

RESOLUTION NO. 2020-138

ORDERING THE CITY CLERK TO SUBMIT A MEASURE TO THE VOTERS AT THE GENERAL MUNICIPAL ELECTION ON NOVEMBER 3, 2020 TO APPROVE AN ORDINANCE EXEMPTING TRANSIT-ORIENTED DEVELOPMENT THAT INCLUDES WORKFORCE HOUSING FROM THE CITY'S GROWTH MANAGEMENT ORDINANCE (CHAPTER 10.12 OF THE TRACY MUNICIPAL CODE); AND PROVIDING FOR SUBMITTAL OF BALLOT ARGUMENTS AND REBUTTALS, AUTHORIZING THE SUBMISSION OF AN ARGUMENT IN FAVOR OF THE BALLOT ON BEHALF OF THE CITY COUNCIL, AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS OF THE MEASURE

WHEREAS, On May 19, 2020 the City Council of the City of Tracy adopted Resolution No. 2020-078 calling for and giving notice of a General Municipal Election to be held on November 3, 2020 and requesting that the Board of Supervisors of the County of San Joaquin consolidate said election with the Statewide General Election to be held that day, and

WHEREAS, Pursuant to Section 9222 of California Elections Code, the City Council is authorized to place measures on the ballot to be considered at a General Municipal Election, and

WHEREAS, The Tracy City Council adopted the Residential Growth Management Plan, codified in Chapter 10.12 of the Tracy Municipal Code and commonly referred to as the "Growth Management Ordinance" ("GMO"), in 1987 to regulate the rate of residential growth in accordance with the availability of required infrastructure and public services, and

WHEREAS, The GMO was amended in 2001 by Measure A, a voter initiative which restricts the number of housing units that can be constructed in Tracy every year to a maximum of 750 housing units, with an average of 600 units over specified periods of time, as codified in Article 4 "Annual Limits" of the Chapter 10.12 of the TMC, and

WHEREAS, The proposed Workforce Housing and Transit Oriented Development Ordinance attached hereto as Exhibit "A" and incorporated herein by reference ("Ordinance") would amend the GMO to (a) designate residential dwelling units that meet certain affordability criteria as "workforce dwelling units"; and (b) exempt from the GMO and its annual limits on residential development any development project located in a Transit Oriented Development ("TOD") area established by a City Council-approved Zoning Ordinance amendment that reserves, for a period of twenty (20) years, a minimum of 10% of its dwelling units as "workforce dwelling units", and

WHEREAS, "Workforce dwelling units" that are rental units must be affordable to households with a gross household income of 80% to 100% of the City of Tracy area median income (as adjusted for household size) and those that are for sale must be affordable to households with a gross household income of 100% to 120% of the City of Tracy area median income (as adjusted for household size) as determined by the most recent American Community Survey completed by the United States Census Bureau, and

WHEREAS, The proposed exemption would be limited to 2,200 residential dwelling units in each TOD area, and

WHEREAS, In order to take effect, the Ordinance must be approved by a majority (50% plus 1) of the votes cast on the proposed ballot measure ("Measure"), and

WHEREAS, California Elections Code sections 9281 through 9287 establish procedures for filing arguments in favor of and against a ballot measure, and filing rebuttal arguments, including a procedure by which members of the City Council may be authorized by the City Council to submit ballot arguments; and

WHEREAS, California Elections Code section 9280 authorizes the filing by the City Attorney of an impartial analysis regarding ballot measures proposed by cities; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TRACY AS FOLLOWS:

Section 1. Recitals. The City Council hereby finds and determines that the foregoing recitals are true and correct.

Section 2. Election. The City Council hereby orders the City Clerk to submit the Measure as proposed in the attached Ordinance to the voters at the General Municipal Election to be held on November 3, 2020.

