Residential Growth Ordinance Town of Newfield

(Stand Alone Ordinance)

I. Title

This Ordinance shall be known as the "Residential Growth Ordinance of the Town of Newfield, Maine", and herein shall be referred to as "this Ordinance."

II. Purpose

The purpose of this Ordinance shall be to:

A. Limit residential population growth of the town at a rate which would be compatible with orderly and gradual expansion of community services, including, but not limited to education, fire and police protection, road maintenance, water supply, waste disposal, codes enforcement and development review.

B. Limit residential population growth of the town at a rate which would allow Town Boards and staff time to prepare and adopt updates to regulations plans, and Ordinances, while continuing to review ongoing development proposals.

C. Avoid a situation in which the rapid completion of major subdivisions could outstrip the town's capability to expand its services soon enough to avoid serious overburdening.

III. Legal Authority

This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution and 30-A.M.R.S.A. S2101 et seq and 30-A M.R.S.A. S 3001.

IV. Growth Permit Required for Dwelling Units

Before an applicant can apply for a building permit to construct a new dwelling unit within the Town of Newfield, the applicant must obtain a Growth Permit pursuant to the provisions of this Ordinance, unless exempted below.

V. Exemptions

The following situations are exempt from the provisions of this Ordinance, and shall not require the applicant a growth permit:

A. The repair, replacement, reconstruction or alteration of any existing building or structure, provided that no new dwelling units are created, and no seasonal dwelling units are converted into winterized year-round dwelling units, except as otherwise provided herein.

B. The replacement of a dwelling unit within the Town, provided that the original dwelling unit is destroyed or moved out of the Town of Newfield, and the replacement dwelling unit is substantially started on the same lot within three (3) years of the destruction or removal of the original dwelling unit.

C. Erection of a dwelling unit which is being moved from a lot within the Town that is being converted from a residential use to another use.

D. Construction of dwelling units in housing, which is constructed, operated, subsidized or funded (in whole or in part) by a local housing authority or any agency of stated or federal government.

E. Units restricted for use by elderly residents, or congregate care, assisted living or nursing home facilities.

F. Dwelling units to be built on lots created by way of gift from a blood or adoptive relative with no consideration. If the property is developed by the recipient he/she must reside on the property for a period of at least five (5) years.

G. Accessory Dwelling Units.

VI. Administration

The Code Enforcement Officer (CEO) shall administer the issuance of growth permits, pursuant to the provisions of this Ordinance and shall only issue residential building permits for new dwelling construction to those applicants who hold a valid growth permit.

VII. Application for a Growth Permit, Standing to Apply

A growth permit application form, provided by the Town, must be completed, including all endorsements and certifications, by the property owner of record, or by the holder of a valid Purchase and Sale agreement for the subject property.

VIII. Items Required for a Complete Application

The following items must be attached to the growth permit application, in order for the Code Enforcement Officer to be able to consider the application complete:

A. Deed or Purchase & Sale Agreement indicating the applicant's interest in the subject property, or written authority from the property owner of record.

B. Complete Building Plans for the entire residential dwelling unit, showing the floor plans of all levels and elevation drawings, with sufficient detail to indicate that the proposed structure will be able to comply with all applicable building codes and Ordinances within the Town of Newfield.

(a) If a variance or variances will be necessary to obtain a building permit, the Code Enforcement Officer may issue a Conditional Growth Permit allowing the builder to apply for a building permit and a variance. If the variance is not approved the Conditional Growth Permit becomes null and void.

C. Septic System Design on a HHE-200 form, signed by a Licensed Evaluator, licensed by the State of Maine.

D. A plot plan, indicating tax map page, lot number and all proposed setbacks, property lines, water bodies, streams, or wetlands as defined in the Land Use Ordinance of the Town of Newfield.

E. The application shall be accompanied by a fee determined by the Board of Selectmen after a public hearing and set forth in a schedule of fees posted at the town office, payable to the Town of Newfield.

IX. Issuance Procedure for a Growth Permit

A. Growth permits applications and supporting plans and documents shall be submitted to the Code Enforcement Office or his or her designated agent, who shall endorse each package with the date and time of initial receipt by the Town. The Code Enforcement Office shall review such application packages for completeness pursuant to Section VIll above in the order they were submitted, within ten (10) days of receipt by the Town. A letter shall be provided to the applicant within the 10-day review period according to the procedure below.

