



# M E M O R A N D U M

TOWN OF CUMBERLAND, MAINE  
290 TUTTLE ROAD  
CUMBERLAND, MAINE 04021  
TEL: 207-829-2205 FAX: 829-2224

**To:** Planning Board  
**From:** William R. Shane, Town Manager  
**Date:** April 9, 2024  
**Re:** Growth Permit Report 2024

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The Town continues to grow at a fairly level pace. As you will see on the following chart, the numbers over 24 years have average 48 permits per year, 11 of which have been exempt( either replacement home, ADU, or 55+ housing). These numbers are taken from a report our Code Enforcement Officer generates monthly for me.

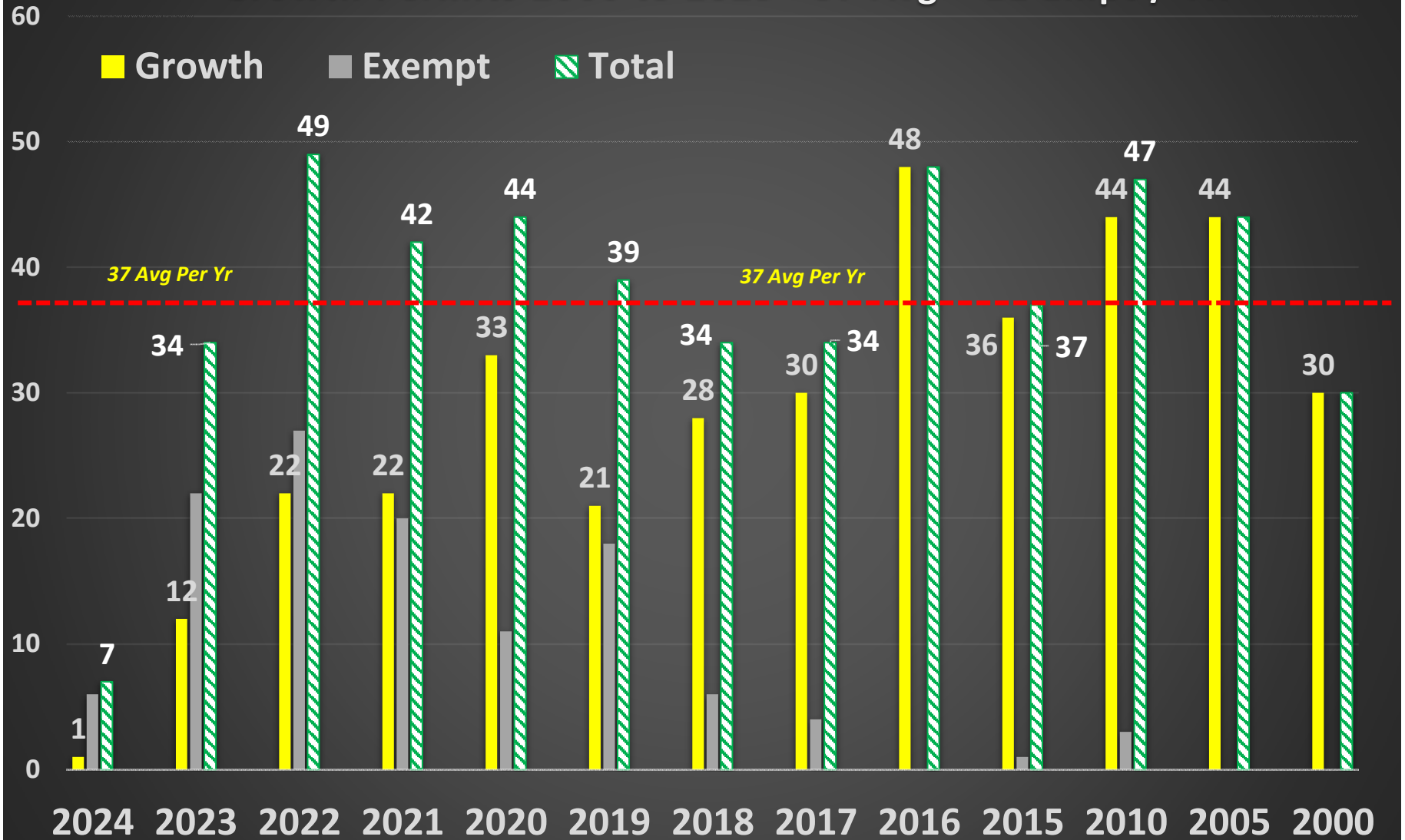
Attached to this report is:

Pg 2 Chart of growth Permits 2000 – 2024  
Pg 3-6 Town Demographics from GPCOG  
Pg 7-19 GPCOG 2019 Growth Report  
Pg 20-24 Growth Management Ordinance - Chapter 118

I am happy to answer any questions you may have related to this report and what I cannot answer I will work with Bill & Carla to get that information to you as soon as possible. As you know, this report to the Planning Board is required at least once every 3 years. The maximum number of permits that can be issued is 65 per year, however, 10 can be borrowed from the previous year if not used and 10 can be borrowed against the upcoming year if needed. A year begins on January 1<sup>st</sup> and ends on December 31<sup>st</sup>.

Staff is recommending no changes to this Ordinance.

## Growth Permits 2000 to 2023 - 37 Avg + 11 Empt / YR



Cumberland

# Cumberland

Cumberland County, Maine



Click on any one of the sidebars to be taken to a page with more detailed information on that topic. **Click on the right or left arrows below to explore additional information.**

**Population & Demographics**



## Median Age



Median Age	Years	% Diff.*
Cumberland Town County Subdivision, Cumberland County, ME	40.6	
Cumberland County, ME	42.1	↑ 3.7%
Maine	44.8	↑ 10.3%

Sources: US Census ACS 5-year

## Housing



## Occupied/Vacant



Occupied Housing Units	Percent of Housing Units	% Diff.*
Cumberland Town County Subdivision, Cumberland County, ME	97%	
Cumberland County, ME	86%	↓ 11.6%
Maine	78%	↓ 19.1%

Vacant Housing Units	Percent of Housing Units	% Diff.*
Cumberland Town County Subdivision, Cumberland County, ME	3%	
Cumberland County, ME	14%	↑ 342.6%
Maine	22%	↑ 566.5%

