

# **Town Of Lyndeborough**

## **Growth Management Ordinance**

### **I. Background**

#### **A. Purpose of the Ordinance**

A major purpose of this Ordinance is to prevent a crisis condition caused by abnormal spurts of growth resulting in inadequate public facilities, loss of control over tax rates, and health and safety problems. The Master Plan specifically spells out the potential for these spurts unless some control mechanism is invoked. The Master Plan specifically refers to neighboring towns which have experienced unmanaged growth with extremely negative effects and predicts that Lyndeborough has a high probability of suffering the same condition. Thus it makes a specific recommendation for a growth ordinance such as this. It is in response to that recommendation that this Growth Management Plan is adopted, pursuant to RSA 674:22. In the case of Planned Residential Developments, growth permits will be limited to a total of one per year, as stipulated in the Planned Residential Development Ordinance.

#### **B. Growth in Lyndeborough**

Lyndeborough's growth is defined in a number of ways:

- 1) Both the Master Plan (Chapter 2) and the Capital Improvements Plan (Chapter 2) present estimates of population increase from the Office of State Planning (DSP) and the Nashua Regional Planning Commission (NRPC).
- 2) The Master Plan (Chapter 2) compares Lyndeborough's past and future population growth to that of surrounding towns.
- 3) The School Building Committee Report of November 12, 1987 indicates the actual number of pre-school children and projects a total school population for future years.
- 4) The Master Plan (Chapter 2) indicates the housing inventory for Lyndeborough and the number of dwelling units added and the number of building permits being issued.

All these measures indicate the level of growth that is taking place in Lyndeborough and the surrounding towns. Based on these measures a "normal" growth rate was arrived at. This was defined as a percentage increase in population from one year to the next, which would reflect the Town's ability to accommodate growth, and the Town's obligation to accommodate a "fair share" of the region's expected growth.

Lyndeborough's region is defined as Lyndeborough, the seven immediately surrounding towns, and the ring of fourteen surrounding those. Historically, as stated in the current Master Plan, the region's population has increased 3.2% per year. Lyndeborough has, therefore, adopted this figure for its planned annual growth, subject to periodic changes as may be required by changes in the region's annual growth rate. In addition, the 3.2%

figure is the rate used in the Capital Improvements Plan (CIP) to estimate the need for capital improvements.

Therefore this ordinance is based on allowing this 3.2% growth level. As shown in Table II-12 of the current Master Plan, the annual estimated population increases range from 3.23% to 3.58% through 1995, and the corresponding increase in the allowable growth permits range from 3.2% to 3.60% during that same period. Thus both categories always equal or exceed this 3.22% "fair share" projected growth rate.

#### C. Restrictions on Growth

Growth in Lyndeborough is restricted by means other than this Ordinance:

- 1) The Zoning By-Laws and the Sub-Division Regulations permit the Town to regulate development in conformity with the Master Plan. These restrictions were adopted for purposes of public benefit other than growth control as such.
- 2) The topography of the Town Of Lyndeborough presents a unique set of constraints to development due to the following characteristics which are more prevalent in Lyndeborough than in the neighboring communities: soils suitability, high elevations, steep slope conditions, extensive wetlands, and the like (Master Plan, Chapters 1 and 7). Such conditions place a natural limit of the kind, location and amount of growth Lyndeborough can accommodate.

#### D. Efforts to Increase Municipal Services

Through the Capital Improvements Plan and the Master Plan, the Town makes an "orderly" and "good faith" effort to increase municipal services at a reasonable rate consistent with the 3.2% forecasted annual growth rate described above. The Capital Improvements Plan is updated annually and outlines a budget and timetables for major capital outlays increase and improve facilities and services of the Town to meet the needs of growth. The adoption of such a plan (as indicated in the CIP document) shows a good faith effort on the part of the Town to provide those services at some later date.

#### E. Cost and Services to be Provided

The specific problem areas identified in the CIP (Chapter 5) and the Master Plan (Chapter 3) include: replacement of fire equipment and a new fire sub-station; additional and replacement of police vehicles and office facilities, a Town barn, gas tanks, replacement and additional road equipment, library facility upgrade, Town building renovation and expansion, local school expansion and cooperative school renovations. The schedule of costs is detailed in Chapter 5 of the CIP.

#### F. Ability of Town to Accommodate Tax Burden

The CIP covers the next six years and is designed to level scheduled expenditures to avoid major swings in the amounts to be raised by taxation each year (Chapter 4). Expenditures are targeted to increase at the same rate that is projected for the tax base (assessed valuation) to increase. This careful planning as well as other good financial management practices are essential in order to keep property taxes at a level where they do not become overly burdensome. This is a serious consideration as property tax

increases in Lyndeborough for the past ten years have consistently exceeded the rate of inflation (CIP, Chapter 3).

#### G. Use of the Dwellings

As indicated in Chapter 2 of the Master Plan, new dwelling units in Lyndeborough are year-round, single family units of the type which have historically incurred municipal services equal or greater in cost to the increase in taxes paid.

#### H. Availability of Land in Surrounding Towns

As indicated in Chapters 1 and 2 of the Master Plan, surrounding towns have different topography than Lyndeborough which allows for more concentrated development and as a result those towns are growing rapidly.

