

RESOLUTION 2012-214

ADOPTING REVISED GROWTH MANAGEMENT ORDINANCE GUIDELINES
AND NOTICE OF INTENT TO PERIODICALLY REVISE THE GUIDELINES

WHEREAS, On June 16, 1987, the City Council adopted by ordinance a Residential Growth Management Plan, (commonly referred to as the Growth Management Ordinance "GMO"), which has been amended from time to time and which is codified in Tracy Municipal Code Chapter 10.12; and

WHEREAS, On February 20, 2001, the City Council adopted Resolution 2001-067, GMO Guidelines to aid in the implementation of the Growth Management Ordinance; and

WHEREAS, Measure A, which became effective December 22, 2000, caused a change in the growth rate and patterns of the City, thus creating a need to review and update the GMO and GMO Guidelines to most effectively implement the intentions of the Residential Growth Management Plan; and

WHEREAS, On April 5, 2005, the City Council adopted Resolution 2005-092 which amended the GMO Guidelines; and

WHEREAS, It is the intent of the City Council to substantially modify the GMO Guidelines from time-to-time to implement the General Plan; and

WHEREAS, On May 19, 2009, the City Council adopted Resolution 2009-084 which amended the Growth Management Ordinance Guidelines; and

WHEREAS, On October 1, 2012, the City Council held a workshop to consider and receive comments on proposed revisions to the GMO Guidelines; and

WHEREAS, On October 16, 2012, the City Council held a regular meeting to consider Revisions to the Growth Management Ordinance Guidelines; and

WHEREAS, The revised GMO Guidelines, which implement the requirements of the GMO, are set forth below;

NOW, THEREFORE, BE IT RESOLVED, by the Tracy City Council as follows:

SECTION 1. Resolution 2009-084 is hereby repealed.

SECTION 2. In accordance with the Growth Management Ordinance ("GMO"), Tracy Municipal Code Chapter 10.12, specifically section 10.12.050, the Tracy City Council hereby adopts the "Growth Management Ordinance Guidelines," as set forth below.

Growth Management Ordinance ("GMO") Guidelines

A. Overview: Purpose of Guidelines.

The Guidelines are intended to contemporize the City's residential growth management program by addressing the following components:

- Residential Growth Allotment and Building Permit activities including tracking and forecasting of all RGAs and Building Permits
- RGA Exemptions
- RGA Issuance including application requirements, deadlines, expirations
- System for Allocation of RGAs/Building Permits

B. Annual Report on Residential Building Activity and Projections/Forecast.

An Annual Report, and a preliminary, and final RGA allocation, shall be prepared by staff and presented to the Growth Management Board ("GMB"). This Annual Report shall serve as the official tracking system for the GMO and shall include historic information as well as update the annual average/maximums of the GMO. In addition, the Annual Report shall serve as the official forecast for the purposes of planning the next calendar year's RGA allocation by identifying various residential projects in process.

C. Applications. All applications for RGAs shall meet all requirements of the GMO, and these Guidelines.

1. Applicability: Application Contents. Every project is subject to these Guidelines unless specifically exempted by the GMO. Each application shall identify, at a minimum, (1) the project which is the subject of the application; (2) the applicant; (3) all property owners; (4) the purpose of the application; (5) each development project which is the subject of the application; (6) the total number of dwelling units included in the project which is the subject of the application for which: (i) the City has previously allocated RGAs, (ii) the applicant has received building permits, (iii) the applicant has received certificates of occupancy or approved final building inspection, (iv) the applicant's RGA has expired; and (7) compliance with all requirements of the GMO and the GMO Guidelines relevant to the application.

2. Application and Eligibility Requirements.

(a) In order to apply for an RGA a project must demonstrate *all of the following components*:

- (i) be within the City limits,
- (ii) be identified in the City's General Plan ("GP") as an area for residential growth consistent with all GP growth policies set forth in Object LU 1.4,
- (iii) be within an approved specific plan/PUD, or within a zoning district that permits residential uses,
- (iv) be subject to an approved Finance and Implementation Plan (FIP) based on approved infrastructure master plans,

- (v) have an approved Tentative Subdivision Map, Vesting Tentative Subdivision Map, or if no map is required, Development Review approval in accordance with Tracy Municipal Code ("TMC") Section 10.08.3920 et seq., or a Final Development Plan in accordance with Tracy Municipal Code ("TMC") Section 10.08.1760, et seq.