Sources: US Census ACS 5-year

## Households & Families



## Household Size



Average Household Size

People % Diff.\*

Cumberland Town County Subdivision, Cumberland County, ME	2.8	
Cumberland County, ME	2.3	↓ 17.9%
Maine	2.2	↓ 18.2%

Economy

Participation in Labor Force

People in Labor Force	Percent of Population Age 16 and Over	% Diff.*
Cumberland Town County Subdivision, Cumberland County, ME	73%	
Cumberland County, ME	68%	↓ 6.3%
Maine	62%	↓ 14.4%

People Not in Labor Force	Percent of Population Age 16 and Over	% Diff.*
Cumberland Town County Subdivision, Cumberland County, ME	27%	
Cumberland County, ME	32%	↑ 16.8%
Maine	38%	↑ 38.2%

Sources: US Census ACS 5-year

Transportation

Means of Transportation to Work

## Drive Alone

% Diff.\*

Cumberland Town County Subdivision, Cumberland County, ME	<b>72%</b>	
Cumberland County, ME	<b>68%</b>	↓ 6.8%
Maine	<b>73%</b>	↑ 1.3%

## Carpool

% Diff.\*

Cumberland Town County Subdivision, Cumberland County, ME	<b>4%</b>	
Cumberland County, ME	<b>8%</b>	↑ 112.4%
Maine	<b>9%</b>	↑ 138.4%

## Walk

%  
Diff.\*

Cumberland Town County Subdivision, Cumberland County, ME	<b>0%</b>	
Cumberland County, ME	<b>5%</b>	0%
Maine	<b>4%</b>	0%

## Bicycle

% Diff.\*

Cumberland Town County Subdivision, Cumberland County, ME	<b>1%</b>	
Cumberland County, ME	<b>1%</b>	↓ 57.6%
Maine	<b>0%</b>	↓ 73.7%

## Public Transit

% Diff.\*

Cumberland Town County Subdivision, Cumberland County, ME	<b>1%</b>	
Cumberland County, ME	<b>1%</b>	↑ 3.7%
Maine	<b>0%</b>	↓ 44.3%

## Work from Home

% Diff.\*



Empowered by [mySidewalk](#)  
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**To: Bill Shane, Town Manager, Cumberland**  
**From: Kristina Egan, Executive Director, Greater Portland Council of Governments**  
**Date: May 14, 2019**  
**RE: The Cost of Growth**

You asked GPCOG to help town officials understand the impacts of different kinds of growth on the municipal portion of property tax bills (the portion that excludes education costs).

I've attached a memo that presents our research on this issue to date. This was prepared by our Planning Director, Steph Carver, and our Data Analyst, Abe Dailey.

Because I know you are looking for answers fairly quickly, I want to share with you the results of our research so far. GPCOG will not be charging Cumberland for this work.

Here's a summary:

**As more young families move into Cumberland, turn-over in existing housing stock may be a bigger driver of municipal costs than new housing development.**

Young families are moving into Cumberland, replacing older adults whose children are grown. In fact, Cumberland has more population growth in the cohort aged 25 to 44 than any neighboring community. Cumberland is gaining population in the under 18 cohort, second only to Windham.

**Many of the young families moving to Cumberland are buying existing homes. Cumberland is not experiencing a building boom.**

Sales of *existing* homes are accelerating in Cumberland, and there's been a lot of home ownership turn-over. In fact, since 2010, about 40% of the town's existing housing changed hands, at a rate of about 144 homes per year. In contrast, new housing construction is averaging about 29 new units a year since 2010, and is below the long-term average rate of growth. Between 1970 and 2009 new residential development in Cumberland ranged between a low of 33 new units per year in the 1970s and a high of 46 new units per decade in the 1980s.

**Demographic changes and development outside of Cumberland has created more traffic.**

Housing growth in many neighboring communities has outpaced housing growth in Cumberland. We believe this growth may be causing traffic impacts in Cumberland as residents in Gray, Windham, Falmouth, or Portland commute through or to Cumberland for work. Also, households with busy young families tend to create more traffic than households with older adults.

**Smart growth policies can encourage growth patterns that have a lower impact on municipal budgets.**

Smart growth policies provide incentives for walkable neighborhoods near existing village areas and employment centers, which minimize the impacts of new development on town infrastructure and on the property tax payer. Smart growth policies and practices also preserve rural character. Cumberland should continue to work with land trusts to conserve land in the more rural parts of Cumberland to minimize the spread of suburban sprawl. This will limit the growth in demand for the town to provide services to suburban developments in rural areas.

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I know, Bill, that this information does not provide the town with any easy answers. The factors that are burdening the Cumberland's property tax payers are largely beyond the control of municipal government and are driven by regional trends in housing and transportation.

Some of your questions are beyond the scope of this project. I would be happy to sit down with you and talk about the work required to answer all your questions and explore what resources are available to fund a more comprehensive study. Another approach is to explore working with Cumberland and neighboring towns to create a regional plan that would give communities more control over their future.



## The Costs and Impacts of Growth in Cumberland

The Town has requested that GPCOG research the costs and impacts associated with different types of growth. This memo does not examine the costs of potential increased school enrollment. This memo examines the other municipal impacts associated with growth and identifies how preserving land and encouraging growth in places people already live and work can help mitigate these impacts.

### ***Municipal costs of residential growth include public safety, road maintenance, trash services, and stormwater management.***

All residential development increases the demand for services from local government. Many municipalities link new residential development to an increase in student enrollment, and ultimately rising education costs for residents. Education is typically the largest line item in most municipal budgets, but it is not the only cost associated with new development. In Cumberland, other costs primarily consist of public safety, road maintenance, trash pickup, and stormwater management.

### ***The location of new housing can mitigate or increase those costs.***

Although age-restricted housing may minimize the impact of new development on the school budget, it may still increase the demand for public services in Cumberland. The fiscal impacts of new development can vary significantly depending on where the housing is built. If new housing is built near existing village areas where infrastructure and services already exist, residents can walk or use public transportation to reach employment centers, shopping, or other services, then the impacts on local government services may be minimized. However, if the new housing is built outside of existing village areas where residents are required to use personal automobiles to travel to employment centers, shopping, or other services, then this will likely increase traffic and road maintenance costs. Development outside of existing village areas may also have significant impacts on other line items in the municipal budget, such as fire and EMS or trash pickup.

