15) units but not more than twenty (20) per cent of the units potentially allowed in each subdivision.

6.10.5. Exemptions

6.10.5.1. Subdivisions or Approval-Not-Required Plans of two (2) lots or less.

6.10.5.2. All exempt units as described in section 6.10.5.1 above shall be counted towards the seventy (70) permit total described in section 6.10.4.

6.10.5.3. Planned Residential Developments. For Seniors (PRDS) shall be exempt from the provisions of Section 6.10. Residential Development Scheduling.

\*\*Webmasters Note: The previous subsection has been added an update approved at a town meeting held on 4/5/03.

6.10.5.4. Insofar as the subdivision is not exempted by Massachusetts General Laws Chapter 40A Section 6 from the provisions of this bylaw, the period of time provided under Chapter 40A in which a subdivision is not affected by zoning changes is hereby extended during the duration of this bylaw, so as

to protect such phased subdivisions against further changes in use and density requirements.

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**Lakeville**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Lancaster**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**      Town of Lancaster Zoning Bylaw (Adopted 1950, Amended 2004)

ARTICLE 14: RESIDENTIAL REGULATIONS  
14.10 Development Rate Limitation

Intent: to avoid large year-to-year variations in development rate in Lancaster while allowing development consistent with historic average rates.

14.11 Single-family and Two-family Conversion Limitation

The Building Commissioner shall issue building permits for construction of new single-family dwellings or conversion to two-family dwelling units on lots created after May 5, 1986 only as follows.

(a) Individuals and limited developments. Permits shall be issued without regard to the Town-wide development rate where such issuance will result in not more than 8 new dwelling units having been authorized, within the twenty-four month period previous to and including the date of approval, on that plus any other lots created from land which was contiguous and in the same ownership at any time subsequent to May 5, 1986.

(b) More rapid developments. Permits resulting in exceeding the 8 dwelling unit limitation of (a) above shall be issued only if the Town-wide number of new dwelling units authorized within the 24 month period previous to and including the date of approval will total fewer than 60 dwelling units (excluding apartment units), or if granted a Special Permit under (c) below.

(c) Special development. A Special Permit may be granted by the Planning Board authorizing more rapid development than allowed under paragraph (b), for housing development determined by that Board to have unusually low impact on public services because of its location, occupancy, or design, and to serve an important unmet housing need of Lancaster residents without overburdening town services.

14.12 Apartment Limitation

In authorizing a proposed apartment development, the Special Permit Granting Authority shall establish an annual limit for the number of units to be authorized in that development, taking into consideration the intent of Section 14.10, the town-wide building rate over the previous two years, the needs which the housing will serve, the ability of the town to provide services in a timely manner, and the housing cost and feasibility consequences of the limitation.

14.13 Zoning Change Protection

The protection against subsequent zoning change granted by Section 6 of Ch. 40A, G.L. to land in a subdivision shall, in the case of a development whose completion has been constrained by Section 14.10, be extended to the minimum time for completion allowed under Section 14.10.

14.30 Major Residential Development

(a) Applicability. Major Residential Development, that is, the creation of more than six lots (unless restricted from residential use) or construction of more than six dwelling units within a two-year period from or on a property or a set of contiguous properties in common ownership as of January 1, 1986, is allowed only on Special Permit, as indicated in Section 3.21 Residential. Such special permits shall be acted upon in accordance with the following.

(b) Procedures. Application for a special permit for Major Residential Development shall include a basic development plan and a substantially different alternative development plan, each either conforming to the requirements for a preliminary subdivision plan or not requiring approval under the Subdivision Control Law. "Substantial difference" would be a conventional plan versus a Flexible Development (see Section 4.60), or two plans of the same type having major differences in the number of lots created, road pattern, or open space configuration.

Applicants for Major Residential Development shall file with the Planning Board four copies of the following, to have been prepared by an interdisciplinary team including a Registered Land Surveyor, a Professional Engineer, and a registered Architect or Landscape Architect.

(1) The basic and alternative development plans described above, conforming to the information requirements for a preliminary subdivision plan under the Subdivision Regulations of the Planning Board. Such plans shall also indicate proposed topography and the results of deep soil test pits and percolation tests at the rate of one per every five acres, but in no case fewer than five per Major Residential Development. Test pits shall be located to the satisfaction of the Planning Board so as to indicate the buildability of areas proposed either for development or for bonused reservation.

(2) An Environmental Analysis as required by the Lancaster Subdivision Regulations.

(3) Any additional information necessary to make the determinations and assessments cited in Paragraph (c) below.

(c) Decision. The Planning Board shall approve or approve with conditions a Special Permit for Major Residential Development for the basic development plan, provided that the Board determines that the basic plan is at least as beneficial to the Town as the alternative, based upon the considerations established under Section 10.25 Approval of Special Permits and Article IV of the Lancaster Subdivision Regulations, and that the alternative plan is in fact a good-faith design for beneficial use of the site.

If the Board determines that the alternative plan is more beneficial to the Town than the Basic Plan, it shall approve Major Residential Development for that plan, provided that it meets all requirements of the Zoning Bylaw.

The Board shall disapprove both plans only if it determines that the alternative plan is not a good-faith design or that the more beneficial plan does not conform to the requirements of the Zoning Bylaw.

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**Lawrence**            *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

**Leicester**            *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**            Leicester Zoning Bylaw

6.1 PHASED GROWTH ZONING BYLAW

1.) Intent and Purpose

1.0 The Town of Leicester wishes to ensure and encourage a steady, manageable growth rate in the community while avoiding extreme fluctuations in the growth rate; and:

1.1. To relate the timing of future residential development to the community's ability to provide services to such development such as fire and police protection and adequate educational facilities;

1.2. To preserve and enhance the existing community character.

2.) Regulations

2.0 No building permit for a new residential dwelling unit or units shall be issued unless in accordance with this bylaw.

This bylaw shall apply to all definitive subdivision plans, divisions of land pursuant to M.G.L., Chapter 41, Section 81P (hereafter called "A-N-R division") variances and special permits which would result in the creation of a new dwelling unit or units. Dwelling units shall be considered as part of a single development, for all purposes of this section if located either on a single parcel or contiguous parcels of land, which have been in the same ownership at any time subsequent to the date of adoption of this bylaw.

3.) Planned Growth Rate

3.0 All authorizations shall count toward the planned growth rate permitted by this bylaw. Building permits shall not be issued under any development schedule approved under Section 5 during periods when said building permit issuance would result in authorizations of more than 100 dwelling units over a 24-month (2 year period).

3.1 For the purposes of implementing the 100 dwelling unit limitation, the Building Inspector on the first business day of each month shall total the number of building permits issued during the previous 24 months. If the number of dwelling units for which new building permits have been issued during the previous 24 months meets or exceeds 100 in number, then the Building Inspector shall not issue building permits for any additional dwelling unit or units in the then current month, except as permitted by Section 3.2.

3.2 In a single development where the number of new dwelling units are 1 to 3 in total, building permits may be issued even if the 100 limit has been reached. Once issued, these exempt permits shall be calculated in the 100 building permit limit as noted in Section 3.G for the next, ensuing month.

#### 4.) Development Schedule

4.4 Building permits for new dwelling units shall be authorized only in accordance with the following schedule:

##### Number of New Units In Development Dwelling Units/Year\*

1-3 100%

4-10 up to 50%

11-20 up to 33%

21-40 up to 24%

41+ up to 20%

\*Percent of dwelling units in the development for which building permits shall be authorized each year. The yearly schedule shall commence from the date of the Planning Board signing of the definitive, subdivision plan or A-N-R division or the granting of a special permit or variance if applicable for the development.

4.1 - Once a development schedule for a single development is approved in accordance with Section 5, building permits shall not be issued in excess of said schedule, subject to the 100 dwelling unit cap detailed in Section 3.1.5.) Requirements.

5.1 In order to facilitate review, the developer may submit a written proposed development schedule to the Planning Board as part of any application for approval of a plan subject to MGL, Chapter 41, Section 81P (A-N-R division).

5.2 In cases where the developer has elected not to submit a development schedule in accordance with Subsection 5.1, above, the Building Inspector shall refer any application for a building permit on a lot within this type of development to the Planning Board for development scheduling.

5.3 The developer shall submit a written proposed development schedule as part of any application for definitive subdivision approval, special permit, or variance that would result in the creation of new dwelling units. In the case of a variance or a special permit granted by the Board of Appeals, the Board of Appeals shall forthwith refer said document to the Planning Board.

5.4 The Planning Board is authorized, upon request, to approve a development schedule for any building lots/ dwelling units not covered under Subsection 5.1 and 5.3.

5.6 Approved development schedules for the types of development described in Subsection 5.1 and 5.3 shall be incorporated, where appropriate, as part of the decision filed with the Town Clerk, whether inscribed on the plan and/or filed as a separate attached document.

5.7 No approved development schedule shall take effect for the purposes of obtaining building permits until recorded at the registry of deeds separately or as part of the subdivision or zoning decision to which it is attached.

5.8 If applications for building permits are made at a slower rate than authorized in a development schedule, applications for the unused permits from one period may be made in a later period.

5.9 If as a result of an applicant seeking approval of a second plan of development on a parcel of land for which authorizations have been previously granted, and the second plan is approved, a new development schedule shall be established. This schedule shall supersede the first development schedule.

5.10 Applicants shall submit a development schedule for all land considered part of a single development under Subsection 2.0. After a development schedule is issued for a particular parcel of land, subsequent development schedules for contiguous land that is considered part of the same development under Subsection 2.0 shall only allow building permits to be issued on such land after all building permits authorized in the original development schedule have been issued or the full effective time period for the original development schedule has elapsed.

\*\*Webmasters Note: The previous sections, 5.1 through 5.10, have been amended as per an update approved at a town meeting held on 11/13/02.

#### 6.) Zoning Change Protection

6.0 The protection against zoning changes as granted by M.G.L. Chapter 40A, Section 6 shall, in the case of a development whose completion has been constrained by this bylaw, be extended to the minimum time for completion allowed under this bylaw.

#### 7.) Exemptions

7.1 The following developments are specifically exempt from limits of the Phased Growth Bylaw and shall not affect the number of 100 building permits to be issued in the two-year period.

1. An application for a building permit for the enlargement, restoration or reconstruction of a dwelling in existence as of the effective date of this bylaw, provided that no additional residential unit is created.

2. Dwelling units for senior residents, where occupancy of the units is restricted to senior persons through a property executed and recorded deed restriction running with the land. For the purposes of this Section "senior" shall mean persons over the age of 55.

3. Any tract of land existing and not held in common ownership with an adjacent parcel on the effective date of this bylaw shall receive a one-time exemption for the purpose of constructing a single-family unit on the parcel.

**Leominster**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**      The following ordinance would not copy in the correct format, but all of the relevant language is below.

City of Leominster Zoning Ordinance (Adopted 2001, Amended 2003)

ARTICLE VII SCHEDULED DEVELOPMENT Section 22-45 Purpose 46.1 The purpose of this Article is to relate the timing of residential development to the City's ability to provide services to such development, and thereby promote the education, health, safety, convenience, and welfare of the inhabitants of the City, by regulating the maximum rate at which individual residential developments may proceed. Section 22-46 Procedure 46.1  
46.2  
46.3  
46.4  
46.4.1  
46.4.2  
46.4.3  
46.4.4  
46.5

This Article shall take effect only when and if the Director of Inspections determines that 200 non-exempt dwelling units within subdivisions, contiguous parcels, multi-family complexes, and mobile home parks have been authorized city-wide within a twenty-four (24) month period. While this Article is in effect, the Director of Inspections shall issue building permits for construction of new dwelling units given final approval after passage of this Article, only if permit issuance will not result in authorizing construction within a twenty-four (24) month period of more than 15 units or 25 percent of the units potentially allowed in each development, whichever is greater. In no case, while this Article is in effect, will the Director of Inspections exceed the issuance of 100 building permits in a twelve (12) month period for those residential developments specified in this Ordinance. Permits shall be issued hereunder for each specific subdivision lot after the date so designated for the lot on a development schedule which has been approved by the Planning Board and recorded with the subdivision plan which created the lot. Planning Board approval of a development schedule shall provide that: The schedule designates for building not more than 15 units or 25 percent of the potential dwelling units in the subdivision, whichever is greater, within the first two years (24 months) following definitive plan endorsement; In each year thereafter, the schedule permits construction of not more than 20 units or 25 percent of the total number of potential dwelling units in the subdivision, whichever is greater; In the opinion of the Planning Board, the development sequence established by the schedule is not arbitrary or unreasonable; and In the opinion of the Planning Board, the development schedule will not place an unreasonable burden on the City. In authorizing multi-family use, the Special Permit or Variance granting authority will establish the same development schedule designated for subdivision. Section 22-47 Exemptions 47.1

47.2  
47.3

All rental units for low and moderate income households developed and/or operated under a federal or state subsidy program. All units which meet the local definition of affordable housing. Insofar as the subdivisions are not exempted by G.L. Chapter 40A, Section 6, from the provisions of this Ordinance, the period of time provided under G.L. Chapter 40A in which a subdivision is not affected by zoning changes is hereby extended during the duration of this Ordinance, as to protect such subdivisions against further changes in use and density requirements.

Leominster Zoning Ordinance

Page 56

47.4  
47.5

All units within a Residential Social Service Facility, Continuing Care Retirement Community and Assisted Living facilities. For the purposes of the Article, any person who owned a parcel of land in Leominster prior to the effective date of this Ordinance, shall receive a one-time exemption for one building permit for the purpose of constructing a single-family unit on the parcel owned. The issuance of a building permit for this purpose shall, however, count toward the 200 dwelling unit limit.

\*\*\*

Economic Development Coordinator Chris Paquette (11/30/04) said that there is no expiration date for the growth cap but added that they have never come close to even reaching it. He said that they revisit/update the cap every few years. He said that in the 1990s, there were up to 250 new homes built every year but that there were only 61 new homes last year. He added that there have been 450 renovation permits in the past year.

\*\*\*

Economic Development Coordinator Chris Paquette said that the town has limits of 20-25 permits per year per developer and also limits the number of units that can be built per style every year. Researcher had not found these specifics in the bylaws. Mr. Paquette added that a developer has recently filed a lawsuit with the city because he (the developer) wants to build 229 SF homes and does not want to stretch out the development.

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**Lexington**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

*No*

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**Lincoln**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

*No*

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**Littleton**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

*No*

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**Lowell**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

*No*

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**Lunenburg**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**      Email from Marion Benson, Chair of the Planning Board, on 12/9/04:

"The rate of growth has been in effect for seven years. The number is a tally of housing starts over ten years period and averaged out to a number. Over 55 housing is not included in the rate of development."

\*\*\*

Town of Lunenburg Protective Zoning Bylaw (Amended 2004)

4.11. Phased growth

4.11.1.1. The purposes of Phased Growth are to protect and promote the public health, safety, and welfare of the Town of Lunenburg, by phasing the growth of the Town at a manageable rate to ensure that the Town has adequate time to expand its resources and to provide the necessary services to meet the educational, infrastructure, and public safety needs of its residents, and preserve the essence of the Rural Residential character of the Town.

4.11.2. Applicability

4.11.2.1. Residential uses permitted in the Residence A, Residence B, and Outlying Districts, including those on Special Permit, as referenced in Section 4.11.3.1.

4.11.2.2. The provision of this Section 4.11. shall be in effect for seven (7) years from the date of the adoption of this section by the Town or upon the completion of the updated Master Plan, Sewer Facility Plan, School, Library and Public Safety Buildings Programs, completion of construction of any and all facilities and public infrastructure outlined in said plans and compliance with the Commonwealth of Massachusetts Executive Order 418.

4.11.2.3. The requirements of this Section shall limit the number of building permits for new dwelling units that may be issued in twelve (12) month period on lots created after the passage of this Section except as provided below.  
4.11.2.4. Building permits shall not be issued authorizing construction of more than forty-five (45) dwelling units in any twelve (12) month period with the first such period beginning with the passage of this Section. No more than fifty (50) percent shall be for dwellings within a subdivision unless one (1) or more of the following conditions applies.

- a) The dwelling units are created under a program or statute intended to assist the construction of low or moderate income housing, as defined in an applicable statute or regulations for affordable housing in the Town of Lunenburg.
- b) The dwelling units are designated for persons fifty-five (55) years and older through a properly executed and recorded deed restriction running with the land.
- c) The lots are shown on an approved Definitive Plan or subdivision for which approval was granted prior to the effective date of this section and which has not otherwise expired, as per MGL, Chapter 40A, S81P.
- d) The lots are shown on a plan approved prior to the effective date of this section and which are subject to Section 4.11.3.1.

Lots satisfying any one of the four conditions found in (a) - (d) of this Section shall also be exempted from the overall limit of 45 dwelling units to be constructed in any 12 month period pursuant to this section.

4.11.2.5. No applicant shall be issued more than six (6) building permits in any one (1) year on existing or new lots for which approval is not required under the Subdivision Control Law (Massachusetts General Laws, Chapter 41).

a) ANR lots, which have statutory use protection as per MGL, Chapter 40A, S81P for three years.

4.11.2.6. The procedure for issuing building permits referred to herein shall be as follows:

1. The applicant must complete and file an application for a Building Permit with the Building Official.
2. The Building Official shall accept applications for Building Permits on a first come, first serve basis during normal business hours. The Building Official will assign a consecutive number, starting with the number one (1) to applications as each application is received and will stamp the date of receipt on the application. This procedure will start on the date of passing of this Article and shall be renewed annually on the anniversary date of the passing of the article.
3. The Building Official will notify each applicant in the order that the application for the Building Permits are received on its standing based on the order of submission of the Building Permit application.
4. Building Permits issued but subsequently abandoned under the provision of the State Building Code shall not be counted toward the forty-five (45) new dwelling units allowed.
5. A building permit remains active only if a substantial start of construction has taken place. If the Building Official determines that there is not a substantial start and/or no extension has been granted, then the Building Official may revoke the permit and the building permit application will lose its number and will have to refile for a new permit and will receive a new number.
6. In the case that building permits have been issued for forty-five (45) new dwelling units, and, upon review, a permit application shall be deemed invalid and thereby lose its standing number, the next number will be issued but the number of new dwelling units authorized for the given twelve (12) month period will remain at forty-five (45).
7. In the case of building permit applications for subdivision lots, the Building office will confer with the Planning Board as to the status of the maximum dwelling units allowed each year as noted in Section 4.11.3.1.

#### 4.11.3. Conditions of Use

4.11.3.1. Building permits for the construction of residential dwelling units in a Subdivision, Planned Residential Area, and Mixed Residential Development or land held in common ownership on the effective date of this section shall not be granted at a rate per annum greater than that permitted by the following schedule:

##### RATE PER ANNUM

# of Dwelling Units/Minimum Years of Development/Maximum # of Dwelling Units Developed per Year

1-6	/1	All
7-20	/2	40%
21-45	/3	30%

4.11.3.2. Lots or exclusive use areas can be sold any time for the construction of dwellings in designated future years subject to phasing approved by the

Planning Board when the Definitive or Development Plan is approved; however, any lots covered by this provision hereafter sold or otherwise transferred to another owner, shall include in the deed, the earliest date of which construction may commence in accordance with these provisions.

4.11.3.3. Subsequent changes in the shape or ownership of lots or exclusive use areas shall not affect the applicability of this Section.

4.11.3.4. For purposes of this Section 4.11, land shall be deemed to be held in common ownership with contiguous land if the individuals, partnerships, corporations, trusts or other legal entities owning the land in question ("owner") is also an owner of any contiguous land. A person or entity shall be deemed to be an "owner" if they hold a legal or beneficial interest in the property of more than one percent (1%).

4.11.3.5. The effective date of this provision shall be no earlier than the date on which the first building permit is obtained.

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Does the zoning bylaw or ordinance restrict the number of permits a single firm can obtain in a year?

Marion Benson in an email wrote "yes" to this question.

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**Lynn**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Lynnfield**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

**Malden**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

**Mancheste**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**                    According to Paul Orlando - Building Inspector & Zoning Enforcement Officer, (7/13/04) Manchester-by-the-Sea does not cap the number of residential permits town-wide issued each year. Mr. Orlando said that the town used to have a cap, but no longer has one.

\*\*\*

This is from ordinance.com. It has expired.

6.11 Development Scheduling; Sewer Connection Limitation

6.11.1 Purpose:

The purpose of Section 6. 11, Development Scheduling, is to ensure that a harmonious pattern and rate of development occurs in Manchester-by-the-Sea



which protects the welfare of current and future Manchester-by-the-Sea residents. The consequences of the historical pattern and rate of development in Manchester-by-the-Sea have been described in various documents and discussed by Town boards, departments and committees. Of particular concern is the Town's increasing inability to provide public water and sewer service to those residents seeking access to these facilities. The Water and Sewer Department has provided evidence that the municipal sewer system can accommodate no more than 200 additional dwelling units and the public water supply is at or near capacity. The rate of residential and commercial development in Manchester-by-the-Sea is determined by and should not exceed the ability of the town to provide adequate public services to safeguard the health, welfare and safety of current and future residents.

#### 6.11.2 Applicability:

Section 6.11 applies to the issuance of building permits for all new residential and non-residential construction, including those considered as single and common lots for single and two-family residential use as outlined in MGL, Chapter 40A, Section 6.

#### 6.11.3 Activation:

This development scheduling By-Law, once activated by Town Meeting, is designed to establish lead time for the provision of adequate services to current and future Manchester-by-the-Sea residents expected under the current Zoning By-Law, the expected build-out population, and the capital improvement program currently being prepared by the Town. This By-Law establishes a development rate adequate to ensure that the town, with prudent reliance on local and other financial sources and in compliance with the revenue generating guidelines of Proposition 2, can and will provide infrastructure and operate in a manner which provides current and future Manchester-by-the-Sea residents with an adequate and responsible level of town services, as defined by relevant, commonly-accepted professional standards.

#### 6.11.4 Rate of Development:

The Building Inspector shall issue building permits for construction of new residential and non-residential structures only if permit issuance will not result in authorizing connection, within the period commencing from the effective date of this By-Law, of a total of more than 200 dwelling units to the municipal sewage treatment facility. This By-Law shall remain in effect until repealed by a future Town Meeting.

#### 6.11.5 Issuance of Building Permits:

6.11.5.1 The Building Inspector shall issue building permits for construction of residential and non-residential structures only if permit issuance complies with the requirements of Section 6.11.4. However, no building permit(s) shall be issued to any applicant authorizing more than five (5) connections to the municipal sewage treatment facility (regardless of number of dwelling units served by said connection) within any twelve (12) month period by that applicant. For the purpose of this section, applicant is defined as individuals, partnership, corporation, trust or other legal entity in which the applicant of record holds a legal or beneficial ownership greater than one (1%) percent.

#### 6.11.6 Relation to Real Estate Assessment:

Any land owner who has been denied a building permit because of these provisions may appeal to the Board of Assessors in conformity with MGL, Chapter 59, Section 59 for determination as to the extent to which the restrictions on development use of such land shall affect the assessed valuation placed on such land for purposes of real estate taxation, and for abatement as determined to be appropriate. [Added 1989]

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## **Mansfield**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**      Town of Mansfield Zoning Bylaw

#### 4.2.2.1 Scheduled Rate of Development

##### 4.2.3.1 Purpose

The purpose of this section is to establish local standards governing the rate of residential development that promote the health, safety and general welfare of the community by ensuring development consistent with the Town's Master Plan and Capital Improvements Plan. This Scheduled Development by-law shall be in effect for a period of ten (10) years from the date of its adoption. The intent of these standards is to allow for the reasonable expansion or extension of the Town's services and infrastructure at a rate consistent with the Town's ability to fund these services and infrastructure expansion or extension within the limits of sound financial management and responsible capital planning and in keeping with the provision of Proposition 2 1/2.

##### 4.2.3.2 Applicability

This by-law shall apply to all building permits for new single, two or multi-residence residential construction. For the purposes of this by-law, each single-family detached dwelling unit or each three (3) bedrooms of two-family or multi-family units or fraction thereof shall be considered to be one building permit. Specifically excluded from this by-law are building permits for demolition, repair, renovation, reconstruction or expansion of existing residential units and dwelling units proposed under the provisions of M.G.L.Chapter 40B. Also excluded are complexes for senior citizens, where occupancy is restricted to senior persons through a properly executed and recorded deed restriction running with the land. For the purposes of this by-law, the term senior shall mean persons over the age of fifty-five (55) years.

4.2.3.3 Building Permit Limitations

Effective upon adoption of this by-law, the total number of building permits issued for new residential units issued within any calendar year shall not exceed 115 permits, of which 15 shall be reserved for owners of lots which are not shown on either a definitive subdivision plan or "approval not required" plan under General Laws Chapter 41, Section 81) recorded after the effective date of this Scheduled Development by-law.