#### I. Overall Regional Growth

As pointed out above and in Chapter 2 of the Master Plan, regional growth is intense and Lyndeborough is attempting to bear its share of that growth. Passage of this ordinance assures that the rate of growth of the Town is consistent with that of the area and that the rate of growth will not exceed the planned rate of growth of the Town's services and facilities.

### **II. Definitions**

- A. Dwelling Unit: a single unit providing complete, independent living facilities for one or more persons, including permanent provision for living, sleeping, eating, cooking and sanitation.
- B. New dwelling units: a newly constructed dwelling unit which is free-standing, part of, or included in an existing structure.
- C. Lot: a single, undivided parcel of land whose description and ownership are recorded at the Hillsborough County Registry of Deeds.
- D. Approved lot: a lot of suitable size and character, and with suitable soil conditions, to have received the necessary permits to allow construction of a dwelling unit.

### **III. The Ordinance**

- A. One growth permit shall be required for the construction of each dwelling unit. Conversion of a single family dwelling to a two family dwelling shall require one growth permit for the additional dwelling unit.
- B. The number of growth permits available in any year is determined by referencing Chapter II in the current Master Plan.
- C. No record holder, either individual, partnership or corporation, may be issued more than two growth permits in a calendar year except under the circumstances explained in paragraph IV. D. below. "Record holder" shall mean the owner (s) of a lot or lots in

Lyndeborough on record at the time of application. Land owned as joint tenancy or as tenants in common shall not entitle the owners to more than the number of growth permits which would be available if the land were owned by one individual. If an applicant has any direct or indirect financial interest in any other lot or building for which a permit has been previously issued, in this permit year, under this Ordinance, the previously issued permit(s) shall be deducted from the number of permits which would otherwise be available to the applicant.

- D. The “growth permit year” is January 1 to December 31.
- E. Any unused growth permits at the end of the year, less the previous year’s rollover, will be rolled over, when the result is a positive number, and added to the number calculated to be available in the next year.
- F. This ordinance shall not apply to the repair, replacement, reconstruction or alteration of any existing structures, so long as no new dwelling units are created thereby.
- G. A growth permit will be valid for one year from the date of issuance. If the foundation has not been completed by that date the permit will be withdrawn and added to the pool for the current year. The applicant will have to re-apply in the normal manner.
- H. If a building permit is withdrawn by the permit holder, the corresponding growth permit will be withdrawn and added to the number available in the year of withdrawal. Should the applicant re-apply, such request will be processed as a new application and all rules then in effect will apply.
- I. Growth permits are not transferable for any reason, and shall apply to a specific project, location and applicant only. New owners of the same property must apply for their own permit and can not use the permit of someone else. However, if foundation construction is completed and continued construction would result in no more dwellings than originally applied for, such a partially completed structure may be completed without acquiring a new growth permit.

#### **IV. Issuance Procedure**

- A. To be considered for a growth permit, an applicant must have satisfied all the requirements for a building permit, i.e. septic approval, approved lot, house plans, etc., and must have executed a Growth Permit Application Form. However, owners of an approved lot of record who, in good faith, are prepared to go forward with a building project for a new dwelling unit may reserve a growth permit, if otherwise available, by indicating their intention to the building inspector. Any such reservation will expire automatically sixty days from the date of issuance if all requirements for a building permit have not been met, unless extended by the building inspector for good cause. The building inspector may, in his discretion, deny a reservation to anyone who, in his judgment, is not prepared to go forward in good faith.
- B. At the completion of the Building Permit evaluation process, if the applicant qualifies for a building permit, the building inspector will determine if the applicant qualifies for a growth permit. (This entails ensuring the applicant has not already received the maximum number of permits allowable and permits are still available.)

- C. If all permits for the present year have been issued, or if the applicant has been issued the maximum number allowable, the application and its relative sequential position will be held until permits are again available.
- D. Should there remain a number of unused permits as of December 1, applicants that have already been issued the allowed permits may apply for an additional single permit according to their relative sequential position. (3-14-06)
- E. It is only after the issuance of the growth permit that the Building Permit will be issued and construction can commence. Meeting all the requirements for a Building Permit in no way ensures the issuance of a growth permit.

**V. Annual Review and Termination of Ordinance**

- A. This Ordinance shall be reviewed by the Planning Board during the autumn of each year as follows:
  - 1) The Planning Board shall continue to determine the growth rate which is appropriate to the Town Of Lyndeborough and may use all information available including the Master Plan and Capital Improvements Plan and any updates of those that may exist.
  - 2) The Planning Board shall also consider whether the growth permit limitations are no longer necessary and should be abolished.
  - 3) The Planning Board shall recommend to the Town Meeting, Pursuant to RSA 675:3, proposed amendments to or repeal of this ordinance as a result of the review conducted according to 1 and 2 above.
- B. This ordinance shall terminate at the conclusion of Town Meeting in March 2009, unless sooner changed, cancelled or extended.

**VI. Severability**

Should any section or provisions of this Ordinance be declared by a court of appropriate jurisdiction to be invalid, such decision shall not invalidate any other section or provisions of the Ordinance.

Renewed 7-17-01 by town vote  
Renewed 3-8-05 by town vote  
Revised 3-14-06 by town vote