Section 3. Ballot Label. The ballot label for the proposed Measure shall be submitted for a "Yes" or "No" vote as follows:

Shall the City of Tracy adopt an ordinance exempting development projects in transit oriented development areas near commuter rail (e.g. ValleyLink) that designate at least 10% of dwelling units for rent or sale as affordable workforce housing based on the City of Tracy's area median income (adjusted for household size) from the City's Growth Management Ordinance, with the exemption limited to 2,200 units per transit oriented development area, to preserve and maintain community character?	YES	
	NO	

Section 4. Full Text. The full text of the Ordinance, which is attached as Exhibit "A" shall be printed in the sample ballot/voter information pamphlet for the November 3, 2020 election.

Section 5. Approval. This measure requires approval by a majority vote (50% plus 1) of those casting ballots on the Measure.

Section 6. Filing with County. The City Clerk shall file a certified copy of this Resolution with the Board of Supervisors and County Elections Department of the County of San Joaquin.

Section 7. Submission of Arguments For and Against. In accordance with California Elections Code sections 9282 and 9283, arguments submitted for or against the Measure shall not exceed 300 words in length, and shall be enclosed with each voter information guide and may be signed by more than five persons. However, only the first five persons to sign will be printed with the Measure.

(a) In accordance with California Elections Code section 9282, the following headings, as appropriate, shall precede the arguments' wording, but shall not be counted in the 300 word maximum: "Argument Against Measure ____" or "Argument For Measure ____" (the blank spaces being filled only with the letter or number, if any, designating the measure).

(b) In accordance with California Elections Code section 9283, printed arguments submitted to voters in accordance with California Elections Code section 9282 shall be filed with the City Clerk, accompanied by the printed name(s) and signature(s) of the author(s) submitting it or, if submitted on behalf of an organization, the name of the organization and the printed name and signature of at least one of its principal officers. Arguments are due in the office of the City Clerk by the date established by the County Registrar of Voters.

(c) The City Council hereby authorizes the submission of an argument in favor of the Measure set forth in this Resolution on behalf of the City Council to be signed by the full Council.

(d) Pursuant to California Elections Code section 9285, when the City Clerk has selected the arguments for and against the Measure that will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the Measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument that it seeks to rebut.

Rebuttal arguments shall not exceed 250 words and may be signed by more than five persons. However, only the first five persons to sign will be printed with the Measure. The persons that sign the rebuttal arguments may be different persons than the persons that signed the direct arguments.

The last day for submittal to the City Clerk of rebuttal arguments for or against the Measure shall be the deadline established by the County Registrar of Voters.

Section 8. Impartial Analysis and Argument. The City Attorney is directed to prepare an impartial analysis of the measure in accordance with Elections Code 9280, and file the analysis with the City Clerk by the date established by the County Elections Department.

Section 9. CEQA. The approval of this resolution and, if adopted, the adoption of the Measure, are exempt from the requirements of the California Environmental Quality Act ("CEQA"; Public Resources Code Sections 21000, et seq, and 14 Cal. Code Reg. Sections 15000 et seq "CEQA Guidelines") for the following reasons:

(a) The Measure is not a "project" under CEQA because it does not meet the criteria for a "project" set forth under Public Resources Code section 21065 or Section 15378(a) of the CEQA Guidelines.

(b) It can be seen with certainty that there is no possibility that this resolution and the Measure (if approved by the electorate) may have a significant effect on the environment, because:

(i) the effect of the resolution is limited to submitting to the electorate of the City of Tracy a proposal to amend a measure that was previously approved by the electorate, thereby providing the electorate with the opportunity to approve or disapprove such

amendment without approving, supporting, or subsidizing any permit, license entitlement or other activity that might lead to a direct or indirect change in the physical environment;

(ii) the effect of the Measure, if approved by the electorate, would not constitute an activity that meets the criteria of Public Resources Code section 21065 or Section 15376(a) of the CEQA Guidelines; and

(iii) the effect of the Measure, if approved by the electorate, would be limited to amending Chapter 10.12 of the City of Tracy Municipal Code to establish categories of housing and future zoning which may or may not be implemented in the future by the City of Tracy, and if implemented in the future, such implementation would be subject to the requirements of CEQA and the CEQA Guidelines.

