

CHAPTER 5. - GROWTH CONTROL*

* Sections 9-5.01 through 9-5.15 codified from Ordinance No. 322-C.S., effective February 24, 1982 were to terminate on June 30, 1992. Ordinance Nos. 590-C.S., effective May 26, 1992 and 597-C.S., effective December 14, 1992, temporarily extended Ordinance No. 322-C.S. Sections 9-5.01 through 9-5.09, codified from Ordinance No. 603-C.S., effective April 8, 1993, terminated on June 30, 1993.

Sec. 9-5.01 - Title.

This chapter may be cited as the "City of Pacifica Growth Management Ordinance."
(§ 1, Ord. 604-C.S., eff. July 8, 1993)

Sec. 9-5.02. - Findings.

The voters of the City do find and declare as follows:

- (a) Improperly managed residential growth within the City could adversely affect the City's capacity to provide adequate services to accommodate that growth. In particular, improperly managed residential growth could result in an overburdening of the City's sewage treatment facility, increased traffic congestion on streets and freeways, inadequate levels of police and fire protection, and adverse impacts on water resources and drainage systems.
- (b) It is the intent of voters of the City to prevent these harms, to control the distribution and rate of growth of the City and to prevent the overextension of City services by adopting measures to properly manage the rate of residential growth within the City. Such measures will promote the public health, safety and welfare by ensuring that services provided by the City and other utility and service agencies operating in the City can be properly and effectively staged in a manner that will not overextend services and will allow the opportunity for deficiencies in existing services to be brought up to required and necessary standards as new development is approved and fees are collected for establishment of these services.
- (c) Measures to control the rate of residential growth in the City are necessary to: insure that residential development does not outpace the City's ability to provide adequate and necessary services, prevent increased traffic congestion on Highway 1 and key intersections, preserve the quality of life of the community, and where possible to properly manage the process and timing of the conversion of open space resources and agricultural land to other uses.
- (d) The City's available fiscal resources are set forth in the following documents: FY 1992—1993 Budget, City of Pacifica; 1992—1993 Financial Statement, City of Pacifica.
- (e) The City's environmental resources are described in the City of Pacifica General Plan, the City of Pacifica Local Coastal Land Use Plan, and the 1988 City of Pacifica Open Space Task Force Report.
- (f) The specific housing programs and activities being undertaken by the City are set forth in the 1990 Housing Element of the City of Pacifica as amended in 1992, which is incorporated by this reference. These include programs to preserve low and moderate income housing and subsidized and assisted housing developments, to promote the maintenance and rehabilitation of substandard units, to promote second residential units and mixed use developments, to use City resources to develop affordable housing and to provide incentives such as density bonuses for affordable housing.
- (g) The potential development of lands zoned Agricultural and/or Hillside Preservation District (HPD) is of City-wide interest due to the size, location, visibility, slope, and/or current or potential agricultural productivity of such lands. These features make such lands different in character than other property in the City, and it is therefore reasonable that such lands be rezoned by means of procedures which will afford the widest possible public participation and input. Therefore, it is appropriate to adopt measures that will allow for a City-wide public vote

on a proposal to rezone lands zoned "Agricultural" or "Hillside Preservation District" for purposes of significant development.

- (h) Pacifica's Housing Element, adopted in November 1990, identifies Pacifica's share of the regional housing need. According to the Association of Bay Area Governments' (ABAG) 1989 publication entitled, Housing Needs Determinations, San Francisco Bay Region, Pacifica's fair share of the regional housing need between 1988 and 1995 is eight hundred eleven (811) units, or one hundred sixteen (116) units per year during the seven-year period. The proposed residential growth management ordinance will allow the building of at least seventy (70) units per year, in addition to exemptions for single-family dwellings on individual infill lots, affordable housing, housing for the elderly and/or disabled and mixed use. Therefore, the Growth Control Management Ordinance will not have an adverse impact on the City's ability to meet its share of the regional housing need, because the exemptions will provide more than enough permits to accommodate Pacifica's housing need for all income categories.
- (i) The Growth Management Ordinance provides exemptions for affordable housing, housing for the elderly and/or disabled, second residential units, mixed uses and single-family dwellings on individual properties. These exemptions, along with the seventy (70) permits per year allowed by the Growth Management Ordinance, will allow the City to keep pace with the growth rate of the past decade. In addition, none of the surrounding communities (Daly City, San Bruno, South San Francisco) has adopted growth control measures, and the growth control measures adopted by San Mateo County for its unincorporated areas in the coastal zone have not been a constraint to housing development. Therefore, the proposed ordinance will not reduce housing opportunities in the region and Pacifica's Growth Management Ordinance will not have an impact on the region. In fact, the ordinance will work to increase housing opportunities by encouraging housing for lower income people, the elderly, and disabled.
- (j) In order to meet its housing goals, including its fair share of the regional housing need as established by ABAG, Pacifica has adopted a Housing Element that contains housing programs and activities for the maintenance, improvement, and preservation of housing.
- (k) In the process of formulating, reviewing and adopting the Growth Management Ordinance, the City has considered the effect of the Growth Management Ordinance on the housing needs of the region and has balanced these needs against the public service needs of its residents and available fiscal and environmental resources, concluding that the needs of its citizens can best be met by the adoption of this ordinance without adversely impacting the housing needs of the region.
- (l) It is in the best interests of the City, in order to protect the health, safety, and general welfare of its citizens, to control the rate of new residential growth within the City by establishing an annual maximum number of new dwelling units authorized by building permits during each fiscal year, except where exempted herein.
- (m) An annual maximum number of seventy (70) new dwelling units each year, in addition to those exempted from this chapter, will provide a supply of new housing consistent with the City's fiscal, environmental, and physical resources and capabilities and will enable Pacifica to meet its regional housing needs for all economic segments.
- (n) The Growth Management Ordinance implements the policies of the City's General Plan and zoning ordinance and is fully consistent therewith.