B. The Code Enforcement Officer shall provide a letter to each applicant in the order in which applications were submitted, indicating that their application is complete, or indicating what items are needed to complete the application. The Code Enforcement Officer shall indicate on the face of the application the date and time that the application was found to be complete, or attach a copy of the letter to the applicant indicating the missing items, with an indication of the date and time said letter was provided or mailed to the applicant.

C. Applicants shall have ten (10) days from the time they are informed that an application is incomplete, to provide the Code Enforcement Officer with the requested additional submissions. Additional submissions shall be marked with the date and time of receipt by the Town. The Code Enforcement Officer shall review such additional submissions for completeness in the order they were submitted, within ten (10) days of receipt by the Town. If the Code Enforcement Officer finds that the additional submissions are adequate, the application for a growth permit shall be found complete, with the date and time so noted on the application and notice sent to the applicant as set forth above.

D. In the event two or more growth permit applications or supporting submissions are received simultaneously, the Code Enforcement Officer shall determine their order by random selection.

E. If the additional information required as set forth by the Code Enforcement Officer is not submitted by the applicant within the required time period, the growth permit application shall be considered null and void, and the applicant shall be required to start over.

F. Any person submitting false information on an application shall be subject to the penalties provided by law and shall not be eligible to apply for a growth permit application for a period of one (1) year.

X. Standards for the Issuance of a Growth Permit

Upon finding that a growth permit and supporting submissions are complete pursuant to Section Vlll above, within the (10) days, the Code Enforcement Officer shall review the application for compliance with the following standards and shall approve the growth permit application if all standards are met. The Town shall approve a maximum of twenty-two (22) completed growth permit applications during each calendar year. This amount represents two more than the average number of new dwelling units permitted in the preceding ten years.

A. Beginning on January first of each year and continuing until but not including the third Monday in December of each year, up to 22 twenty-two (22) growth permit applications may be approved. The Code Enforcement Officer shall approve growth permit applications in the order that were found to be complete.

B. A holder of an approved growth permit application must obtain a building permit to construct the dwelling unit, as depicted in the building plans submitted with the growth permit application, within ninety (90) days of the approval of the growth permit application. Failure to obtain a building permit within this time will render the growth permit null and void. Any substantial changes to building plans, including but not limited to footprint modifications, changes to building orientation or placement, or floorplan changes shall not be permitted unless the applicant resubmits a new growth permit application.

C. Regardless of when the growth permit application was approved, all approved growth permits shall expire by December 31st of each year, and holders of approved growth permits that have failed to obtain a building permit by that time shall no longer be able to do so.

D. No more than two (2) growth permits shall be issued to anyone (1) person or legal entity in any single calendar month. No additional growth permits shall be issued to anyone (1) person or legal entity in subsequent months until the foundation or foundations of the units subject to the two (2) growth permits have been completed and inspected by the Code Enforcement Officer.

XI. Non-transferability

Growth permit applications shall be site-specific, and shall be valid for construction only on the lot specified on the application. However, such applications shall be transferable to new owners of the lot, should the property transfer before a building permit is issued.

XII. Amendments

This Ordinance shall be amended, if necessary in accordance with procedures specified in Town Ordinances, and in State law, at any general or special Town Meeting.

XIII. Appeals

An administrative appeal may be taken from any decision of the Code Enforcement Officer, in the administration of this Ordinance, to the Board of Appeals, and from the Board of Appeals to the Superior Court as provided by Stat e Statute.

XIV Violations

A. It shall be a violation of this Ordinance for any person to build or place a dwelling unit within the Town of Newfield without having obtained a growth permit and a building permit, unless such construction or placement is exempted by this Ordinance.

B. If a dwelling has been constructed or placed without a growth permit and a building permit in accordance with this Ordinance, it shall also be a violation for any person to convey such a dwelling.

XV. Penalties

A. Any person owning or controlling the use of any residence, either existing or under construction, or who builds or conveys a dwelling unit in violation of this chapter commits a civil violation and shall be liable for the penalties outlined in 30-A M.R.S. section 4452 for each day such a violation continues after notification by the Code Enforcement Officer.

XVI. Conflict with other Provisions

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

XVII. Severability

Should any section or provision of this Ordinance be declared by the courts to be invalid, illegal or unenforceable, such decision shall affect any other section or provision of this Ordinance, either singularly or collectively.

XVIII. Effective Date

The effective date of this Ordinance shall be January 1st of the ensuing year after the approval by the voters.

XIX. Review and Update of Growth Management Ordinance

Pursuant to Title 30-A MRSA 4360, this Ordinance shall be reviewed and updated every three (3) years to determine whether the rate of growth Ordinance is still necessary and how the rate of growth Ordinance may be adjusted to meet current conditions.