

CHAPTER 17.06

Residential Dwelling Unit Building Permit Allocation System Ordinance

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17.06.005 Purpose and Intent.

A. The stated purpose of Adopting this Ordinance and Residential Building Permit Allocation System is to implement the policies and guidelines of the City of Half Moon Bay as established by the General Plan, its Elements, and the Local Coastal Program Land Use Plan, based upon the mandate of Measure A and Measure D, the Residential Growth initiatives. This purpose is to be accomplished by City control of the rate and quality of future development on a year to year basis.

B. The stated intent of adopting this Ordinance and Residential Dwelling Unit Building Permit Allocation System is to:

1. Establish procedures and criteria for the allocation of Building Permits for new residential units in the City of Half Moon Bay.

2. Establish procedures for the review of all new residential development proposals by all City Departments and any affected outside agency to ensure that all new residential development meets and addresses the needs of both existing and future residents.

3. Ensure that the City of Half Moon Bay retains control over the rate and quality of all new residential development in order to:

i. preserve the quality of life in the community;

ii. protect and enhance the available public and private open space and parks and recreation facilities and opportunities;

iii. ensure that adequate public school facilities will be available to serve new development;

iv. provide for the orderly development of the City at a rate of population growth that does not exceed a maximum of 3% - 1% plus the allocation for the Downtown Area annually as mandated by Measure A D, the Residential Growth Limitation Initiative and as provided for herein, while addressing the housing needs of all economic segments of the community; and

v. protect the health and safety of existing and future residents by controlling the rate of future residential growth in the City during periods of infrastructure capacity constraints, particularly those related to water supply, sewage treatment capacity, school facilities, open space, parks, and streets and highways.

17.06.010 Applicability. The provisions of the Ordinance shall apply to the issuance of Building Permits for all new residential units. The following Categories of new residential development are hereby established:

A. Residential Infill Projects as defined in Section 17.06.100.

B. New Residential Projects as defined in Section 17.06.200.

17.06.015 Exemptions. ~~The following residential projects shall be exempt from the dwelling unit limitations of this chapter shall not apply to:~~ and procedures specified herein:

- A. ~~Replacements of existing dwelling units on a one-for-one basis.~~
- B. ~~Units provided pursuant to State of California Density Bonuses for the provision of low and moderate income housing as required by State Law.~~
- C. ~~Any "Second Dwelling Unit" as defined in Chapter 18.57 of the Half Moon Bay Municipal Code or the California Government Code.~~
- D. ~~Any residential development with a Development Agreement adopted prior to May 21, 1991.~~
- E. ~~Any residential development for which a Vesting Tentative Map is either in process or has been approved prior to May 21, 1991.~~

17.06.020 Establishment of Number of Building Permits to be Allocated Annually.

A. The number of dwelling units which the City may authorize to be built each calendar year shall not exceed the number of units which would result in a growth of one percent (1%) in the City's population as of January 1 of that year. In determining the number of permissible units, the City shall use the most recent U.S. Census figures for Half Moon Bay to calculate the average number of persons per household.

B. The number of dwelling units authorized each year under subsection A may be increased by fifty percent (50%) for additional dwelling units in the Downtown Area.

C. Applications for new units from areas of the City outside the Downtown Area shall have priority for one-half of the units authorized under subsection A. If fewer applications are received, the remainder of these units may be authorized in the Downtown Area.

D Subject to subsections B and C, the City shall allocate permissible dwelling units among applications on the basis of the existing allocation system in the Municipal Code section 17.06 or a subsequently modified allocation system.

E. The "Downtown Area" is the area designated as the Downtown Half Moon Bay Redevelopment Survey Area in the City Resolution No. C-91-98, November 3, 1998. A copy of that map is reproduced in a reduced format following this section (Figure).

~~A~~ F. The City Council, by Resolution, shall establish the maximum number of new dwelling units for which Building Permits may be issued under each Category of residential projects in the upcoming calendar year in accordance with the procedures and methodology established herein prior to December 31 of the preceding year. When applying the formula to establish the annual maximum number of new dwelling units for which Building Permits may be issued in each Category, in those cases where a fraction of a dwelling unit occurs, any fraction less than 0.5 shall be rounded down to the nearest whole number; any fraction of 0.5 or more is rounded up to the next whole number.