Section 10. Effective Date. This Resolution shall be effective immediately upon adoption by a majority vote of the City Council.

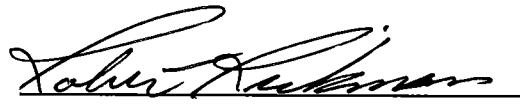
The foregoing Resolution was adopted by the Tracy City Council on the 28th day of July, 2020, by the following vote:


AYES: COUNCIL MEMBERS: ARRIOLA, RANSOM, VARGAS, YOUNG

NOES: COUNCIL MEMBERS: RICKMAN

ABSENT: COUNCIL MEMBERS: NONE

ABSTAIN: COUNCIL MEMBERS: NONE


MAYOR

ATTEST: 
CITY CLERK

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF TRACY AMENDING CHAPTER 10.12 OF THE TRACY MUNICIPAL CODE TO EXEMPT TRANSIT-ORIENTED DEVELOPMENT THAT INCLUDES WORKFORCE HOUSING FROM THE CITY'S GROWTH MANAGEMENT ORDINANCE (CHAPTER 10.12 OF THE TRACY MUNICIPAL CODE)

WHEREAS, Since the beginning of 2018, the Tri-Valley San Joaquin Valley Regional Rail Authority (the "Rail Authority") has been working on plans for a commuter rail service, known as the Valley Link, which would connect passengers from Lathrop to the Bay Area Rapid Transit system in Dublin, and

WHEREAS, One component of the Valley Link project is to promote and encourage the development of Transit Oriented Development ("TOD") projects and programs in the cities along the anticipated Valley Link rail line, which include the City of Tracy, and

WHEREAS, In anticipation of the Valley Link project, on April 2, 2019, the City Council gave direction to City staff to pursue a TOD study for the downtown Tracy area, and

WHEREAS, On June 18, 2019, the City Council approved a Professional Services Agreement with DeNovo Planning Group to assist the City in preparing a TOD study and gave direction to City staff to work with stakeholders and the community to develop a downtown TOD district in and around the existing Tracy Transit Station, and

WHEREAS, In October of 2019, the Rail Authority published its final feasibility report for the Valley Link project, which identified three planned future Valley Link rail stations in Tracy and Tracy's Sphere of Influence; and

WHEREAS, Between June 2019 and February 2020, the City began implementing a phased process for the preparation of the TOD study, which was designed to identify key concepts and a TOD district boundary, and held several community workshops to obtain community input on the TOD study, and

WHEREAS, On February 26, 2020, City staff presented the Downtown TOD study to the City's Planning Commission, which expressed unanimous support for the study moving forward, and

WHEREAS, On April 7, 2020, the City Council directed staff to explore the feasibility of a ballot measure that would amend the City's Growth Management Ordinance ("GMO") to facilitate new housing in the future TOD area, and

WHEREAS, On July 21, 2020, the City Council received staff's update on the Downtown TOD study and the feasibility of placing a ballot measure on the November 2020 ballot that would establish an exemption from GMO requirements for certain types of housing projects in future TOD areas, and directed staff to proceed with preparing the ballot measure, and

WHEREAS, The City's GMO was first adopted by the Tracy City Council in 1987 and codified as Chapter 10.12 of the Tracy Municipal Code ("TMC") to regulate the rate of residential growth in accordance with the availability of required infrastructure and public services, and

WHEREAS, The GMO was amended in 2001 by Measure A, a voter initiative, to restrict the number of housing units that can be constructed in Tracy every year to a maximum of 750 housing units, with an average of 600 units over specified periods of time, as codified in Article 4 "Annual Limits" of Chapter 10.12 of the TMC, and

WHEREAS, This ordinance would exempt from the requirements of the GMO development projects in future TOD areas that include a minimum of ten percent (10%) of dwelling units that are affordable for rent to households with incomes of 80% to 100% of the City of Tracy area median income (adjusted for households size) or for sale to households with incomes of 100% to 120% of the City of Tracy area median income (adjusted for households size), and