4.2.3.4 Special Exemption

The Zoning Board of Appeals may by special permit authorize the issuance of building permits in excess of the limits imposed by Section 4.2.3.3 for low income housing or moderate income housing which the Zoning Board of Appeals determines would serve the needs of the Town and that the benefits of such housing project outweigh its detrimental effects after consideration of the following criteria:

4.2.3.4.1 Impact on the health, safety, convenience, general welfare and amenities of the inhabitants of the Town;

4.2.3.4.2 Effects on adjoining premises, neighborhood character, and social structure;

4.2.3.4.3 Adequacy of municipal facilities and services, including but not limited to, fire and police protection, water provision, and wastewater disposal;

4.2.3.4.5 Effects on the natural environments; and

4.2.3.4.6 Fiscal impacts, including the effect on the tax and employment base, municipal finances, and property values.

4.2.3.5 Severability

A determination that any portion or provision of the Scheduled Development by-law is invalid shall not invalidate any other portion or provision hereof.

\*\*\*

Planning Director Shaun Burke (10/2004) said that the cap has never been used. It was put in place because Mansfield was on of the fastest growing communities in MA in the 1980s and 1990s and that there had been as many as 225 single family houses built in a year. 115 was decided on it because it is half that number (225).

Researcher's note: The by-law does not include an adoption or amended date. Town planning director Shaun Burke said that the by-law was passed in 1997 or 1998.

**Marblehea**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

*No*

**Marlborou**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

*No*

**Marshfield**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

*No*

**Maynard**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

*No*

**Medfield**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Medford**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Medway**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

There is a section in Medway's May 1999 Master Plan indicating that the town has discussed growth management. "Implementing Actions Goal 1: Manage the Rate of Residential Growth a.) Limit the number of housing permits on annual basis (also referred to as Phased Growth). This will allow the Town to plan for the increased burden on services (especially water and schools)." (p. 25)

The subdivision rules and regulations do have a provision for growth management, but it is related to low density subdivisions.

The Land Use Ordinance of Medway  
NORFOLK COUNTY, MASSACHUSETTS

#### LAND SUBDIVISION RULES AND REGULATIONS

#### SECTION 4.0 DESIGN AND CONSTRUCTION STANDARDS

##### 4.1 General

4.1.6 In accordance with MGL Chapter 41, Section 81-Q, the Planning Board has determined that within subdivisions of land where the number of dwellings is reduced to less than the maximum allowed by the Zoning By-Law, the prospective amount of travel upon various ways within a subdivision will be less and, therefore, design and construction standards may be adjusted accordingly. Furthermore, the Planning Board has determined that a reduction in development density and road construction will assist the Town in growth management by minimizing impacts on public services and, therefore, is in the public interest. For the purpose of this section, the "DENSITY FACTOR" is defined as the number of single-family residential units divided by the total land area available for development and the total land area shall not include any area contained within existing or proposed roadways, right of way, travel/access easements and furthermore, each lot must contain at least 44,000 sf of upland area. For example, in the Agricultural and Residential I district, Zoning density is equal to one (1) dwelling unit per 44,000 SF. A development at 1/2 density would be equal to one (1) dwelling unit per 88,000 SF while a 1/3 (one-third) density development is equal to one (1) dwelling unit per 132,000 SF.

4.1.6.1 The following design and construction standards shall apply to reduced density residential subdivisions as follows.

4.1.6.1.1 Where the density of a subdivision is equal to 1/2 the density allowed under the Zoning By-Law the following standards apply.

Minimum horizontal centerline radius - 100'  
Property line at street intersection radius - 20'  
Granite Curb radius at intersections - 30's  
Layout width - 45'  
Maximum centerline grade - 10%  
Dead end length - no maximum provided that no more than 12 dwellings shall have access from the way  
Pavement width - 20' traveled way + 1.0 Cape Cod berm each side  
Sidewalks - one 5 1/2' walk  
Design Storm - 10 year for pipe size (Rational Method)

4.1.6.1.2 Where the density of a subdivision is equal to or less than 1/3 (one-third) the allowed density the following standards shall apply

Minimum horizontal centerline radius - 75'  
Property line at street intersection - 20'

Granite Curb radius at intersections - 30'  
Layout width - 40'  
Maximum centerline grade - 12%  
Deadend length - no maximum provided that no more than 15 dwellings shall have access from the way  
Pavement width - 18' traveled way + 1.0 Cape Cod berm each side  
Sidewalks - one 5 1/2' walk  
Design Storm - 10 year for pipe size (Rational Method)

4.1.6.1.2 Reduced Density Preliminary Subdivision submission packages must include accurately located field determined wetland/upland areas, calculations supporting the number of lots within the subdivision and a table/chart noting conformance with Sections 4.1.5.2.

4.1.6.1.3 Reduced Density Definitive Subdivision submission packages that were not presented as a Preliminary Reduced Density Subdivision shall include accurately located field determined wetland/upland areas, calculations supporting the number of lots within the subdivision and a table/chart noting conformance with Section 4.15.2. The Definitive Plan lotting sheet shall clearly indicate that the "plan" is a "reduced density subdivision" and any farther development or creation of additional lots will require the roadway to be upgraded to full design and construction standards including the submission of a Definitive Plan Modification to the Planning Board.

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**Melrose**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Mendon**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**                    Town of Mendon Zoning Bylaw (Amended 2002)

Section XIII Rate of Development

A. Purpose. The purpose of this section, "Rate of Development" is to promote orderly growth in the Town of Mendon, consistent with the rate of residential growth since 1980, to phase growth so that it will not unduly strain the community's ability to provide basic public facilities and services, to provide the Town, its boards and its agencies information, time and capacity to incorporate such growth into the master plan for the community, and to preserve and enhance existing community character and the value of property.

B. Applicability. This section shall apply to the issuance of all building permits for the construction of new dwelling units. For the purposes of this Rate of Development bylaw, the term "dwelling unit" shall be defined as one or more living or sleeping rooms arranged for the use of one or more individuals living as a single housekeeping unit with cooking, living, sanitary and sleeping facilities.

C. General. Beginning on May 12, 2001, building permits for not more than thirty-nine (39) new, residential dwelling units shall be issued in each of the five full 12-month periods, hereafter referred to as "calendar years", following said date, for the construction of new residential dwellings. For example, a duplex or two-family structure shall constitute two (2) dwelling units; a principal residence with an accessory apartment therein shall constitute two (2) dwelling units.

D. Procedures. Any building permits issued shall be in accordance with the following procedures:

2. The Building Inspector shall mark each application with the time and date of submittal.

The Building inspector shall act on each permit in order of submittal. Any permit application that is incomplete or inaccurate shall be returned to the applicant and shall require new submittal.

3. The number of units to be allowed in any month shall be determined by subtracting from thirty-nine (39) the total authorized in the preceding eleven (11) months (minus permits withdrawn or expired without use). The eleven (11) months prior to enactment of this provision shall be used to establish availability during the first year after enactment.

4. No more than 7 building permits shall be issued to an individual or entity in one twelve month period. For the purposes of this bylaw, entities that share at least one principal, officer, trustee, fiduciary, shareholder or beneficiary.

5. Any building permit for a dwelling unit, which is regulated by this bylaw, shall be non-transferable.

6. This subsection shall apply to every new residential development. Development shall mean a single parcel or set of contiguous parcels of land held in common ownership regardless of form, at any time on or after the effective date of this subsection even though the property may have been broken up or otherwise transferred to another subsequent to that date. Building permits for each development shall not exceed 7 in one year.

7. All definitive subdivisions, ANR divisions, Special Permits and variances shall include a proposed development schedule by the applicant.

E. Exemptions. The provisions of this section shall not apply to nor limit in any way, the granting of building or occupancy permits required for:

1. Enlargement, restoration, replacement or reconstruction of dwelling traits existing on lots as of the date of passage of this bylaw, provided that such construction does not result in an increase in the number of dwelling units.

F. Extension. This section may be extended, without lapse of its provisions and limitations, by a two-thirds vote of a town meeting prior to June 30, 2006

G. Severability. The provisions of this Article are severable, and if any of its provisions shall be held invalid or unconstitutional by a court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

\*\*Webmasters Note: Section XIII has been added as per Case No. 1637 from annual town meeting 5/11/01.

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**Merrimac**            *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**            From previous bylaw:

SECTION 3: ESTABLISHMENT OF DISTRICTS  
3.2 Zoning Map

The Town voted to amend the Zoning Bylaws and the Zoning Map of the Town of Merrimac by implementing a policy to restrict the total number of dwellings included on a developer's site plan to be completed in any one year according to the following schedule: (Amended 5/4/87)

NUMBER OF DWELLINGS COMPLETED IN 1 YEAR  
5-15 .....50%  
16-25 .....33%  
26-49 .....20%  
50 and over 10%

Town Clerk/Secretary/ Planning Board Secretary Pat True  
said (11/12/04) that she thought that the phasing by-law mentioned here is "not being carried over to the new by-laws."

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**Methuen**            *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Middlebor**            *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

**Middleton**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**

Town of Middleton Zoning Bylaw, Section 5.12 (Last Amended 2003).

"5.12 Development Schedule

The Town is facing limited capacity in its school system, water supply, roadways, storm water drainage facilities, recreational facilities, and fire and police protection services. Because of the Town's limited ability to increase school capacity, and similar limited ability to increase water supply, roadways, storm water drainage capacity, recreational and fire and police protection services and facilities, this development scheduling bylaw is hereby enacted to limit the rate of growth in the demand for such facilities and services. Section 5.12 of the Middleton Zoning Bylaws, containing said growth rate limits, shall be in effect for a ten (10) year period from the date of its enactment. During this period, study of the school needs, public water supply needs and other public services and facilities needs of the Town shall be undertaken, to determine whether the provisions contained in Section 5.12 should be continued.

5.12.1

For ten (10) years, following enactment of Section 5.12 building permits for the construction of dwellings on lots held in common ownership shall not be granted at a rate per annum greater than permitted by the following schedule, commencing in the year such lots are separated or subdivided, or in the year this provision becomes effective, except if exempted in Section 5.12.4. Any lots covered by this provision hereafter sold or otherwise transferred to another owner shall include in the deed the earliest date on which construction may be commenced in accordance with these provisions.

The yearly schedule shall commence from the date of the Planning Board signing of the Definitive Subdivision Plan, or the granting of a Special Permit Variance if applicable to the development. All definitive Subdivisions, Special Permits and Variances shall include a proposed development schedule by the applicant.

5.12.2

Any person, corporation, or other legal entity that wholly owns more than one Subdivision that has received approval for its development schedules, may use its combined annual dwelling unit building permit authorizations in one of its developments. When such a transfer of scheduled rights occurs, the time period for the beginning and total duration of scheduled development in the project or projects, from which the transfer occurs, shall be delayed one calendar year from the time of transfer.

5.12.3

All improvements including the paved base coat of roadways, street lights, utility installations, waterlines, common wastewater disposal facilities, fire alarm pull boxes, if applicable, and drainage facilities, required in the Rules and Regulations Governing the Subdivision of Land in Middleton, MA shall be completed to the full road frontage for any lot prior to issuance of a certificate of occupancy for the building on such lot.

5.12.4

\*\*\*Any Dwelling Units that are restricted by written and recorded agreement to occupants over age 54 are exempt from the provisions of Section 5.12."

\*\*\*

1-16 units= 4 units can be built per year.

17 or more units= 25% of total units can be built per year.

**Milford**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

**Millbury**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

No

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**Millis**      Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?

No

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**Millville**      Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?

No

**Milton**      Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?

No

**Nahant**      Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?

No

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**Natick**      Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?

No

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**Needham**      Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?

No

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**Newbury**      Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?

phasing required?

No

Newburypo

Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?

No

According to According to Gary Calderwood, Building Inspector, (11/2004) the town of Newburyport decided not to renew the cap on building permits at the October Town Meeting when the cap came up for renewal (it was created two years ago on 11/18/02).

Expired ordinance:

V-C.1 Smart growth ordinance.

A. Purpose: The purposes of this ordinance are the following:

1. To ensure that housing growth occurs in an orderly manner, consistent with recent average growth rates, so that the local economy can be insulated from large year-to-year variation in the development rate.
2. To ensure that the city can continue to provide adequate city services and ministerial support to new and existing housing development, and to allow for orderly planning for infrastructure such as public sewer and water and other community investment, while at the same time allowing for reasonable housing growth with a view to ensuring that our elementary schools are able to accommodate the influx of anticipated students from this growth.
3. To provide the city with reasonable time and opportunity to address zoning ordinance and related changes recommended by the master plan, listed in the implementation program and action plan, including but not limited to the following:
  - increasing waterfront open space and public access;
  - providing incentives and design standards to promote affordable housing;
  - determining standards and dimensional controls that preserve the historic and traditional built form and patterns in existing neighborhoods and ensure that new growth respects these historic and traditional built forms and patterns;
  - considering the feasibility of a historic district overlay;
  - changing cluster zoning in the agriculture-conservation district to advance farmland preservation as well as cluster residential zoning incentives to advance open space and natural, historic and cultural resources preservation;
  - ensuring adequacy of infrastructure and design standards in review of subdivisions and special permit uses;
  - creating an incentive-based design review process and site plan review process for new housing development.
4. In accordance with the city's 2001 master plan, 2000 community development plan and buildout analysis, GIS map and community data profile, and 1999 open space and recreation plan, this ordinance seeks to preserve and enhance the unique cultural, environmental and historic resources of Newburyport by encouraging mixed-use infill and sensitive adaptive reuse projects within our existing urban areas as well as offering strategies to preserve the city's remaining rural open space with conservation subdivision design.
5. To provide an orderly and systematic mechanism for reviewing, evaluation, and awarding building permit applications that is fair and equitable.

B. Applicability: This ordinance shall apply to all building permit applications for the construction of new single-family dwellings, multiple-family dwellings, condominiums, cooperative, or other residential uses, submitted after the effective date of the ordinance, except as expressly exempted herein. The full provisions of this ordinance are intended to be in effect for a period of two (2) years from its date of adoption. Its full terms and conditions shall end and be of no further effect at the end of the said two years.

This ordinance does not preclude the city council from reviewing and voting on zoning changes which come before the council, such that said changes may be review to be in conformity with the intent and purpose of the adopted master plan.

C. Building permit allocation limits: Upon adoption of this ordinance, and until such time as said zoning ordinance has been finally approved by the city council but not to exceed two (2) years, the city's building commissioner (hereinafter "commissioner") shall annually issue building permits for no more than forty-eight (48) new residential dwelling units including the installation of a foundation, unless listed as "exempt" in section V-C.1.H. The point based performance evaluation table (hereinafter "table") shall award such permits as defined in section V-C.1.G., supervised by the commissioner. This limit is imposed solely as an interim measure to regulate housing growth in the city until such time as the zoning ordinance may be revised and approved.

D. Single and multi-unit/lot housing developments:

1. Single unit/lot housing developments: Building permits shall be issued for no more than twenty-four (24) dwelling units during a twelve (12) month period with no more than two (2) per month issued for the construction of a single unit/lot housing development including but not limited to the following: approval not required subdivision plan; lot of record; replacement housing unit from demolished structures deemed historically significant; and a single unit residential conversions (i.e. a two-family conversion).
2. Multi-unit/lot developments: Building permits shall be issued for no more than twenty-four (24) dwelling units during any twelve (12) month period for the construction of new multi-unit/lot developments approved as a single project, including but not limited to the following: definitive subdivision plan; cluster residential developments; mixed use projects; multiple-family dwellings; condominiums; replacement housing units from demolished structures deemed historically significant; cooperatives and other nonexempt housing uses.
- E. Subdivision and application restrictions: Unless listed as "exempt" under section V-C.1.H., no more than twelve (12) of the forty-eight (48) new residential dwelling units described above shall be issued to any one (1) applicant in any twelve (12) month period. For the purposes of this section, an applicant may not act in an individual capacity in one month and in another capacity (e.g., partnership, realty trust, corporation, LLC, LLP, etc.) in another month to defeat the intent and purpose of this section.



Applicants shall not submit during any period more applications than the number of available building permits to which the applicant would be entitled during such period in accordance with this ordinance.

During any twelve (12) month period subsequent to the effective date of the ordinance, no more than ten (10) new residential dwelling units described above shall be issued for the construction in any one (1) subdivision or development. In the event that the full annual allotment of building permits is not issued, no unissued permits shall carry over into the following year. Nothing herein shall be construed to require the issuance of building permits for at least forty-eight (48) new residential dwelling units.

F. Procedures:

A. With the assistance of the planning director, all new housing developments, including those listed in section V-C.1.B., shall be scored by the commissioner according to the table in section V-C.1.G. at the time of approval.

B. The applicant shall complete and file a building permit application (hereinafter "application") to the commissioner. Such application shall require specific information identifying the applicant, the site of the proposed new housing development and the total points allocated according to the table outlined in section V-C.1.G.

C. During normal business hours, the commissioner shall accept and date-stamp application forms from applicants. The commissioner shall follow the criteria established below for the issuance of all residential building permits.

D. In the event the plan approved by the respective permit granting authority (hereinafter "PGA") has been modified due to other permitting requirements, the commissioner shall review and assign a revised permit score according to the table outlined in section V-C.1.G.

1. Obtaining permits for single unit/lot housing developments: Commencing on December 1, 2002, on the first business day of each month, the commissioner shall review and rank the applications for single unit developments submitted and issue a building permit to the two (2) applications with the highest score. In the event applications have equal scores, priority will be given to the first to be filed and date-stamped in the inspection office.

2. Obtaining permits for multi-unit/lot housing developments: Building permits shall be issued according to the following distribution table:

TABLE INSET:

Number of Points  
in Project  
Number of New  
Residential  
Dwelling Units  
Available Per Year

Less than 30

1

31--35

2

36--40

3

41--45

4

46--50

5

51--55

6

56--60

7

61--65

8

66--70

9

Over 70

10

The total new residential dwelling units obtained within this section shall not exceed the maximum annual limit and review process established in sections V.F.1.3. and 4. Projects greater than ten (10) residential dwelling units shall receive building permits in a subsequent annual allotment.

E. Said applications for building permits are not transferable to any site other than as identified on the application. The commissioner shall not, in any instance, issue more building permits than required for forty-eight (48) new residential dwelling units in any calendar year.

F. Applications, which are not selected by the commissioner in the monthly applications, shall automatically be placed in the following month's applications.

G. Any application that is deemed, in the discretion of the commissioner, as incomplete shall be rejected, unless the deficiencies cited by the

commissioner are remedied within fourteen (14) days of notification. Any rejected application shall be returned to the applicant along with a short statement indicating the basis for said rejection.

H. If a building permit application is accepted and approved by the commissioner, a building permit may be issued at any time within thirty (30) days of said approval. Notwithstanding, building permits are not required to be issued in the order in which the building permit applications were received.

I. For the purposes of determining compliance with this ordinance, the building permit shall be counted as having been issued in the month in which the application was approved, even where a building permit application is approved in one month and the building permit is not issued until a subsequent month.

G. Point-based performance evaluation table:

A. Project location:

1. Within the urban area 1 10
2. Within the agricultural/conservation district -20

B. Disturbance:

1. Within the water resources protection district: (one of the following for the project)

Zone A/I -20

Zone B/TWPA/II -10

Zone C -5

2. Development of slopes 2 : (one of the following for the project)

Over 25% -20

Between 15--25% -10

Between 10--15% -5

3. Wetlands/floodplain 3 : (one of the following for each jurisdictional wetland/floodplain)

Greater than 5,000 SF alteration -20

Between 0 and 5,000 SF alteration -15

Between 0 and 25 foot buffer -10

Between 25 and 50 foot buffer -5

C. Roads, utilities and drainage: (each of the following sections)

1. Use of court, lane or other common driveway 10
2. Dead-end street, including extensions, over 600 feet in length -0.05 per foot over
3. Off-site improvements to existing road, sidewalks, drainage, sewer or water systems: see table 4
4. On-site easements or right-of-way for future public road, sidewalk, drainage, sewer, or water systems 5
5. Use of retaining walls over four (4) feet in height within the right-of-way -5 per foot over

D. Housing needs: (each of the following sections)

1. Brownfield redevelopment 5 20
2. Cluster subdivision development 20
3. Mixed use development 6 20
4. At least 10% affordable housing 7 30
5. At least 20% affordable housing 40

E. Open space preservation 8 : (each of the following sections)

1. Permanent conservation restriction: (one of the following)

Within the urban area:

An area of at least 50% of the property 20

An area of at least 40% of the property 10

An area of at least 30% of the property 5

Within the non-urban area 1 :

An area of at least 70% of the property 20

An area of at least 60% of the property 10

An area of at least 50% of the property 5

2. Public access trails/conservation areas/parks 9 10

3. Removal of heritage trees 10 -10 per tree

F. Community preservation and design review: (each of the following sections)

1. Bonus lot for community preservation 11 20
2. Exterior preservation of a historic structure 12 20
3. Interior preservation of a historic structure 12 20
- 3.[4.] Demolition of historic structure 13 -20
- 4.[5.] Design review and site plan review 14 20
- 5.[6.] Parking in front-yard setback -10
- 6.[7.] Underground parking 20

G. Previous application 15 2

Table Footnotes

1. Except for the Plum Island Overlay District (PIOD), the urban area includes the R-II, R-III, WMD, WMU, Bus-II and the Bus-III zoning districts, as shown on the Newburyport Zoning Map. All other underlying zoning districts shall represent the non-urban area.
2. Includes all activities within the proposed "limit-of-work" of construction except for: required health and safety improvements to existing city sewer,

water or drainage systems; wetlands replication; or establishing/maintaining recreational trails. Note, a slope analysis may be required.

3. Includes all activities within the proposed "limit-of-work" of construction for all wetlands as defined under 310 CMR and floodplains defined under section XIII, Floodplain District Regulations.

4. Off-site improvements include only those improvements linked to the specific project and not required for approval due to public health and safety requirements. Any off-site improvements will be evaluated using the following distribution table (average per foot cost/100):

TABLE INSET:

Road, Utilities and Drainage\*

Points per linear foot

4 Foot -Brick Sidewalks

0.25

4 Foot -Concrete Sidewalks

0.15

8 Foot -Bituminous Bikepath

0.1

8 Foot -Public Boardwalk along Merrimack River

0.5

Full-Width Road - overlay

0.01

Full-Width Road - partial reconstruction

0.05-0.35

Full-Depth Road - reconstruction

0.05-0.35

Granite Curbing

0.04

Water line

0.03

Sewer line

0.04

Drainage line

0.03

Other utility improvements

\*

\* In order to receive points for off-site improvements, the planning director shall review, classify and report in writing to the PGA prior to the final approval. In lieu of constructing off-site improvements, the PGA may also accept donations under M.G.L.A. c. 44, 53A for purposes consistent with this ordinance, including but not limited to sidewalk, parks, open space within the city which will receive a one-tenth of one percent (0.001%) cost to point ratio.

5. Includes all properties identified through the DEP as tier classified sites.

6. A mixed use development shall consist of at least 33% residential use of building or property.

7. Affordable units in the development shall be consistent with the definition of low and moderate income housing under M.G.L.A. c. 40B § 20 (as amended) with the exception that units may not require a subsidy or approval of the department of housing and community development. Note, all affordable unit(s)/lot(s) are exempt from the total units/lots permitted annually in this ordinance.

8. The area within the conservation restriction shall not be used for building, parking or driveways.

9. At least 10% of the tract dedicated and maintained as common open space to the homeowners in the development or the public and are developed with landscaping, park equipment or other recreational use as determined by the planning director.

10. A heritage tree is defined by the Massachusetts Department of Environmental Management as a tree over 32 inches in caliper at breast height. From the date of adoption of this ordinance, any removal of a heritage tree may only be permitted without point reduction if a Massachusetts Certified Arborist provides a written report, prior to removal, that classifies the tree as hazardous and no alternatives to removal are feasible.

11. In meeting the objectives of the master plan, the planning board may grant a special permit for a density bonus of one (1) lot or residential dwelling unit provided the overall tract of land in the subdivision is greater than five (5) acres in area outside the urban area or greater than one (1) acre within the urban area and the bonus lot shall be donated and deeded to a nonprofit (501c.3) organization for the exclusive purpose of at least one of the following:

- Permanent open space protection for existing, or access to, significant historic resources;
- Relocation, restoration and sale of a historic structure as defined in building demolition ordinance, city ordinances for use as a single- or two-family dwelling unit(s);
- Construction of a single- or two-family permanent affordable housing unit(s). 7

In determining the appropriate use, size and location of the bonus lot, the planning board shall review the specific applicant, neighborhood input at the public hearing as well as input from the Newburyport Historic Commission. The planning board may waive the frontage requirement to sixty (60) feet for the bonus lot. Prior to final approval, the planning board shall also require a deed document to the bonus lot with all necessary restrictions, covenants and/or conditions of conveyance.