B G. The number of new dwelling units for which Building Permits may be issued shall be based upon a maximum annual increase in population of three percent (3%). The formula and base data is as follows:

1990 Base Population: 8,886 persons
1990 Dwelling Unit Count: 3,402 dwellings
1990 Persons per Household: 2.61
Building Permits Issued in 1990: 75
1991 Allocation: 104 new dwelling units.
Building Permits Issued in 1991: 31
1992 Allocation: 105 new dwelling units
Building Permits Issued in 1992: 22
1993 Allocation: 106 new dwelling units

e H. In establishing the number of Building Permit Allocations for new residential units in the upcoming year, the City Council shall also consider:

1. The number of Building Permits allocated in the current year;
2. The number of Building Permits allocated in the preceding year but not necessarily issued.
3. The number of future Building Permit Allocations awarded in accordance with a Development Phasing Plan and Agreement as provided for in Section 17.06.055.
4. The information and data contained in the Annual Fiscal Impact analysis as provided for in Section 17.06.035 Fiscal Impact Analysis Required.

D I. 1. The City recognizes that since the adoption of Measure A by the voters in May of 1991 there has been a sewer moratorium severely limiting any new residential development. The population growth rate in the City has and will be substantially less than 3% until the sewer plant expansion comes on line. The sewer plant expansion is projected to now be in 1996. As a result there has been an inability of the City to meet its Housing Goals under the Housing Element of its General Plan, including its share of regional housing and the construction of affordable housing. In addition, there has been an economic hardship for those owning property who have been unable to build due to the sewer moratorium.

2. The City recognizes that there are approximately 400+/- residential units from development under existing Vesting Tentative Maps that are exempt from Measure A and this Allocation Ordinance. It is anticipated that the Vesting Tentative Map developments will come forward rapidly after the sewer permits become available (in 1996 or later).

3. There is a need, due to the circumstances stated, to allow Infill Residential units and New Residential projects to obtain some level of development when the sewer plant expansion comes on line.

4. Therefore, under the Allocation Plan, the City will allow the following residential development subject to this Allocation Ordinance in the four (4) years immediately after the sewer plant expansion comes on line:

a. Infill Residential units: One-third of the total units derived each year from the Allocation computation under Section 17.06.020 Establishment of Number of Building Permits Allocated Annually.

b. New Residential Projects: One-third of the total units derived each year from the Allocation computation under Section 17.06.020.

c. There shall be no further Allocations allowed in any year in which the number of residential units from the Vesting Tentative Maps that apply for a Building Permit exceeds the remaining one-third of the total of the units derived each year from the Allocation computation under Section 17.06.020.

5. The City Council finds that even with the interim policy established hereunder for Infill and New Residential Projects that the 3% population growth policy under Measure A will have been met for the period of time from adoption of Measure A in May of 1991. At the end of the said four year period under this Section, new units from projects with Vesting Tentative Maps shall be deducted annually from the total annual Allocation number calculated under Section 17.06.020.

6. Notwithstanding the provisions of this Section, the City shall limit pro rata the Allocations for Infill and New Residential Projects in any year where the allowance of such units would result in exceeding a ~~3%~~ 1% population growth rate since the adoption of Measure ~~A-D~~ in ~~May~~ November of ~~1991~~ 1999.

17.06.025 Emergency Situations.

A. In the event the City Council determines that an emergency situation directly effecting the health and safety of the residents of the City of Half Moon Bay exists due to a lack of available sewage treatment capacity, available water for domestic purposes or for fire suppression, or that roadway capacity is not available to accommodate new residential development, or any other endangerment to the public health or safety, the City Council may adopt a Resolution establishing the necessity for setting the number of residential building permit allocations in the upcoming year at less than 3 1% plus the allocation for the Downtown Area. The Resolution establishing the emergency shall clearly identify the specific nature and extent of the emergency situation and its effect on the health and safety of the residents of the City.