WHEREAS, Development projects with 9 or fewer dwelling units would be eligible for the Workforce housing exemption upon payment of an in-lieu fee (subject to an annual adjustment), established by Council resolution, and

WHEREAS, The ordinance would also make minor changes to the definition of a Residential Growth Allotment ("RGA") and the language in Section 10.12.060 of TMC, and

WHEREAS, The proposed exemption would promote and encourage the development of vibrant, pedestrian-oriented, mixed-use communities in the Downtown area, consistent with the City's General Plan and draft Downtown Specific Plan, and in the areas surrounding the two other Valley Link stations planned for the Tracy area and reduce automobile congestion and greenhouse gases, and

WHEREAS, The proposed exemption would encourage and facilitate the development of housing units affordable to residents of varying income levels and provide opportunities to Tracy residents to obtain housing in future TOD areas, and

WHEREAS, The housing units constructed under the Workforce exemption would be required to comply with all City development policies including the requirement to mitigate their impacts through the payment of fees and/or construction of necessary infrastructure, and

WHEREAS, Facilitating housing opportunities for residents of varying income levels will help preserve the unique character of the Tracy community and ensure that Tracy remains a place where all residents can prosper as they live, work and play in Tracy.

THE PEOPLE OF THE CITY OF TRACY DO ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The People of the City of Tracy find that all of the above Recitals are true and correct and incorporated herein by reference.

SECTION 2. Authority. The City Council and the Voters of the City of Tracy enact this

ordinance in accordance with the authority granted to cities by Article XI, Section 7 of the Constitution of the State of California.

SECTION 3. Amendments to Tracy Municipal Code. Sections 10.12.030 and 10.12.060 of Chapter 10.12 of the City of Tracy Municipal Code, titled "Residential Growth Management Plan," are hereby amended as shown in Attachment A hereto.

SECTION 4. Effective Date. Pursuant to the California Elections Code 9217, if the requisite number of qualified voters voting in the election on Measure "____" vote in favor of the adoption of such measure, this ordinance shall be deemed valid and binding and shall be considered adopted upon the date that the vote is declared by the City Council, and shall go into effect ten (10) days after that date.

SECTION 5. Severability. If any section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance. The People of the City of Tracy hereby declare that they would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

SECTION 6. Certification/Summary. Following the City Clerk's certification that the citizens of Tracy have approved this Ordinance, the Mayor shall sign this Ordinance and the City Clerk shall cause the same to be entered in the book or original ordinance of said City; and shall cause the same, or a summary thereof, to be published as required by law.

PASSED, APPROVED, and ADOPTED by the People of the City of Tracy this 3rd day of November, 2020 by a vote of _____.

ATTACHMENT A TO ORDINANCE NO. _____

New Language is Underlined and Language to be Deleted is in Strikethrough

Chapter 10.12 - RESIDENTIAL GROWTH MANAGEMENT PLAN

Article 1. - General Provision

10.12.010 - Authority and reference to chapter.

This chapter 10.12 of the Tracy Municipal Code may be referred to as the "Growth Management Ordinance" or "GMO", and is adopted pursuant to article XI, sections 7 and 9 of the California Constitution.

10.12.020 - Purpose.

The purpose and intent of this chapter is to:

- (a) Achieve a steady and orderly rate of annual residential growth in the City, and to encourage diverse housing opportunities for the region in which the City is situated, and to balance these needs with the City's obligation to provide public facilities and services to the City's residents with available fiscal resources; and
- (b) Regulate the timing and annual amount of new development projects, so that necessary and sufficient public facilities and services are provided, and so that new development projects will not diminish the City's level of service standards; and
- (c) Encourage concentric growth of the City by promoting efficient residential development patterns and orderly expansion of residential areas to maximize the use of existing public services and infrastructure; and
- (d) Encourage development which will efficiently utilize existing and planned future, public facilities; and
- (e) Encourage a balance of housing types in the City which will accommodate a variety of persons, including affordable housing projects which will accommodate persons of very low, low, and moderate income, and persons on limited or fixed incomes; and
- (f) Implement and augment the City policies related to the regulation of new development as set forth in the general plan, specific plans, City ordinances and resolutions, master plans, finance and implementation plans and design documents.