12. Preservation of a historic structure, as defined in the building demolition ordinance (city ordinances), shall award points where the planning director has provided written certification to the commissioner that the proposed building exterior/interior is consistent with the rehabilitation standards within the latest edition of the secretary of the interior's "Guidelines for Preserving, Rehabilitating, Restoring and Reconstruction of Historic Buildings".

13. Demolition includes all historic structures as defined in the building demolition ordinance, city ordinances that have been voted historically significant by the Newburyport Historic Commission and subject to a demolition delay period. Note, partial demolition may be permitted without point reduction at the discretion of the historic commission.

14. The planning director shall review all new construction, alterations, and additions within the context of the overall neighborhood character. Exterior architectural features such as rooflines, building materials, placement, massing, setbacks and other site features. Accordingly, the applicant shall submit a plan consistent with the requirements of site plan review (section XV of the zoning ordinance) as well as the following design review application requirements:

1. A site plan, scale 1" = 20 feet, of the existing conditions, including a dimensional footprint of all existing buildings, parking areas, driveways, fence lines, landscaping, lighting, sidewalks, pathways and park areas shall be shown;
  2. Exterior building elevations, including building and roof materials, cupolas, roof decks, height, colors and fenestration;
- After staff review, the planning director will submit a technical report to the commissioner as on the suitability of the proposed project. Design review will determine whether the proposed construction or alterations are consistent in design, scale and proportion to the surrounding neighborhood. Points will be awarded for those applicants that receive a written certification from the planning director to the commissioner indicating consistency with these requirements.

15. Applications for single unit/lot developments that have been previously denied under the provisions of this ordinance will be awarded two (2) additional points per month.

H. Exemptions:

A. Building permits for dwelling units to be constructed within any subdivision approved under the Subdivision Control Law, M.G.L.A. c. 41, § 81L et seq., during the exemption period provided in M.G.L.A. c. 40A, § 6 are specifically exempt for this ordinance. Similarly, dwellings and dwelling units to be constructed within a development under a special permit issued during the exemption period provided in M.G.L.A. c. 40A, § 6 are exempt from this ordinance.

B. The provisions of this ordinance shall not apply to building permits for the construction of the following:

1. Projects with at least twenty-five (25) percent low and moderate income housing under M.G.L.A. c. 40B § 20.
2. The following housing units:
  - In-law apartments as defined under section XIIA.
  - Assisted living, congregate care or elderly housing projects.
  - Mixed-use projects within the downtown zoning districts -Bus II, Bus III or waterfront mixed-use district, provided any residential use(s) are located above the street level and provide at least 10% affordable housing in the project as defined under M.G.L.A. c. 40B as amended.
  - Projects approved under the special permit provisions of the Federal St. Overlay District.
3. Restoration, expansion, alteration or partial reconstruction of an existing residential dwelling that does not create a new housing unit.
4. All permitted nonresidential projects.

I. Definitions:

A. "Applicant." For the purposes of this ordinance, an applicant shall be deemed to include an individual, a trustee of a trust, partner or partnership, the beneficiary of a trust, corporation, corporate office or other legal entity in which the entity requesting to submit an application for a building permit holds any legal, beneficial or equitable ownership in the property to be affected.

B. "Multiple-family dwellings." For the purposes of this ordinance, a multiple family dwelling shall mean a building containing two (2) or more dwelling units.

C. "Subdivision." For the purposes of this ordinance, subdivision shall have the same meaning as a development.

D. "Housing development." For the purposes of this ordinance, housing development shall mean the establishment or construction of any new dwelling unit, whether on a single lot/unit, multi-lot, or within a multi-family development as well as replacement housing unit(s) from demolished structures deemed historically significant

E. "Dwelling unit." For the purposes of this ordinance, a dwelling unit shall mean a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

F. "Mixed-use." For the purposes of this ordinance, a mixed-use project shall mean at least 33% of the proposed building or property is dedicated for a residential use.

J. Construction: This ordinance shall be construed so as to regulate the design, impact and overall rate of housing development in Newburyport. Any perceived ambiguities shall be resolved so as to promote the intent and purpose of this ordinance.

K. Appeal procedure: Any appeal to a final decision of the commissioner may be appealed to the zoning board of appeals as outlined under section X-H.5. of the Newburyport Zoning Ordinances.

L. Severability: The provisions of this ordinance are hereby declared to be severable, and if any such provision or the application of such provision to any person, entity or circumstance shall be held invalid or unconstitutional, such invalid or unconstitutional provision shall not be construed to affect the validity or constitutionality of any of the remaining provisions of this ordinance or the application of such provisions to any person, entity or circumstance other than those as to which such provision is held to be invalid.

(Ord. of 11-18-02)

**Newton**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Norfolk**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

In the construction of development in B-1, C-1, C-4, and C-6, the concept of phased development is mentioned. Gino Carlucci, Norfolk Planner, said (7/9/04) that Norfolk does not require phased development or cap the number of permits issued.

ZONING BYLAW FOR THE TOWN OF NORFOLK, MASSACHUSETTS  
Section I. TOWN CENTER DISTRICT (B-1)

I.4.a.3. Phased Development. APPLICANTS shall be allowed to plan, plat and create proposed LOTS or BUILDING sites in anticipation of a known PLANNED MULTI-LOT DEVELOPMENT or other proposal which will furnish needed infrastructure for a particular property provided the Town is given surety or other binding assurance, in a form and amount acceptable to the Planning Board, that will insure that no construction occurs without the necessary infrastructure.

J. C-1. DISTRICT (ROUTES 1A/115)

J.4.a.2. Phased Development. APPLICANTS shall be allowed to plan, plat and create proposed LOTS or BUILDING sites in anticipation of a known Planned Multi-Lot Development or other proposal which will furnish needed infrastructure for a particular property provided the Town is given surety or other binding assurance, in a form acceptable to the Planning Board, that will insure that no construction occurs without the necessary infrastructure.

K. C-4 Mixed-Use District (Routes 115 and Holbrook Street)

K.4.a.3. Phased Development. APPLICANTS shall be allowed to plan, plat and create proposed LOTS or BUILDING sites in anticipation of a known Planned Multi-Lot Development or other proposal which will furnish needed infrastructure for a particular property provided the Town is given surety or other binding assurance, in a form acceptable to the Planning Board, that will insure that no construction occurs without the necessary infrastructure.

L. C-6 RESIDENTIAL/COMMERCIAL USE DISTRICT (Route 1A, Dedham Street)

L.4.a.3. Phased Development. APPLICANTS shall be allowed to plan, plat and create proposed LOTS or BUILDING sites in anticipation of a known Planned Multi-Lot Development or other proposal which will furnish needed infrastructure for a particular property provided the Town is given surety or other binding assurance, in a form acceptable to the Planning Board, that will insure that no construction occurs without the necessary infrastructure.

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**North And**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**

According to Julie Vondrak, Director of Planning, (7/21/04), North Andover recently revised their growth management plan. The new bylaw removes the growth cap. North Andover, according to Ms. Vondrak merged building caps into the phased development bylaw.

Some of the text below is from the zoning bylaw that was available on the town's website and has not been revised to adopt recent changes, as stated to researcher by Ms. Vondrak.

Town of North Andover Zoning Bylaw, Section 8.7 (Adopted 1972, Last Amended 2003).

"8.7 GROWTH MANAGEMENT

## 1. INTENT AND PURPOSE

This Section 8.7 is adopted pursuant to the provisions of M.G.L., c. 40A and the Home Rule Amendment, Article 89 of the Massachusetts Constitution, for the following purposes:

- a) to ensure that growth occurs in an orderly and planned manner, at a rate that can be supported by Town services, while avoiding large year to year variations in the development rate;
- b) to allow the Town time to update its Master Plan and to provide the Town with time to study the effect of growth on the municipality's infrastructure, character and municipal services;
- c) to allow the Town time to study, plan for, and provide an additional source of water;
- d) to relate the timing of residential development to the Town's ability to provide adequate public safety, schools, roads, municipal infrastructure, and human services at the level of quality which citizens expect, and within the Town's ability to pay under the financial limitations of Proposition 2 1/2.
- e) to preserve and enhance the exiting community character and value of property; and
- f) to allow departures from the strict application of the growth rate measures herein in order to encourage certain types of residential growth which address the housing needs of specific population groups or which provide significant reductions in the ultimate residential density of the Town.

## 2. APPLICABILITY, EFFECT AND DEFINITIONS

- a) No building permit shall be issued for a new dwelling unit between May 6,1996 and July 1,1996 unless exempted by Section 8.7(6) herein.
- b) Beginning on July 1,1996 , no building permit for a new dwelling unit or units shall be issued unless in accordance with the regulations of this Section 8.7 or unless exempted by Section 8.7(6) herein.
- c) The provisions of this Section 8.7 shall expire on July 1, 2003; however, by a vote of Town Meeting before said date, the provisions of this Section 8.7 may be extended for an additional five years in order to continue municipal comprehensive planning studies necessary to promote orderly growth. In the event such action is taken by Town Meeting prior to July 1, 2003 these provisions shall not be construed to have lapsed on such date.
- d) For the purposes of this Section 8.7, the following terms shall have the following meaning:
  - i) GROWTH RATE LIMIT shall mean the maximum number of building permits that may be authorized in one Year, which shall be 80 permits. The Growth Rate Limit is based upon analysis of recent average growth rates and an analysis of the Town's current and future ability to provide essential local services such as public safety, schools, public works and human services. Units exempt under section 8.7(6) are included within the calculation of the Growth Rate Limit.
  - ii) DEVELOPMENT shall mean a single parcel or set of contiguous parcels of land held in common ownership, regardless of form, at any time on or after the date of adoption of this bylaw, for which one or more building permits will be sought.
  - iii) DEVELOPMENT SCHEDULE shall mean a schedule authorized by the Planning Board in accordance with Section 8.7(4), which outlines the maximum building permit issuance per development.
  - iv) DEVELOPER any individual who either as an individual, a beneficial owner of a real estate trust, a partner in a partnership, or an officer or owner of a corporation, requests one or more building permits for the construction of new dwelling units.
  - v) YEAR shall mean the period beginning July 1 and ending June 30.

## 3. PLANNED GROWTH RATE

- a) The Growth Rate Limit shall be based on a target growth rate of 80 dwelling units per year. In no case, however, shall the number of nonexempt building permits issued be reduced below 60 permits in any one year period.
- b) Whenever the number of building permits issued for new dwelling units exceeds the applicable Growth Rate Limit, the Building Inspector shall not issue building permits for any additional dwelling unit or units unless such unit or units are exempt from the provisions of this Section 8.7 under subsection 8.7(6) below.
- c) Building permits authorized under a Development Schedule, but not issued during the scheduled period set forth in Section 8.7(4) shall not be counted in computing the applicable Growth Rate Limit. Building permits issued, but subsequently abandoned under the provisions of the State Building Code, shall not be counted in computing the applicable Growth Rate Limit."

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Town of North Andover Zoning Bylaw, Section 8.7.4(Adopted 1972, Last Amended 2003).

### "DEVELOPMENT SCHEDULING

- a) This Section 8.7(4) shall apply to the following types of development which would result in the creation of new dwelling units; (a) definitive subdivision plans, (b) plans subject to M.G.L. c.41, s.81P (ANR); (c) special permits.
- b) In addition to the types of development described in paragraph 8.7(4)(a), the Planning Board is authorized, upon request from the Developer, to approve a development schedule for any other building lot or dwelling unit, specifying the month and year in which such lot/unit shall be eligible for a building permit.
- c) Dwelling units shall be considered as part of a single development, for purposes of development scheduling, if located on either a single parcel or on a set of contiguous parcels of land held by a Developer in common ownership, regardless of form, at any time on or after the date of adoption of this bylaw.
- d) Where consistent with the applicable Growth Rate Limit, building permits for the construction of new residential units in types of development set forth in Section 8.7(4)(a), shall be authorized only in accordance with the following table:

Number of New dwelling Maximum Number of building permits for units in development new dwelling units per year  
(Total in Development)

1-5	
6-10	5
11-20	6
21-30	7
31-40	8
41-54	9
55-80	10

More than 80 12.5% of Total in Development

Notwithstanding that a Development Schedule has been approved and recorded, the Planning Board shall not be required to authorize the issuance of the stated maximum number of building permits if the issuance of such permits would result in exceeding the Growth Rate Limit. Adoption of a Development Schedule shall not be construed as a commitment to issue building permits. The Planning Board shall not establish any Development Schedule which phases development for longer than a 10 year period."

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4.2 Phased Development Bylaw 1. Building permits for the construction of single family or two family dwellings in a subdivision or on contiguous Form A lots held in common or related ownership on the effective date of the provision shall not be granted at a rate greater than as permitted by the following: a) For lots covered by both Section 8.7 of the Zoning Bylaw and this Section 4.2, the eligibility for building permits shall be determined only by the provisions of Section 8.7.

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b) For lots not covered by Section 8.7, building permits may be granted per the schedule shown below. A year will run from the anniversary date as defined in paragraph 5 below, to the same date in subsequent years. (1998/24) No. of Lots Min. Yrs of Max. Lots Development Developed/Yr

1-6 1 All

7-20 2 50% of total

21-34 3 33% of total

35-50 4 25% of total

51-75 5 20% of total

76-125 6 16.7% of total

126+ 7 14.3% of total

2. Lots can be sold any time for the construction of dwellings in the designated future years. However, any lots covered by this provision hereafter sold or otherwise transferred to another owner, shall include in the deed, the earliest date of which construction may be commenced in accordance with these provisions. 3. If there is a proposed subdivision with any lots that are within 500 feet of lots in another subdivision held by common or related ownership, then both subdivisions shall be construed to be a single subdivision for the purposes of this Bylaw. 4. Lot lines for Form A lots shall be defined when the Form A lots have been approved by the Planning Board. Subsequent changes in the shape or ownership of lots shall not render the provisions of this Bylaw void. 5. The anniversary date of each subdivision or contiguous Form A lots under this provision shall be no earlier than the date on which all required approvals required for a building permit have been obtained (e.g. Planning Board endorsement of Definitive Plan, Board of Health approval, Conservation Commission approval, etc). 6. Notwithstanding any prior statements to the contrary, the maximum number of building permits to be issued and outstanding at any time for lots in each subdivision and contiguous Form A lots covered by this provision shall be limited to twice the allowed annual maximum permitted for that project under the provisions of this Bylaw. Allowed building permits in succeeding years shall be limited to less than the permitted maximum, if necessary, to insure that this cap is not exceeded. 7. The Planning Board, in conjunction with the Building Inspector, shall be responsible for administering this section of the Bylaw. Accordingly, the Planning Board shall adopt and publish reasonable regulations for carrying out its duties under this section. In particular, these regulations should address the conditions and processes for authorizing building permits on an annual basis. 8. The invalidity of one or more provision or clauses of this section shall not invalidate or impair the section as a whole or any other part thereof. (1986/13)

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There is a new phasing schedule in place, based on percentages, where if 7-20 units are built, 50% can be built in a year.

**North Attle**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**

·Are some types of development excluded from development phasing? Researcher found no mention of exclusions, however the bylaw refers to a Type I subdivision.

Section 2 of Subdivision regulations

2.8 SUBDIVISION, TYPE I : A subdivision for residential purposes other than multi-family dwellings.

2.9 SUBDIVISION, TYPE II : A subdivision for multi-family dwellings, business or industrial purposes.

·What date was the phasing requirement adopted/amended?

Current Subdivision 3/8/01

**RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND IN NORTH ATTLEBOROUGH, MASSACHUSETTS**

**7.2. Variation**

7.2.1 Regular monthly meetings of the Board are to be held as posted with the Town Clerk. Other regular, special, or emergency meetings, or work sessions, may be scheduled by the Board or at the discretion of the Chairman of the Board. Any plans believed not to require approval under the Subdivision Control Law shall be logged in at the Planning Board office a minimum of 7 days before any designated regular monthly meeting of the Board. Any other plans shall be submitted a minimum of 10 days prior to any designated monthly meeting. The Planning Board reserves the right to

waive these submission requirements when deemed necessary. Two copies of the appropriate standardized Form A-U (see FORMS) shall be submitted with each plan.

7.2.2 Strict compliance with the requirements of these Rules and Regulations may be waived when, in the judgment of the Board, such action is in the public interest and not inconsistent with the Subdivision Control Law. Any waiver requests shall be submitted by the applicant in writing at the time of submission of the application.

7.3 Phasing of Construction within a Subdivision

Within a Type I subdivision, no more than 20 building lots or 15 percent of the total number of available building lots, whichever is greater, shall be built upon within any 12 month period.

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**North Read**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**      Robert Rogers, Planning Director, confirmed (8/24/04) that North Reading does not have growth caps, phasing schedules, or caps on the number of permits a firm can obtain.

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**Northboro**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Northbridg**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Norton**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Norwell**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Norwood**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*



No

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**Paxton**            *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

No

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**Peabody**            *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

No

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**Pembroke**            *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

No

**Pepperell**            *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**            "3600. RATE OF DEVELOPMENT  
3610. Purpose. The rate of development should not exceed the ability of the Town to provide adequate schools, roads, police, fire protection, water, and other municipal services. The purpose of controlling the rate of development is to ensure that Pepperell has the time to provide necessary municipal infrastructure and service needs in order to provide the Town an ability to protect and promote public health, safety and welfare while avoiding year to date variations in the rate of development, and to allow the Town the ability to pay under the financial limitations of Proposition 2 1/2. Conditions are made to encourage residential growth which addresses the housing needs of specific population groups and/or which have a low impact on public services, thus reducing the ultimate residential density of the Town.  
3620. Applicability. The rate of development shall apply to the issuance of all building permits for construction of new dwelling units. This by-law shall be effective for four (4) years from that date, and may be extended by vote at Town Meeting without lapse of its provisions. Prior to that time, the Planning Board shall report to Town Meeting the effectiveness of the rate of development limitations and the need, if any, to continue and/or amend said limitation.  
3630. General. Building permits shall not be issued authorizing construction of more than forty (40) dwelling units in any twelve (12) month period, with the first such period beginning July 1, 1998, unless one or more of the conditions set forth below applies.  
3631. The creation of dwelling units under any program or statute intended to assist the construction of low or moderate income housing, as defined in the applicable statute or regulation, including Town Bylaws.  
3632. The creation of dwelling units for persons of fifty-five (55) years and older through a properly executed and recorded deed restriction running with the land.  
3633. The creation of an open space residential development where the overall density is reduced by twenty-five percent (25%) or greater over the minimum lot area requirements, with all remaining land to be retained as permanent useable open space.  
3640. Limitation. No entity or person shall be issued more than five (5) building permits for new dwelling units in any one twelve (12) month period. Not more than fifty percent (50%) or twenty (20) permits are allotted for Approval Not Required (ANR) lots, and no more than fifty percent (50%) or twenty (20) permits are allotted for dwelling units in a subdivision. There shall be no more than a total of five (5) building permits issued in any one subdivision for new dwellings units regardless of the

applicant(s)."

- Zoning By-Law, Town of Pepperell, Massachusetts (as amended 12/16/03). Section 3600

The provisions were renewed by vote at town meeting for another four years, according to Sue, Pepperell Zoning Department. (12/02/04)

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**Plainville**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**      Researcher found a cap on the number of cluster development permits issued each year (one per year), but no general growth cap.

2.13.0 Residential Cluster Development

D. Annual Limitation

Under the provisions of this section, the Planning Board shall not approve more than one residential cluster development in each residential district during each calendar year.

According to Building Inspector, John Emidy, there is phased development on subdivisions. Growth is limited to about 25% percent of the project per year (a 4-5 year buildout schedule depending on the project size). Mr. Emidy directed the researcher to Section 2.14 (Phased Development) of the bylaws. Researcher attempted to find the appropriate section and it is not posted on ordinance.com.

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Interim Planner Tom Watkins faxed section 2.14 to researcher (6/8/05):

2.14 Phase Development

A. Purpose

The purpose of this section is to promote orderly growth in the Town of Plainville, to preserve the water quality of the Ten Mile River Basin and the Taunton River Basin watersheds; to phase growth so that it will not unduly strain the community's ability to provide quality education, public facilities and services, to ... [cut off on fax]

B. Exemption

This phase development by-law shall not apply to existing lots of record or lots shown on an Approval Not Required (ANR) plans and definitive subdivision plans which have been filed prior to the effective date of this bylaw. The provisions of this section shall not apply to the enlargements, restoration, or reconstruction of existing dwellings.

C. Extension of Grandfather Protection

In the event that any lot shown on a plan endorsed by the Planning Board has not been issued a building permit by the end of its grandfather protection afforded by Massachusetts General Law Chapter Forty A (40A) Section Six (6), said grandfather protection shall be extended for the time period equal to the time the permit was delayed by this by-law or the expiration of this by-law which ever comes first.

D. Procedure to determine Phase Development Schedule

The Planning Board shall provide the Building Inspector written notice, including copies of the plans, for all approved divisions of land (Development) within the Town of Plainville. The notice shall include information on the number of lots created by each plan (Development). The Planning board shall also inform the Building Inspector with written notice, including copies of any plans, of cases where land that has been previously divided within the calendar year, is having additional lots being created within the same calendar year.

E. Applicability, Effect and Definitions

(a) For the purpose of this section, a calendar year will run from January 1st of a given year to January 1st of the following year.

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**Plymouth**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

Yes

Town of Plymouth Zoning Bylaw 2004

ARTICLE VII

Growth Management Provisions and Requirements

[Added 4-7-1987 ATM by Art. 69]

§ 205-67. Adequate facility conditions.

A. Purpose and intent.

(1) The Town of Plymouth has been experiencing substantial growth with respect to population, housing, land development and resource utilization resulting in undue pressure on the Town to provide public facilities necessary to support past, present and projected future growth. There are present road, water, sewerage and school facility and service deficiencies which the Town is seeking to correct but which cannot be completely redressed without a comprehensive plan for growth and

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long-term program for capital improvements. Rather than preventing growth entirely until the facility deficiencies are corrected, development would be allowed to continue, with certain limitations to protect the public health, safety and welfare and to ensure that existing and projected future development does not place unreasonable and impossible public facility demands on the Town.

(2) The Town recognizes its responsibility to accommodate its fair share of projected regional population and to be responsive to the regional need for housing of all types and for all income levels. In order to meet these commitments while protecting the public health, safety and welfare of present and future residents of the Town, the Town has committed itself to correcting existing facility deficiencies and assuring the availability and adequacy of public facilities necessary to support projected future growth and development. Allowing development to continue without adequate public facilities has caused and will continue to exacerbate existing facility deficiencies and will deter the development of comprehensive responses in the future. The adoption of adequate facility conditions will allow for phased and planned development consistent with the availability and adequacy of public facilities necessary to support development and to protect the public health, safety and welfare. The phasing of development, based on public facility conditions, will provide for orderly growth and development to meet projected demands while discouraging sprawl and leapfrog development patterns which create service inefficiencies, increase costs and cause scattered facility demands.

(3) Thus, for certain residential uses prescribed by zoning district in Articles IV, V and VI of the Zoning Bylaw, the Planning Board shall not grant a special permit unless the specified adequate facility conditions are satisfied.

(4) This section is intended to provide for a detailed review by the Planning Board, aided by other Town boards, of residential uses at densities which will have a significant impact on the health, safety, and general welfare of the Town and its inhabitants due to their location and impact on or need for supporting public facilities.

(5) This provision is adopted pursuant to the authority of and purposes specified in the Zoning Act (MGL c. 40A), which empowers towns, among other things, to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other requirements; to conserve natural resources; and to encourage the most appropriate use of land throughout the community.

B. Special permit required for village density development.

(1) Except for cases specifically exempted below, prior to the issuance of any zoning permit for village density development, the applicant shall be required to obtain a special permit from the Planning Board. This requirement shall apply to developments approved after the effective date of this bylaw other than those exempted by state statute.

(2) Inapplicability. This bylaw shall not apply to developments of one or more single-family units at a net density of one unit per 60,000 square feet or less; provided, however, that such developments shall be encouraged by the Town to be

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sited so that potential future development and/or redevelopment opportunities are

enhanced.

(3) Exemption. The erection of a single- or two-family house on any lot of record existing as of the effective date of this bylaw shall be exempt from the provisions and operation of this section. Also exempt is any lot shown on a plan endorsed by the Planning Board as "Approval Not Required," provided that the subject frontage is not created by a plan approved and endorsed under the Subdivision Control Law after the effective date of this bylaw.