- 3. Application due dates. The term "application date" shall mean the deadline for filing any complete application pursuant to the GMO (including applications for RGAs, exceptions, and residential building permits). Unless otherwise established in these Guidelines, the application for RGAs, other than Affordable Housing Project RGAs, shall be the first Thursday in September each year for RGAs to be used to obtain building permits in the following calendar year. See Section D below for Timeframes for Allocations.
- 4. Application dates for Affordable Housing Project exception applications. In accordance with the GMO, the application date for filing Affordable Housing Project exception applications shall be at any time during normal City working hours. (Also see GMO section 10.12.100(d)).
- 5. Affordable Housing Project exceptions. The GMB shall determine, and allocate, the number of RGAs which are subject to the Affordable Housing Project exception set forth in the GMO. The allocation of RGAs for Affordable Housing Project exceptions may occur at any time, regardless of the allocation cycles established in the GMO. These applications will be processed as they are received, and RGAs shall be allocated to the qualifying applicants in accordance with the GMO. Affordable housing exceptions count against the GMO average/maximum for affordable housing but not against GMO average of 600 for market rate. Affordable housing exceptions do count against the GMO maximum of 750 per calendar year.

D. Timeframes for RGA allocations; expirations.

- 1. Allocations timeframes. The following timeframes shall apply to the allocations of RGAs:

1 st Thursday in September:	Application date per C 3 above
October-November:	GMB Public hearing to allocate RGAs
December:	Appeals (if any) to City Council
October-March:	Staff verification of submitted or approved project Final Map
No later than March 31:	GMB verifies number of RGAs allocated against number of lots on submitted or approved Final Map

- 2. Calendar years 2013 and 2014. The application date for an RGA application in calendar years 2013 and 2014 shall be at any point during this period. The GMB shall meet as needed in response to complete RGA applications in calendar years 2013 and 2014 to allocate RGAs. However, the application date for an RGA application for RGAs described in subsection F 6 shall be no earlier than April 1st of each of those years.

3. Expirations.

(a) RGAs shall be valid only for the calendar year for which they are allocated, and shall expire concurrently with issuance of the building permit, or pursuant to this subsection.

(b) No later than March 31st the GMB shall verify that a Final Map and improvement plans have been submitted and/or approved for the number of lots for which RGAs were awarded. Any RGAs for the number of lots that do not have submitted or approved Final Maps or improvement plans as of March 31st shall automatically revert back to the City and shall be available for the GMB to allocate to projects with complete applications in accordance with the criteria in Section F.

(c) RGAs must be used to obtain a building permit no later than September 30th of the year following the allocation in accordance with GMB action. For RGAs allocated in years 2013 and 2014, the RGA must be used by September 30th in the year for which it was allocated. In the event an RGA has not been used to obtain a building permit by September 30th, then such RGAs automatically revert back to the City and shall be available for the GMB to allocate to projects with complete applications in accordance with the criteria set forth in Section F. The GMB shall meet as needed to address such RGA allocations.

E. Evaluation of RGA Applications and Final RGA Allocations.

1. In order to obtain an RGA allocation, the applicant shall provide documentation to the satisfaction of the Board, that the public facilities and services required to serve the development project are available to the project, including each of the elements set forth below. A project with an approved Vesting Tentative Subdivision Map, Tentative Subdivision Map, Development Review approval, or Finance and Implementation Plan is deemed to have complied with the public facilities obligations of this section. The public facilities and services to be analyzed by the Board for each RGA application shall include, at a minimum: (1) the water system (including supply, storage, treatment, distribution); and (2) the wastewater system (including conveyance and treatment); and (3) the storm drainage system (including permanent facilities and interim ponds prior to construction of the permanent facilities); and (4) the roadway system (including regional streets and interchanges, transit, bikeways, local streets, traffic signals, and other public right-of-way improvements); and (5) the parks system (including mini parks, neighborhood parks, and community parks); and (6) public buildings (including but not limited to buildings for city hall, police, fire, public works maintenance, community meeting facilities, libraries, and aquatics); and (7) police protection services and facilities; and (8) fire protection services and facilities. Any application which does not meet all of the minimum requirements shall not receive any RGA allocations.

2. In accordance with the preparation and process for the Annual Report, as described in Section B above, the GMB shall issue a recommendation of preliminary allocations, hold a public hearing for input on the proposed allocations, and issue final allocations. At the public hearing, the Board shall address written and oral comments regarding the Annual Report and the proposed RGA allocation. The purpose of the Board's consideration of written and oral comments at the public

hearing shall be for applicants to provide information which was not included in the application. The public hearing may be continued by the Board, as necessary, to obtain additional information. After the conclusion of the public hearing, the Board shall provide written notice to each applicant of the Board's final RGA allocations. After the appeal period has expired pursuant to Tracy Municipal Section 10.12.160, and after the City Council has acted on any relevant appeals, the Board shall issue a final determination of RGA allocations. The allocations of the GMB shall be final unless appealed to the City Council in accordance with the GMO. Allocations shall be project-specific.