### ***Demographic turn-over in existing housing stock may be a bigger driver of municipal costs than new housing development.***

While new housing development does place additional demands on local government services, it is important to consider that turnover in the town's housing stock may have an even larger impact on the demand for government services.

### ***Cumberland is becoming a host to a new generation of young families who are moving into old houses.***

According to the town's assessing data, half of the town's housing stock was built between 1970 and 2000, 15% was built between 2000 and 2010, and an additional 9% was built since 2010. Households that moved into their homes 20-45 years ago may have raised their family, retired, and decided to move on with their lives. As they sell their homes, a home new generation of young families may be moving to Cumberland. This is supported by demographic data from the Census.

***Cumberland is growing younger more quickly than everywhere but Portland.***

According to the US Census and American Community Survey (ACS) Cumberland has gained about 700 residents since 2010, and unlike many surrounding communities, 34% of the population growth is from people aged 25-44. Cumberland has more population growth in the cohort aged 25-44 than any neighboring community and nearly as much population growth in this cohort as Portland. Cumberland is gaining population in the under 18 cohort, second only to Windham. All other communities have a net loss in this cohort, even Portland.

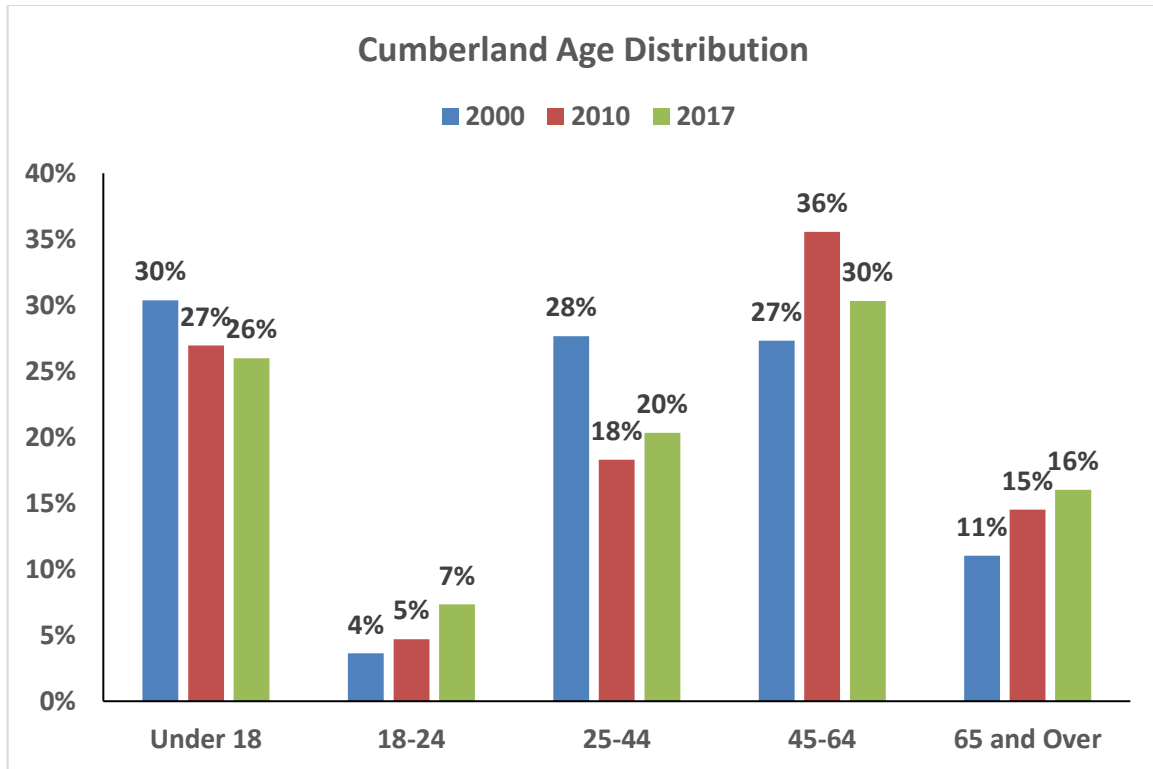
Share of Population Growth by Age Cohort 2010-2017					
	Under 18	18-24	25-44	65 and Over	Population Growth
North Yarmouth	0%	34%	0%	38%	237
Yarmouth	0%	21%	0%	79%	516
Falmouth	0%	7%	9%	43%	753
Gray	0%	0%	10%	73%	656
Windham	9%	0%	25%	65%	749
Cumberland	8%	32%	34%	26%	714
Portland	0%	0%	36%	64%	1,250
Cumberland County	0%	7%	11%	58%	16,858

***Cumberland's population growth is driven by young families.***

Cumberland has more residents in the cohorts aged 45 and over today compared to in 2000. However, population growth in Cumberland since 2010 has been driven by the population under the age of 45. This population growth may be mostly explained by an increase in young families moving to Cumberland.

***Younger families tend to drive more.***

This demographic shift in Cumberland may come with significant traffic impacts, as younger families tend to spend more time driving their children to daycare, school, or recreational activities.