10.12.021 - Exemption for certain active adult residential uses.

- (a) Residential development on property that has obtained active adult residential allotments pursuant to Chapter 10.18 of the Municipal Code is unlike typical residential property in important ways. The senior housing development on such property generates fewer vehicular trips resulting in improved air quality over typical residential subdivisions, imposes fewer burdens on local public school systems and public services, creates lower demand for athletic fields, and has lower water and sewer demands. Such AAR communities are also recognized as providing a new source of skilled and experienced volunteers for civic organizations and nonprofits, as well as supporting local businesses and creating additional community benefits such as parks and other recreational amenities.
- (b) For these reasons, the development of property that has been allocated "Active Adult Residential Allotments" through a ballot measure (in accordance with the Elections Code, including without limitation, sections 9214, 9215, 9222) are not subject to this GMO or the GMO Guidelines and shall not require any residential growth allotment under the GMO. In addition, new AAR units constructed with active adult residential allotments shall not be counted against the annual residential growth allotment allotments under this chapter. Finally, the term "residential building permits" as set forth in section 10.12.110 of this chapter shall be construed as meaning only residential building permits for residential units which have not been allotted active adult residential allotments through the initiative process and Chapter 10.18 of the Tracy Municipal Code.

ATTACHMENT A TO ORDINANCE NO. _____

New Language is Underlined and Language to be Deleted is in Strikethrough

10.12.030 - Definitions.

Unless otherwise provided in this chapter, the definitions set forth in chapter 10.08 (Zoning Regulations), chapter 12.08 (Subdivision Ordinance), title 9 (Building Regulations), and title 13 (Impact Fee Ordinance) of this Code shall apply to this chapter. In the event that the definitions or provisions of the Zoning Regulations, the Subdivision Ordinance, the Impact Fee Ordinance, or any other provisions of this Code conflict with any provisions of this chapter, then this chapter shall control to the extent necessary to administer and effectuate the purpose of this chapter. As used in this chapter:

"*Affordable dwelling unit*" means either a "moderate income dwelling unit", or a "low income dwelling unit", or a "very low income dwelling unit", as defined by the State Department of Housing and Community Development. In general, an affordable dwelling unit means a dwelling unit for rent or sale with a rental rate or consumer purchase cost which enables persons to rent or purchase that dwelling unit, if their gross household income is within the following percentages of the San Joaquin County area median income (as adjusted for family size):

- (a) For a moderate-income dwelling unit, more than eighty percent (80%), but not more than 120%;
- (b) For a low-income dwelling unit, more than fifty percent (50%), but not more than eighty percent (80%); and
- (c) For a very low-income dwelling unit, not more than fifty percent (50%).

"*Applicant*" means "developer", as defined below.

"*Board*" means "Growth Management Board".

"*Developer*" means a person, or other legal entity, who applies to the City to divide or cause to be divided real property into a development project, or who applies to the City to improve (into a development project) any existing parcel of real property.

"*Development project*" means any project undertaken for the purpose of development, as defined in the Subdivision Map Act (Government Code § 66410 et seq.), and shall specifically include any tentative parcel map, tentative subdivision map, final parcel map, final subdivision map, preliminary development plan, final development plan or building permit.

"*Growth Management Board*" or "*Board*" means the Board as established and defined by section 10.12.040.

"*Public facilities and services*" is as described in this chapter and the GMO guidelines.

"*Reasonable certainty*" means that the applicant has provided documentation, to the satisfaction of the Board, which establishes that the financing necessary for the public facilities and services required to serve the development project is secured, and is described in a finance and implementation plan, approved by the City Council, which feasibly provides the required public facilities and services in a timely manner. In analyzing "reasonable certainty", the Board shall consider:

- (a) The availability of capacity in public facilities;
- (b) The availability of financing for the public facilities which will serve the applicant's development project, including an analysis of financing from the applicant and financing which will come from other development projects which benefit from the public facilities; and
- (c) The anticipated date of completion of construction of the permanent public facilities which will serve the applicant's development project.