B. If it is determined that there shall be no Building Permit allocations for the upcoming year due to health and safety reasons, the

City Council shall adopt an Urgency Ordinance in accordance with the applicable Sections of the California Government Code.

17.06.030 Establishment of Allocation System.

A. The City Council shall establish criteria and a system to review and allocate Building Permits for all new residential units subject to the provisions of this Ordinance.

B. When an application for a Residential Dwelling Unit Building Permit Allocation has been accepted as complete by the Planning Director, the applicant shall be subject to the provisions of this Ordinance that were in effect at that time.

C. The provisions of Subsection B. above shall not apply to the number of allocations available in any given year in the event the City Council determines that an emergency exists as provided for in Section 17.06.025.

17.06.035 Amendments to the Established Residential Dwelling Unit Building Permit Allocation System.

The Residential Dwelling Unit Building Permit Allocation System established herein shall not be amended at any time except during the process of the City Council establishing the maximum allocation for the upcoming year or as provided for in Section 17.06.025 Emergency Situations. Any proposed amendments to this Ordinance shall be accomplished prior to December 31, of any year.

17.06.040 Processing Fee Established. The City Council, by Resolution, shall establish a fee for processing an application for an allocation as provided herein. The City Council may adjust the fee in conjunction with the adoption of the Resolution establishing the number and distribution of Building Permits to be allocated for the upcoming year.

17.06.045 Fiscal Impact Analysis Required. The City Council shall conduct an on-going Fiscal Analysis in order to monitor the fiscal impact of new residential development to the City. The City Council shall prepare an annual report identifying the effects of new residential development on City finances and its ability to adequately provide services to the residents. The information presented in the annual Fiscal Impact Analysis shall be considered by the City Council in setting the number of Building Permits to be allocated in the upcoming year. The fees assessed for processing an application for a Building Permit allocation under the provisions of this Ordinance shall include a pro-rata share of the costs to the City for preparing an annual report.

17.06.050 Timing of Building Permits Issued Pursuant to this Ordinance.

A. Except as may be provided for in conjunction with an approved Development Phasing Plan pursuant to Section 17.06.055, within one year from the date an allocation for a Building Permit for a new residential unit is awarded under the provisions of this program, a complete building permit application shall be submitted to the Building Department.

B. All conditions for a Building Permit to be issued must be met within six months of the date a Building Permit application is submitted.

C. One six month extension of the Building Permit may be granted by the Building Official as provided for in the Uniform Building Code.

D. Upon the expiration of the six month extension, an Applicant with a valid allocation may request that the City Council, as a part of its annual determination of the total allocation for the upcoming year, consider granting an additional period of time not to exceed one calendar year for the allocation. Should the City Council grant the extension, all required Building Permit fees will be paid in accordance with the provisions of the Uniform Building Code.

E. Upon expiration of the one year extension if granted by the City Council, or if a Building Permit has not been issued and construction diligently commenced, the allocation shall become null and void and the formula for the next years maximum allocation will be adjusted to reflect that the allocation has not been used.

F. In the event an applicant has received a Building Permit allocation and other approvals are required by the City of Half Moon Bay or other agencies, any time spent in securing the required approvals from any agency shall be added to the time that the Building Permit allocation is valid provided that:

1. Written documentation is submitted by the applicant clearly indicating the date an application or other form of request for approval was submitted to the agency;

2. A detailed description of the reason for any delay in the issuance of approvals by the agency.

17.06.055 Development Phasing Plans and Agreements.

A. Phasing of development projects over a period of greater than one year shall be based upon specific provisions of a Development Phasing Agreement approved by the City Council at a duly noticed public hearing, the form and content of which shall be subject to the review and approval by the City Attorney.

B. Any Development Phasing Agreement shall address the effects such a Phasing Plan will have on any other reasonably anticipated development proposals and applications for Building Permit Allocations under the provisions of this system. A Phasing Plan may provide for an applicant to receive a greater number of annual allocations in any Category than the 50% maximum provided for herein upon adoption of specific findings by the City Council that by awarding a greater number of allocations to an individual developer, that no other developer will be unreasonably precluded from receiving all or part of any allocations that developer may be reasonably entitled to receive during the term of the Development Phasing Plan.