***Over time, Cumberland has added a lot of low-density residential houses.***

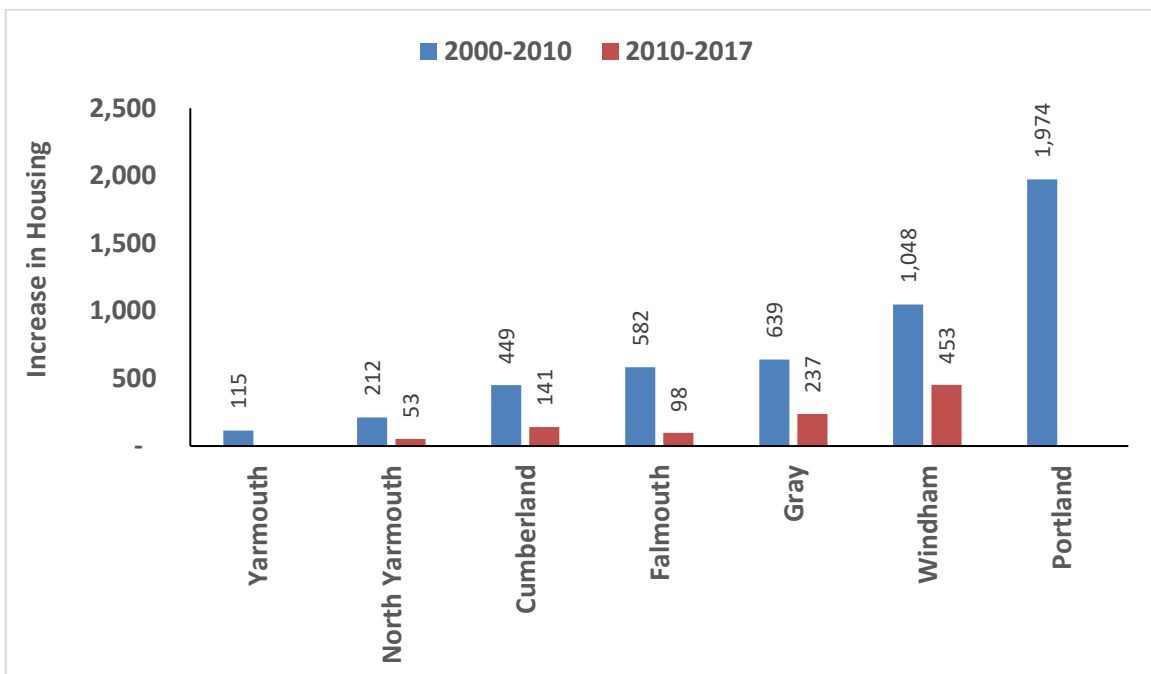
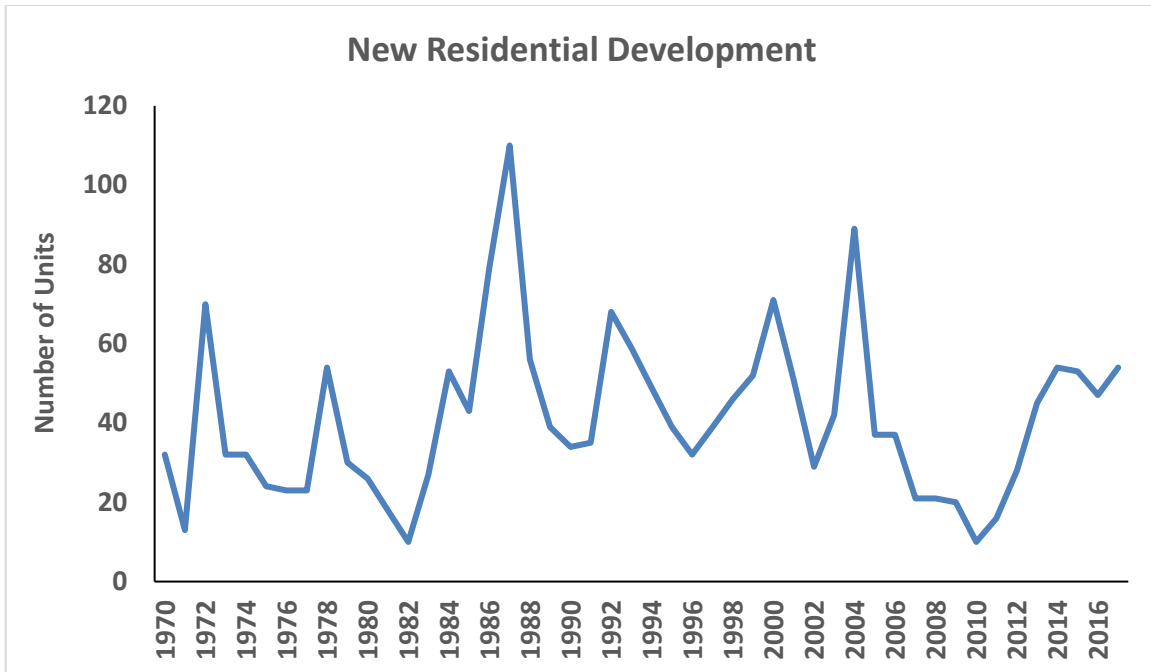
A significant amount of land in Cumberland has been zoned for low density, single family housing development. This development happened gradually over the years, and the impacts on government services may have been minimal as these developments happened. However, the cumulative impacts of this growth over time have been significant as the town's housing stock has increased by 50% since 1994.

***Low-density residential growth has recently slowed.***

Between 1970 and 2009 new residential development in Cumberland ranged between a low of 33 new units per year in the 1970s and a high of 46 new units per decade in the 1980s. Since 2010 Cumberland has added on average 29 units per year. Growth in Cumberland has occurred at a relatively slow pace over the past 50 years, and growth in recent years is below the long-term average rate of growth.

