

Town of Chebeague Island Code of Ordinances
Chapter 17- Land Use & Planning
Article VII- Growth Management

Growth Management Ordinance

of the Town of Chebeague Island
Maine

(edits proposed and approved by the Planning Board, 11/07/2022)

Adopted by the Town Meeting: July 1, 2007
Effective: July 1, 2007

Amended: June 10, 2023

Attest:



Town Clerk

Seal:

GROWTH MANAGEMENT ORDINANCE

SECTION 101. TITLE

This Ordinance shall be known as the "Growth Management Ordinance of the Town of Chebeague Island, Maine" and shall be referred to as the "Ordinance".

SECTION 102. LEGAL AUTHORITY

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

SECTION 103. PURPOSE

The purpose of this Ordinance is to protect the health, safety and general welfare of the residents of the Town of Chebeague Island by placing limitations on residential development and

- 103.1. Providing for the immediate housing needs of the existing residents of the Town of Chebeague Island.
- 103.2. Ensuring fairness in the allocation of Building Permits.
- 103.3. Planning for continued residential population growth of the Town of Chebeague Island which would be compatible with orderly and gradual expansion of community services including, but not limited to, education, public safety, transportation infrastructure, waste disposal and health services.
- 103.4. Avoid a situation in which the rapid development of new residences could outpace the town's capability to expand its services.

SECTION 104. DEFINITIONS

Building Permit: A permit is defined by and issued in accordance with the Town of Chebeague Island Building Code and Section 602.1 of the Town of Chebeague Island Zoning Ordinance.

Calendar Year: The period of time comprised of fifty-two (52) weeks commencing on January 1 and extending through December 31 on any given year.

Dwelling Unit: A room or group of rooms designed and equipped exclusively for use as living quarters for a family, including provisions for living, sleeping, cooking and eating. The term shall include, but not be limited to, manufactured housing, modular/mobile homes, apartment unit, duplexes and multiplexes and condominium units. The term shall not include trailers or recreational vehicles used for overnight or temporary lodging only.

Family: A person or persons occupying a dwelling unit and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging residence, hotel or motel.

Growth Permit: A permit issued, in accordance with the provisions of this Ordinance, by the CEO to allow the establishment of a new dwelling unit.

Manufactured Housing: A fabricated pre-assembled dwelling unit designed to be transported after fabrication and to be used as living quarters. The term "Manufactured Housing" may include the term "Modular Home" and "Mobile Home," except that the fabricated single-family modular home is assembled on the building site on a permanent foundation.

Person: A person shall be defined to include an individual's spouse, parents, siblings and members of his or her immediate family unless the spouse, parents, sibling or immediate family member can demonstrate that the person seeking the Growth Permit owned the title to the property that is the subject of the Growth Permit independently of his spouse, parents, siblings or immediate family members as of May 1, 2000.

Subdivision: A subdivision shall be defined by 30-A M.R.S.A. § 4401, and as amended from time to time. For the purposes of this Ordinance, subdivisions shall mean only those approved by the Town of Cumberland or Town of Chebeague Island Planning Board after March 6, 1959. In addition, any lots shown on a subdivision plan, but not subject to Planning Board review shall not be considered a lot in a subdivision.

SECTION 105. APPLICABILITY

This Ordinance shall apply to all new dwelling units (including manufactured housing) within the Town of Chebeague Island. No new dwelling unit which fails to meet the requirements of the Ordinance shall be constructed or placed within the Town of Chebeague Island.

SECTION 106. EXEMPTIONS

This Ordinance shall not apply to the following:

- 106.1 The repair, replacement, reconstruction or alteration of any existing building or structure provided the number of dwelling units is not increased, regardless of the need for a variance.
- 106.2 Accessory Apartments as allowed in Section 407.1 of the Town of Chebeague Island Zoning Ordinance.
- 106.3 Lots in subdivisions approved by the Cumberland Planning Board or equivalent body prior to July 1, 2000.

SECTION 107. ADMINISTRATION

107.1. Maximum Number of Dwelling Units

- 107.1.1. Unless and/ or until this Ordinance is amended pursuant to Section 112, the maximum number of new Growth Permits issued in a calendar year shall be four (4), plus two (2) additional Growth Permits that shall be for affordable housing constructed by a not for profit organization.
- 107.1.2. All Growth Permits shall be issued in accordance with the issuance procedure described in Section 107.3 of this Ordinance.

107.2. Application Procedure

- 107.2.1. All Growth Permit Applications shall be submitted in person to the Code Enforcement Officer or his/her assistant or agent (hereinafter the CEO) during normal office hours on the form designated Growth Permit Application. No Growth Permit Applications shall be accepted by mail.
- 107.2.2. The CEO shall indicate on the Application form the date and time the Growth Permit Application was received and provide the applicant with a receipt. The Applications shall be reviewed in the order in which they were received. Only complete Applications will be accepted.

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107.2.3. The Growth Permit Application shall be accompanied by a non-refundable administrative fee in the amount set forth in the Board of Selectmen's Schedule of Fees, documentation establishing the applicant's right, title and interest to the property, and one copy of a subsurface wastewater disposal system application form (HHE-200 or equivalent).

107.2.4. A separate Application shall be required for each dwelling unit.

107.3. Issuance Procedure

107.3.1. Growth Permit Applications shall be on file with the CEO. Applications will be accepted, and Growth Permits issued, as provided for in this Section.