F. RGA allocation criteria, order of priority for allocations of RGAs; proportionate allocation of previously unallocated RGAs.

The GMB shall evaluate RGA applications, and allocate RGAs, in accordance with these criteria. A project may not receive more RGAs than on its approved Tentative Subdivision Map or Development Review Approval, or Final Development Plan. In any year, the GMB shall not allocate more RGAs than the anticipated number of available building permits for that same year. RGAs shall be issued on a first come first serve basis based when the City receives a complete application and in accordance with the following order of priority:

1. Vested Projects: RGA applications from projects vested under a previous GMO Guidelines shall be process in accordance with such guidelines.
2. Primary Growth Areas. Primary Growth Areas are defined in Exhibit "A", attached hereto and incorporated herein by this reference. Subject to the requirements of the GMO and these Guidelines, including criteria in subsection F 8 below, Primary Area projects shall be entitled to receive, at the beginning of each allocation cycle:
 - (a) In years where 750 RGAs may be allocated, the Primary Growth Areas shall be entitled to receive 100 RGAs;
 - (b) In years where 600 RGAs may be allocated, the Primary Growth Areas shall be entitled to receive 80 RGAs
3. Development Agreements. Notwithstanding subsection 4 below, Development Agreement projects may receive allocations as specifically set forth in the applicable development agreement subject to the provisions in these Guidelines. In any conflict between the development agreement and these Guidelines, the development agreement provisions shall control.
4. Tracy Hills and Ellis Specific Plan Projects. The following specific plan projects, more fully described in the General Plan and subject to the requirements of the GMO and these Guidelines, shall be entitled to receive, at the beginning of each allocation cycle:
 - (a) In years where 750 RGAs may be allocated, Tracy Hills shall be eligible to receive 406 RGAs and Ellis shall be eligible to receive 194 RGAs
 - (b) In years where 600 RGAs may be allocated, Tracy Hills shall be entitled to receive 325 RGAs and Ellis shall be entitled to receive 155 RGAs

- (c) If either Tracy Hills or Ellis receives less than the number of RGAs described above, the difference between the numbers of RGAs allocated and the numbers of RGAs described above shall be reserved. Either Tracy Hills or Ellis may apply for such RGAs no later than the March GMB meeting described in Section D. If Tracy Hills or Ellis do not apply for RGAs prior to the March GMB meeting, the RGAs shall be available in accordance with this Section F.
5. Other Projects. "Other Projects" is defined as initially beginning with the Kagehiro Phase III project (Assessor's Parcel Number 242-040-360) and then commencing with development sites identified in the General Plan Objective LU 1.4 that are not within the Primary Areas as defined in these GMO Guidelines. Subject to the requirements of the GMO and these Guidelines, the Other Projects shall be entitled to receive, at the beginning of each allocation cycle:
 - (a) In years where 750 RGAs may be allocated, Other Projects shall be entitled to receive 50 RGAs per year
 - (b) In years where 600 RGAs may be allocated, Other Projects shall be entitled to receive 40 RGAs per year
6. If the number of RGAs allocated does not meet or exceed the number of RGAs available, the remaining RGAs shall then be made available on a proportionate basis in accordance with the criteria set forth in subsections F 1-5 to the projects identified in subsections F 1-5, for which a complete application has been submitted. Any RGAs then allocated would be in addition to the RGAs identified in subsections 1-5 of this Section F. The GMB can meet as needed to allocate such RGAs.
7. During years when a number of RGAs other than 600 or 750 are available, the RGAs shall be issued in proportionate amounts as established in section F 1-5.
8. Additional Primary Areas Criteria. These Primary Areas criteria will apply to all Primary Areas Projects in competition for RGAs. The following criteria can be used to determine which projects will have priority to receive RGAs in the event that the number of RGAs requested exceeds the number available in any allocation cycle for the Primary Areas numeric parameters established in section F 2 above. Within these categories, projects that meet more of the criteria listed are considered preferred to receive RGAs. Based on the following criteria, staff will make a recommendation to the Board as to which proposed projects have best achieved the criteria.
 - (a) Housing Type, in order of importance
 - (i) High Density—12.1 dwelling units per gross acre or more
 - (ii) Medium Density—5.9-12 dwelling units per gross acre
 - (iii) Low Density—5.8 dwelling units per gross acre or less
 - (iv) Projects with an affordable component, including moderate and low to very low income categories (RGAs for the affordable component come from the "Affordable Housing Exception" category in the GMO)
 - (v) Innovative housing types—Mixing products in a single project, cluster housing, mixed-use developments
 - (b) Geographic Area, in order of importance
 - (i) In a Village Center, as established in the General Plan