C. Procedures.

(1) Procedures and requirements for review and approval of special permits pursuant to this provision shall be the same as those prescribed in § 205-9A generally for special permits, as supplemented and modified by the additional administrative and submission requirements of § 205-9C(2) with respect to environmental design conditions and as supplemented or modified herein. For the purposes of § 205-9D the Planning Board is hereby designated as the special permit granting authority.

(2) The applicant shall further be required to submit all of the following information with respect to the proposed development:

- (a) Number of dwelling units by type (e.g., single-family, duplex, or multifamily) in the proposed development;
- (b) The number of bedrooms per unit;
- (c) Projected sewage flow generated per unit, as defined by Title V of the State Sanitary Code and the Town of Plymouth Board of Health;
- (d) Projected water supply demand per unit;
- (e) Width, grade and construction of the streets serving the proposed development and affected major intersections;
- (f) Projected generation rates for highway usage;
- (g) Existing volumes, capacities and level of service (as defined by the Highway Capacity Manual 1985) of the major streets serving the proposed development, as determined by a qualified traffic engineer.

(3) The Planning Board decision shall evaluate the proposed development for consistency with the Comprehensive Plan and Capital Improvements Program, in addition to the conditions and standards set forth therein and in applicable provisions of § 205-9 of the Zoning Bylaw. To the maximum extent possible, the requirements of this section shall be coordinated with other applicable special permit requirements so that duplication in submission requirements, administration, review or approval can be minimized. The Planning Board shall establish rules and procedures to effectuate such coordination.

D. Town maintenance of evaluative data.

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(1) The Town of Plymouth shall maintain in the office of the Town Clerk the following documents:

- (a) Adopted Comprehensive Plan;
- (b) Adopted Capital Improvements Program;
- (c) Annual Report.

(2) The Town of Plymouth shall maintain maps and data pertaining to public facilities in the Town in order to aid the Planning Board in determining the conformity of a proposed development with the adequate facility conditions.

E. Standards, conditions, and densities.

(1) No special permit subject to adequate facility conditions shall be issued unless the Planning Board finds that the proposed development is consistent with the Comprehensive Plan and Capital Improvements Program and served by adequate facilities as hereinafter defined, whether provided by the Town or by the developer. In making its determination, the Board shall consider differences in demands for facilities based on the particular use proposed and shall require only service and/or facilities appropriate to the particular use and may limit its permit thereto.

(a) Should the Planning Board find that the proposed development is served by an adequate street system, as defined below, village density development shall be allowed. Notwithstanding this finding, the Planning Board shall also find that adequate water or wastewater facilities are present in order for a density to be allowed of greater than one unit per 40,000 square feet.

(b) For the purposes of this section, density shall be calculated upon the total land area less that portion to be used for road right-of-way and less those portions contained in flood hazard areas designated as Zones A, A1-30, and

B as defined in § 205-58C. It is specifically provided that lots may be created of area and dimension otherwise referenced in the zoning district (Table 5), provided that the density shall not exceed that which is referenced according to adequate facility conditions. Excess land area may be included in larger individual lots, as common land, or as land to be retained for future development pending the availability of adequate facility conditions.

(2) Street system. It shall be demonstrated that on the peak hour of the average day:

(a) The number of vehicle trips projected to be generated by the development plus existing traffic shall not exceed 85% of the capacity of the streets serving the proposed development. Further, those streets shall be paved with an asphalt surface of sufficient width, grade, and construction to support the use proposed thereon.

(b) The volume projected to be generated by the proposed development plus existing traffic shall not cause the level of service of any traffic approach at intersections of streets to fall below a "D" level of service (as defined by the § 205-67

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1985 Highway Capacity Manual Special Report 209, Transportation Research Board, National Research Council, Washington, D.C. 1985); if the level of service is currently below "D" no special permit will be issued until the level of service is improved to the next higher level. For the purpose of this section, "intersection" includes at least two of the following: major or collector streets (as referenced by the Zoning Bylaw), multilane highways, arterial, or two-lane rural highways (as defined by the Highway Capacity Manual).

(3) Water facilities.

(a) Supply and pressure. The supply and pressure of public water available to the site is at or above safe levels on a maximum use summer day, and the projected demand for public water generated by the proposed development shall not cause the water supply and/or pressure of other existing water services to fall below said safe levels.

(b) Storage. The capacity of the storage facility serving the proposed development is at or above the level necessary to meet fire flow demands, and the projected demand for the public water generated by the proposed development shall not cause the capacity to fall below said level.

(c) Distribution system.

[1] The proposed development is served by a water distribution line of sufficient size to deliver acceptable fire flow rates with acceptable system pressures when the projected water usage demands of the proposed development are added to the existing usage and demand requirements.

[2] For purpose of making this determination, "served" means that there is a water distribution line which the proposed development has access to or that the developer will finance and has executed a bond or other surety to guarantee the extension of a water distribution line, or that the water line is scheduled for completion within one year in accordance with the Capital Improvements Program.

(4) Wastewater facilities.

(a) Treatment plant capacity. The projected amount of sewage effluent generated by the proposed development (as defined by Title V of the State Code and the Town of Plymouth Board of Health) shall not cause the allocated capacity of the treatment plant that will serve the proposed development to be exceeded nor will it cause any violation of federal, state or regional water quality laws or standards presently adopted in effect.

(b) Sewage collection system.

[1] The proposed development is served by a sewer collection line of sufficient size and capacity to accommodate the effluent projected to be generated by the proposed development in addition to the demands

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placed on the system by existing development, without exceeding the design capacity of the sewer line.

[2] For the purposes of making this determination, "served" means that there is a sewage line in the way on which the proposed development will have frontage or otherwise serving the proposed development, or that a sewer district will be formed to service the area of the proposed development and is scheduled to provide such service within one year, or that the developer will finance and has executed a bond or other surety to guarantee extension, in accordance with the Capital Improvements Program, of a sewer line to serve the proposed development, or that the sewer line is scheduled for completion within one year in accordance with the Capital Improvements Program.

F. Property tax relief. Any property owner who has been denied a special permit due to an inability to conform to adequate public facility conditions or an owner who has been issued a special permit vesting a present right to future development pursuant to Subsection G may appeal to the Board of Assessors, in conformity with MGL c. 59, § 59, for a determination as to the extent to which such temporary restriction on the use of such land shall affect the valuation placed on such land use for purposes of real estate taxation, and such assessed valuation may be reduced as determined appropriate to reflect such temporary restriction for its duration.

G. Appeals. Any person aggrieved by a decision of the Planning Board either granting or denying a special permit pursuant to this section, whether or not previously a party to the proceeding, may appeal to the Superior Court in accordance with MGL c. 40A, § 17, § 205-68. Residential development phasing. [Added 4-7-1987 ATM by Art. 72; amended 11-14-1995 STM by Art. 8; 9-1-1998 STM by Art. 7; 4-6-1999 ATM by Art. 27; 11-2-1999 STM by Art. 16; 10-25-2001 STM by Art. 21; 4-9-2003 ATM by Art. 23]

A. Purpose and intent.

(1) The Town of Plymouth has been experiencing significant growth pressure for the past two decades. The high rate of growth has created critical demands for public services and facilities which cannot be met in a timely and cost-effective manner. As a result, there has been an erosion of public services and eventually there will be deterioration of public safety and welfare, in the absence of mitigating measures. Accordingly, it is the intent of this section to regulate the rate at which residential construction occurs without imposing undue economic burden on those involved in housing development. Residential development phasing will ensure that periods of accelerated residential growth will not disrupt the Town of Plymouth's long-term capital improvements planning process nor adversely affect public safety or the general welfare of Town residents.

(2) The phasing procedures contained herein are consistent with the Refined Village Centers Plan, the adopted Comprehensive Plan for the Town. Appropriate distinction is therefore made between village and rural services areas.

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B. Applicability.

(1) The phasing requirements of this section are applicable to lots within a tract of land that is the subject, in whole or in part, of an approved definitive subdivision plan. For purposes of this section, a tract of land shall mean a single parcel or lot or a set of contiguous parcels or lots which were held in common ownership on April 7, 1987, or on any date subsequent thereto.

(2) The calculation of the number of building permits which may be issued in any calendar year for new dwelling units in a subdivision is to be based on a percentage of the total number of dwelling units which may be otherwise permitted on the lots shown on the approved subdivision plan. The applicable percentages are set forth below in Subsection C.

(3) Specifically exempt from this section are mobile homes as located in an approved retirement mobile home planned unit development and lots shown on a plan endorsed by the Planning Board as "Approval under the Subdivision Control Law Not Required," provided that the subject frontage is not created by a plan approved and endorsed in accordance with the Subdivision Control Law after the effective date of this bylaw. Also specifically exempt from this section are planned retirement communities and limited occupancy communities as defined in § 205-63.

(4) Insofar as subdivisions are not excepted by MGL c. 40A, § 6 from the provisions of this bylaw, the period of time provided for under MGL c. 40A in which a subdivision is not affected by zoning changes is hereby extended during the duration of this bylaw so as to protect such subdivision against further changes in

use and density and dimensional requirements.

C. Procedures.

(1) Village services areas. Issuance of building permits by the Building Inspector for new dwelling units in the R-40, R-25, R-20SL, R-20MD, and R-20MF Zoning Districts shall be limited in any calendar year to 12.5% of the total units in applicable land parcels as defined above or 10 units, whichever is the greater. Should the density be calculated at or less than one dwelling unit per 60,000 square feet, all phasing requirements shall be deemed inapplicable.

(2) Rural service areas. Issuance of building permits by the Building Inspector for new dwelling units in the Rural Residential Zoning District shall be limited in any calendar year to the percent of the total units in land parcels as defined above or to the applicable number of units, whichever is greater, in accordance with the following schedule. Density is calculated at or less than the referenced square footage.

§ 205-68

§ 205-68

PLYMOUTH CODE

07 - 15 - 2004 205:194

Rural Service Areas - Phasing Schedule

If a definitive plan, or a preliminary plan followed within seven months by a definitive plan, was submitted to the Planning Board for approval under the Subdivision Control Law and written notice of such submission has been given to the Town Clerk before November 14, 1995, the land shown on said plan shall be governed by the following phasing schedule, notwithstanding the fact that the land shown on such plan may be located in different zoning districts or may be developed under different special permits for different zoning districts:

Density/Square Feet Percent/Year Units/Year

60,000 6.25% 5

80,000 9% 7

100,000 17% 13

120,000 100%

For all other subdivisions the following phasing schedule shall apply; such schedule may vary as provided for in Subsection C(3).

Density/Square Feet Percent/Year Units/Year

120,000 12.5% 10

(3) Phasing schedule. Permits shall be issued hereunder in a manner consistent with a schedule approved by the Planning Board and recorded with the approved subdivision plan. The Planning Board may vote to authorize two times the number of units per year specified above provided that 50% of the units in the development are age restricted by deed to at least one occupant that is 55 years or older. The Board may authorize 1 1/2 times the number of units provided that 25% of the units have such an age restriction.

(4) Density. For the purposes of this section density shall be calculated upon the total land less that portion to be used for road rights-of-way and less those portions contained in flood hazard areas designated as Zones A, A1-30, and B as defined in § 205-58C. Land intended to be set aside to achieve a required density may be included in larger individual lots or as a separate open space parcel and shall be protected from development by means of a covenant in perpetuity to be recorded with the approved subdivision plan or, if the land is to be developed under a master plan and phased special permit, with the special permit for a phase under the master plan. It is specifically provided that lots may be created of area and dimension otherwise referenced in the zoning district (Table 5).

D. Property tax relief. Any property owner who has been denied building permits under the phasing requirements of this section may appeal to the Board of Assessors in conformity with MGL c. 59, § 59 for a determination as to the extent to which such temporary restriction on the use of such land may affect the assessed valuation placed on such land.

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§ 205-11. Building permit limitations. [Added 11-2-1999 STM by Art. 16]

A. Limitations.

(1) When the total number of building permits issued for new dwelling units located within the RR, R-40, R-25, R-20SL, R-20MD and R-20MF Zoning Districts exceeds 155 in any calendar year, excluding those building permits listed in Subsection B, no additional permits shall be issued within these districts for new dwelling units, except as provided in Subsection B. [Amended 4-6-2004 ATM by

Art. 31]

(2) No more than 30 such building permits shall be issued in any calendar year for new dwelling units either for land shown on a plan of record as of April 6, 1999, or for any land in the same ownership as of April 6, 1999, even though ownership may have been transferred subsequent to said date. [Amended 4-6-2004 ATM by Art. 31]

(3) The Building Commissioner shall process applications for such building permits in chronological order determined by the date upon which the Commissioner receives each complete application. As each complete application is received, it shall be assigned a number in chronological order.

B. Exempt units (units not counting toward limitations). Notwithstanding Subsection A, building permits for the following new dwelling units located within the foregoing districts shall not count toward the foregoing limitations:

- (1) Units defined in § 205-3 as elderly household;
- (2) Units within an open space mixed-use development (OSMUD);
- (3) Units on lots on a plan endorsed prior to April 6, 1999, by the Planning Board as "Approval Under the Subdivision Control Law Not Required" by virtue of MGL c. 40A, § 6 (sixth paragraph), for three years from the date of such endorsement;
- (4) Units within a rural-density development and/or village open space development (VOSD). [Amended 4-6-2004 ATM by Art. 31]
- (5) Units within a development ("low-density development"), defined as one in which:
  - (a) The parcel on which such units are located is permanently restricted to a density of no more than 1/3 of the maximum density achievable under applicable bylaws and regulations; and
  - (b) The applicant submits plans or other pertinent documentation to demonstrate the maximum number of units achievable on said lot.

C. Protected units (units counting toward limitations). Building permits for the following new dwelling units located within the foregoing districts shall count toward the foregoing limitation:

- (1) Units on lots on a plan endorsed by the Planning Board as "Approval Under the Subdivision Control Law Required" if grandfathered from these limitations by virtue of MGL c. 40A, § 6 (seventh paragraph), for eight years from the date of such endorsement.

D. Sunset provision. This section shall be effective as of April 10, 2002, and shall continue until the final adjournment of the 2005 Annual Town Meeting, unless sooner extended or otherwise amended or a longer period is authorized by vote of Town Meeting. [Amended 4-10-2002 ATM by Art. 25]

[Town of Plymouth, Zoning Bylaws ~ last revised 2004] bylaws obtained from <http://www.plymouth-ma.gov/pdf/zoningBylaw.pdf>

Renewed every 3 years: Added 11-1999, renewed in 2002; up again for renewal in 2005.

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**Plympton**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Princeton**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Quincy**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*



No

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**Randolph**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

No

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**Raynham**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**      According to the town planner (10/19/04), there is no cap on the number of residential permits issued each year. There is project phasing.

(The cap listed below expired.)

Town of Raynham Zoning Bylaw (Amended 2003)

ARTICLE 15 - RATE OF DEVELOPMENT  
(added at Annual Town Meeting of May 18, 1998)

15.1 Purpose

The purpose of this bylaw is to promote orderly residential growth in the Town of Raynham for a period of five years subsequent to July 1, 1998, consistent with the rate of residential growth over the last fifteen (15) calendar years, to phase growth so that it will not unduly strain the community's ability to provide basic public facilities and services, to provide the Town, its boards and its agencies, time, and capacity to incorporate such growth into the Town's Master Plan for the community during the five year period, and to preserve and enhance existing community character and the value of property.

15.2 Applicability, Effect and Definitions:

15.2.1 For the purposes of this bylaw, the following terms shall have the following meanings:

- A. "Development" shall mean a single lot or set of contiguous lots held in common ownership at any time on or after July 1, 1998, for which one or more building permits, for a dwelling unit or dwelling units will be sought.
- B. "Dwelling Unit" shall mean any single-family, multi-family or condo unit.
- C. "Lot" shall mean an area of land in ownership either separate or multiple, with definite boundaries ascertainable by a recorded deed or plan and used or set aside and available for use as the site of one or more buildings

15.2.2 Beginning on July 1, 1998, no building permit shall be issued for a new dwelling unit or units unless in accordance with this bylaw or unless specifically exempted in section 15.4 below.

15.2.3 The maximum number of building permits for new dwelling units in a fiscal year (July 1 - June 30) shall be twenty-four (24). If a subdivision is granted a special permit from the Planning Board acting through Article 16, Subdivision Phasing, the number of dwelling units allowed through the special permit will be exempted from this section. (Highlighted section added at A.T.M. of 5/15/00)

15.2.4 This bylaw shall expire on June 30, 2003.

15.2.5 The number of dwelling units for multi-family units will be divided by two (2) and this number will count towards section 15.2.3.

15.2.6 The Building Inspector shall not issue building permits for more than four (4) dwelling units to any one applicant in any fiscal year.

15.2.7 Residential building permits issued, but subsequently abandoned under the provisions of the State Building Code, shall not be counted in computing the number of building permits for new dwelling units in a fiscal year.

15.3 Procedures:

The Building Inspector shall issue residential building permits in accordance with the following procedure:

- A. The Building Inspector shall act on each building permit in order of submittal. Any permit application that is deemed incomplete or inaccurate by the Building Inspector shall be returned to the applicant within twenty (20) days of submittal. Any permit application returned by the Building Inspector shall require a new submittal.
- B. Complete applications shall be assigned a number by the Building Inspector in order of acceptance and placed in a specific file.
- C. Building permits for up to two (2) new residential dwelling units shall be available each month. Permits not issued in any month of the fiscal year shall be available in any subsequent month for issuance from the Building Inspector.
- D. Any building permits for a new residential dwelling unit not issued in any fiscal year shall be available for issuance in the following fiscal year.

#### 15.4 Exemptions:

15.4.1 The provisions of this bylaw shall not apply to, nor limit in any way, the granting of building and occupancy permits required for enlargement, restoration, alteration, or reconstruction of dwelling units existing on July 1, 1998.

15.4.2 Development projects which voluntarily agree to a minimum 40% permanent reduction in density below the density for the particular type of construction permitted in the applicable zoning district and feasible given the environmental conditions of the tract, with the surplus land equal to at least five (5) acres and permanently designated as open space and/or farmland. The land to be preserved shall be protected from development by an agricultural preservation restriction, conservation restriction, and dedication to the Town, or other similar mechanism that will ensure its protection.

15.4.3 Housing developments built pursuant to a comprehensive permit issued under the provisions of M.G.L. c. 40B, 20 through 23.

15.4.4 Assisted Living as defined in M.G.L. c. 19D.

15.4.5 Any lot existing and not held in common ownership with an adjacent lot or lots on July 1, 1998 shall receive a one-time exemption for the purpose of constructing a single-family dwelling on said lot.

#### 15.5 Relation to Real Estate Assessment

Any land owner who has been denied a development permit because of the provisions of this bylaw may appeal to the Board of Assessors, in conformity with M.G.L. c.59, ss59 for a determination as to the extent to which the temporary restrictions on development use of such land shall affect the assessed valuation placed on such land for purposes of real estate taxation, and for abatement as determined to be appropriate.

#### 15.6 Zoning Change Protection:

The protection against subsequent zoning change granted by Massachusetts General Laws Chapter 40A Section 6 to land in a subdivision, in the case of a development whose completion has been constrained by this section, shall be extended by five (5) years.

#### 15.7 Separability

The provisions of this bylaw are hereby declared separable, and if any provision shall be held invalid or unconstitutional, it shall not be construed to affect the validity or constitutionality of any of the remaining provisions of this bylaw.

### Article 16 - Subdivision Phasing

(added at Annual Town Meeting of May 15, 2000)

16.1 Purpose. The purpose of this section, "Subdivision Phasing," is to assure that growth shall be phased so as not to unduly strain the town's ability to provide public facilities and services, so that it will not disturb the social fabric of the community, so that it will be in keeping with the community's desired rate of growth; and so that the town can study the impact of growth and plan accordingly.

16.2 Applicability. The issuance of building permits for any tract of land divided pursuant to the provisions of G.L. c. 41, ss. 81K-81GG, the Subdivision Control Act, into more than 7 lots after the effective date of this by-law shall be subject to the regulations and conditions set forth herein. This provision shall apply to any proposed division or combination of properties which were in the same ownership and contiguous as of the effective date of this bylaw.

16.3 Phasing. Not more than 7 building permits shall be issued in any twelve month period for construction of residential dwellings on any tract of land divided into more than 7 lots pursuant to any provision of G.L. c. 41, ss. 81K-81GG, the Subdivision Control Act.

16.4 Exceptions. Issuance of more than 7 building permits for the same tract of land in a twelve month period may be allowed in the following circumstances:

- a. The owner of said land may apply for a special permit from the Planning Board for the issuance of more than 7 building permits in any twelve month period. The Planning Board may grant a special permit only if the Board determines that the probable benefits to the community outweigh the probable adverse effects resulting from granting such permit. The Planning Board shall consider the impact on schools, other public facilities, traffic and

pedestrian travel, recreational facilities, open spaces and agricultural resources, preservation of unique natural features, planned rate of development, diversity of housing stock, and housing for senior citizens and people of low or moderate income, as well as conformance with the Master Plan prepared by the Planning Board pursuant to G.L. c. 41, s. 81D. The Planning Board shall give particular consideration to proposals that:

- (1) demonstrate a permanent reduction in allowable density of fifty percent (50%) or more; or
- (2) commit more than twenty percent (20%) of the dwelling units to persons of low or moderate income, as those terms are defined for the Raynham area by the Department of Housing and Community Development, for a period of not less than fifteen years; or
- (3) commit more than twenty percent (20%) of the dwelling units to persons over the age of fifty-five; or
- (4) devote more than sixty percent (60%) of the tract to open space; or
- (5) rely exclusively on on-site wastewater for domestic purposes.

Where a special permit is granted pursuant to this Section 4.a, any building permits issued for dwelling units within the division of land shall not count toward the 24 permits to be issued town-wide annually pursuant to Section 15.2.3.

b. The owner of a tract of land to be divided into more than 105 lots, may seek a special permit from the Planning Board which would authorize development at a rate not to exceed ten percent (10%) of the units per year.

16.5 Zoning Change Protection. The protection against subsequent zoning changes provided by G.L. c. 40A, s. 6 to land in a subdivision shall, in the case of a development whose completion has been constrained by this section, be extended to fifteen (15) years.

16.6 Relation to Real Estate Assessment. Any land owner denied a building permit because of these provisions may appeal to the Board of Assessors, in conformity with G.L. c. 59, s. 59, for a determination as to the extent to which the temporary restriction on development use of such land shall affect the assessed valuation placed on such land for purposes of real estate taxation, and for abatement as determined to be appropriate.

Last Updated: Wednesday, Jan 29, 2003

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**Reading**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

**Rehoboth**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**                    Town of Rehoboth Zoning Bylaw (2004)

"6.8 Scheduled Development (added 10/17/88)

1. The objective of this bylaw is to regulate the timing of development in residential subdivisions in a manner that promotes the health, safety, convenience and welfare of the inhabitants of the Town of Rehoboth. This bylaw has the following purposes:

- (a) To prevent the development of traffic conditions that are hazardous to pedestrian and vehicular travel,
- (b) To coordinate the timing of land development in Rehoboth with the provision of public services,
- (c) To preserve unique natural features,
- (d) To allow development to proceed in a manner that allows a proper evaluation of soil conditions.

2. While this bylaw is in effect, the Inspector of Buildings shall issue building permits for construction of new dwellings in a subdivision (or contiguous parcels, including without limitation Form A Lots, shown on a plan endorsed by the Planning Board approval under the Subdivision Control Law not required' which have been in the same ownership at any time subsequent to the adoption of this bylaw), given final approval after passage of this bylaw, only if permit issuance will not result in authorizing construction within a 24 month period of more than 15 units or 40% of the units potentially allowed in each subdivision, whichever is greater. The same formula shall apply to issuance of occupancy permits for mobile homes, if, and only if, mobile homes are specifically permitted by another section of the zoning by-law. (amended 5/1/95)

3. Permits shall be issued hereunder for each specific subdivision lot after the date so designated for the lot on a development schedule, which has been approved by the Planning Board and recorded with the subdivision plan, which created the lot. Planning Board approval of a development schedule shall provide that:

(a) The schedule designations for building not more than 15 units or 40% of the potential dwelling units in the subdivision, whichever is greater, within the first two years following definitive plan endorsement;

(b) In each year thereafter, the schedule permits construction of not more than 10 units or 20% of the total number of potential units of the subdivision, whichever is greater;

(c) In the opinion of the Planning Board, the development sequence established by the schedule is not arbitrary or unreasonable.

4. Units designated for low income residents of all ages and units receiving or eligible to receive state or federal subsidies, shall be exempt from this scheduling bylaw.