Accordingly, the voters of the City of Pacifica do hereby ordain as follows in Sections 9-5.03 through 9-5.11.

(§ 1, Ord. 604-C.S., eff. July 8, 1993)

Sec. 9-5.03. - Annual allotment.

Except where dwelling units are exempt from this chapter pursuant to Section 9-5.04, no building permit shall be issued for a new dwelling unit until a residential development allocation (RDA) has been issued by the City.

During each fiscal year (commencing July 1st and ending June 30th) through June 30, 1997, the number of residential dwelling allocations for new dwelling units to be authorized by building permits in the City shall not exceed seventy (70) units. Each dwelling unit shall require one residential development allocation on a one-for-one basis.

(§ 1, Ord. 604-C.S., eff. July 8, 1993)

Sec. 9-5.04. - Exemptions.

The following developments are exempt from the requirement to obtain a residential development allocation prior to issuance of a building permit pursuant to Section 9-5.03 of this chapter:

- (a) Replacement, repair, remodeling or expansion of an existing dwelling unit on a one-for-one basis provided no additional dwelling units are created; and
- (b) Exclusively commercial, industrial or agricultural projects; and
- (c) One single-family dwelling unit on an individual existing lot; and
- (d) Affordable dwelling units, as defined in the City's Density Bonus Ordinance, Pacifica Municipal Code, Title 9, Article 41. Such units shall be maintained at the rent or resale price levels established in the City's Density Bonus Ordinance and shall continue to be maintained at those levels for the time periods established therein;
- (e) Dwelling units exclusively for the elderly and/or disabled as defined in the City's Density Bonus Ordinance, Pacifica Municipal Code, Title 9, Article 41. Such units shall remain available for elderly and/or disabled persons for the time periods established in the Density Bonus Ordinance;
- (f) Second residential units as defined by the City's Second Residential Unit Ordinance, Pacifica Municipal Code, Title 9, Article 4.5;
- (g) Accessory dwelling units in the same structure as a commercial use in a commercial zoning district pursuant to the criteria set out in Pacifica Municipal Code, Title 9, Article 10;
- (h) All exemptions previously authorized under the provisions of Ordinances Nos. 322-C.S., 590-C.S. or 597-C.S.

(§ 1, Ord. 604-C.S., eff. July 8, 1993)

Sec. 9-5.05. - Allocation.

- (a) To implement the policies of this chapter, the City shall establish a procedure for the allocation of residential development allocations.
- (b) The allocation procedure shall include a competitive allocation procedure to provide for the allocations in any fiscal year when the number of residential development allocations sought exceeds the number of residential development allocations which are available. The competitive allocation procedure shall implement the policies of this chapter and shall include criteria and a ranking process. Criteria shall include, but not be limited to, the following: ability of public facilities, utilities and services to meet the demands created by the project, presence or absence of adverse environmental impacts, site and architectural design quality, the provision of private or public usable open space, consistency with neighborhood character, and provision of affordable housing, senior housing and housing for the disabled. The Planning Commission shall consider each application for a Residential Development allocation at a public hearing and evaluate and rank the applications according to these criteria. The Planning Commission recommendations shall be forwarded to the City Council for review and approval. At a public hearing, the City Council shall consider the Planning Commission's recommendations and ranking. The City Council shall then

adopt a final ranking list and award Residential Development Allocations pursuant to that list. The City Council may adopt, reject or modify the recommendations and ranking of the Planning Commission.