***Cumberland's neighbors are adding more housing than Cumberland.***

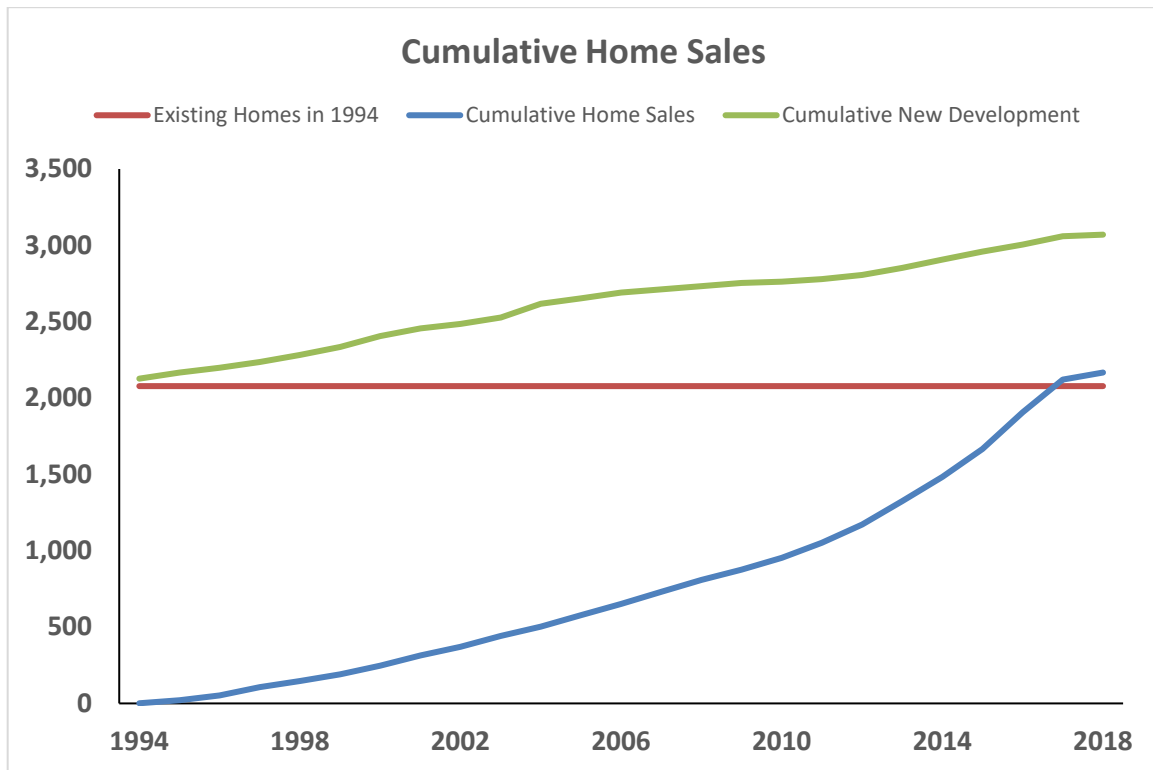
Housing growth in many neighboring communities has outpaced housing growth in Cumberland. This may also create traffic impacts in Cumberland as residents in Gray, Windham, Falmouth, or Portland may commute through or to Cumberland for work.



***Sales of existing homes are accelerating in Cumberland, and there's been a lot of home ownership turn-over.***

According to town assessing data, in 1994 there were about 2,080 residential properties in Cumberland, and there have been about 1,000 new residential properties developed in Cumberland since 1994. Existing home sales averaged about 32 per year between 1994 and 1999, about 69 per year between 2000 and 2010, and 144 per year between 2010 and 2018. The rate of existing home

sales has more than doubled every decade, and the significant increase in recent years has led to substantial turnover in the town's housing stock.



The above graph shows the total increase in new development and existing home sales since 1994. Cumulative New Development is calculated by adding the amount of new development that occurred in 1994 to the amount of existing residential development in 1994. For each successive year the amount of development that occurred in that year is added to the total residential units at the end of the previous year. Cumulative Home Sales is calculated in a similar manner, using 1994 as the base year. The amount of home sales in each successive year is added to the running total from prior years.

***In fact, 40% of the town's housing has changed ownership.***

By 2017 the number of existing home sales since 1994 exceeded the total number of homes that existed in 1994, which means that in theory every home that existed in Cumberland in 1994 has now changed ownership at least once. Nearly 1,300 homes, or 40% of the town's housing stock, has changed hands since 2010, and more than half of these home sales occurred between 2015-17.

***Baby boomers are likely selling their homes.***

In 2010 the baby-boom generation (the population aged 45-64) was the largest demographic in Cumberland, but since 2010 the proportion of residents in this cohort has declined as the population aged 44 and under has grown. The oldest members of the baby-boom generation turned 65 in 2011.

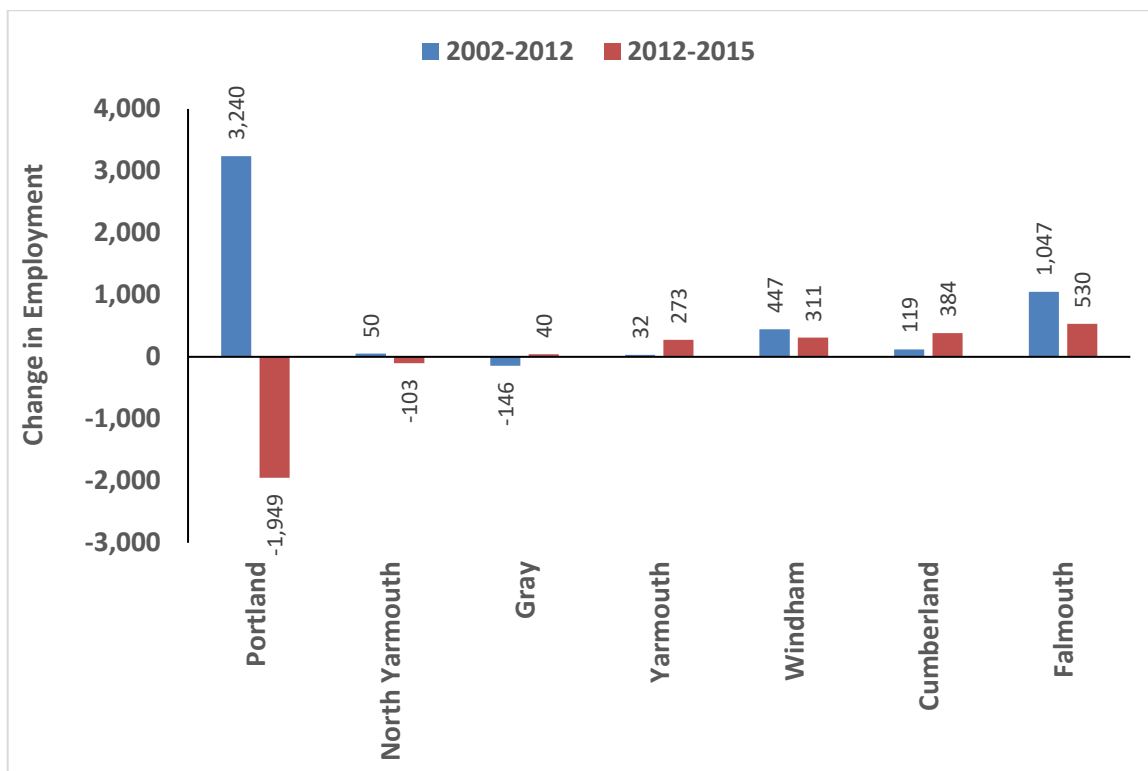
Residents in this age group may have temporarily delayed retirement following the 2008 recession and the collapse of home prices and the stock market. Now that prices have recovered the baby-boomer households may be looking to sell their homes as they retire.