5. Insofar as the subdivision is not exempted by M.G.L. Ch. 40A and 6 from the provisions of this bylaw, the period of time provided under M.G.L. Ch. 40A in which a subdivision is not affected by zoning changes is hereby extended during the duration of this bylaw, so as to protect such subdivisions against further changes in use and density requirements. "

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**Revere**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

*No*

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**Rockland**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

*No*

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**Rockport**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**                    Rockport Zoning Bylaw (Amended 2002)

"G. RATE OF DEVELOPMENT  
[Amended STM 9/13/99, Approved AG 1/10/00]

Notwithstanding any other provisions contained in this Zoning by-law, building permits for the construction of dwelling on lots held in common ownership on the effective date of this provision shall not be granted at a rate per annum greater than as permitted by the following Sections 1, 2, and 3, commencing in the year such lots are subdivided and approved by all Federal, State and Local Permitting Agencies, or in the year this provision becomes effective, whichever is later.

1. For such lots containing a total area of land sufficient to provide more than ten dwelling units at the maximum density permitted for the District in which such lots are located, four dwelling units or one-tenth whichever is greater of the number of dwelling units permitted to be constructed or placed on said total area of land based on said maximum permitted density.

2. For such lots containing a total area of land insufficient to provide ten or more dwelling units at the maximum density permitted under these by-laws for the District in which such lots are located, four dwelling units.

3. Any lots in a subdivision covered by this provision hereafter sold or otherwise transferred to another owner shall include in the deed the earliest date of which construction may be commenced in accordance with these provisions.

4. [Deleted AG 1/10/00]

5. [Deleted AG 1/10/00]

The provision in this Part G. are adopted to prevent the uncontrolled growth of the town pending its review of its water resources, sewage and solid waste

disposal plans and facilities, future demands on public services, including without limitation of the foregoing, public safety, public works and public education, conservation of its natural resources, and therefore, Part G. shall automatically terminate and be revoked on July 1, 1999."

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Including 2004 amendments:

#### G. RATE OF DEVELOPMENT

[Amended STM 9/13/99, Approved AG 1/10/00]

Notwithstanding any other provisions contained in this zoning by-law, building permits for the construction of dwellings on lots held in common ownership on or after the effective date of this provision shall not be granted at a rate per calendar year greater than as permitted by the following Sections 1, 2, and 3, commencing in the year such lots are subdivided and approved by all federal, state and local permitting agencies, or in the year this provision becomes effective, whichever is later.

1. For such lots containing a total area of land sufficient to provide ten or more dwelling units at the maximum density permitted for the District in which such lots are located, four dwelling units or one-tenth whichever is greater of the number of dwelling units permitted to be constructed or placed on said total area of land based on said maximum permitted density.
2. For such lots containing a total area of land insufficient to provide ten or more dwelling units at the maximum density permitted under these by-laws for the District in which such lots are located, four dwelling units.
3. Any lots in subdivision covered by this provision hereafter sold or otherwise transferred to another owner shall include in the deed the earliest date of which construction may be commenced in accordance with these provisions.

The provisions in this Part G. are adopted to prevent the uncontrolled growth of the town pending its review of its waster resources, sewage and solid waste disposal plans and facilities, future demands on public services, including without limitation of the foregoing public safety, public works and public education, conservation of its natural resources, and therefore, Part G. shall automatically terminate and be revoked on July 1, 2009.

\*\*Webmasters Note: The previous subsection, G., has been amended as per an update approved at a town meeting held on 4/3/04.

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**Rowley**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**

Town of Rowley Zoning Bylaw

#### 8.5 New Single Family Dwelling Limitation

8.5.1 Except as provided by section 8.5.2, the issuance of building permits for new single family dwellings is subject to the following limitations:

(a) Building permits shall not be issued authorizing the construction of more than twenty four (24) new single family dwellings in the town in any twelve (12) month period. The number of permits allowed for new single family dwellings in any month shall equal twenty-four (24) minus the number of such dwellings that have been authorized (exclusive of unused authorizations that have expired or been withdrawn) in the preceding eleven (11) months.

Subject to the provisions of section 8.5.1(b), applications for building permits for new single family dwellings shall be held and acted upon in chronological order based on the date of the filing of a complete application with the Building Inspector.

(b) Building permits shall not be issued authorizing the construction of more than four (4) new single family dwellings in any twelve (12) month period on any set of lots created from land that was contiguous and held in common ownership at any time on or after the effective date of this section.

8.5.2 The limitations of section 8.5.1 are subject to the following exceptions:

(a) For new single family dwellings established as part of an Open Space Residential Development approved under section 6.4 of the Bylaw, the limitation of section 8.5.1(b) shall be ten (10) dwellings per twelve (12) month period, rather than four (4) dwellings per twelve (12) month period.

(b) The limitations of section 8.5.1 do not apply to affordable dwelling units, or to dwelling units authorized under a comprehensive permit issued under M.G.L., Ch. 40B, § 21, and permits issued for such units shall not be included in the count required by section 8.5.1(a).

8.5.3 Any time-limited protection against zoning change afforded by M.G.L., Ch 40A, § 6, shall be extended (if such protection has not already expired by the date on which a complete application for a building permit is filed with the Building Inspector) until such date as a building permit is issued under this section.

8.5.4 Section 8.5.1 shall not be construed as limiting the issuance of building permits for the enlargement or improvement of existing dwellings, or the restoration of previously existing dwellings.

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According to Cliff Pierce, Chairman of the Planning Board, (10/26/04) the town voted to make the residential permit cap permanent. Because of the

Hadley Decision, the Town Council has recommended to sunset the building cap so that it expires in 2009 (to be voted on in the town meeting in November 2004).

Rowley Master Plan (2003)

10.2.4 New Dwelling Unit Limitations

Issue – In 1996, the Town adopted a New Dwelling Unit Limitation zoning bylaw. The bylaw limits the rate of development of single-family dwellings on both a townwide basis and a development-by-development basis. The bylaw is due to expire in 2006.

Action Recommended – The Town has recently voted to make this provision permanent. The dwelling unit limitation will continue to allow the Town to moderate year-to-year swings in the rate of singlefamily dwellings that can occur. The Town has also voted to exempt permanently-protected affordable housing from these limitations.

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**Salem**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Salisbury**                *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**                    Town Planner Lisa Pearson (11/30/04) confirmed that the town has no growth caps, no phasing and no permit limits. She added that the town currently has 500 permits in process, up from well under 100 just a year or two ago. She said that growth may become somewhat managed through new sewer and water usage charges.

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**Saugus**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Scituate**                 *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Seekonk**                 *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

**Sharon**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**

George Bailey, Head of Sharon's Long-Range Planning Task Force, (7/21/04) said that the cap has never had any impact on Sharon. It used to be higher than the current level of 100. The 100 limit, he said, would only apply to houses built after 2000. Chapter 40B developments are not effected by the growth cap. The limit was lowered because it was actually set higher than the rate that development was occurring.

Sam Solomon, Chair of the Planning Board, (617) 373-2597, (7/21/04) said that the cap was originally adopted 5-8 years ago. He did not know a specific date. When researcher mentioned the amended date of 2000, he said he thought it was earlier, perhaps the late 1990s. It was definitely not in the 1970s or 1980s.

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The town of Sharon limits the number of residential permits issued town-wide each year for new homes in subdivisions and multi-family housing located anywhere in Sharon.

Sharon Zoning Bylaws

ARTICLE III. GENERAL REGULATIONS

3400. Development Scheduling.

3410. Purpose.

The purpose of Section 3400, Development Scheduling, is to assure that growth, consistent with Massachusetts Growth Policy, "shall be phased so that it will not unduly strain the community's ability to provide public facilities and services, so that it will not disrupt the social fabric of the community, and so that it will be in keeping with the community's desired rate of growth." (From Page 61, City and Town Centers, the Massachusetts Office of State Planning, September, 1977).

3420. Permit Issuance.

The Inspector of Buildings shall issue building permits for construction of new dwelling units in subdivisions submitted for approval after December 5, 1978, or for multi-family dwellings (regardless of location) only as follows:

3430. Rate.

One Hundred (100) new building permits allowed in any given two (2) year period. If approvals exceed fifty (50) units in one year, the Building Inspector will allow a maximum of twenty-four (24) lots released from any subdivision in a given calendar year. Exceptions: Low income housing and rebuilding of destroyed homes. (Amended 11/13/00)

3440. Grandfathering.

The protection against subsequent zoning changes granted to land in a subdivision by G.L., Chapter 40A, Section 6, shall, in the case of a development whose completion has been constrained by Section 3400, be extended from five (5) to eight (8) years. Any land owner denied a building permit because of these provisions may appeal to the Board of Assessors, in conformity with G.L., Chapter 59, Section 59, for a determination as to the extent to which the temporary restriction on development use of such land shall affect the assessed valuation placed on such land for purposes of real estate taxation, and for abatement as determined to be appropriate.

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**Sherborn**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Shirley**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**

Shirley Zoning Bylaw

2.9 Rate of Development

2.9.1 The purpose of this Section, "Rate of Development", is to ensure that growth occurs in an orderly and planned manner; to phase growth so that it will not unduly strain the community's ability to provide adequate public safety, schools, roads and municipal infrastructure, and human services; to maintain the community at a quality of life which citizens expect; to provide the Town boards and its agencies information, time, and capacity to

incorporate such growth into or as per the Master Plan for the community; and to preserve and enhance existing community character and the value property.

#### 2.9.2 General

Beginning on September 11, 2000, building permits, including foundation permits, for not more than thirty (3) dwelling units shall be applied for or issued in each of the five (5) calendar years following said date, for the construction of new residential dwelling units, per approved ANR and/or standard or cluster subdivision. Further, no one person or entity nor their successors in interest, nor any entity in which they hold a legal or beneficial ownership shall be issued more than five (5) of the total number of permits available in any one year, with the exception of the exemptions as described in this Bylaw.

DWELLING UNIT shall mean any portion of a building occupied or suitable for occupancy as a residence and arranged for the use of one or more individuals living as a single housekeeping unit with its own cooking, living, sanitary and sleeping facilities. Within the provisions of this Section, an "Accessory Apartment", as defined in Section 11.1 of the Zoning Bylaws, shall not constitute a dwelling unit.

#### 2.9.3 Procedures

Any building permits issued shall act on each permit with the following procedures:

- a. The Building Inspector shall act on each permit in order of submittal. Any permit application that is incomplete or inaccurate shall be returned to the applicant within three (3) business days and shall require new submittal.
- b. The Building Inspector shall accept applications and issue permits one (1) year at a time.
- c. The Building Inspector shall mark each application with the time and date of submittal.
- d. Any issued permit shall conform to the time limits set by Section 8.2.3.
- e. Any building permits not issued in any calendar year (January 1 - December 31) shall not be available for issuance in any subsequent year.
- f. At the end of each calendar year in which this Bylaw is in effect, the Building Inspector shall retain all applications for which a building permit has not been issued. Upon being informed in writing by the applicant before the tenth (10<sup>th</sup>) day of January of the succeeding year the applicant desires the application to remain in effect, the Building Inspector shall treat said application in accordance with Section 2.9.2 above.

#### 2.9.4 Exemptions

The provisions of this Section shall not apply to, nor limit in any way, the granting of building permits or occupancy permits required for enlargements, restoration, or reconstruction of existing dwellings existing on lots as of the date of passage of this Bylaw.

- a. Dwelling units for low and/or moderate income families or individuals, where all of the following conditions are met:

1. Occupancy of the units is restricted to households qualifying under the Local Initiative Program as administered under the Massachusetts Department of Housing and Community Development.

2. The affordable units are subject to a property executed and recorded deed restriction running with the land which shall limit each succeeding resale price to an increase of ten percent (10%), plus any increase in the consumer price index, plus cost of any improvements certified by the Building Inspector.

- b. Dwelling units for senior residents, where occupancy of the units is restricted to senior persons through a property executed and recorded deed restriction running with the land. For purposes of this Section, "Senior" shall mean persons over the age of fifty-five (55).

- c. Development projects which voluntarily agree to a minimum of twenty-five percent (25%) permanent reduction in buildable lots permitted under an approved definitive subdivision plan. Such developer shall be eligible for a maximum of five (5) exempt building permits per year within the said subdivision.

- d. Person or entity is entitled to one (1) permit, on only one (1) lot, per year, on a lot the person or entity owns at the time of the acceptance of this Bylaw.

- e. Beginning on September 12, 2000 through December 31, 2000, no more than fifteen (15) building permits may be granted under the provisions of this Bylaw

#### 2.9.5 Time Limitation and Extension

This Section shall expire on December 31, 2005, provided however, that this Section may be extended without lapse of its provisions and limitations, by vote of the Town Meeting prior to September 10, 2005.

#### 2.9.6 Separability



The provisions of this Bylaw are hereby declared separable and if any provision shall be held invalid or unconstitutional, it shall not be construed to affect the validity or constitutionality of any of the remaining provisions of this Bylaw.

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The Town of Shirley Master Plan 2004, adopted by the Shirley Planning Board, and assisted by Community Opportunities, Inc., recommends replacing the expiring Rate of Development Bylaw (Section 2.9) with a Growth Management Bylaw: Page 67. Other Zoning Amendments Growth Management Bylaw On or before the expiration of the Rate of Development Bylaw (Section 2.9), adopt the following Growth Management regulations:

-Establish an upper limit on the number of new residential building permits issued per year (aggregate) and per applicant, with exemptions for the following uses:

--Dwelling units in an open space residential development that preserves at least 10% more than the minimum required usable open space

--Deed restricted affordable dwelling units that qualify for listing on the Subsidized Housing Inventory

--Accessory dwelling units in buildings used primarily for commercial purposes

- For non-exempt residential developments, require phased construction or allow the applicant to pay a fee in lieu of complying with the phasing requirement.

- Deposit in-lieu-of fees in a growth management trust fund that may be used for open space acquisition or creation and preservation of affordable housing.

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## Shrewsbury

### *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

#### Yes

From ordinance.com (this section did not appear in the version on the website):

Town of Shrewsbury Zoning Bylaw (Adopted 1967, Amended 2004)

#### O. Phasing Schedule

##### 1. Phasing Schedule

a. Purpose. In order to provide for the orderly construction, proper supervision and timely inspection of ways, utilities and drainage in the subdivision and in order to ensure compliance with these Rules and Regulations each plan for definitive subdivision approval shall contain a Phasing Schedule.

b. Contents of Phasing Schedule. A Phasing Schedule shall include a schedule for construction of ways, utilities, drainage, grading and construction of dwellings and such other matters as the Planning Board shall reasonably request. All Phasing Schedule plans shall be submitted at a scale of one (1) inch equals one hundred (100) feet or with an appropriate scale to show the entire subdivision on one sheet. The Phasing Schedule shall indicate the length of roads and lots to be constructed during each phase of the subdivision.

c. Approval of Phasing Schedule. Except where the Planning Board shall expressly find that such action is in the public interest and not inconsistent with the subdivision control law, the Planning Board shall not approve a Phasing Schedule which provides for:

1. Grading or disturbance of both lots and roadways of more than 12 acres of each in any twelve (12) month period.
2. Construction of more than 2,000 linear feet of roadway in any twelve (12) month period.
3. Construction of more than twenty-five (25) dwelling units in any twelve (12) month period.

The foregoing to the contrary notwithstanding, the Planning Board shall not require any Phasing Schedule to exceed eight (8) years.

##### d. Application of Phasing Schedule to Multiple Subdivision Plans

1. The Planning Board may, in its discretion, refuse to approve a Phasing Schedule or Phasing Schedules for any definitive plan or plans submitted to avoid or frustrate the purpose and intent of this provision.

2. The Planning Board may in its discretion require a single Phasing Schedule for the subdivision of land: 1) held as a single parcel or in common ownership as of the date of the adoption of this provision, or; b) within three years prior to the submission of such plan.

##### e. Procedures for Phasing Schedules

1. In order to facilitate review, the developer may submit a written proposed phasing schedule to the Planning Board as part of any application for preliminary or definitive subdivision approval.

2. The Planning Board shall approve a phasing schedule that is consistent with the provisions of this Section IV (N).

3. Approved phasing schedules for the type of development described in Section IV(N)(1)(e) (1) shall be incorporated, where appropriate, as part of the decision filed with the Town Clerk, whether inscribed on the plan and/or filed as a separate attached document.

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**Somerset**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**                    Land Use Coordinator Vanessa Farr (11/17/04) confirmed that the town has no growth caps, no phasing and no permit limits. She said that the town is extremely built out and has been since the 1970s.

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**Somerville**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Southboro**                    *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**                    Zoning Chapter of the Town of Southborough, Massachusetts, Section 174-13.2:

"Section 174-13.2. Major residential development.

[Added 4-14-1986 ATM, Art. 36; amended 4-14-1986 ATM, Art. 38; 4-13-1987 ATM, Art. 42; 4-30-1990 ATM, Arts. 48, 49; 4-8-1991 ATM, Art. 53; 4-10-1995 ATM, Art. 45]

A. Applicability.

(1) Special permit required. Major residential development, that is, the creation of more than ten (10) lots or construction of more than ten (10) dwelling units within an eight-year period from or on a property or set of contiguous properties in common ownership as of January 1, 1986, is allowed on special permit, as indicated in Section 174-8, Schedule of Use Regulations.

(2) Repetitive subdivision and phasing of large properties.

(a) Land outside a major residential development. Where a by-right subdivision of ten (10) or fewer lots (that is, a development under the threshold size for a major residential development) is first created on one (1) portion of a property, thereby leaving another portion of the same property remaining undeveloped, and if the applicant later wishes to subdivide this remaining portion thereby creating more than ten (10) lots overall within the eight-year period (as described in Subsection A(1) above), then the applicant may do so by applying for a special permit for a major residential development for the remaining portion. On large properties to be developed in phases, the applicant may apply for more than one (1) special permit with no time limit.

(b) Lots inside a major residential development. Lots created inside a major residential development, and made a part of the development, may not be further subdivided within eight (8) years except by amending the original special permit.

(3) Flexible development option for small properties. Except as provided below, a development creating ten (10) or fewer lots or units does not require approval of a special permit, because it is below the threshold size. However, if an applicant wants to take advantage of this section's special features (such as flexible development) for a development of ten (10) or fewer lots, then the applicant may do so by applying for a special permit. In this case, all requirements of this section shall apply as if the development was a major residential development, with the one (1) exception that affordable housing shall not be required under Subsection E.

(4) Exceptions. The above requirements shall not be applicable if the lots are restricted from residential use.

(5) Subdivision approval. Subsequent to, or in conjunction with the granting of the special permit. compliance with the rules and regulations regarding

the subdivision of land must be met."

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**Sterling**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**

Town of Sterling Protective Zoning Bylaw, 2002

4.3 RATE OF DEVELOPMENT

4.3.1 Purpose. The purpose of this section, "Rate of Development", is to promote orderly growth in the town of Sterling, consistent with the rate of residential growth over the last seven (7) calendar years, to phase growth so that it will not unduly strain the community's ability to provide basic public facilities and services, to provide the town, its boards and its agencies information, time, and capacity to incorporate such growth into the Master Plan for the community, as may be amended, and to preserve and enhance existing community character and the value of property.

4.3.2 General. Beginning on May 11, 1998, building permits for not more than thirty (30) dwelling units shall be issued in each of the ten full calendar years following said date, for the construction of new residential dwelling in the town of Sterling. This provision shall apply to any tract of land divided pursuant to any provision of G.L. c.41, ss.81K - 81GG, the Subdivision Control Act subsequent to such date. This provision shall apply to any proposed division or combination of properties which were in the same ownership and contiguous as of such date. For the purposes of this section, an accessory apartment pursuant to Section 2.3.4 shall constitute a dwelling unit.

4.3.3 Procedures. Any building permits issued shall be issued in accordance with the following procedures:

1. The Building Inspector shall act on each permit in order of submittal: Any permit application that is incomplete or inaccurate shall be returned to the applicant and shall require new submittal.
2. The Building Inspector shall mark each application with the time and date of submittal, and shall act on each application in a timely manner.
3. At the end of the calendar year in which this by-law is in effect, the Building Inspector shall retain all applications for which a building permit has not been issued. Upon being informed in writing by the applicant before the tenth of January of the succeeding calendar year that the applicant desires the application to remain in effect, the Building Inspector shall treat said application in accordance with subsection 4.3.3 (1), above.

4.3.4 Special Permit Exemption. Upon a determination by the Planning Board under a special permit application that the building permits will be issued for dwelling units within a development that will provide special benefits to the community, said permits shall be exempt from this section in its entirety, and shall not count toward the thirty (30) permits to be issued annually. The Planning Board may grant a special permit under this section only if the Board determines that the probable benefits to the community outweigh the probable adverse effects resulting from granting such permit, considering the impact of schools, other public facilities, traffic and pedestrian travel, recreational facilities, open space's and agricultural resources, traffic hazards, preservation of unique natural features, planned rate of development, and housing for senior citizens and people of low or moderate income, as well as conformance with Master Plan or Growth Management Plans, if any, prepared by the Planning Board pursuant to G.L. c.41, s81D. The Planning Board shall give particular consideration to proposals that demonstrate a reduction in allowable density of fifty percent (50%) or more.

4.3.5 Exemptions. The provisions of this section shall not apply to, nor limit in any way, the granting of building or occupancy permits required for the following purposes:

1. the construction, enlargement, restoration, or reconstruction of one single family or two family dwelling on a lot legally existing as of the date of passage of this by-law.
2. The construction of a single-family dwelling on land which, as of the date of passage of this by-law, was part of a lot held in separate ownership and containing one single or two family dwelling; provided that only one such new dwelling may be constructed in any year, and provided that the original lot shall be divided so that the existing dwelling and each new dwelling shall be on separate lots that conform to all zoning requirements for the district in which they are located.

4.3.6 Time and Limitation and Extension. This section shall expire on January 1, 2008; provided, however, that this section may be extended without lapse of its provisions and limitations, by vote of the Town Meeting prior to January 1, 2008.

4.3.7. The Planning Board may adopt reasonable rules and regulations for the administration of this Section 4.3.

4.3A SUBDIVISION PHASING

4.3A.1 Purpose. The purpose of this section, "Subdivision Phasing" is to assure that growth shall be phased so as not to unduly strain the town's ability to provide public facilities and services, so that it will not disturb the social fabric of the community, so that it will be in keeping with the community's desired rate of growth; and so that the town can study the impact of growth and plan accordingly.

4.3A.2 Applicability. The issuance of building permits for any tract of land divided pursuant to any provisions of G.L. c.41,ss.81K-81GG, the Subdivision Control Act, into more than seven (7) lots after the effective date of this by-law shall be subject to the regulations and conditions set forth herein. This provision shall apply to any proposed division or combination of properties which were in the same ownership and contiguous as of May 11, 1998.

4.3A.3 Phasing. Not more than seven (7) building permits shall be issued in any twelve month period for construction of residential dwelling on any tract of land divided into more than seven (7) lots pursuant to any provision of G.L. c.41,ss. 81K-81GG, the Subdivision Control Act.

4.3A.4 Exceptions. Issuance of more than seven (7) building permits for the same tract of land in a twelve month period may be allowed in the following circumstances:

1. The owner of said land may apply for a special permit from the Planning Board for the issuance of more than seven building permits in any 12 month period. The Planning Board may grant a special permit only if the Board determines that the probable benefits to the community outweigh the probable adverse effects resulting from granting such permit, considering the impact on schools, other public facilities, traffic and pedestrian travel, recreational facilities, open spaces and agricultural resources, traffic hazards, preservation of unique natural features, planned rate of development, and housing for senior citizens and people of low or moderate income, as well conformance with Master Plan or Growth Management plans as may be adopted or amended, prepared by the Planning Board pursuant to G.L. c.41, s.81D. The Planning Board shall give particular consideration to proposals that demonstrate a reduction in allowable density of fifty percent (50%) or more. Where such special permit is granted, any building permits issued for dwelling units within the division of land shall not count toward the 30 permits to be issued annually in Section 4.3.

2. Where the tract of land will be divided into more than seventy (70) lots, the Planning Board may, by special permit, authorize development at a rate not to exceed ten percent (10%) of the units per year.

4.3A.5 Zoning Change Protection. The protection against subsequent zoning change granted by G.L. c.40A, s.6 to land in a subdivision shall, in the case of a development whose completion has been constrained by this section, be extended to ten years.

4.3A.6 Relation to Real Estate Assessment. Any land owner denied a building permit because of these provisions may appeal to the Board of Appeals, in conformity with G.L. c.59, s.59, for a determination as to the extent to which the temporary restriction on development use of such land shall affect the assessed valuation placed on such land for purposes of real estate taxation, and for abatement as determined to be appropriate.

4.3A.7 The Planning Board may adopt reasonable rules and regulations for the administration of this Section 4.3A..