C. As a part of any request for consideration of a Development Phasing Agreement for a Phasing Plan as provided for herein, the Planning Director shall provide the Applicant with the names and mailing addresses of any other developer or developers reasonably

expected to be effected by such a Development Phasing Agreement so that adequate notice of the proceedings can be provided to those developers. The City Council shall consider any written responses or oral testimony from effected developers or other interested party received at any public hearing on the Development Phasing Agreement.

D. Any future annual allocations awarded in conjunction with the approval of a Development Phasing Agreement shall be deducted from the available allocations of any given year during the expected life of the Development Phasing Agreement. No other applicants for Allocations during the life of the Development Phasing Plan and Agreement shall compete for points against a development with an approved Development Phasing Plan and Agreement.

17.06.060 Timely Performance Required. Prior to the City Council establishing the number of new residential units for which Building Permits may be allocated in the upcoming year, the Planning Director shall review each development which has received a Building Permit Allocation to determine whether or not satisfactory progress is being made with the processing of the appropriate plans.

A. Should a developer fail to comply with the development schedule submitted with the application, or should the developer fail to initiate the processing of the appropriate plans, or should the development deviate significantly from the description provided for in the application, the Planning Director shall report such failure or deviation to the City Council.

B. At a duly noticed public hearing, after receiving testimony from all interested and affected parties, the City Council may rescind all or part of the allocations granted to the applicant on the basis of noncompliance with the approved Development Phasing Agreement or project plans or any other provision of this Ordinance.

C. Any such Building Permit Allocations awarded but not issued that are rescinded by the City Council for noncompliance with the provisions of this New Residential Dwelling Unit Building Permit Allocation System may be awarded to any applicant that has complied with the procedures set forth herein and received less than the number of allocations requested so long as the maximum number of allocations for that calendar year is not exceeded.

17.06.065 Priority Established for Residential Infill Projects. Except as otherwise provided for herein or as a result of City Council approval of a Development Phasing Plan and Agreement, Residential Infill Projects as defined in Section 17.06.100 shall have a higher priority than New Residential Projects as defined in Section 17.06.200.

17.06.100 Residential Infill Projects - Defined. The procedures specified in this Section shall apply to any proposed residential development within any Zoning District on a legally subdivided lot or contiguous lots under one ownership with a recorded Final Map or other similar instrument as established in the Subdivision Map Act prior to May 21, 1991, and where all required infrastructure such as vehicular access, sewer, water, natural gas, electrical, and communication service is available to serve the subdivision.

17.06.105 Annual Allocation for Residential Infill Projects.
Except as provided for herein or as otherwise may be adopted by the City Council as a part of adopting the Resolution establishing the annual allocation for the upcoming year, no more than 50% of the total annual allocation shall be awarded to development in this category. Any applicant must have water and sewer available to serve the site in order to receive a Residential Infill Allocation.

Allocation:

50% of total 1993 annual allocation of 106 units.

1993 Residential Infill Allocation:

53 dwelling units

17.06.110 Application Form for Residential Infill Projects.

A. An application form for Residential Infill Projects as defined herein shall be developed and approved by the City Council which incorporates all of the components of this Ordinance applicable to this category of new residential projects.

B. In the event it is necessary to assign points for a Residential Infill Project Allocation based upon the criteria specified herein, the application for a Residential Infill Project Allocation shall include a site plan indicating the location of any surrounding development, the location and a detailed description of any infrastructure necessary to serve the site, and a description of the roadway providing access to the site.

C. The City Council shall review the Allocation Application form in conjunction with its annual review of other aspects of the Allocation System.

17.06.115 Application Period for Residential Infill Projects.
Applications for Residential Infill Project Allocations shall be submitted between January 1 and January 31 of each year. If the number of applications for Residential Infill Project Allocations received during this initial period is less than the number of allocations allowed in this category, additional applications may be submitted at any time prior to September 1, or until applications equalling the maximum number of allocations in this category have been received, whichever is earlier.