***Birth rates are rebounding.***

Meanwhile, birth rates in Cumberland County fell from 2,824 in 2009 to a low of 2,685 in 2011. Since 2011, birth rates in Cumberland County have increased, returned to 2,824 per year by 2016. As these young families buy homes many are moving to communities like Scarborough, Yarmouth, Cape Elizabeth, or Cumberland, which are known for their excellent school systems. The new families that are moving into these homes may have different traffic impacts than the previous residents.

***Cumberland is creating new jobs, which are a significant portion of the County's job growth.***

Between 2002 and 2012 employment in Cumberland increased by 119 jobs, which was about 1% of the 10,377 jobs that were created in the county over this period. Between 2012 and 2015 employment in Cumberland increased by 384 jobs, which was about 9% of the 4,069 jobs created in the county.



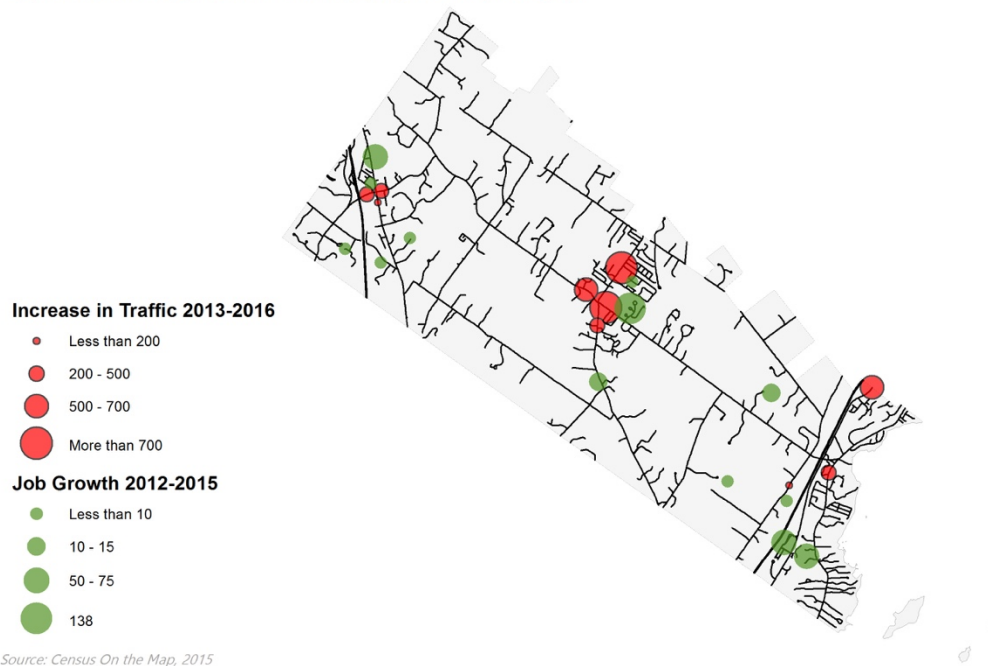
***While jobs are growing in Cumberland, neighboring communities are growing housing faster than they are growing jobs.***

Employment growth in Cumberland in recent years has exceeded employment growth in most neighboring communities, especially in North Yarmouth and Portland, where employment declined between 2012 and 2015. Meanwhile, housing has grown faster than employment in many communities surrounding Cumberland, which implies that the new residents of the new housing built in Gray, Windham, North Yarmouth, and Portland may have to commute outside of their home town for employment.

***Traffic is increasing near Cumberland's employment centers.***

The below map shows the general locations where employment has grown in Cumberland since 2012. Most of the job growth has occurred in Cumberland Center, along route 26/100 in West Cumberland, or on Route 1. There have also been significant increases in traffic near these employment centers. Traffic count data from MaineDOT show that traffic volumes at many of these locations were higher in 2000 than in 2016. Traffic volumes generally declined between 2000 and 2012, but since 2012 there has been a noticeable increase at many traffic count locations in Cumberland. Some of this increase may be due to people commuting into Cumberland for work.

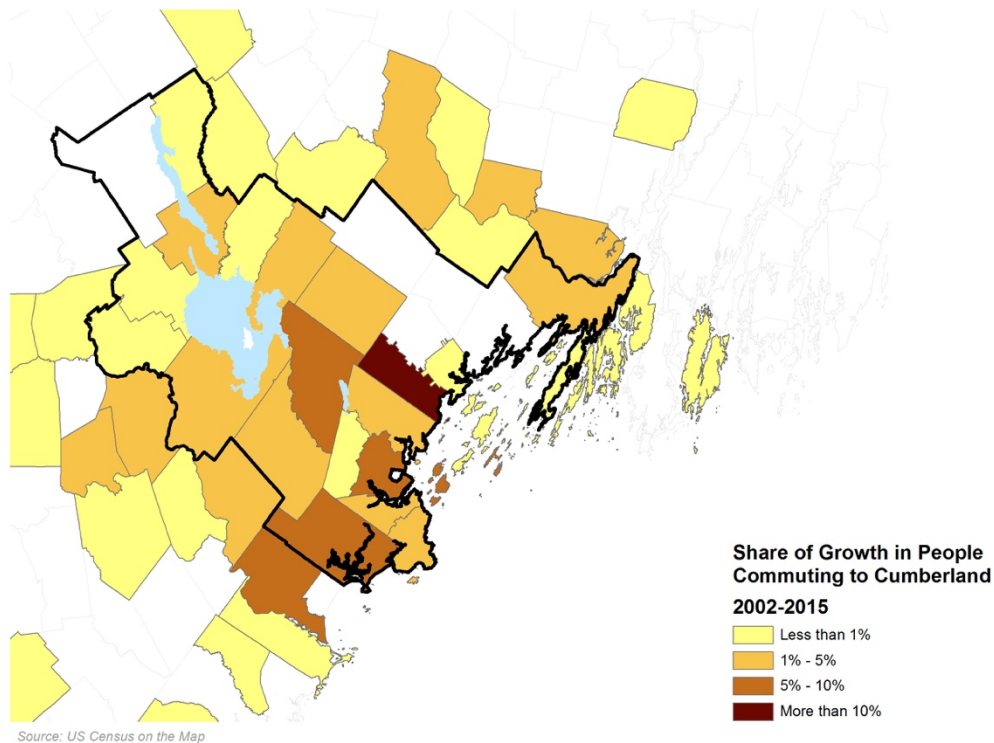
**CUMBERLAND JOB AND TRAFFIC GROWTH 2012-2015**