- (ii) Connects incomplete infrastructure (streets, water, sewer, etc.)
- (iii) Projects that combine several smaller parcels
- (iv) Fit and compatibility with the surrounding area
- (c) Project Size and Proximity to Existing Development, in order of importance
 - (i) Small infill (less than 5 acres surrounded by development on 3 sides)
 - (ii) Large infill (over 5 acres surrounded by development on 3 sides)
 - (iii) Project in progress that needs additional RGAs to complete construction
- (d) Project Design
 - (i) High level of connectivity, vehicular and pedestrian, both internally and externally to the project
 - (ii) Amenities—public or private, parks, schools, etc.
 - (iii) Architecture—compatible with, enhances, and/or improves neighborhood
 - (iv) Energy efficient design, using recycled or green/sustainable materials
 - (v) Walkability and high intersection density
 - (vi) Building type and building frontage type variation
- G. Processing Fees. The fees for processing all applications pursuant to the GMO shall be as set forth in a separate Resolution of the City Council.
- H. 1994 GMO Guidelines for Pre-Measure A Projects. The Board shall award RGAs to any applications for Pre-Measure A Vested Projects in accordance with the provisions of the 1994 GMO.
- I. Building Permit Issuance. The City shall evaluate applications for residential building permits (and, for each approved application, issue the building permit) in the order in which the City receives them. The City shall not issue any building permits in excess of the limitations set forth in the GMO, except the limit Measure A and the GMO impose on the average number of building permits issued each year does not, by its terms, apply to affordable housing projects.

SECTION 3. Pursuant to Section 15183 of the California Environmental Quality Act this amendment to the GMO Guidelines is exempt because there will be no significant on or off-site impacts as a result of the amended GMO Guidelines (CEQA Guidelines, 14 Cal. Code of Regs. §15061(b)(3).) All development projects are required to comply with CEQA as a part of their project approvals, and all of the potential environmental impacts are studied and mitigated through the development process, not through the administration of the GMO. These GMO Guidelines simply provide procedures related to future land use applications, which must first undergo CEQA review.

Furthermore, in accordance with CEQA Guidelines Section 15162, no further environmental assessment of the GMO Guidelines is required. An analysis of the project shows that no substantial changes are proposed that would require major changes to any existing environmental documentation, including the General Plan EIR SCH #2008092006, or cause any increase in severity of previously identified significant effects or any new significant effects. Also, no new information of substantial importance shows that there will be additional significant effects not discussed in the previous environmental documentation of the General Plan EIR, or that any previously identified significant effects will be substantially more severe, or that any potential mitigation measures are now considered feasible that weren't previously, nor are any new mitigation measures identified but not implemented. The GMO Guidelines add no new

development areas, remove no new development areas, or modify any development areas. The GMO Guidelines provide procedures for future land use applications.

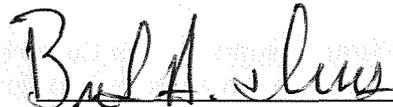
SECTION 4. In the event any provision of the Guidelines is held invalid by a court of competent jurisdiction, the Guidelines shall be construed as not containing that provision, and the remainder of the Guidelines shall remain in full force and effect.

SECTION 5. The City Council finds that these GMO Guidelines will not be detrimental to the health safety and welfare of the residents of Tracy because they aid only in the administration (i.e. timing and distribution of RGAs) of the existing regulations within the GMO.

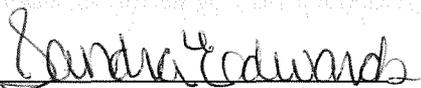
This resolution shall be effective upon adoption.

The foregoing Resolution 2012-214 was adopted by the Tracy City Council on the 16th of October 2012, by the following vote:

AYES: COUNCIL MEMBERS: ABERCROMBIE, ELLIOTT, MACIEL, RICKMAN, IVES
NOES: COUNCIL MEMBERS: NONE
ABSENT: COUNCIL MEMBERS: NONE
ABSTAIN: COUNCIL MEMBERS: NONE


MAYOR

ATTEST:


CITY CLERK