17.06.120 Distribution of Residential Infill Project Allocations.

A. During the initial period between January 1 and January 31 of each year, no more than one Residential Infill Project Allocation may be awarded to any individual, corporation, or other entity unless the number of applications received for Residential Infill Project Allocations in this category by January 31 is less than the number of Allocations available.

B. In the event there is more than one applicant seeking multiple Allocations during the initial period, the Planning Director shall

distribute the available Allocations equitably to the applicants, except as otherwise may be provided for herein.

C. No more than five Allocations for Residential Infill Projects may be awarded to any individual, corporation, or other entity in any one calendar year unless the number of applications received for Allocations in this category prior to September 1 is less than the number of Allocations available.

D. If the maximum number of applications for Allocations in this category have not been received by September 1, any unused Allocations shall be transferred to either the Residential Projects In-Process or Approved Prior to May 21, 1991, or New Residential Projects categories on an equal basis. Building Permits may be awarded to any applicant based upon the procedures established for those categories.

E. If the number of applications received between January 1 and January 31 for Allocations in this category is greater than the Allocations in this category, the Planning Director shall assign points to each application, assigning no more than the maximum number of points specified in each category to any one proposed project according to the following criteria:

1. For each contiguous side of a building site with existing development (including across any public or private right of way):

5 points

2. For each contiguous side of a building site for which a building permit has been allocated but development not completed under the provisions of this system (including across any public or private right of way):

5 points

3. Where all water and sewer lines and other public utilities have been installed to serve the site:

5 points

4. Where there is an existing all-weather road surface providing vehicular access to the site constructed to City standards or otherwise acceptable to the City Engineer:

5 points

5. Declaration provided by the Applicant that the dwelling unit will be owner-occupied for a minimum of one year after completion:

5 points

6. For those applications for development on a site that meets all of the established development standards for the Zoning District and no Variance or other discretionary applications are required:

5 points

7. For those Applicants that have submitted complete Building Permit applications and, when required, have received Architectural Review Committee approval, and a Coastal Development Permit was either in process or subject to delays by the Coastal Commission, but Building Permits were not issued due to either the Sewer or Substandard Lot Moratorium:

15 points

8. Tie Breaking Procedure:

a. In the event of a tie between proposals based upon the criteria specified in Items E.1. through E.7. of this Section, the Architectural Review Committee shall review the proposed site development and architectural design of the applications receiving the same number of points. At a minimum, the Architectural Review Committee shall base their review and award points on the quality of the architecture, innovative site design techniques, and the diversity of design in relation to the neighborhood.

b. The Applicant with the highest overall rating based upon both subjective and objective criteria shall receive the maximum number of points to break the tie.

2 points maximum

G. Consistent with subsection 17.06.020.C, after all applications under subsection 17.06.020.A are ranked, only those applications from areas outside the Downtown Area shall be awarded allocations until one-half of the allocations in this category, taking into account the location of any allocations made to new residential projects, have been made. Thereafter, the remaining Aallocations for Building Permits shall be awarded to the Applicants receiving the highest number of points ~~(maximum available 45 + 2)~~ in descending order of the total points awarded until the total number of allocations for ~~this~~ each category of section 17.06.020 has ~~have~~ been exhausted.

17.06.125 Appeal of Distribution of Residential Infill Project Allocations.

A. Anyone aggrieved by the points awarded and/or Building Permits allocated to projects in this Category may appeal the decision to the Planning Commission within ten days of the Planning Directors final determination.

B. The decision of the Planning Commission may be appealed to the City Council.

C. At the first regular City Council meeting after the action of the Planning Commission is taken, the City Council, by majority vote of Council Members in attendance, may request that the decision of the Planning Commission be reviewed by the City Council at a duly noticed public hearing.

D. All appeals of points awarded and Building Permits allocated under this Category shall be heard at a duly noticed public hearing as expeditiously as possible given legal notification requirements and Staff constraints.

17.06.200 New Residential Projects-Defined. . .

[The rest of the Ordinance is unchanged. A complete copy is available at www.hmbcity.com. From the Home Page, click on Planning and follow the navigation to the listing of hearings and applicable staff reports. Staff reports are also available for review at the public library and at City Hall. Public comments are welcome in writing as well as at the hearings.]