"*RGA*" means "residential growth allotment", and is an allotment made by the City in accordance with this chapter which must be obtained by a developer (by allocation ~~or conveyance~~) before each residential building permit is issued by the City, unless the subdivider obtains an exemption in accordance with this chapter. One RGA is required for each dwelling unit to be constructed.

"*Transit Oriented Development Area*" or "*TOD Area*" means an area designated by the City Council pursuant to an amendment to Title 10 of the Tracy Municipal Code as a Transit Oriented Development Area that includes an existing or proposed commuter rail station.

ATTACHMENT A TO ORDINANCE NO. _____

New Language is Underlined and Language to be Deleted is in Strikethrough

"Workforce dwelling unit" means a dwelling unit with a rental rate or consumer purchase cost which enables persons to rent that dwelling unit if their gross household income is 80% to 100% of the City of Tracy area median income (as adjusted for household size) or purchase that dwelling unit, if their gross household income is 100% to 120% of the City of Tracy area median income (as adjusted for household size) in accordance with the most recent American Community Survey completed by the United States Census Bureau.

10.12.040 - Establishment of the Growth Management Board.

The Growth Management Board ("Board") is hereby established in order to manage and enforce the requirements of this chapter. All decisions of the Board shall be made by the City Manager in consultation with appropriate department heads, particularly including the Development and Engineering Services Director and the Public Works Director, or their respective designees. The Board may meet as necessary to implement the GMO and GMO guidelines.

10.12.050 - GMO guidelines.

The City Council shall adopt GMO guidelines, in order to implement the requirements of this chapter. In the event that the provisions of this chapter conflict with any provisions of the GMO guidelines, then this chapter shall control.

10.12.060 - Exemptions.

A project shall be exempt from further compliance with this chapter if the developer includes (in addition to the requirements of this chapter and the GMO guidelines) documentation, to the satisfaction of the Development and Engineering Services Director, which establishes that the development project which is the subject of the application meets the requirements of one of the following subsections:

- (a) *Remodel; minor addition; conversion.* The development project is a rehabilitation or remodeling of, or a minor addition to, an existing structure, or a conversion of apartments to condominiums; or
- (b) *Replacement.* The development is replacing legally established dwelling units that have been demolished and do not exceed the number of legally established dwelling units demolished. Where the number of new dwelling units exceeds the number of legally established dwelling units demolished, an allocation of RGAs must be obtained for the additional dwelling units; or
- (c) *Model homes.* To the extent the development project includes "model homes" (structures used as an advertisement for housing sales and not used as dwellings), the model homes shall not be required to obtain an allocation of RGAs; provided, however;
 - (1) The number of model homes shall be limited to the lesser of twenty (20) percent of the total dwelling units identified in the application, or seven dwelling units per project;
 - (2) Prior to the issuance of each building permit, the subdivider shall pay all required fees, including impact fees required by title 13 of this Code; and
 - (3) Model homes may be converted and occupied as dwellings only after RGAs are allocated for each dwelling unit as required by this chapter; or
- (d) *Four units or fewer on a single lot.* The development project is either a four-plex or lesser number of dwelling units on a single existing lot; provided, however;
 - (1) The dwellings are not part of a larger eligible parcel that will result in more than four dwelling units at build-out of the project;
 - (2) The exemption is limited to no more than a total of four such dwelling units per subdivider per calendar year; and

ATTACHMENT A TO ORDINANCE NO. ____

New Language is Underlined and Language to be Deleted is in Strikethrough

- (3) Prior to the issuance of each building permit, the subdivider shall pay all required fees, including impact fees required by title 13 of this Code.
- (e) *Accessory dwelling unit.* The development is a secondary residential unit.
- (f) Workforce Housing Projects in Transit Oriented Development Areas. The project is in a TOD Area and at least ten (10%) of the dwelling units are designated as Workforce dwelling units as detailed below:

	<u>Workforce Dwelling Units For Sale</u>	<u>Workforce Dwelling Units Rental</u>
<u>Low (80% Tracy AMI)</u>	=	<u>Minimum of 5% of dwelling units shall be Low Income.</u>
<u>Median (100% Tracy AMI)</u>	<u>Minimum of 5% of dwelling units shall be Median Income.</u>	<u>Minimum of 5% of dwelling units shall be Median Income.</u>
<u>Moderate Income (120% Tracy AMI)</u>	<u>Minimum of 5% of dwelling units shall be Moderate Income.</u>	=

A maximum of 2,200 dwelling units per TOD Area shall be exempt from the GMO under this exemption. Documentation demonstrating that a dwelling unit constitutes a "Workforce dwelling unit" and will maintain such status for a minimum of twenty years must be submitted prior to building permit issuance. Projects with 9 or fewer dwelling units will be eligible for this exemption upon payment of an in-lieu fee (subject to annual inflationary adjustments) established by Council resolution. Any dwelling unit in a Workforce Housing Project in a TOD Area that qualifies for another exemption contained in Chapter 10.12 shall not count towards the 2,200 maximum.

10.12.065 - Compliance with the regional housing needs assessment.

- (a) *Authority.* This section is enacted under the authority of and is intended to comply with and implement Government Code section 65584.
- (b) *RHNA.* The State Department of Housing and Community Development requires that each city adopt a housing element as part of its general plan. That Department also establishes a "Regional Housing Needs Allocation" (RHNA) for all cities, setting forth the target number of dwelling units to be constructed during any planning period. (The "planning period" is defined in each housing element. The planning period in effect at the time this code amendment was adopted is July 1, 2009 through December 31, 2015.) The RHNA housing unit allocations are established by income categories: very low-, low-, moderate, and above-moderate-income.
- (c) *Requirement.* Notwithstanding other provisions of this chapter, in any calendar year, once RGAs have been allocated or building permits have been issued for the number of residential units permitted by this chapter, the City shall continue to issue building permits for residential dwelling units if they are necessary to achieve the RHNA goals in a particular income category (during each planning period). The number of building permits may not exceed the RHNA goals in each income category. Any building permits issued in accordance with this provision shall not require an RGA.
- (d) *Purpose of calculating averages.* For the sole purpose of calculating the RGA and building permit averages contained in sections 10.12.100 and 10.12.110, any building permits issued under the authority of this section shall be treated as if an RGA and a building permit were issued under the GMO.

Article 2. – Applications

ATTACHMENT A TO ORDINANCE NO. _____

New Language is Underlined and Language to be Deleted is in Strikethrough

10.12.070 - Application requirements for RGAs.

No RGA shall be allocated by the City unless the developer submits an application in accordance with the requirements of this chapter and the requirements of the GMO guidelines.

10.12.080 - Affordable housing project exceptions.

An application for an RGA shall be considered an affordable housing project exception if the application includes (in addition to the application requirements of this chapter and the GMO guidelines) documentation, to the satisfaction of the Board, which establishes that the housing unit which is the subject of the application meets the following requirements:

- (a) The housing unit meets the income level requirements for low, very low, or moderate income levels, as defined by section 10.12.030.
- (b) The housing unit is formally dedicated to provide affordable dwelling units in accordance with a locally recognized program.
- (c) The applicant provides documentation that the requirements of this section will be met and maintained for a minimum of ten years.

Article 3. - Allocations; Development Agreements

10.12.090 - Allocations; development agreements.

