

## ARTICLE 6 RATE OF DEVELOPMENT FOR DWELLING UNITS

### 6.1 Purpose

The purpose of this bylaw is to provide for orderly growth and development and adequate services in Hubbardston, while meeting the housing needs of the community.

### 6.2 Applicability

This bylaw applies to the issuance of all building permits for construction of new *dwelling units*, unless excluded under Section 6.4 below. "Dwelling unit" is defined in Section 2.11 of these bylaws. A dwelling unit may be a single-family house, or part of a "Multi-Family Residence" as defined in Section 2.22 of these bylaws. Multi-Family Residences may contain 2 to 4 *dwelling units* in Hubbardston (however, Multi-Family Residences with 3 or 4 units cannot be located in the Aquifer Favorability Protection district as defined in Article 15 of these bylaws.

### 6.3 Dwelling Unit Limit and Building Permit Issuance

a) **Dwelling unit limit per calendar year**

Building permits will be limited to construction of twenty-eight (28) new *dwelling units* per calendar year. Building permits are issued for buildings, therefore the twenty-eight (28) new *dwelling unit* limit may be reached before twenty-eight building permits are issued.

b) **Building permits issued in chronological order**

Building permits will be issued in chronological order based on the date of receipt of completed applications by the Building Commissioner. If building permits are issued for fewer than twenty-eight (28) new *dwelling units* by the end of the calendar year, the remaining units will expire and not roll over to the following year.

c) **Carryover of permit applications**

Completed building permit applications not acted on because the twenty-eight (28) new dwelling unit limit was reached prior to the end of the calendar year, will be held by the Building Commissioner, and acted on in chronological order in the following calendar year and will take precedence over applications for new building permit applications for *dwelling units* filed in the new year.

### 6.4 Exemptions and Exclusions

Building permits for following types of dwelling units are exempt or excluded from the twenty-eight (28) new dwelling unit limit per calendar year:

a) **Reconstruction**

Permits for reconstruction of an existing dwelling after catastrophic loss, or repairs, expansion, alteration, or historic restoration to an existing building

b) **Rebuilding after demolition**

Permits for construction of a new residential building after demolition of an existing residential building located on the same lot, provided that the application for the new building permit is filed within one year of the demolition, and the new building does not exceed the number of dwelling units of the demolished building

c) **Vacant lot predating Rate of Development bylaw in Hubbardston**

Permits for construction of a new single or two-family dwelling on a vacant lot that existed with the same boundaries on December 3, 2001 (effective date of the original Rate of Development bylaw in Hubbardston)

**d) In-Law apartment**

Permits for the construction of In-Law Apartments as defined in Article 2, Section 2.37 of these zoning bylaws

**e) Accessory apartment**

Permits for construction of Accessory Apartments as defined in Article 2, Section 2.38 of these zoning bylaws

**f) Subsidized Housing Inventory (SHI) units**

Permits for construction of dwelling units that qualify as Subsidized Housing Inventory (SHI) units, as defined by the Massachusetts Department of Housing and Community Development (DHCD), until such time as ten percent (10%) of all dwelling units in Hubbardston are SHI units, at which time this exemption will not apply unless the number of SHI units falls below 10% of all dwelling units in town

**g) Senior Residential Development (SRD)**

Permits for up to fifteen (15) new dwelling units per calendar year in a Senior Residential Development (SRD) as defined in Article 19 of these zoning bylaws

**h) Open Space Residential Development (OSRD)**

Permits for up to ten (10) new dwelling units per calendar year in an Open Space Residential Development (OSRD) as defined in Article 16 of these zoning bylaws

**6.5 Building permit limits per applicant**

The following limits apply to applicants for building permits for dwelling units but do not apply to dwelling units listed in Section 6.4 above:

**a) Two applications per month limit**

No applicant may submit more than two (2) applications to build new single family or two-family dwellings in any given month.

**b) Five dwelling units per year limit**

No applicant may submit applications for building permits to construct more than five (5) new dwelling units in any calendar year.