**Stoneham**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

*No*

**Stoughton**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

*No*

**Stow**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**

8.6 Phasing of Growth Over the past decade

the Town of Stow has been subject to extensive growth that has strained its ability to govern. With this point in mind, the purpose of this Section is to ensure that future growth occurs in an orderly and planned manner that allows the Town time for preparation to maintain high quality municipal services for an expanded residential population while allowing a reasonable amount of additional residential growth during those preparations. The citizens of

Stow insist on, take pride in, and enjoy a reputation for such high quality and reliable municipal services. Several key municipal services, including human services and schools, are currently or may soon be under considerable strain. This Section will relate the timing of residential development to the Town's ability to provide services.

In addition, this Section also proposes to encourage certain types of residential growth which reflect the values of the Town as previously expressed in its policies and appropriations.

#### 8.6.1 Regulations:

8.6.1.1 Beginning on the effective date of this Section, no building permit for construction of projects involving four or more residential units shall be issued unless in accordance with the regulations of this Section.

8.6.1.2 DWELLING UNITS shall be considered as part of a single development if located either on a single parcel or contiguous parcels of land which have been in the ownership at any time subsequent to the date of adoption of this Section.

8.6.1.3 All newly authorized residential units for which individual or several building permits have been issued pursuant to 780 CMR 113.1 shall count toward the growth rate limit of 35 DWELLING UNITS defined in Section 8.6.2.1.

#### 8.6.2 Planned Growth Rate

8.6.2.1 This Section shall take effect beginning on the date of adoption by Town Meeting (December 12, 1988). Beginning on this date of adoption, the applicable permit granting authority (Planning Board, Zoning Board of Appeals or BUILDING INSPECTOR) shall not approve any residential development which would result in authorizations for more than 35 DWELLING UNITS over a 730 consecutive day (two-year) period unless (a) specifically exempted (the project has less than four residential units); or (b) it is duly authorized in a development schedule.

8.6.2.2 Once a development schedule is approved, building permits shall be issued in conformity with that schedule. Once authorized by the development schedule, said building permits shall be issued even if the 35-unit limit has been reached.

#### 8.6.3 Development Schedule

Building permits for new DWELLING UNITS shall be authorized only in accordance with the following schedule:

# of New Units in Development Maximum DWELLING UNITS per Year\* 1 - 24 4 25 - 29 5 30 - 46 6 47+ up to 15%

\* Number of units in the development for which building permits may be authorized each year beginning on the anniversary date of issuance date of the first building permit for the development. In instances where the calculated numbers are less than whole numbers, they will be rounded down to the nearest whole number.

#### 8.6.4 Modification to Schedule

The following modifications to the development schedule found in Section 8.6.3 shall be allowed by the Planning Board (for Definitive Subdivision, ANR, and special permits) or Zoning Board of Appeals (for special permits) as part of the approval of any development. Points assigned in each category are to be cumulatively totaled to determine the modification to the schedule based on the Modification to Schedule Table found in Section 8.6.4.7.

##### 8.6.4.1 Affordable Housing

1. Any development which includes 25 to 100% of its units for low and/or moderate income people and which is subsidized by federal, state or local programs, or proposed by the Stow Housing Authority, or by a non-profit or limited dividend partnership, or any development which includes non-subsidized housing units priced to be affordable to people whose income is equal to or less than 120% of the median income for Stow and which provides that the mix of affordable and market rate housing built in any one year is equivalent to the overall mix for the entire development, and which further provides that resale restrictions are established by the developer which ensure that the affordable units remain affordable for a period of thirty years, shall be exempt from the Planned Growth Rate in Section 8.6.3 and shall be allowed in accordance with the following schedule:

# of New Units DWELLING UNITS / Year\* 1 - 50 100% 51 - 80 up to 50% 80 + total units up to 33%

Points Assigned

2. Any development that meets the criteria found in Section 20 8.6.4.1, but which includes 10% to 24% of its units for low and moderate income people.

3. Any development that includes no affordable units that -10 meet the criteria in Section 8.6.4.1.

##### 8.6.4.2 Open Land/Farmland:

Points Assigned

1. Provision of open land/parkland, as part of any development. For the purposes of this provision "usable land" shall be defined as in Section 8.5.4 and

"open land" shall be defined as in Section 8.5.8.

(1) Open land consisting of 4,000 to 4,999 square feet 10 of usable land per DWELLING UNIT which is protected from future development through deed restrictions and/or protective covenant, and including provisions for renewal.

(2) Open land consisting of 5,000 to 5,999 square feet 15 of usable land per DWELLING UNIT which is protected from future development through deed restrictions and/or protective covenant, and including provisions for renewal.

(3) Open land consisting of at least 6,000 square feet 20 or more usable land area per DWELLING UNIT which is protected from future development through deed restrictions and/or protective covenant, and including provisions for renewal.

(4) Improved open land that meets the defined recreation needs of the Town of Stow as defined by Open Space Plan and deeded to the Town of Stow (Add 5 points to the applicable category above.)i

(5) No usable open land. -10

2. Protection and retention of farmland according to the following impacts on working farms:

(1) Development of agricultural land, defined as land -30 classified prime, unique or of state or local importance by the USDA, SCS or land characterized by active agricultural use as defined by Chapter 61 A of the Mass. General Laws.

(2) Provision of a permanent 100-foot buffer zone as a 10 deed restriction, including a FENCE and screening vegetation from the property boundary of a working farm.

8.6.4.3 AQUIFER Protection:

Points Assigned

1. Development in the Aquifer Protection Overlay District (1) Average LOT size less than two acres. -30 (2) Average LOT size two acres or more. -15

8.6.4.4 Open Space Residential Development - Any proposed approval under Section 8.5 will be subject to the following schedule provided that the OPEN SPACE is deeded to the Town:

# Units in Development Maximum DWELLING UNITS per Year\* 1 - 11 8 12 - 33 9 34 - 66 30% 67 - 99 19 units or 26% 100+ 25 units or 22%

\* Number of units in the development for which building permits may be authorized each year beginning on the anniversary date of the issuance date of the first building permit for the development. In instances where the calculated numbers are less than whole numbers, they will be rounded down to the nearest whole number.

8.6.4.5 Infrastructure:

Points Assigned

1. Any development which commits to completing all roads 30 and utilities prior to issuance of building permits during the first year of the total project.

2. Any development that commits to completing all roads or 15 utilities (one or the other) prior to issuance of building permits.

3. Any development which commits to completing all roads 5 and utilities during years one to three of the project.

4. Any development which commits to completing all roads -15 and utilities after the third year of the project.

8.6.4.6 Other - The Planning Board (Definitive Subdivision, Approval Not Required and special permits) and Zoning Board of Appeals (special permits) may grant up to a total maximum of 40 points after making the relevant findings based on submitted documentation and giving due consideration to the following:

1. Ability of the Town to adequately serve the proposed development with STREETS, utilities, drainage, educational and protective services.

2. The amelioration of development impacts, such as through lower densities, preservation of natural or agricultural resources, preservation of scenic views, or other approaches approved by the Planning Board.

3. Other arrangements which will provide for or reduce the cost of public services and facilities such as child care, health care, elder services, disabled services, recreation, transportation or water conservation.

4. Provision of housing needs for diverse population groups.

5. Commitments to improve town facilities.

6. Site design which responds to, incorporates and protects natural features such as vegetation, topography, water courses and views, or which is designed to respond to the character of the neighborhood.

7. Housing and site features that emphasize safety aspects such as sidewalks, school bus stops or fire protection systems. 8.6.4.7 Development Schedule Modification Table - Points accumulated under Section 8.6.4.1 through 8.6.4.6 shall be totaled and the total shall modify the development schedule in Section 8.6.3 according to the following table.

8.6.5 Requirements:

8.6.5.1 All Definitive Subdivision, Approval Not Required and Special Permit applications shall include a proposed development schedule by the applicant.

8.6.5.2 Development schedules as proposed or modified shall be approved by the appropriate body (Planning Board or Zoning Board of Appeals), shall be recorded at the Middlesex County Registry of Deeds, and shall have no effect until recorded. The schedule shall specify the earliest date that each unit/LOT may become eligible for the issuance of a building permit.

8.6.6 Zoning Change Protection The protection against zoning changes as granted by Section 6 of Chapter 40A, Mass. General Laws, shall, in the case of a development whose completion has been constrained by this Bylaw, be extended to the minimum time for completion allowed under this Bylaw.

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**Sudbury**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Sutton**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Swampscot**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Swansea**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**      Swansea Zoning Bylaw (Adopted 1953, Amended 2002)  
Section III. Rural and residential districts.

"C. Rate of development.  
Areas of land subject to the jurisdiction of the planning board under subdivision control law shall not be developed by the construction of dwelling units at a greater rate than permitted. Subdivisions containing sufficient area to provide more than eight (8) building lots at the maximum intensity permitted under the zoning by-law shall not be developed by the construction of dwelling units at rate greater than eight (8) lots or twenty (20) percent of the total lots per year shown on the approved definitive subdivision plan whichever is the greater number."

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## Taunton

### Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?

#### Yes

City of Taunton Zoning Ordinance

#### 14.3 PHASED GROWTH

##### 14.31 Intent and purpose

This section is being adopted based upon the Taunton Master Plan dated 1998, the Taunton Open Space and Recreation Plan dated 1998, and the Taunton Public Schools Enrollment Projections 2000 - 2010. The citizens of Taunton insist on, have pride in, and enjoy a reputation for high quality and reliable municipal services, including water, sewer, human services, and schools.

The purpose of this section is to;

1. Ensure that growth occurs in an orderly and planned manner while avoiding larger year to year variations in the development rate;
2. To assist the City in preserving open space and farmland in the City;
3. To assist the City in maintaining high quality municipal services and infrastructure especially education for an existing residential population within the City's ability to pay under the financial limitations of proposition 2-1/2 while allowing a reasonable amount of additional residential growth;

##### 14.32 Regulations

14.321 The regulations of this section shall apply to all applications including but not limited to definitive subdivision plans, subdivisions not requiring approval, site plan review applications, special permits, variances or by-right applications which would result in the creation of a new dwelling unit or units. Dwelling units shall be considered as part of a single development, for purposes of development scheduling, if located either on a single parcel or contiguous parcels of and which have been in the same ownership at any time since the adoption of this ordinance.

14.322 For the purposes of this section, any buildable parcel of land in Taunton prior to February 15, 2000, shall receive a one-time exemption (one building permit) from the Planned Growth Rate and development schedule for the purpose of constructing a single family dwelling unit on the parcel. Any subdivision plan submitted prior to February 15, 2000 that is subsequently approved shall be exempted from the growth rate limit and development schedule. The issuance of a building permit for this purpose shall, however, count toward the growth rate limit of 125 units.

14.323 For the purposes of this section, a single building lot that is to be sold as part of a transaction that will preserve a tract of land five acres or larger for open space reservation purposes or agricultural purposes, may be exempted from, or have adjusted, the Planned Growth Rate and Development Schedule. The land to be preserved shall be protected from development by an agricultural preservation restriction, conservation restriction, dedication to the City, or other similar mechanism that will ensure its protection in perpetuity. The issuance of a building permit for this purpose shall, however, count toward the growth rate limit of 125 dwelling units. The exemption request shall be made to the Planning Board and the Board shall transmit such request to the Conservation Commission for comment. The Commission shall have twenty-one (21) days to respond in writing to the Board. Subsequent to receiving written comment or the passage of twenty-one (21) days, the planning board shall render a decision on the exemption request.

14.324 For all building lots/ dwelling units not covered under section 14.322, including those no longer having the protection accorded by Chapter 40A, Section 6, the Planning Board is authorized to approve a development schedule for that lot/ unit, including the month/ year such lot/ unit shall be eligible for a building permit. The request for authorization shall be made on forms provided by the Board.

14.325 Any individual building containing 10 or more units may be exempted from this ordinance by a two thirds (2/3) vote of the Municipal Council.

##### 14.33 Planned Growth Rate

14.331 This article shall take effect on the date of adoption by the Municipal Council. Beginning on this date of adoption, the permit granting authority (Planning Board or Zoning Board of Appeals) or the City Planner shall not approve any development schedule under section 14.37 which would result in authorizations of more than 125 dwelling units per year. All authorizations shall count toward this planned growth rate unless otherwise noted.

14.332 Once a development schedule is approved in accordance with section 14.37, building permits shall be issued in conformity with that schedule. Once authorized by the development schedule, said building permits shall be issued even if the 125 limit has been reached.

14.333 Whenever the rate of growth, as measured by a total of development schedule authorizations plus building permits issued for new dwelling units not part of a development schedule, exceeds the total of 125 dwelling units in a consecutive 365 day period, the building commissioner shall not issue building permits for any additional dwelling unit or units unless such unit or units are exempt from the 125 limit under either section 14.32, 14.332.

14.334 If as a result of an applicant seeking approval of a second plan of development on a parcel of land for which authorizations have been previously granted, and the second plan is approved, a new development schedule shall be established. This schedule shall supersede the first development schedule at the time a building permit is issued, based on the second plan, for any lot lying wholly or partially within the parcel subject to the new development schedule. The Planning Board and/ or Zoning Board of Appeals, in approving the second plan, shall determine the number of authorizations from the first plan that would be abated based on the second plan's approval. This number shall be used by the City Planner in revising authorization schedules due to abatements.



14.34 Development Schedule

Building permits for new dwelling units shall be authorized only in accordance with the following schedule:

# of new units in development:	Dwelling units/year*
1-2	100%
3-4	50%
5-12	40%
13-18	30%
19-25	25%
26+	up to 20%

\*Percent of units in the development for which building permits may be authorized each year. Also, Unit counts/year including fractions shall, if the fractional portion is equal to 0.5 or greater, be rounded up to the nearest whole number; and if the fractional portion is less than 0.5, shall be rounded down to the nearest whole number (examples: 1.8 = 2 units; 3.2 = 3 units).

14.37 Requirements

14.371 All definitive subdivisions, ANR (Form A) Plans, Special Permits and Site Plan Review applications shall include a proposed development schedule by the applicant.

14.372 Development schedules shall be determined by the Zoning Board (Special Permits, Variances) or Planning Board (Site Plan Review, Definitive Subdivision, ANR Subdivision) at the time of approval of any such application, using the following format: "The first year of the development schedule shall be (month/year) or such earlier date that may result from intervening abatements." Such schedules shall be included as a condition of the application.

The City Planner shall be authorized to issue revised development schedules based solely on abatements approved by the Zoning Board or Planning Board.

All development schedules with approved authorizations shall be recorded with the City Clerk and shall not be calculated into the overall growth rate until so recorded, In order to effectuate the schedule for the purposes of obtaining building permits, the applicant shall record the approval decision with the development schedule at the Registry of Deeds.

14.373 In the case of a cluster subdivision, a development schedule shall be approved by the Planning Board at the time of Definitive subdivision approval.

14.38 Zoning Change Protection

The protection against zoning changes as granted by section 6 of Chapter 40A MGL, shall, in the case of a development whose completion has been constrained by this ordinance, be extended to the minimum time frame for completion allowed under this Ordinance. (example: a 100 lot subdivision is approved with a 10% development rate (10 units per year) The grand fathering for the subdivision is extended from 8 years to 10 years. If the build out was 11 years the grand fathering would be extended from 8 years to 11 years).

**Tewksbury**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

**Topsfield**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

ARTICLE X PHASED GROWTH

(Added Art.39, ATM 5/7/97)

10.01 Intent and Purpose.

The purpose of this Article is to ensure that growth occurs in an orderly and planned manner that allows the Town time for preparation to maintain high quality municipal services for an expanded residential population while allowing a reasonable amount of additional residential growth during those preparations. The citizens of Topsfield insist on, have pride in, and enjoy a reputation for such high quality and reliable municipal services, and several

key municipal services, including water, and schools, are currently or may soon be under considerable strain. This Article will relate the timing of residential development to the Town's ability to provide services.

In addition, this Article also proposes to encourage certain types of residential growth which reflect the values of the Town, emanating from its history, character, and natural resources as previously expressed in both policies and appropriations.

#### 10.02 Regulations.

A. Beginning on the effective date of this Article, and continuing for forty eight (48) consecutive months, no building permit for a new dwelling unit or units shall be issued unless in accordance with the regulations of this Article. [Amended 5/4/99]

B. The regulations of this Article shall apply to all definitive subdivision plans, subdivisions not requiring approval, site plan review applications and special permits which would result in the creation of a new dwelling unit or units. Dwelling units shall be considered as part of a single development for purposes of development scheduling, if located either on a single parcel or contiguous parcels of land which have been in the same ownership at any time subsequent to the date of adoption of this Article.

C. For the purposes of this Article, a single building lot that is to be sold as part of a transaction that will preserve a tract of land ten acres or larger for open space and/or farmland preservation purposes, may be exempted from the Planned Growth Rate (section 10.3). The land to be preserved shall be protected from development by an Agricultural Preservation Restriction, Conservation Restriction, dedication to the Town, or other similar mechanism that will ensure its protection.

The exemption request shall be made to the Planning Board and the Board shall transmit such request to the Conservation Commission for comment. The Commission shall have twenty one (21) days to respond in writing to the Board. Subsequent to receiving written comment or the passage of twenty one (21) days, the Planning Board shall render a decision on the exemption request.

D. For all building lots/dwelling units not covered under Section 10.02B, including those no longer having the protection accorded by Chapter 40A, Section 6, the Planning Board is authorized to approve a Development Schedule for that lot/unit, including the month/year such lot/unit shall be eligible for a building permit, in accordance with the following:

\* Percentage of units in the development for which building permits may be authorized each year.

#### 10.03 Planned Growth Rate

A. The Planned Growth Rate for the two (2) successive periods of twelve (12) months from this date of adoption is hereby established as fifteen (15) new dwelling units for each of said twelve (12) month periods. This equals the greatest number of building permits issued by the Town of Topsfield for the construction of new dwelling units in any one (1) of the preceding ten (10) calendar years.

From said date of adoption, for a period of twenty four (24) consecutive months, the building permit granting authority (Inspector of Buildings) shall not approve building permits for the construction of new dwelling unit(s) unless a Development Schedule for said unit(s) has been approved by the Planning Board, or unless the permits are expressly exempt under Section 10.02C or G.L.c.40A.

From said date of adoption, for a period of twelve (12) months, the building permit granting authority (Inspector of Buildings) shall not issue more than fifteen (15) building permits for the construction of new dwelling units, unless specific building permit(s) are expressly exempted from the Planned Growth Rate by this Article, or unless the permits are expressly exempt under Section 10.02C or G.L.c.40A.

During the next period of twelve (12) months, the building permit granting authority (Inspector of Buildings) also shall not issue more than fifteen (15) building permits for the construction of new dwelling units unless specific building permit(s) are expressly exempted from the Planned Growth Rate in this Article, or unless the permits are expressly exempt under Section 10.02C or G.L.c.40A.

All building permits for the construction of new dwelling units shall count toward the Planned Growth Rate unless specifically exempted in this Article.

B. Once a Development Schedule is approved in accordance with the provisions of this Article, building permits shall be issued in conformity with that schedule unless said issuance would exceed the Planned Growth Rate.

C. If as a result of an applicant seeking approval of a second plan of development on a parcel of land for which authorizations have been previously granted, the second plan is approved, a new Development Schedule shall be established in accordance with Section 10.02 D hereof. This schedule shall supersede the first Development Schedule for any lot lying wholly or partially within the parcel subject to the new Development Schedule.

#### 10.04 Requirements.

A. All Definitive Subdivisions, Form A Subdivisions, Special Permits and Site Plan Review applications shall include a proposed Development Schedule by the applicant including the date when the applicant requests that the proposed dwelling unit(s) should be eligible for the issuance of building permit(s).

B. Development Schedules shall be determined by the Planning Board (Site Plan Review, Definitive Subdivision, ANR Subdivision) in accordance with Section 10.02D hereof, at the time of approval of any such application. Such schedules shall be included as a condition of approval of the application.

All Development Schedules with approved authorizations shall be recorded with the application approval decision with the Town Clerk.

C. In the case of an Open Space subdivision, a Development Schedule shall be approved by the Planning Board at the time of Definitive Subdivision approval.

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**Townsend**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**      Town of Townsend Zoning Bylaw (Amended 2004)

15. Rate of Development and Subdivision Phasing.

15.1 Purpose:

The purpose of this section, "Rate of Development and Subdivision Phasing," is to assure that growth shall be phased so as not to unduly strain the town's ability to provide public facilities and services, so that it will not disturb the social fabric of the community, so that it will be in keeping with the community's desired rate of growth; and so that the Town can study the impact of growth and plan accordingly. The reason for developing such a bylaw is to ensure the Town of Townsend has the time to provide the necessary municipal infrastructure and service needs in order to provide the Town the ability to protect and promote public health, safety and welfare while avoiding year by year variation in the rate of development, and allow the Town the ability to pay under the financial limitations of Proposition 2-1/2. The following conditions are made to encourage residential growth, which address the housing needs of the residents of Townsend.

15.2 Applicability:

The rate of development shall apply to the issuance of all building permits for the construction of new dwelling units. This by-law shall be effective for four (4) years from January 1, 2004, and may be extended by vote at Town Meeting without lapse of its provisions. Prior to December 31, 2008, the Land Use Boards shall report to Town Meeting the effectiveness of the rate of development limitations and the need, if any, to continue and/or amend said limitation.

15.3 General:

Building permits shall not be issued authorizing construction of more than twenty-eight (28) dwelling units in any twelve (12) month period, with the first such period beginning January 1, 2004, unless one or more of the conditions set forth below applies:

15.3.1 The creation of dwelling units under any program or statute intended to assist the construction of low or moderate income housing, as defined in the applicable statute or regulation, including Town by-laws.

15.3.2 The creation of dwelling units for persons of fifty-five (55) years and older through a properly executed and recorded deed restriction running with the land.

15.4 Limitation:

No entity or person shall be issued more than three (3) building permits for new dwelling units in any one twelve (12) month period.

15.4.1 Not more than a total of twenty-eight (28) building permits may be issued for new dwelling units within one calendar year.

\*\*Webmasters Note: The previous subsection has been amended as per an update approved at a town meeting held on 8/17/04.

15.4.2 No more than three (3) building permits shall be issued in any one calendar year for lots within the same subdivision; and no more than three (3) building permits shall be issued in any one calendar year to the same individual or entity; and no more than three (3) building permits shall be issued in any one Calendar year to lots carved out of each tract of land shown on a Plan endorsed by the Planning Board as "Approval Not Required" after the first publication of notice of this by law.

\*\*Webmasters Note: The previous subsection has been amended as per an update approved at a town meeting held on 8/17/04.

15.4.3 The amendments to this bylaw shall take effect on the date such amendments are voted at the town meeting as provided for in Section 5 of Chapter 40A. Any of the 28 permits allowed for calendar year 2004, which have not been issued by the effective date of this amendment shall be available for issuance pursuant to this amendment for the remainder of calendar year 2004.

If in any year that this bylaw is in effect, all 28 building permits that may be issued in the calendar year, are issued prior to the end of the calendar year applications shall be processed as follows. Whenever an individual or entity submits a complete application for a building permit prior to the end of the calendar year, those individuals or entities shall be assigned numbers with their applications in order of receipt. Those permits that have been assigned numbers shall be issued first in the next calendar year prior to the issuance of any other permits and shall be counted as part of the 28 allowable in the ensuing, calendar year. A "complete" application shall include all necessary approvals from other boards including well and septic approvals.

\*\*Webmasters Note: The previous subsection has been amended as per an update approved at a town meeting held on 8/17/04.

[Town of Townsend Zoning Bylaws ~ 2004] bylaws obtained from ordinance.com

§145-50. Subdivision phasing.

[Added 4-25-1989 ATM by Art. 591

A. Applicability. Any provisions in this bylaw to the contrary notwithstanding, division of land into more than 25 lots in any twelve-month period shall be subject to the following regulations. and conditions set forth herein.

B. Requirements. Whenever a new lot or lots are formed from a part of any other lot or lots, the assembly or separation shall be effected in such a manner as to conform with the requirements of this bylaw and shall be in accordance with the Subdivision Rules and Regulations of the Town of Townsend."

C. Division of land limitations. The division of a parcel or combined adjacent parcels of land in any zoning district shall not exceed 25 lots if resulting from division or combination of properties in any twelve-month period. This provision shall apply to all subdivision. of land within the Town of Townsend even if approval under the Subdivision Control Law (MGL c. 41, 81L and 81P) is not required.