- (a) RGAs shall be allocated in accordance with this chapter and the GMO guidelines. Notice shall be given to each applicant of the availability of the annual report.
- (b) At a minimum, the terms of any development agreement providing for an allocation of RGAs, shall identify: (1) the timing of the applicant's obligation to comply with the requirements set forth in GMO; (2) the timing and amount of RGA allocations (not to exceed a maximum of 225 RGAs per calendar year, as set forth in GMO subsection 10.12.100(c)); and (3) remedies for default, including the time after which RGAs shall be invalid as described in the GMO guidelines.
- (c) Unless specifically modified by a development agreement identified in subsection 10.12.090(b), above, each applicant shall comply with all requirements set forth in the GMO and the GMO guidelines. A development agreement may only modify the requirements of the GMO related to: (1) the timing requirements for applications for RGAs; and (2) the time after which RGAs will be deemed invalid (as identified in the GMO guidelines).
- (d) The number of RGA allocations per application shall not exceed: (1) the number requested in the application; and (2) the number which can be reasonably anticipated to be used by the applicant based on development project approvals (such as general plan, specific plan, tentative map, final map or development plan). The Board has the discretion to award all of the RGAs that are available in that allocation cycle, or fewer, based on the applications received and the criteria as established in the GMO guidelines.

Article 4. - Annual limits

10.12.100 - Residential growth allotments (as set forth in Measure A adopted by voters November 2000).

- (a) The City shall not allocate RGAs in any calendar year in excess of either of the following: (1) an average of 600 RGAs per year calculated pursuant to subsection 10.12.100(b); and (2) a maximum of 750 RGAs per year calculated pursuant to subsection 10.12.100(c).

ATTACHMENT A TO ORDINANCE NO. ____

New Language is Underlined and Language to be Deleted is in Strikethrough

- (b) The average number of RGAs per year shall be calculated as follows: (1) the total sum of RGAs allocated by the City from January 1, 2000, through the calendar year of the allocation; (2) less the sum of RGAs which are invalid, as defined in the GMO guidelines; (3) less the sum of RGAs allocated for affordable housing project exceptions; and (4) divided by the number of years which have passed from January 1, 2000, to the year of the allocation, inclusive.
- (c) The maximum number of RGAs per year shall equal the total sum of RGAs allocated by the City for the calendar year of the allocation, including a maximum of 150 RGAs allocated for affordable housing project exceptions, and including a maximum of 225 RGAs allocated to development projects with which the City has entered into a development agreement providing for an allocation of RGAs (as identified in the GMO guidelines). The City shall not allocate more than 150 RGAs in any calendar year for affordable housing project exceptions. The City shall not allocate more than 225 RGAs in any calendar year to development projects with which the City has entered into a development agreement providing for an allocation of RGAs (as identified in the GMO guidelines). The annual limit of 225 RGAs for development agreement shall include the sum of all RGAs allocated to all development agreements in any calendar year. The City shall not allocate more than 750 RGAs in any calendar year.
- (d) To the extent that RGAs have not been allocated in any calendar year for affordable housing project, the City shall reserve, until the first Friday in July of each year: 150 RGAs for affordable housing projects.

10.12.110 - Residential building permits (as set forth in Measure A adopted by voters November 2000).

- (a) The City shall not issue residential building permits in any calendar year in excess of either of the following: (1) an average of 600 residential building permits per year calculated pursuant to subsection 10.12.100(b); and (2) a maximum of 750 residential building permits per year calculated pursuant to subsection 10.12.100(c).
- (b) The average number of residential building permits per year shall be calculated as follows: (1) the total sum of residential building permits allocated by the City from January 1, 2000, through the calendar year of the allocation; (2) less the sum of residential building permits which expired prior to completion of construction; (3) less the sum of residential building permits allocated for affordable housing project exceptions; (4) less the sum of residential building permits exempt from this chapter; and (5) divided by the number of years which have passed from January 1, 2000, to the year of the allocation, inclusive.
- (c) The maximum number of residential building permits per year shall be calculated as follows: (1) the total sum of residential building permits allocated by the City for the calendar year of the allocation; and (2) less the sum of residential building permits exempt from this chapter.
- (d) Applications for residential building permits will be evaluated (and, for each approved application, will be issued) by the City in the order they are received.

Article 5. - Appeals

10.12.120 - Appeals.

Any applicant dissatisfied with any decision made pursuant to this chapter, by the Development and Engineering Services Director or the Board, may submit a written appeal to the City Clerk in accordance with chapter 1.12 of this Code. All decisions of the City Council are final.