***People working in Cumberland are – for the most part – not living in Cumberland.***

In 2002 half of the people working in Cumberland commuted from Cumberland (29%), Portland (11%), and North Yarmouth (9%). As employment in Cumberland has grown, 88% of those jobs have been filled by people who do not live in Cumberland. The towns that have contributed the most to

the growth in commuting into Cumberland include Windham (10%), Portland (8%), Scarborough (7%), Saco (6%), and Gray (5%). As a result, Windham residents have increased from 2% to 5% of the population commuting to work in Cumberland. There are now more towns sending a smaller share of commuters to Cumberland, which could create a variety of unexpected traffic impacts.



***There are multiple strategies for mitigating the property tax burden caused by new development.***

Maine towns have traditionally relied primarily on property taxes to fund local services. In recent years cuts at the state level are forcing municipalities to provide more services while receiving less financial support from the state. This has increased the reliance on using the property tax to fund local services, which is especially burdensome on older residents who are on fixed incomes. In this environment every increase in municipal budgets faces greater scrutiny and debate from residents. Towns that are facing these budgetary pressures may want to pursue measures that will lower the tax burden for existing residents.

**Below are some policy options for reducing the costs associated with growth, for the Town's consideration:**

***1) Expand housing choices for older adults in Cumberland.***

Expanding age-restricted housing for the growing population of senior citizens is one option for meeting the housing needs in Cumberland while not increasing school costs. However, we offer two



considerations. First, it appears that a larger driver of school costs derives from the turn-over in existing housing stock, over which the Town has little control, than from new residential development. Second, locating 55+ housing in walkable neighborhoods, already served by infrastructure and town services, will result in lower municipal costs than locating 55+ housing outside of Cumberland's village and employment centers.

There remains a need for more affordable housing choices for older adults in our region. According to the Maine Affordable Housing Coalition in 2012 about 1/3 of Maine's population was aged 55 and older and 21% of older people in Maine were living in unaffordable housing. In 2012 there was a shortage of 9,000 affordable units available to the low-income elderly population, and unless the existing rental stock increases, this shortfall will grow to 15,000 by 2022.

Currently 30% of Cumberland's population is aged 45-64, and over the next 15-20 years they will be transitioning into retirement. Expanding housing for people aged 55 and over may be one way of enabling people to remain in Cumberland after they age out of their family home.

## ***2) Encourage walkable neighborhoods near existing village areas and employment centers.***

Smart growth helps preserve rural character and protect natural resources. Smart growth policies also encourage development in places with infrastructure and where people already live and work. By encouraging walkable neighborhoods, a municipality can help reduce the amount people drive, which helps reduce wear and tear on roads and helps reduce traffic. Walkable neighborhoods also reduce the amount of new infrastructure that needs to be built and maintained, and can also reduce the geographic span of services provided. If new development is mixed-use (housing and commercial), the property tax revenues for development in village centers will likely be higher per acre than from single-family, low-density residential development. In some cases, mixed use, neighborhood development can actually generate more revenue than expenses.

Here's some data from a national analysis comparing compact neighborhood development to low-density residential development:

Stantec (2013), Ford (2010), and Burchell and Mukherji (2003) all found municipal fiscal savings from smart growth development compared to low density development. Smart Growth America's national review of the fiscal benefits of this type of development found an average savings of one-third of capital costs and 10% of operating costs (SGA, 2013).

Here's some data from specific places:

The Charlotte, North Carolina Department of Transportation found that neighborhood, compact development yielded a 75% reduction in emergency services costs compared to low density neighborhoods with dead end streets (CDOT, 2012).

A study commissioned by the Calgary Plan-It program found that smart growth development would save about 1/3 in capital costs and 14% in operating costs compared to low-density development (IBI, 2008).

The City of Madison, Wisconsin achieved a net fiscal impact of smart growth development of \$4,534 per acre, compared to \$1,286 per acre for low-density development (SGA, 2015a).

Smart Growth America studies for the cities of Madison, Wisconsin and West Des Moines, Iowa found that the net fiscal impact of Smart Growth development was at least 50% higher than low-density development (SGA, 2015a ; SGA, 2015b).

### **3) *Preserve rural character by conserving land.***

A critical complement to encouraging development in places that are already served by infrastructure is to intentionally preserve the natural areas of Cumberland to maintain the Town's rural character. Cumberland can continue to work with land trusts to conserve land in the more rural parts of Cumberland to minimize the spread of suburban sprawl. This will limit the growth in demand for the town to provide services to suburban developments in rural areas.

Pursuing these strategies will minimize the impacts of new development on town infrastructure while also growing the tax base and reducing the tax burden for Cumberland residents.

### **Additional Smart Growth Resources**

The organization *Smart Growth America* provides some brief summaries of ten principles that they have identified to be the foundation of implementing smart growth principles in a community at the following website: <https://smartgrowthamerica.org/our-vision/what-is-smart-growth/>

*"Building Better Budgets"* is a report completed by *Smart Growth America* that provides tangible support to the notion that smart growth can prove to be a financially responsible development pattern for communities of any size.

The *Green Communities Center*, within the *American Planning Association*, works towards fiscally responsible actions that will protect and conserve a community's natural resources—especially important when your community's identity is founded in its natural beauty. You can learn a little more about *Green Communities Center* here, at the APA website:

<https://www.planning.org/nationalcenters/green/>

The *Fiscal Implications of Development Patterns* is a document developed by Smart Growth America that describes how they have adapted a traditional fiscal model to consider how growth occurs and how buildings are designed. You can read the methodology and request technical assistance from Smart Growth America here: <https://smartgrowthamerica.org/resources/the-fiscal-implications-of-development-patterns-overview/>

# Chapter 118

## Growth Management

**[HISTORY: Adopted by the Town Council of the Town of Cumberland 6-28-2000, as amended through 5-2-2012. Subsequent amendments noted where applicable.]**

### GENERAL REFERENCES

Impact fees — See Ch. 137.