**c) Definition “applicant”**

For purposes of this section “applicant” includes individuals closely affiliated with the building permit applicant (e.g., business partners and family members) and entities of which the applicant is a principal (e.g., corporations and trusts), if the individual or entity will be involved in construction of the building for which the permit is sought. The purpose of this rule is to prevent individuals and entities from circumventing the limits specified above.

**6.6 Building permit limits applicable to ANR and Subdivision lots**

The following restrictions apply to building permit applications for construction of new dwelling units on ANR lots and in Subdivision lots:

**a) ANR lots**

No more than two (2) new building permits, for buildings containing from 1 to 4 dwelling units, will be issued per calendar year for lots created by the same Subdivision Approval Not Required

(ANR) plan. Multiple ANR plans for contiguous lots held in the same ownership and filed in the same calendar year, will be considered as one ANR plan for the purpose of this limit.

b) **Subdivisions lots**

No more than five (5) new building permits, for buildings containing from 1 to 4 *dwelling units*, will be issued per calendar year for lots created by the same subdivision plan.

## 6.7 Procedures

a) **Complete application**

Applications for a building permit must be completed and filed. Improperly filed or rejected permits will not be considered or included in the chronological order described above in Section 6.3 and will require re-submission.

b) **Processing of applications**

The Building Commissioner must process applications and issue building permits for all complete and properly filed permits pursuant to this bylaw, until the 28 dwelling unit limit per year is reached. The Building Commissioner will mark each application with the time and date of the completed submission of the application and will act on each in a timely manner.

c) **Abandoned or invalid building permit**

A building permit deemed abandoned or invalid will be added back to dwelling units available for building permits during the year in which the permit was deemed abandoned or invalid.

d) **Renewal of application in following year if limit reached.**

By January 15 of every year, the Building Commissioner will determine how many, if any, completed applications for building permits filed during the previous year are still pending because the limit of 28 new *dwelling units* was reached. He will then notify those applicants of their right to retain their place in the chronological order for building permit in the new calendar year. The Building Commissioner will also request applicants to notify him/her promptly if they no longer desire a building permit, so that the dwelling units held for that applicant can be made available to other applicants in the new year.

e) **Expiration of building permit**

A building permit expires six (6) months after date of issuance if construction has not commenced. The holder may request a six (6) month extension prior to the expiration and, if granted, will retain his or her place in the chronological order. Once a building permit expires, a new application is required and the filing date determines the applicant's new position in the chronological order.

f) **Permits for 2022**

The maximum number of building permits to be issued for the remainder of 2022 will be determined by subtracting the number of *new dwelling units* for which building permits were issued in 2022 prior to the effective date of this bylaw, from the 28 new *dwelling unit* limit per calendar year (excluding dwelling units exempt or excluded under Section 6.4). All other applicable provisions of this bylaw will apply to the balance of permits which may be issued in 2022.

## 6.8 Relation to Real Estate Assessment

Any landowner denied a building permit, because of the provisions of this bylaw, may appeal to the Board of Assessors, under Massachusetts General Law Chapter 59 §59, for a determination of the effect the temporary restriction on development has on the assessed value of his or her land, and may apply for a real estate tax abatement.

## **6.9 Effective Date, Periodic Review and Expiration**

### **a) Effective date**

This bylaw will take effect upon passage at Town Meeting and approval by the Massachusetts Attorney General.

### **b) Periodic Review**

Every year following the adoption of this bylaw, the Planning Board will report to Annual Town Meeting the number of new dwelling units for which building permits were issued during the preceding calendar year (exclusive of units exempt or excluded under Section 6.4). The Planning Board may also recommend changes to this bylaw at Town Meeting to further the purpose stated in Section 6.1 above.

### **c) Expiration**

This bylaw will expire on July 1, 2027, unless renewed by vote at Annual Town Meeting prior to that date.

## **7.0 Severability**

Unenforceability or invalidity of one or more clauses in this bylaw shall not affect the validity of any other clause in this bylaw.