D. Exceptions.

(1) Division of land in excess of 25 lots as defined in Subsection C, above may be allowed only if one of the following requirements are met:

(a) The owner of said land covenants with the Planning Board that- be will not build upon more than 25 lots in any twelve-month period. Said twelve-month period shall commence on the. date of endorsement by the Planning Board. The covenant shall identify the lots that may be built upon in each twelve-month period. The covenant shall be recorded with all other pertinent documents with the definitive plan;

(b) The owner of said land applies-for and receives a special permit from the Planning Board in accordance with MGL c. 40A, 9 and 11 to divide greater than 25 lots in any twelve-month period. The Planning Board shall grant a special permit for such division only if the Board determines that the probable benefits to the Town outweigh the probable adverse effects resulting from granting such permit.

(2) In reviewing a special permit application under this section, the Planning Board shall consider the impact upon schools, other public facilities, traffic and pedestrian travel, availability and quality preservation of drinking water, adequacy of recreational facilities, open spaces and agricultural resources, preservation of unique natural features, housing for senior citizens and people of low and moderate income as well as master plan or growth management plans prepared by the Planning Board. MGL c. 40A, 9 and 11 and 145-65 of the Townsend Zoning Bylaw relating to the granting and denial of special permits shall be applicable 'to a special permit application under Subsection D(1)(b).

E. Uncompleted development rights granted by Subsection D(1)(a) may be carried forward to subsequent periods, but said carry forward shall not exempt nor exceed the covenant not to build on more than 25 lots in any twelve-month period.

F. Zoning change protection. Lots whose development has been subject to the covenant as provided for in Subsection D(1)(a) of this bylaw shall be governed by the applicable provisions of the Zoning Bylaw in effect at the time of the plan or plans endorsement by the Planning Board and for a period equivalent to that provided for by MGL c. 40A, 6, except, however, the statutory protection afforded by MGL c. 40A, 6, shall, not commence until the lot or lots qualify for construction according to the terms of the covenant noted in Subsection D(1)(a) of this bylaw.

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**Tyngsboro**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**      Tyngsborough Zoning Bylaw (2004)

1.19.00 Growth Management

1.19.10 Intent and Purpose. This section is adopted for the following purposes:

1. to ensure that growth occurs in an orderly and planned manner, at a rate that can be supported by Town services, while avoiding large year-to-year variations in the development rate;
2. to provide the Town with time to study the effect of growth on the municipal-ity's infrastructure, character and municipal services;
3. to relate the timing of residential development to the Town's ability to provide adequate public safety, schools, roads, and municipal infrastructure, and human services at the level of quality which citizens expect, and within the Town's ability to pay under the financial limitations of Proposition 2 1/2;
4. to preserve and enhance the existing community character and value of property; and
5. to allow departures from the strict application of the growth rate measures herein in order to encourage certain types of residential growth, which address the housing needs of specific population groups or which provide significant reductions in the ultimate residential density of the Town.

1.19.20 Applicability. Beginning upon adoption at Town Meeting, no building permit for a new dwelling unit or units shall be issued unless in accordance with the regulations of this section or unless specifically exempted by this section. This section shall be effective for four years from the date of adoption and may be extended by vote at Town Meeting without lapse of its provisions. Prior to that time the Planning Board shall report to Town Meeting the

effectiveness of the growth rate of development limitations and the need, if any, to continue and/or amend said limitation. For the purposes of this section, the following terms shall have the following meaning:

1. "Growth rate of development" shall mean the maximum number of building permits for new dwelling units that may be authorized in a two year period which shall be one hundred and thirty (130) permits. The growth rate of development is based upon an analysis of recent average growth rate and the 1998 Master Plan Update build-out analysis. Units exempt under this section are included within the calculation of the growth rate of development.

2. "Development" shall mean a single parcel or set of contiguous parcels of land held in common ownership at any time on or after the date of adoption of this bylaw, for which one or more building permits will be sought.

3. "Development schedule" shall mean a schedule authorized by the Planning Board in accordance with this section.

1.19.30 Planned Growth Rate of Development. The growth rate of development limit shall be based on a target growth rate of sixty-five (65) new dwelling units per year. In order to provide flexibility for fluctuations in the general economy as well as the development cycle, the target limit is established as one hundred and thirty (130) for new dwelling units over a rolling twenty-four (24) month period.

1.19.31 Whenever the number of building permits issued for new dwelling units exceeds the applicable growth rate of development limit, the Building Commissioner shall not issue building permits for any additional dwelling unit or units unless such unit or units are exempt from the provisions of this section.

1.19.32 The Planning Board shall not approve any development schedule under this section that would result in authorizations exceeding the applicable growth rate of development limit.

1.19.33 Building permits authorized by a development schedule, but not acquired during the scheduled period shall not be counted in computing the applicable growth rate of development limit. Building permits issued, but subsequently abandoned under the provisions of the State Building Code shall not be counted in computing the applicable growth rate of development limit.

1.19.40 Development Scheduling. This section shall apply to the following types of development which would result in the creation of new dwelling units:

1. definitive subdivision plans;
2. plans subject to MGL Chapter 41 Section 81-P (ANR Plans);
3. special permit developments subject to Section 4.12.00 and 4.14.00 of this zoning bylaw unless meeting the specific requirements for exemption under this section.

1.19.41 Dwelling units shall be considered as part of a single development, for the purposes of development scheduling, if located on either a single parcel or on a set of contiguous parcels of land held in common ownership at any time on or after the date of adoption of this bylaw.

1.19.42 Where consistent with the applicable growth rate of development limit, building permits for the construction of new residential units in the types of development set forth above shall be authorized only in accordance with the following table: Number of New Units in Development Maximum Number of Permits/Year 1-8 100 % 9-20 50 % 21-30 33 % 31-50 25 % More than 51 15 %

1.19.43 Where the applicable growth rate of development limit does not allow development consistent with the table set forth above, the Planning Board shall establish a development schedule which allows fewer than the maximum number of new dwelling units per year. However, the Planning Board shall not establish any development schedule which phases development for longer than a ten year period.

1.19.44 In addition to the types of development described above, the Planning Board is authorized, upon request, to approve a development schedule for any other building lot or dwelling unit, specifying the month and year in which such lot/unit shall be eligible for a building permit.

1.19.45 In order to facilitate review, the developer may submit a written proposed development schedule to the Planning Board as part of any application for the types of development listed above. Where the developer has not submitted a development schedule, the Building Commissioner shall refer any application for a building permit on a lot within these types of plans to the Planning Board for development scheduling. The Planning Board shall approve a development schedule that is consistent with the provisions of this bylaw. Approved development schedules for the types of development described in this section shall be incorporated, where appropriate as part of the decision filed with the Town Clerk, whether inscribed on the plan and/or filed as a separate attached document. No approved development schedule shall take effect for the purposes of obtaining building permits until recorded separately or as part of the decision. Upon transfer of any lot or unit in the types of development subject to development scheduling, the deed shall reference the development schedule and state the earliest date on which construction may be commenced in accordance with the provisions of this bylaw. 1.19.50 Exemptions. The following developments are specifically exempt from the Growth Rate of Development limits established by this section: 1. Dwelling Units in the types of development set forth in Section 1.19.40 which are exempt by virtue of the provisions of MGL Chapter 40A, Section 6; 2. An application for a building permit for the enlargement, restoration or reconstruction of a dwelling in existence as of the effective date of this bylaw, provided no additional residential dwelling unit is created; 3. Temporary Independent Living Quarters approved and permitted under section 4.15.00 of this bylaw.

4. For the purpose of this Section, any person who owned a parcel of land in Tyngsborough prior to April 6, 2000 shall receive a one time exemption (one building permit) from the Planned Growth Rate of Development Section 1.19.20 and the Development Schedule Section 1.19.30 for the purpose of constructing a single-family dwelling unit on the parcel owned, provided that the single-family dwelling unit shall be owned and occupied by the owner of that parcel of land. In addition, the applicant for the building permit shall comply with applicable standards and regulations regarding the issuance of a building permit as well as any local, state, and federal regulations that are applicable to the parcel. The issuance of a building permit for this purpose shall, however count toward the growth rate limit of one hundred and thirty (130) dwelling units. 5. Dwelling units defined as affordable housing units under any program or statute intended to assist in the construction of low or moderate income housing provided that such housing units have deed restrictions to ensure that they remain affordable in perpetuity unless otherwise specified for a time period required by the applicable program or statute.

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Tyngsborough Zoning Bylaw (2001)

1.19.00 Growth Management

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1.19.20 Applicability. Beginning upon adoption at Town Meeting, no building permit for a new dwelling unit or units shall be issued unless in accordance with the regulations of this section or unless specifically exempted by this section. This section shall be effective for four

years from the date of adoption and may be extended by vote at Town Meeting without lapse of its provisions. Prior to that time the Planning Board shall report to Town Meeting the effectiveness of the growth rate of development limitations and the need, if any, to continue and/or amend said limitation. For the purposes of this section, the following terms shall have the following meaning:

1. "Growth rate of development" shall mean the maximum number of building permits for new dwelling units that may be authorized in a two year period which shall be one hundred and eighty (180) permits. The growth rate of development is based upon an analysis of recent average growth rate and the 1998 Master Plan Update build-out analysis. Units exempt under this section are included within the calculation of the growth rate of development.

2. "Development" shall mean a single parcel or set of contiguous parcels of land held in common ownership at any time on or after the date of adoption of this bylaw, for which one or more building permits will be sought.

3. "Development schedule" shall mean a schedule authorized by the Planning Board in accordance with this section.

1.19.30 Planned Growth Rate of Development. The growth rate of development limit shall be based on a target growth rate of ninety (90) new dwelling units per year. In order to provide flexibility for fluctuations in the general economy as well as the development cycle, the target limit is established as one hundred and eighty (180) for new dwelling units over a rolling twenty-four (24) month period.

1.19.31 Whenever the number of building permits issued for new dwelling units exceeds the applicable growth rate of development limit, the Building Commissioner shall not issue building permits for any additional dwelling unit or units unless such unit or units are exempt from the provisions of this section.

#### TOWN OF TYNGSBOROUGH - ZONING BY-LAW

1.19.32 The Planning Board shall not approve any development schedule under this section that would result in authorizations exceeding the applicable growth rate of development limit.

1.19.33 Building permits authorized by a development schedule, but not acquired during the scheduled period shall not be counted in computing the applicable growth rate of development limit. Building permits issued, but subsequently abandoned under the provisions of the State Building Code shall not be counted in computing the applicable growth rate of development limit.

Number of New Units in Development /Maximum Number of Permits Per Year

1-8	100 %
9-20	50 %
21-30	33 %
31-50	25 %
More than 51	15 %

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**Upton**                      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**                      Town of Upton Zoning Bylaw (Amended 2002)

#### SECTION VI HEIGHT, AREA, AND YARD REQUIREMENTS

##### H. Scheduled Development in Approved Subdivisions.

1. The objective of this Paragraph is to relate the timing of residential development to the Town's ability to provide services to such subdivision development, and thereby to promote the health, safety, convenience and welfare to the inhabitants of the Town, by regulating the maximum rate at which individual developments may proceed.

2. This Paragraph shall take effect only when and if the Building Inspector determines that 44 dwelling units, including units in multi-family complexes have been authorized Town wide within a twenty-four (24) month period.

3. While this Paragraph is in effect, the Building Inspector shall issue building permits for construction of new dwelling units in subdivisions given approval after passage of this Paragraph, only if permit issuance will not result in authorizing construction within a 24 month period of more than 44 units or 20 percent of the units potentially allowed in each subdivision, whichever is greater.

4. Permits shall be issued hereunder for each specific subdivision lot after the date so designated for the lot on a

development schedule, which has been approved by the Planning Board and recorded with the subdivision plan, which created the lot. Planning Board approval of a development schedule shall provide that:

- a. The schedule designates for building not more than 44 units or 20 percent of the potential dwelling units in the subdivision, whichever is greater, within the first two years following definitive approval;
- b. In each year thereafter, the schedule permits construction of not more than 22 units or 10 percent of the total number of potential dwelling units in the subdivision, whichever is greater;
- c. In the opinion of the Planning Board, the development sequence established by the schedule is not arbitrary or unreasonable; and
- d. In the opinion of the Planning Board, the development schedule will not place an unreasonable burden on the Town.

5. Units designed for low or moderate income residents of all ages and units receiving or eligible to receive state or federal subsidies shall be exempt for this scheduling by law.

6. Insofar as the subdivision is not exempted by G. L. Ch. 40A s.6 from the provisions of this bylaw, the period of time provided under G. L. Ch. 40A in which a subdivision is not affected by zoning changes is hereby extended during the duration of this bylaw, so as to protect such subdivisions against further changes in use and density requirements.

**Uxbridge**                      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**                      Town of Uxbridge Zoning Bylaws (Revised 2004)

b. Growth Management

(1) Purposes

The purposes of the Growth Management By-Law (the "By-Law") are: (1) to preserve and promote the public health, safety, welfare, education and community character of the Town of Uxbridge (the "Town") by maintaining the growth of the Town at a manageable rate; and (2) to ensure adequate time exists for the Town to expand its resources to provide those services necessary to meet the educational, infrastructure and public safety needs of the residents. The Town's growth rate should not exceed its ability to provide adequate schools, roads, police and fire protection, and other municipal services necessary and appropriate to safeguard the health, welfare and safety of current and future residents.

(2) Definitions

1. APPLICANT - Individuals or partnerships, corporations, trusts and other legal entities, in which the applicant of record holds a legal or beneficial ownership of greater than one percent (1 %).

2. DWELLING - A building, or any part thereof, containing accommodations for permanent human occupancy including one and two family houses, condominiums, apartments, and boarding or lodging houses, but not including transient accommodations such as in hotels or motels.

3. DWELLING UNIT - One or more rooms providing complete living facilities for one family, including equipment for cooking or provisions for the same, and including room or rooms for living, sleeping and eating.

4. DEVELOPMENT - Lots which were at any time after the date of adoption of this growth management bylaw, part of contiguous property under common ownership (or in different ownerships each involving one or more of the same principals).

(3) Applicability

The By-law shall apply to all applications for residential building permits for construction of new residential dwelling units submitted after the effective date of this By-law, except as expressly exempted in Section 6 herein. The By-law shall apply to all residential dwelling units whether they be single-family dwelling units or units in multi- family dwellings. The By-law shall be effective through June 30, 2009. The By-law may be extended for up to five years, to achieve its purposes without lapse of its provisions, conditions and limitations by majority vote of a Town Meeting prior to June 30, 2009.

(4) New Building Permit Limitations

a. There shall be a limit on the issuance of building permits town-wide so as to limit the construction of or conversion to residential dwelling units to 60 units per twelve month period. 24 of the aforementioned 60 permits shall be made available, at the rate of no more than 2 permits per month. Any building permits that have not been issued by the end of the year shall expire.

b. Building permits issued for dwelling units on lots which are exempted from operation of this Growth Management Bylaw by G.L.c.40A, §6 will not be counted toward the 60 permit limit.

c. Building permits shall not be issued authorizing construction of or conversion to more than five (5) residential dwelling units (exclusive of permits withdrawn or expired without use) in one Development or to any Applicant (or set of Applicants involving one or more of the same principals) in any twelve-month period unless the Planning Board has granted a special permit for rapid development. It is recognized that under state law, certain subdivisions and lots will be grandfathered and will, therefore, not be subject to the 5 permit limit established by this Section.

d. Special permits for rapid development shall be granted only upon a determination by the Planning Board that such development also would serve a significant housing need, would be unfeasible if limited to five (5) residential dwelling units over twelve months, and would not overburden public services.

(5) Procedures

The application procedures for obtaining such building permits referred to herein shall be as follows:

a. The Building Department ("Department") will accept applications for building permits on a first come, first served basis during normal business hours. The Applicant may not submit more building permit applications during any period than for that number of residential dwelling units to which the Applicant is entitled during such period in accordance with this By-law.

b. The Department shall not accept building permit applications for a greater number of residential dwellings units than may be permitted during any month in accordance with this By-Law.

c. Building permit application packages that are deemed by the Building Inspector to be incomplete or are rejected for any reason will be returned to the Applicant. The Applicant may then file a new application for a building permit. If a building permit application is accepted by the Department, a building permit may be issued at any time within thirty (30) days of such submission.

(6) Exemptions

The following building permits are specifically exempt from this By-law and shall not count toward the Building Permit Limitations set forth in Section 4 herein:

a. Restoration, expansion, alteration, or reconstruction of a dwelling built as of the effective date of this By-law, in-law apartments provided that no additional residential unit is created.

b. Any dwelling unit to be built under any program or statute intended to assist in the construction of housing for low or moderate-income households that count for the purposes of G.L.c40B.

c. Structures for non-residential purposes

\*\*Webmasters Note: The previous subsection, 13.b., has been added as per an update approved at a town meeting held on 5/11/04.

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**Wakefield**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Walpole**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**

9-J Growth Management By-Law

(1) Purposes

The purposes of the Growth Management By-law (the "By-law") are: (1) to preserve and promote the public health, safety, welfare, education and community character of the Town of Walpole (the "Town") by maintaining the growth of the Town at a manageable rate; and (2) to ensure adequate time exists for the Town to expand its resources to provide those services necessary to meet the educational, infrastructure and public safety needs of the residents. The Town's growth rate should not exceed its ability to provide adequate schools, roads, police and fire protection, and other municipal services necessary and appropriate to safeguard the health, welfare and safety of current and future residents.

(2) Definitions

1. Applicant - Individuals, partnerships, corporations, trusts and other legal entities, in which the applicant of record holds a legal or beneficial ownership of greater than one percent (1%).

2. Development - Lots which were at any time after the date of adoption of this growth management by-law, part of contiguous property under common



ownership (or in different ownerships each involving one or more of the same principals).

(3) Applicability

The By-law shall apply to all residential building permits for construction of new residential dwelling units submitted after the effective date of this By-law, except as expressly exempted in Section 6 herein. The By-law shall apply to all residential dwelling units whether they be single-family dwelling units or units in multi-family dwellings. The By-law shall be effective through December 31, 2001. The By-law may be extended for five years, to December 31, 2006, to achieve its purposes without lapse of its provisions, conditions and limitations by majority vote of a Town Meeting prior to December 31, 2001.

(4) New Building Permit Limitations

1. There shall be a limit on the issuance of building permits Town-wide so as to limit the construction of or conversion to residential dwelling units to 85 units per twelve-month period. It is recognized that under state law, certain subdivisions and lots will be grand fathered and will, therefore, not be subject to the 85 permit limit established by the Growth Management By-law. Building permits issued for such lots will nonetheless be counted toward the 85 permit limit, but 24 of the aforementioned 85 permits per twelve-month period shall be made available, at the rate of no more than 2 permits per month, to lots which are not grand fathered under M.G.L. c.40A, Section 6, from the provisions of this Growth Management By-law.

2. Building permits shall not be issued authorizing construction of or conversion to more than five (5) residential dwelling units (exclusive of permits withdrawn or expired without use) on Development or to any Applicant (or set of Applicants involving one or more of the same principals) in any twelve-month period unless the Planning Board has granted a special permit for rapid development. It is recognized that under state law, certain subdivisions and lots will be grand fathered and will, therefore, not be subject to the 5 permit limit established by Section 4.2.

3. Special permits for rapid development shall be granted only upon a determination by the Planning Board that in addition to the Special Permit criteria of Section 8-13, such development also would serve a significant housing need, would be unfeasible if limited to five (5) residential dwelling units over twelve months, and would not overburden public services.

(5) Procedures

The application procedures for obtaining such building permits referred to herein shall be as follows:

1. The Building Department ("Department") will accept applications for building permits on a first come, first served basis during normal business hours. The Applicant may not submit more building permit applications during any period than for that number of residential dwelling units to which the Applicant is entitled during such period in accordance with this By-law.

2. The Department shall not accept building permit applications for a greater number of residential dwelling units than may be permitted during any month in accordance with this By-law.

3. Building permit application packages that are deemed by the Building Inspector to be incomplete or are rejected for any reason will be returned to the Applicant. The Applicant may then file a new application for a building permit.

4. If a building permit application is accepted by the Department, a building permit may be issued at any time within thirty (30) days of such submission.

(6) Exemptions

The following developments are specifically exempt from this By-law and shall not count toward the Building Permit Limitations set forth in Section 4 herein:

1. Restoration, expansion, alteration, or reconstruction of a dwelling in existence as of the effective date of this By-law, provided that no additional residential unit is created.

2. Any dwelling unit to be built under any program or statute intended to assist in the construction of housing for low or moderate-income families, as defined in the applicable statute or regulation.

3. Any dwelling unit to be built under any program or statute intended to assist in the construction of housing for senior persons, as defined in the applicable statute or regulation.

4. Structures for non-residential purposes.

(7) Severability

The provisions of this By-law are hereby declared to be severable. If any provision or the application of any provision to any person or circumstance shall be held invalid or unconstitutional, it shall not be construed to affect the validity or constitutionality of any of the remaining provisions of this By-law or the application of such provisions to any person or circumstance other than those as to which such provision is held to be invalid or unconstitutional, or take any action in relation thereto.

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Town of Walpole Zoning Bylaw, Section 9-H and 9-J(4)(Last Amended 2003).

"(4) New Building Permit Limitations

1. There shall be a limit on the issuance of building permits Town-wide so as to limit the construction of or conversion to residential dwelling units to 85 units per twelve-month period. It is recognized that under state law, certain subdivisions and lots will be grand fathered and will, therefore, not be subject to the 85 permit limit established by the Growth Management By-law. Building permits issued for such lots will nonetheless be counted toward the 85 permit limit, but 24 of the aforementioned 85 permits per twelve-month period shall be made available, at the rate of no more than 2 permits per month, to lots which are not grand fathered under M.G.L. c.40A, Section 6, from the provisions of this Growth Management By-law.

2. Building permits shall not be issued authorizing construction of or conversion to more than five (5) residential dwelling units (exclusive of permits withdrawn or expired without use) on Development or to any Applicant (or set of Applicants involving one or more of the same principals) in any twelve-month period unless the Planning Board has granted a special permit for rapid development. It is recognized that under state law, certain subdivisions and lots will be grand fathered and will, therefore, not be subject to the 5 permit limit established by Section 4.2.

3. Special permits for rapid development shall be granted only upon a determination by the Planning Board that in addition to the Special Permit criteria of Section 8-13, such development also would serve a significant housing need, would be unfeasible if limited to five (5) residential dwelling units over twelve months, and would not overburden public services."

"9-H Rate of Multi-Family Development By-Law

(1) Purpose

The purpose of the Rate of Development Program is to allow the Town to provide, in a planned and rational manner, the basic facilities necessary for health, safety and welfare and to adequately support its existing and future population, through the adoption of standards which will coordinate residential growth with the provisions of community facilities. The Town recognizes its obligation to provide its share of the regional need for housing of all types and to manage, not prohibit growth. The Rates of Development shall be considered together with present and future plans (such as the Master Plan, official maps, growth management plan) and the town By-Laws in order to:

- (a) Provide for the most compact, efficient and cost effective Town services by means of long-range planning;
- (b) Protect and enhance the character of the community and its historical and natural resources;
- (c) Discourage rapid rise in service costs which will cause hardship, especially to persons of limited income who live, or may come to live, in the community;
- (d) Carry out the purposes of the Zoning Act, which empowers municipalities to "facilitate the adequate provision of transportation, water, sewerage, schools, parks and other requirements", to conserve natural resources, and to "encourage the most appropriate use of land" throughout the community;
- (e) Provide a degree of predictability as to the location and speed of residential growth as to enable comprehensive fiscal, governmental and land-use planning.

(2) Procedure

This section shall take effect only when and if the Building Inspector determines that fifty (50) multi-family dwelling units, excluding single family houses, have been authorized by permit town wide within a twelve (12) month period.

(3) Issuance of Permits

The Building Inspector shall issue building permits for construction of new multi-family dwelling units only if permit issuance will not result in authorizing construction within a 12-month period of more than 50 multi-family units, excluding single family houses, town wide, within a 12-month period, but no building permit shall issue to any applicant authorizing the construction of more than five (5), multi-family dwelling units in any 12-month period by that applicant. For the purpose of this section, "Applicants" is defined as individuals, partnerships, corporations, trusts or other legal entities in which the applicant of record holds a legal or beneficial ownership greater than one percent.

(4) Exemptions

The following are exempt from the provisions of this By-Law:

- (a) Lots created by a subdivision plan as defined by M.G.L., Ch. 41, S 81-L, endorsed by the Planning Board prior to the effective date of this by-law.
- (b) Lots created by a plan not requiring Planning Board approval as defined by M.G.L., Ch. 41, S 81-L and 81-P not previously created by a subdivision plan as defined by M.G.L., Ch. 41, S 81-L endorsed by the Planning Board prior to the effective date of this by-law.

(c) Units designed for low or moderate income residents of all ages receiving or eligible to receive state or federal subsidies.