- (c) When the number of available residential development allocations exceed demand, the City Council may issue residential development allocations without following the competitive evaluation system process set forth in subsection (b) above.
- (d) Unused allocations shall accrue from year to year. Allocations which, on the effective date of this chapter, are available and unallotted under prior Ordinances 322-C.S., 590-C.S., 597-C.S., or 603-C.S., shall be carried over and shall be available for allocation pursuant to this chapter.
- (e) Expiration. A residential development allocation shall expire on June 30 of the next fiscal year succeeding the year of issuance unless a building permit is issued prior to its expiration date. Upon expiration, the residential development allocation shall become available for re-allocation.
- (f) Extension. A residential development allocation may be extended by the City Council for a period not to exceed one year, provided that prior to the expiration of the residential development allocation, an application for an extension is filed with the Planning Department. The City Council may grant or deny a request for an extension. No public hearing shall be required for such an extension.

(§ 1, Ord. 604-C.S., eff. July 8, 1993)

Sec. 9-5.06. - Distribution and phasing.

- (a) To insure an equitable distribution of building permits and to encourage in-fill development, no applicant may receive more than twenty (20%) percent of the available annual residential development allocations in any fiscal year.
- (b) In order to permit phasing of multiunit projects, where such projects exceed the available annual allotment of residential development allocations, the allocation procedure shall include a procedure for the phasing of such projects over more than one fiscal year by reservation of succeeding year allotments. Such reservations shall be deducted from the number of residential development allocations to be awarded for the fiscal year under consideration.

(§ 1, Ord. 604-C.S., eff. July 8, 1993)

Sec. 9-5.07. - Agricultural land.

In order to maximize public participation in rezoning decisions concerning conversion of agriculturally zoned land to urban uses, to preserve the right of the local electorate to vote on significant zoning matters and to insure that development proposed for agricultural lands is appropriate to its unique character and importance, through June 30, 1997:

- (a) All land within the City which is zoned or designated Agricultural District on the zoning maps of the City as set forth in Chapter 4 of Title 9 of the Pacifica Municipal Code on or after the effective date of the ordinance codified in this chapter may not be rezoned or redesignated, and the "B" district with which the Agricultural District is combined may not be changed, without a vote of the people.
- (b) The uses to which land zoned or designated Agricultural District can be put and the structures which can be erected thereon are only the uses and structures permitted by the provisions of Chapter 4 of Title 9 of the Pacifica Municipal Code on the effective date of the ordinance codified in this chapter, unless otherwise approved by a vote of the people.

(§ 1, Ord. 604-C.S., eff. July 8, 1993)

Sec. 9-5.08. - Hillside protection.

In order to maximize public participation in rezoning decisions concerning development of sensitive hillside lands, in order to preserve areas of open space where possible and to retain natural terrain by encouraging the concentration of dwellings and other structures on their sites, to help protect people and property from potentially hazardous conditions particular to hillsides, and to insure that development is compatible with the unique hillside resources of Pacifica, through June 30, 1977:

- (a) All land within the City which is zoned or designated Hillside Preservation District on the zoning maps of the City as set forth in Chapter 4 of Title 9 of the Pacifica Municipal Code on or after the effective date of the ordinance codified in this chapter may not be rezoned out of the Hillside Preservation District without a vote of the people.
- (b) The standards governing the Hillside Preservation District shall be the standards specified in the provisions of Chapter 4 of Title 9 of the Pacifica Municipal Code on the effective date of the ordinance codified in this chapter, unless otherwise approved by a vote of the people.

(§ 1, Ord. 604-C.S., eff. July 8, 1993)

Sec. 9-5.09. - Relationship to other laws.

Nothing in this chapter shall be construed to exempt any person from compliance with any other applicable City ordinance, regulations, or code which is not in conflict with this chapter. In the event of such a conflict, the provisions of this chapter shall prevail. This chapter may be amended by the City Council.

(§ 1, Ord. 604-C.S., eff. July 8, 1993)

Sec. 9-5.10. - Severability.

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held void, invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such decision shall not affect the validity of the remaining portions thereof.

(§ 1, Ord. 604-C.S., eff. July 8, 1993)

Sec. 9-5.11. - Termination.

This chapter shall terminate on June 30, 2017. On or after June 30, 2015, this chapter shall be reviewed and revised, if determined to be necessary, to insure consistency with the City's General Plan, including its Housing Element, or with other laws.

(§ 1, Ord. 604-C.S., eff. July 8, 1993, as amended by § 1, Ord. 654-C.S., eff. May 28, 1997, § 1, Ord. 703-C.S., eff. August 7, 2002 and § 1, Ord. 749-C.S., eff. July 11, 2007, § 1, Ord. 789-C.S., eff. May 9, 2012)