

- F. Recovery of legal costs. As permitted by NH RSA 676:17, as amended, the Selectmen and/or the Building Inspector shall seek to recover all costs and attorney's fees in any legal action necessary to enforce these regulations. **[Amended 1990]**

ARTICLE IX
Growth Management
[Added 1987]

§ 190-9.0. Authority and purpose.

This article is enacted pursuant to authority granted by NH RSA 674:22. It is intended to regulate and control the timing of development in accordance with the objectives of both the Master Plan and the Capital Improvements Program adopted by the Rye Planning Board. These two documents assess and balance the community development needs of the Town of Rye and consider regional development needs.

§ 190-9.1. Building permit limitations.

- A. Annual limitation. The number of building permits for new dwelling units (hereinafter referred to as "building permits") that are issued in a calendar year by the Town of Rye shall be limited to an amount that is 1.75% of the total dwelling units existent in Rye as of December 31 of the prior year. For the purposes of this article the December 31 base of dwelling units shall be determined from the 1990 United States Census, updated with building permit data reported annually to the New Hampshire Office of State Planning. For the year 2009, the December 31, 2008, base of dwelling units is 2,403 and the annual 1.75% limitation is 42. **[Amended 1995; 2000; 2009]**
- B. Issuance of building permits. The Building Inspector shall issue building permits on a first come, first served basis, subject to the limitations set forth herein, which are designed to promote fairness in distributing permits throughout the year.
 - (1) Application. A person may apply for a building permit at any time. If the Building Inspector is unable to issue a permit because of the limitations of this article, the person making application shall be placed on a waiting list.
 - (2) Issuance schedule. Throughout the year, the Building Inspector shall issue building permits in a manner that complies with the following schedule:

Date	Maximum Allowable Building Permits (Aggregate)
By February 28 (29)	No more than 15% of annual limitation
By April 30	No more than 35% of annual limitation
By June 30	No more than 60% of annual limitation
By August 31	No more than 80% of annual limitation

- (3) Equitable distribution. In order to assure equitable distribution of available permits, no single individual, partnership, corporation or other entity shall be issued more than four building permits during a calendar year. However, after December 1, surplus permits may be issued to such individuals, partnerships, corporations or other entities if there is no other applicant remaining on the waiting list.
- C. Carry forward of surplus. If on December 31 of any year the number of building permits issued was less than the number allocated for that year, the surplus shall be added to the annual limitation of the following year only, provided that the number of building permits for new dwelling units issued in any calendar year does not exceed 47. Table 1 below illustrates how the carry forward operates.

Table 1					
Example of Carry Forward Calculation					
Year	Base D/U	1.75% of Base	Annual Limitation	Actual Permits Issued	Surplus Carried Forward
1	2,006	35	35	30	5
2	2,036	36	36+5 = 41	33	3*
3	2,069	36	36+3 = 39	39	0
4	2,108	37	37	37	0

* The important thing here is to recognize that the surplus carried forward is 36-33 = 3 not 41-33 = 8.

- D. Unused permits. Permits that are issued but not utilized shall not be added back into the annual limitation.
- E. Administrative procedures. The Building Inspector is hereby authorized to establish administrative procedures necessary to implement this article. All such procedures shall be posted. The Building Inspector shall annually post, no later than January 10 of each year, the annual limitation and a numerical schedule of aggregate issuances.

§ 190-9.2. Conflicts.

In matters governed by this article, this article shall supersede conflicting local ordinances and regulations.

§ 190-9.3. Severability.

Should any part of this article be held invalid or unconstitutional by a court, such holding shall not affect, impair or invalidate any other part of this article, and, to such end, all sections and provisions of this article are declared to be severable.

§ 190-9.4. When effective.

This article shall take effect upon passage and shall supersede the present Growth Management Ordinance, which is Section XVIII of the Zoning Ordinance for the Town of Rye, New Hampshire. Said existing ordinance is hereby repealed.

ARTICLE X

Amendment, Conflicts, Severability and Effective Date**§ 190-10.0. Amendment.**

- A. This chapter may be amended from time to time as prescribed in NH RSA 675 or as prescribed by any statute amending, revising or replacing Chapter 675.
- B. Where a previously adopted amendment has resulted in an incorrect reference in another section of this chapter or incorrect indexing of sections or when typographical errors are discovered, the Planning Board may make the corrections in this chapter after a public hearing pursuant to RSA 675:3, without putting the corrections on the Town warrant and ballot for approval. **[Added 3-12-2019 by Art. 4]**

§ 190-10.1. Conflicts.

In interpreting and applying the provisions of this chapter, they shall be held to be minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants, or other agreement between parties; provided, however, that where this chapter imposes a greater restriction or higher standard upon the use of a building or premises or upon heights of buildings, or requires larger streets or open spaces than are imposed or required by other ordinances, regulations or statutes, or by easements, covenants, or agreements, the provisions of this chapter shall govern.

§ 190-10.2. Severability.

Should any section or provision of this chapter be held to be invalid or unconstitutional by any court or authority of competent jurisdiction, such holding shall not affect, impair or invalidate any other section or provision of this chapter, and to such end all sections and provisions of this chapter are declared to be severable.

§ 190-10.3. When effective.

This chapter shall take effect upon its passage and shall thereupon supersede all prior zoning ordinances of the Town of Rye.