(d) Building permits for extensions, alterations or modifications of pre-existing structures.

#### 9-I Subdivision Phasing

##### (1) Purpose

The purpose of this section of the Zoning By-Law is to allow the Town to provide, in a planned and rational manner, the basic facilities necessary for the health, safety, and welfare of its citizens, and to adequately support Walpole's existing and future population, through the adoption of design criteria which will coordinate residential growth with the provision of community services and the preservation of community character. This section of the Zoning By-Law shall be considered together with the Master Plan Update of 1985; the Water Master Plan of 1989; the Open Space Plan of 1987; the 201 Facilities Plan of 1981; and Metro Plan 2000 prepared by the Metropolitan Area Planning Council in order to:

(a) Carry out the purposes of the Zoning Act, which empowers municipalities to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements, and to encourage the most appropriate use of land throughout the community,

(b) Protect and enhance the character of the community and its historical and natural resources;

(c) Ensure that the rate of single-family residential development does not overly burden the fiscal capacity of the Town to absorb the costs of incremental service demands in light of the fiscal constraints imposed on the Town by Proposition 2 1/2. To this end, Section 9-1 will help to:

(1) Provide a degree of predictability as to the location and speed of residential growth,

(2) Provide for the most compact, efficient, and cost effective municipal services; and

(3) Discourage rapid rise in service costs which will cause hardship, especially to persons of limited income who live, or may come to live, in the community.

##### (2) Definitions

Unless otherwise noted within Section 9-1, the following terms shall have the following meanings:

DEVELOPMENT : the entire tract of land which is the subject, in whole or in part, of:

(1) a definitive subdivision plan submitted to the Planning Board for approval under M.G.L. c. 41 Section 81-U; or

(2) a plan submitted to the Planning Board for endorsement under the provisions of M.G.L. c. 41 Section 81-P that approval under the subdivision control law is not required ("Approval Not Required" plan, or "ANR" plan); or

(3) a combination of the two plans described under (1) and (2) above, which plan or combination of plans show the division of land into one or more new lots upon which single-family detached dwellings may be constructed pursuant to the provisions of Section (4) and (5) below.

DEVELOPMENT PHASE : a period of not less than one year beginning with the date of issuance of a building permit for the first dwelling eligible to be constructed within a particular development unit and ending on the date of issuance of the final occupancy permit for all but two of the dwellings within such development unit. (Amended ATM 4/5/99, approved 5/26/99)

DEVELOPMENT UNIT : the total number of building permits and their respective occupancy permits that may be issued within one development phase as determined by a phasing schedule developed under Section 9-1-(4) for each proposed development.

TRACT : a defined contiguous area of land comprised of one or more parcels or lots.

##### (3) Applicability

Beginning on the effective date of Section 9-1 of the Zoning By-Law, no building permit for new single-family residential construction shall be issued unless in accordance with the regulations contained herein. This section of the Zoning By-Law shall be in effect until December 31, 2005, at which time it shall automatically cease to be effective, unless otherwise extended for a longer period of time in accordance with applicable provisions of Massachusetts law. [Amended 5/1/00]

This section of the Zoning By-law shall apply to all developments as defined in Section 9-1-(2) above. For purposes of this section of the Zoning By-Law, adjacent or contiguous parcels of land which were under common ownership at the time of adoption of this by-law shall be considered as within a single tract of land.

##### (4) Procedures

The issuance of building permits for the construction of new single-family detached dwellings on lots within a development as defined in Section 9-1-(2) above shall be in conformance with an approved development schedule as formulated under the procedures set forth hereunder.

(a) Each development shall be evaluated in relation to the design criteria table in Section 9-1-(5). Points assigned in each category of design criteria for which the applicant seeks credit are to be cumulatively totaled for each proposed development. The cumulative total of points shall then be correlated to the development phase table in Section 9-1-(6) to establish the number of building permits that may be issued within each development phase by virtue of the proposed number of lots and the established rates of development within said table.

(b) Said development schedule shall be approved, or modified and approved (including the imposition of reasonable conditions), by the Planning Board, and recorded at the Norfolk County Registry of Deeds and filed with the Town Clerk before any building permit can be issued for any lot within the proposed development. A proper notation referencing the approved development schedule shall be inscribed on a plan showing a development as defined in Section 9-1-(2) above.

(c) Before approval of a development schedule, the applicability of each design criteria for which the applicant seeks credit shall be demonstrated to the reasonable satisfaction of the Planning Board.

(d) If a proposed development schedule is modified and approved (including the imposition of reasonable conditions) by the Planning Board, findings and reasons therefor shall be given in a written decision, and said decision shall be filed with the Town Clerk, and a copy of said decision shall be sent by registered mail to the applicant. If the applicant wishes to rebut any of the findings and reasons for a modification of a proposed development schedule, a written notification of such rebuttal shall be filed by the applicant with the Town Clerk and Planning Board within ten (10) days of the filing of the Planning Board's decision. Within twenty (20) days of the filing of the Planning Board's decision, the Planning Board shall then respond to the specific rebuttals presented by the applicant. Failure of the Planning Board to respond to the rebuttal within said twenty (20) day period shall be deemed an approval of the development schedule as originally submitted.

#### (5) Design Criteria Table

The points established hereunder for each particular category of design criteria are absolute, shall be awarded in multiples of five (5), and, except for category (h) below, shall not be varied by the Planning Board in the approval of a development schedule.

#### DESIGN CRITERIA POINTS

(a) All lots are located within an Open Space

Residential Development approved in accordance with Section 11 of the Walpole to Zoning By-Law 10

(b) The total number of proposed lots within the development is

- 50% less than what can be reasonably expected under a maximum build-out of the tract 30

- 33% less than what can be reasonably expected under a maximum build-out of the tract 25

- 25% less than what can be reasonably expected under a maximum build-out of the tract 20

The maximum build-out of the tract shall be proven by the submission of a plan, showing a subdivision conforming to all applicable provisions of the Town of Walpole Zoning By-Law, Subdivision Rules and Regulations, Wetland By-Law, and Board of Health Regulations

(c) Exclusive of those lots counted under (b) above, the lot size of at least 75% of the lots within the development is equal to or exceeds 125% of the minimum required lot area for the 15 zoning district in which the land is located, exclusive of land identified as a "Resource Area" as defined by M.G.L. c. 131 Section 40, and/or the Town of Walpole Wetlands By-Law

(d) Exclusive of those lots counted under (a), (b), or (c) above, all lots within the development contain contiguous land other than that located within an area identified as a "Resource Area" as defined by M.G.L. c. 131 Section 40, and/or the Town of Walpole Wetlands By-Law, the area of which is at least 100% of the minimum required lot area for zoning compliance in which the land is located

(e) The development dedicates land, acceptable to the Town, for a suitable site for a school, 5 to 30 or land for other municipal purposes. (discretionary)

(f) The development provides land for active recreational use (for example, playing fields, tennis courts, neighborhood parks, playgrounds, or swimming facilities) in contiguous areas of at least

- 4,000 square feet per lot 10

- 2,000 square feet per lot 5

(g) The development permanently sets aside or preserves an area of at least five (5) 10 contiguous acres to be used for agricultural for each five (5) acre area purposes

(h) The applicant of the development is to provide other arrangements to mitigate the impacts of the development upon public facilities 5 to 20 including (but not limited to) fire, police, (discretionary) education, public infrastructure, transportation, water conservation, and/or recreation.

(j) The development is designed so as to preserve, enhance, or provide desirable access to public or semi-public recreation lands, 5 conservation lands, trail networks or open space.

(k) The development provides a one hundred (100) foot buffer zone, including existing or planted vegetation, adjacent to any non- 10 residential uses or zoning districts that in the opinion of the Planning Board provides a significant beneficial impact.

(l) The development is designed so as to preserve land of significant historical, cultural, 10 or archaeological value

(m) The development is designed so as to preserve or enhance scenic roadside views or 5 vistas from existing public ways

#### NEGATIVE IMPACT

(n) The development is located on land that was enrolled under the provisions of M.G.L., c.61, 40 61A, or 61B, or was used in connection with an agricultural operation conducted by the Commonwealth of Massachusetts or any of its political subdivisions at any time prior to the filing of an application for definitive subdivision approval or endorsement that approval under the subdivision control law is not required.

(o) The development is located on land that was rezoned by private petition from a non residential district to a residential district or -100 from a less intense residential district to a more intense residential district at the request of the owner or designee

#### (6) Development Phase Table

The numerical values established hereunder are absolute, and shall not be varied by the Planning Board in the approval of a development schedule. When correlating the proposed number of lots and cumulative points derived from the design criteria table to the rate of total lot build-out per development phase, all fractions of numbers shall be rounded to the nearest whole number to establish the number of building permits that may be issued in one development phase.

#### (7) Protection from Zoning Changes

In the case of a development whose completion has been constrained by Section 9-1 of the Zoning By-Law of the Town of Walpole, the protection of the land area within said development from zoning changes as provided in M.G.L. c. 40A Section 6 shall be extended to the minimum time for completion of the development allowed under Section 9-1.

#### (8) Severability

The individual provisions of Section 9-1 are to be considered independently significant, and the invalidity of any provision of Section 9-1 shall not affect the validity of any other provision of the section.

#### (9) Planning Board Regulations

The Planning Board shall, insofar as practical under law, adopt regulations applicable to the implementation of Section 9-1."

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Town of Walpole Zoning Bylaw, Section 9-I (Last Amended 2003)

#### "9-I Subdivision Phasing

##### (1) Purpose

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incremental service demands in light of the fiscal constraints imposed on the Town by Proposition 2 1/2. To this end, Section 9-1 will help to:

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(d) If a proposed development schedule is modified and approved (including the imposition of reasonable conditions) by the Planning Board, findings and reasons therefor shall be given in a written decision, and said decision shall be filed with the Town Clerk, and a copy of said decision shall be sent by registered mail to the applicant. If the applicant wishes to rebut any of the findings and reasons for a modification of a proposed development schedule, a written notification of such rebuttal shall be filed by the applicant with the Town Clerk and Planning Board within ten (10) days of the filing of the Planning Board's decision. Within twenty (20) days of the filing of the Planning Board's decision, the Planning Board shall then respond to the specific

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(d) Exclusive of those lots counted under (a), (b), or (c) above, all lots within the development contain contiguous land other than that located within an area identified as a "Resource Area" as defined by M.G.L. c. 131 Section 40, and/or the Town of Walpole Wetlands By-Law, the area of which is at least 100% of the minimum required lot area for zoning compliance in which the land is located

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- 4,000 square feet per lot 10

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(j) The development is designed so as to preserve, enhance, or provide desirable access to public or semi-public recreation lands, 5 conservation lands, trail networks or open space.

(k) The development provides a one hundred (100) foot buffer zone, including existing or planted vegetation, adjacent to any non- 10 residential uses or zoning districts that in the opinion of the Planning Board provides a significant beneficial impact.

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NEGATIVE IMPACT

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(6) Development Phase Table

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The individual provisions of Section 9-1 are to be considered independently significant, and the invalidity of any provision of Section 9-1 shall not affect the validity of any other provision of the section.

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The Planning Board shall, insofar as practical under law, adopt regulations applicable to the implementation of Section 9-1."

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(d) Carry out the purposes of the Zoning Act, which empowers municipalities to "facilitate the adequate provision of transportation, water, sewerage, schools, parks and other requirements", to conserve natural resources, and to "encourage the most appropriate use of land" throughout the community;

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This section shall take effect only when and if the Building Inspector determines that fifty (50) multi-family dwelling units, excluding single family houses, have been authorized by permit town wide within a twelve (12) month period.

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The Building Inspector shall issue building permits for construction of new multi-family dwelling units only if permit issuance will not result in authorizing construction within a 12-month period of more than 50 multi-family units, excluding single family houses, town wide, within a 12-month period, but no building permit shall issue to any applicant authorizing the construction of more than five (5), multi-family dwelling units in any 12-month period by that applicant. For the purpose of this section, "Applicants" is defined as individuals, partnerships, corporations, trusts or other legal entities in which the applicant of record holds a legal or beneficial ownership greater than one percent.

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The following are exempt from the provisions of this By-Law:

(a) Lots created by a subdivision plan as defined by M.G.L., Ch. 41, S 81-L, endorsed by the Planning Board prior to the effective date of this by-law.



(b) Lots created by a plan not requiring Planning Board approval as defined by M.G.L., Ch. 41, S 81-L and 81-P not previously created by a subdivision plan as defined by M.G.L., Ch. 41, S 81-L endorsed by the Planning Board prior to the effective date of this by-law.

(c) Units designed for low or moderate income residents of all ages receiving or eligible to receive state or federal subsidies.

(d) Building permits for extensions, alterations or modifications of pre-existing structures.

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**Waltham**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

*No*

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**Watertown**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

*No*

**Wayland**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

*No*

**Wellesley**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

*No*

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**Wenham**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

*No*

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**West Boys**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

*No*      According to Susan Abramson, the planning board secretary, West Boylston does not need a growth cap because the town's limited space for development naturally acts as a natural cap. (1/4/05)

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**West Bridg**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

*No*

**West Newb**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

*No*

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**Westborou**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

*No*

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**Westford**      *Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**Yes**      Town of Westford Zoning Bylaw, Section 6.3 (Last Amended 2004).

"6.3 GROWTH MANAGEMENT

[Added 2-12-1996, STM, Amended 7-17-2000, Amended 1113-2000, STM, Amended 5-11-2002, ATM]

6.3.1 Intent and Purpose. This Section 6 3 is adopted pursuant to the provisions of Massachusetts General Laws, Chapter 40A and the Home Rule Amendment, Article 89 of the Massachusetts Constitution, for the following purposes

1 To ensure that growth occurs in an orderly and planned manner, at a rate that can be supported by Town services, while avoiding large year-to-year variations in the development rate,

2 To provide the Town with time to study the effect of growth on the municipality's infrastructure, character and municipal services,

3 To relate the tiring of residential development to the Town's ability to provide adequate public safety, schools, roads, municipal infrastructure, and human services at the level of quality which citizens expect, and within the Town's ability to pay under the financial limitations of Proposition 2-1/2, as outlined in the Town's 1995 Master Plan,

4 To preserve and enhance the existing community character and value of property, and

5 To allow departures from the strict application of the growth rate measures herein, in order to encourage certain types of residential-growth which address the housing needs of specific population groups, or which provide significant reductions in the ultimate residential density of the Town

6.3.2 Applicability and Effect.

1 On or after the date of adoption of this Sec 6 3, no building permit for a new dwelling unit or units in the Town of Westford shall be issued, unless in accordance with the regulations of this Sec 6 3

2 The provisions of this Section 6 3 shall expire on May 11, 2007, however, by vote of Town Meeting before said date, the provisions of this Section 6 3

may be extended for an additional five years, in order to continue comprehensive municipal planning studies necessary to promote orderly growth In the event such action is taken by the Town Meeting prior to May 11, 2007, these provisions shall not be construed to have lapsed on such date

3 Appendix E summarizes the growth management provisions of this Section 6 3 as they apply to various categories of residential development In the case of conflict between Appendix E and the textual provisions of this Section 6 3, the textual provisions shall prevail

#### 6.3.3 Growth Rate Limit.

1 The growth rate limit and other provisions of this Subsection 6 3 3 shall apply to the development of all new dwelling units in the Town of Westford, unless that development is specifically exempted by the provisions of Subsections 6 3 4 or 6 3 6 herein

2 The growth rate limit shall be thirty (30) dwelling units per calendar year

3 Complete building permit applications for dwelling units subject to the growth rate limit shall be dated and timestamped, and placed in a stand-by list in the order in which they are received This list shall be posted in the Building Department within the Westford Town Hall Trading or selling of stand-by list placement is expressly prohibited

4 From January 1 until December 15 in a calendar year, the Building Inspector may issue up to six (6) building permits to any one development subject to the growth rate limit, according to their placement in the stand-by list From December 16 to December 31 in a calendar year, permits may be issued on a first-come, first-served basis, up to the growth rate limit, without restriction as to total number per development or placement in the stand-by list Building permits not issued by the end of the calendar year shall not be carried forward to the next calendar year

5 Whenever the number of building permits issued in one calendar year for dwelling units subject to the growth rate limit equals that limit, the Building Inspector shall not issue building permits for any additional dwelling unit or units in that year Completed applications for which building permits are not granted in one calendar year shall be carried over onto the next year's stand-by list, with priority for the permits available that year, in the same order they were recorded in the first year

6 Building permits issued, but subsequently abandoned under the provisions of the State Building Code, shall not be counted in administering the growth rate limit

#### 6.3.4 Development Scheduling.

1 This Subsection 6 3 4 shall apply to the following types of development which would result in the creation of new dwelling units

a Development projects which create dwelling units for senior residents, as specified in section 8 4 herein, where occupancy of the units is restricted to senior persons through a properly executed and recorded deed restriction running with the land For purposes of this Subsection, "dwelling units senior residents" shall be construed to mean that said units are to be owned and occupied only for only by persons at least one (1) of whom shall be fifty-five (55) years of age or older

b Development projects which voluntarily agree to a minimum twenty-five percent (25%) permanent reduction in density below the density permitted under zoning and feasible given the environmental conditions of the tract, with the surplus land equal to at least five (5) buildable acres and permanently designated as open space and/or farmland The land to be preserved shall be protected from development by an Agricultural Preservation Restriction, Conservation Restriction, dedication to the Town, or other similar mechanism that will ensure its protection

2 Building permits for the construction of new dwelling units in any one development of the types set forth in Subsection 6 3 4 1 shall be authorized at a rate determined by the Planning Board The development rate shall be established by the Planning Board for each applicable development individually Development schedules shall be established consistent with the following criteria

a To minimize the disruption to existing traffic patterns and to prevent the creation of public safety hazards related to the construction at the site or trip generation by new residents,

b To minimize danger to the environment, especially the town aquifer and water table caused by construction at the site,

c To minimize the impact on public safety services, educational facilities and town infrastructure caused by increased use, and

d To minimize the impact on surrounding neighborhoods by preserving their character and configuration

The Planning Board shall weight its determinations with regard to the above criteria based upon the reports and recommendations of its technical consultants and the reports and recommendations of other town commissions, boards, and staff Other criteria may be established by the Planning Board

3 The Planning Board shall not establish any development schedule which phases development for longer than a ten (10) year period

#### 6.3.5 Procedures for Development Schedules.

1 In order to facilitate review, the applicant shall submit a written proposed development schedule to the Planning Board as part of any application for a development of any type set forth in Subsection 6 3 4 1 The development schedule shall state the month and year proposed for the authorization of a

building permit for each unit in the development For other types of development not specified in Subsection 6 3 4 1, the applicant may submit a voluntary development schedule to the Planning Board

2 The Planning Board shall vote to approve (with or without changes) or disapprove any development schedule submitted to it

3 Approved development schedules shall be incorporated as part of the decision filed with the Town Clerk, whether inscribed on the plan or filed as an attached document

4 No approved development schedule shall take effect for the purposes of obtaining building permits until recorded separately or as part of the decision

5 Approved development schedules shall be posted in the Building Department within the Westford Town Hall Trading or selling of development schedules is expressly prohibited

6 If applications for building permits in a development are made at a slower rate than authorized in a development schedule, applications for the unused permits from one period may be made in a later period, and such applications shall be approved and the permits issued

7 Upon transfer of any lot or unit in the types of development subject to development scheduling, the deed shall reference the development schedule and state the earliest date-on which construction may be commenced in accordance with the provisions of this Section 6 3

6.3.6 Dwelling Units Not Subject to this Section 6.3. The following dwelling units are specifically not subject to the growth rate limit and development scheduling provisions of this Section 6 3

1 Dwelling units in the types of developments which are statutorily exempt by virtue of the provisions of Massachusetts General Laws, Chapter 40A, Section 6,

2 An application for a building permit for the enlargement, restoration or reconstruction of a dwelling in existence as of the effective date of this Sec 6 3, provided that no additional residential unit is created,

3 Dwelling units for low- and/or moderate income families or individuals, where all of the following conditions are met

a Occupancy of the units is restricted to households earning less than 80% of the median family income for the Greater Lowell Statistical Area as determined by the Department of Housing and Urban Development from time to time, and

b The affordable units are subject to a properly executed and recorded deed restriction running with the land as approved by the Massachusetts Department of Housing and Community Development for a minimum of thirty (30) years

The market rate units in those developments which contain affordable units are subject to the applicable Subsections of this Section 6 3,

4 Any tract of land existing and not held in common ownership with an adjacent parcel on the effective date of this Section 6 3 shall be entitled to a one-time exemption only for one (1) building permit, for the purpose of constructing one (1) single-family dwelling on that tract of land,

5 Dwelling units as set forth in the Mill Conversion Overlay District Bylaw, Section 8 5 herein, and

6 Dwelling units in Assisted Living Facilities, as set forth in Section 7 3 herein

7 Dwelling units as set forth in Accessory Dwelling Units Section, Section 3 3 herein

6.3.7 Zoning Change Protection. Any protection against zoning changes provided by Massachusetts General Laws, Chapter 40A, Section 6, shall be extended to the earliest date on which the final unit in the development could be authorized under this Section 6 3

6.3.8 Separability. The provisions of this Section 6 3 are hereby declared separable, and if any provision shall be held invalid or unconstitutional, it shall not be construed to affect the validity of any of the remaining provisions of this Section 6.3."

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**Weston**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

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**Westwood**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

**No**

The following provisions have expired:

SECTION 16D. INTERIM DEVELOPMENT RATE CONTROL

(a) Purpose.

The purpose of the interim development rate control is to assure that, during preparation of the Westwood Master Plan and its initial implementing actions, residential development will not occur at a rate so rapid that it threatens to reduce the effectiveness of that Plan.

(b) Basic Requirements.

Issuance of building permits authorizing creation of dwelling units through construction, placement, or conversion shall be allowed only under the Priority procedures of Section 16D(c) unless exempted from them for one or more of the following reasons:

(1) Individual Applicant: the applicant is seeking a building permit for development on a lot which has been owned by that applicant since prior to the effective date of this Section, and the applicant has not previously been exempted from this Section for building on that or any other lot.

(2) Low-Impact Development: the dwelling unit is authorized under a special permit granted by the Special Permit Granting Authority for Low-Impact Development, based upon its finding that special occupancy characteristics, such as housing reserved for the elderly, and its low land consumption per dwelling unit, such as an accessory dwelling unit being added to an existing dwelling, assure low impacts on Town services and land use patterns.

(3) Protected Development: the proposal is not subject to Section 16D(c) because of the provisions of Section 6 of Chapter 40A, G.L., Chapter 40B, G.L., or other provision of law.

(c) Priority Procedures.

(1) Complete applications for building permits for construction of one or more dwelling units, unless exempted under Section 16D(b)(1), (b)(2), or (b)(3) above, shall be accumulated and acted upon by the Building Commissioner within the first seven (7) days of each month.

(2) Applications shall be granted monthly beginning with the highest priority category, and within each category in order of date of initial complete application, until the quota for the month has been reached. However, no one applicant shall be authorized more than ten (10) dwelling units under Section 16D(c) within the period that the Section is in effect if doing so would result in denial at that time for other applicants.

(3) The monthly quota shall equal five (5) dwelling units, excluding the number of units for Individual Applicants, Low Impact Development, or Protected Development granted building permits during the preceding month under Section 16D(b)(1), (b)(2), and (b)(3), increased by any unutilized units from the quotas for the eleven preceding months.

(4) Priority categories are as follows:

(a) dwelling units to be served by Town water and sewerage, with dwelling structures at least two hundred (200) feet from, and having no driveway access onto, any street other than one created by the subdivision which created that lot;

(b) other dwelling units served by Town water and sewerage;

(c) all other dwelling units.

(d) Expiration.

Section 16D shall expire June 30, 1998 unless prior to that date the Planning Board has approved a Master Plan. Upon its expiration, any timing limitations previously placed on building permit availability shall no longer be enforced, but any housing occupancy stipulations upon which permits were earlier qualified shall remain in full force and effect.

(e) Protection Against Zoning Change.

Any protection against zoning change by this Zoning Bylaw (e.g. Section 18) or by Statute (e.g. Section 6, Chapter 40A) shall be extended one month each month that a building permit application for the dwelling unit in question has been denied.

**Weymouth**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project*

phasing required?

No

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**Whitman** Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?

No

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**Wilmington** Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?

No Mr. Vivaldi (6/23/04) said that in June 2003 at a special town meeting, there was a proposed moratorium on new permits, but it did not pass.

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**Winchester** Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?

No

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**Winthrop** Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?

No

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**Woburn** Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?

No

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**Worcester** Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?

No

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**Wrentham**

*Is there a town-wide annual or biannual cap on residential permits issued, and/or is project phasing required?*

*No*

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