107.3.2. Growth Permits shall be available on a first-come, first-served basis.

107.3.3.1. The CEO shall notify an applicant once the applicant is entitled to have a Growth Permit issued. Once the CEO has notified the applicant that the applicant is entitled to have a Growth Permit issued, the applicant shall have thirty (30) days to accept the Growth Permit from the CEO, and the CEO shall notify the applicant in writing of the date of the expiration of said thirty (30) days. If the applicant shall fail to accept the Growth Permit, then the Growth Permit shall expire.

107.3.3.2. Expired Growth Permits shall be available for reissue during the same calendar year.

107.3.3.3. The CEO shall issue Growth Permits for all complete Applications if they do not outnumber the supply of Growth Permits.

107.3.3.3.1. If Applications exceed supply for any given year, Permits shall be issued on the basis of the order complete Applications were received by the CEO. Those on the list who do not get a Permit for that year shall have first priority to get a Permit in the next year.

107.3.3.4. With respect to Growth Permits sought for property located within a subdivision, no more than one (1) Growth Permit shall be issued during any calendar year in a single subdivision. Corporations shall be treated as the same corporation for purposes of this Ordinance if they share common directors (or their spouses) and / or shareholders (or their spouses) of 10% or more of the stock. Any person or

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corporation which is a partner in a partnership shall also be considered the same person as the partnership.

With respect to Growth Permits sought for property not located within a subdivision, no more than one (1) Growth Permit shall be issued during any calendar year to any one person, partnership or corporation.

107.3.3.5 All Growth Permits shall be issued on the basis of the calendar year (January 1 through December 31).

107.3.3.6. If, at the end of any calendar year, there are any unissued Growth Permits still available, they shall not be carried over to the next year.

107.4. Replacement with building permit and expiration

107.4.1. A Growth Permit shall be replaced by a building permit for a dwelling on the specific site for which the Growth Permit was issued. A Growth Permit which has not been replaced with a building permit within 90 days of Growth Permit approval by CEO shall be considered expired and must be resubmitted for consideration. Resubmitted Growth Permit Applications will not have any priority over other Growth Permit Applications. The expiration of the building permit shall be in conformity with the Town of Chebeague Island Building Code.

107.5. Transferability

Growth Permits are not transferable. They shall be valid for construction on the lot specified on the Application and by the Applicant; provided however, that such valid Permits shall be transferable to new owners of the lot should the property change hands. If a Permit is transferred, the date of issuance remains unchanged.

SECTION 108. CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not repeal, annul, or otherwise impair or remove the necessity of compliance with any federal, state or other local laws or ordinances. Where this Ordinance imposes a greater legal restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall prevail.

SECTION 109. SEPARABILITY

Should any section or provision of this Ordinance be found by the courts to be invalid, illegal, or unenforceable, such decision shall not affect any other section or provision of this Ordinance either singly or collectively.

SECTION 111. REVIEW PROCEDURE

The ordinance shall be reviewed by the Planning Board not less frequently than once every three years, to ensure that the annual maximum growth rate has not become inconsistent with the Town's capital program requirements to establish, maintain, or enlarge needed public facilities and services. Based on its review the Planning Board may recommend amending this Ordinance as provided in Section 112.

SECTION 112. AMENDMENTS

112.1. An amendment to this Ordinance may be initiated by one of the following:

- 112.1.1 The Planning Board.
- 112.1.2 The Board of Selectmen.
- 112.1.3 By citizen petition, pursuant to 30-A M.R.S. § 2522 or similar provision.

SECTION 113. VIOLATIONS

113.1. A violation of this Ordinance shall be deemed to exist when any person, partnership or corporate entity engages in any construction activity directly related to the erection or placement of a dwelling unit, upon any land within the Town without first having obtained a Growth Permit from the CEO.

113.2. If a dwelling unit has been constructed or placed, without a Growth Permit, it shall be deemed a violation for any person, firm, or corporate entity to sell, lease, rent or occupy such dwelling unit until such permit has been duly issued.

SECTION 114. NOTICES OF VIOLATIONS; LEGAL ACTION

When a violation of any provision of this Ordinance shall be found, the CEO shall send a written notice of the violation to the responsible party or parties and shall notify the Board of Selectmen of the violation. If the notice does not result in the correction of the violation, the Board of Selectmen may institute any and all actions and proceedings, either legal or equitable, including seeking injunctive relief, the imposition of fines, removal of the structure, or other action that may be appropriate or necessary to enforce the provisions of this Ordinance. The remedies set forth herein are intended to be cumulative and not exclusive of each other. The Board of Selectmen is authorized to enter into administrative consent orders to eliminate violations with or without court action. Such agreement shall not allow an illegal structure or use to continue.

SECTION 115. PENALTIES

- 115.1. Any person owning or controlling the use of any dwelling unit being constructed or occupied in violation of this chapter shall be liable to be fined not less than \$100 or more than \$2,500 for each day such a violation (i.e., construction activity, unlawful occupancy) continues after notification by the CEO.
- 115.2. If a dwelling unit has been built in violation of this chapter and is then occupied, for residential use, the owner may be fined as provided in Section 14 A. of this Ordinance.

SECTION 116. APPEALS

- 116.1. The Board of Adjustment and Appeals in accordance with Section 603 of the Zoning Ordinance of the Town of Chebeague Island, may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the Code Enforcement Officer in the administration of this Ordinance. Following such hearing, the Board of Adjustment and Appeals may reverse the decision of the Code Enforcement Officer only upon a finding that the decision is clearly contrary to the specific provisions of this Ordinance.