Site plan review — See Ch. 229.

Subdivision of land — See Ch. 250.

Zoning — See Ch. 31.

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### § 118-1 Title.

This chapter shall be known as the "Growth Management Ordinance of the Town of Cumberland, Maine" and shall be referred to herein as "this chapter."

### § 118-2 Authority.

This chapter is adopted pursuant to home rule powers as provided in Article VIII of the Maine Constitution and 30-A M.R.S.A. § 3001.

### § 118-3 Purpose.

The purpose of this chapter is to protect the health, safety and general welfare of the residents of Cumberland by placing limitations on residential development and meeting the following:

- A. To provide for the immediate housing needs of the existing residents of Cumberland.
- B. To ensure fairness in the allocation of building permits.
- C. To plan for continued residential population growth of Cumberland 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.
- D. To avoid a situation in which the rapid development of new residences, potentially housing many families with school age children, could outpace the Town's capability to expand its schools and other services soon enough to avoid serious school overcrowding and a significant reduction in other services.

### § 118-4 Definitions.

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

### BUILDING PERMIT

A permit as defined by and issued in accordance with the Maine Uniform Building and Energy Code and § 315-76A of Chapter 315, Zoning, of this Code.

### CALENDAR YEAR

The period of time comprised of 52 weeks commencing on January 1 and extending through December 31 of 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 units, 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 boardinghouse, lodging residence, hotel or motel.

## **GROWTH PERMIT**

A permit issued, in accordance with the provisions of this chapter, 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 terms "modular home" and "mobile home," except that the fabricated single-family modular home is assembled on the building site on a permanent foundation.

## **PERSON**

Includes an individual's spouse, parents, siblings and members of his or her immediate family, unless the spouse, parent, 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.

### **§ 118-5 Applicability.**

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

### **§ 118-6 Exemptions.**

This chapter shall not apply to the following:

- A. The repair, replacement, reconstruction or alteration of any existing building or structure, provided that the number of dwelling units is not increased, regardless of the need for a variance.
- B. Dwelling units constructed by the Cumberland Housing Authority, an agency of the state or federal government, or by a private developer or contractor with a continuing age restriction of persons 55 years of age or older. Any conversion of these units eliminating the age restriction would require a growth permit.
- C. Accessory apartments as allowed in § 315-45A of Chapter 315, Zoning, of this Code.
- D. Dwelling units constructed pursuant to a contract zoning agreement in which the Council authorizes the units to be exempt from the requirements of this chapter. [Added 9-23-2013]

§ 118-7 **Growth permits.**

A. Maximum number of dwelling units.

- (1) Unless and/or until this chapter is amended pursuant to § **118-10**, the maximum number of new growth permits issued annually shall be 65 plus seven additional growth permits that shall be for affordable housing constructed by Habitat for Humanity or a similar not-for-profit organization. **[Amended 9-23-2013]**
- (2) All growth permits shall be issued in accordance with the issuance procedure described in Subsection C of this section.

B. Application procedure.

- 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.
- (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.
- (3) The growth permit application shall be accompanied by a nonrefundable administrative fee established by order of the Town Council, 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) and/or confirmation for eligibility of a sewer user unit. **[Amended 9-10-2012]**
- (4) A separate application shall be required for each dwelling unit.

C. Issuance procedure.

- (1) Growth permit applications shall not be accepted by the CEO until on or after the effective date of this chapter. Growth permit applications shall be on file with the CEO. From the time of the adoption of this chapter onward, applications will be accepted, and growth permits issued, as provided for in this section.
- (2) Growth permits shall be available on the basis of first come, first served.
- (a) 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 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 30 days. If the applicant shall fail to accept the growth permit, then the growth permit shall expire.
- (b) Expired growth permits shall be available for reissue during the same calendar year.
- (c) The CEO shall issue growth permits for all complete applications if they do not outnumber the supply of growth permits. 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. Up to 10 growth permits may be issued in excess of the supply for the current calendar year, provided that they are subtracted from the maximum allowable growth permits in the subsequent calendar year. Those on the list who do not get a permit for the calendar year in which they submitted a complete application shall have first priority to get a permit in the next calendar year. **[Amended 9-23-2013]**

- (d) Commencing January 1, 2012, and annually thereafter, all growth permits shall be issued on the basis of the calendar year (January 1 through December 31).
- (e) If, at the end of any calendar year, there are any unissued growth permits still available, a maximum of 10 growth permits may be carried over to the next calendar year. **[Amended 9-23-2013]**
- D. Replacement with building permit and expiration. **[Amended 9-10-2012]**
  - (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 the 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 Maine Uniform Building and Energy Code.
  - (2) Reissuance of an expired growth permit from a previous calendar year shall not be counted toward the annual allocation in any category. An administrative reinstatement fee established by the Town Council shall be assessed to the applicant.
- E. 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.

**§ 118-8 Effect on other regulations.**

This chapter 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 chapter imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this chapter shall prevail.

**§ 118-9 Periodic review.**

This chapter shall be reviewed by the Planning Board periodically (but 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 chapter as provided in § 118-10.

**§ 118-10 Amendments.**

An amendment to this chapter may be initiated by one of the following:

- A. The Planning Board.
- B. The Town Council.
- C. The residents, pursuant to Article X, Section 2, of the Town Charter.

**§ 118-11 Construction or occupancy without growth permit.**

- A. A violation of this chapter 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.
- B. 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.

**§ 118-12 Notice of violation; remedies.**

When a violation of any provision of this chapter shall be found, the CEO shall send a written notice of

the violation to the responsible party or parties and shall notify the Town Council of the violation. If the notice does not result in the correction of the violation, the Town Council 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 chapter. The remedies set forth herein are intended to be cumulative and not exclusive of each other. The Town Council 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.

**§ 118-13 Violations and penalties.**

- A. 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 nor more than \$2,500 for each day such a violation (i.e., construction activity or unlawful occupancy) continues after notification by the CEO.
- B. 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 Subsection **A** of this section.

**§ 118-14 Appeals.**

The Board of Adjustment and Appeals, in accordance with Chapter **315**, Zoning, § **315-77**, 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 chapter. 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 chapter.