

NOTICE OF SPECIAL MEETING

Pursuant to Section 54956 of the Government Code of the State of California, a Special meeting of the **Tracy City Council** is hereby called for:

Date/Time: Tuesday, July 28, 2020 at 6:00 p.m.
(or as soon thereafter as possible)

Location: Tracy City Hall
333 Civic Center Plaza, Tracy

THIS SPECIAL MEETING WILL BE CONDUCTED PURSUANT TO THE PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDER N-29-20 WHICH SUSPENDS CERTAIN REQUIREMENTS OF THE RALPH M. BROWN ACT

RESIDENTS ARE STRONGLY ENCOURAGED TO PARTICIPATE REMOTELY AT THE JULY 28, 2020 MEETING

Government Code Section 54954.3 states that every public meeting shall provide an opportunity for the public to address the Tracy City Council on any item, before or during consideration of the item, however no action shall be taken on any item not on the agenda.

Remote Access to City of Tracy Council Meeting:

In accordance with the guidelines provided in Executive Order N-29-20 on social distancing measures, the City of Tracy will allow for remote participation at the upcoming Special City Council meeting on Tuesday, July 28, 2020.

As always, the public may view the City Council meetings live on the City of Tracy's website at www.CityofTracy.org or on Channel 26. To view from the City's website, select "Watch Live Council Meetings" from the drop down menu "Select an Online Service" at the top of the City's homepage. You will be directed to the "Council Meeting Videos" page where you may select the video for the appropriate date under "Upcoming Events."

If you only wish to watch the meeting and do not wish to address the Council, the City requests that you stream the meeting through the City's website or watch on Channel 26.

Remote Public Comment:

Public comment, limited to 250 words or less, may be submitted via email publiccomment@cityoftracy.org

Identify the item you wish to comment on in your email's subject line. Emails that exceed the 250 word limit will not be read in their entirety during a meeting, however, they will be included in the record.

During the upcoming Council meeting public comment will be accepted via the options listed below. If you would like to comment remotely, please follow the protocols below:

- *Comments via:*
 - **Phone** by dialing (209) 831-6010, or
 - **Online by visiting** <https://cityoftracyevents.webex.com> and using the following **Event Number:** 126 896 5973 and **Event Password:** TracyCC
 - **If you would like to participate in the public comment anonymously**, you may submit your comment via phone or in WebEx by typing "Anonymous" when

[prompted to provide a First and Last Name and inserting Anonymous@example.com](#) when prompted to provide an email address.

- **Protocols for submitting comments by phone:**
 - Comments received by phone for the “Items from the Audience/Public Comment” portion of the agenda must be received by the time the Mayor opens that portion of the agenda for discussion.
 - Comments received by phone on each “Agendized Item” will be accepted until the Mayor announces that public comment for that item is closed.
- **Protocols for commenting via WebEx:**
 - If you wish to comment under “Items from the Audience/Public Comment” portion of the agenda:
 - Listen for the Mayor to open “Items from the Audience/Public Comment”, then raise your hand to speak by clicking on the Hand icon on the Participants panel to the right of your screen.
 - If you no longer wish to comment, you may lower your hand by clicking on the Hand icon again.
 - Comments for the “Items from the Audience/Public Comment” will be accepted until the public comment period is closed.
- The total allotted time for public comment under “Items from the Audience/Public Comment” will be 15 minutes:

1. Call to Order
2. Roll Call
3. Items from the Audience - Items from the audience - *In accordance with Council Meeting Protocols and Rules of Procedure, adopted by Resolution 2019-240, a five-minute maximum time limit per speaker will apply to all individuals speaking during “Items from the Audience/Public Comment”. For non-agendized items, Council Members may briefly respond to statements made or questions posed by individuals during public comment; ask questions for clarification; direct the individual to the appropriate staff member; or request that the matter be placed on a future agenda or that staff provide additional information to Council.*
4. DISCUSSION ITEMS
 - 4.A. AUTHORIZE THE SUBMISSION OF A BALLOT MEASURE SEEKING VOTER APPROVAL OF 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) ON THE NOVEMBER 3, 2020 GENERAL ELECTION BALLOT AND OTHER ELECTION RELATED ACTIONS INCLUDING THE SUBMISSION OF AN ARGUMENT FOR THE MEASURE, IF APPROVED, AND DESIGNATION OF AN AUTHOR
 - 4.B. AUTHORIZATION TO NEGOTIATE A COMMUNITY BENEFIT AGREEMENT WITH PROLOGIS, LP REGARDING A REQUEST TO AMEND THE NORTHEAST INDUSTRIAL SPECIFIC PLAN APPLICATION SPA20-0005 AND PROVIDE DIRECTION TO STAFF

- 4.C. ADOPT AN URGENCY ORDINANCE AMENDING ORDINANCE NO. 1285 OF THE CITY OF TRACY, AS PREVIOUSLY AMENDED BY ORDINANCE NO. 1289, EXTENDING CERTAIN DEADLINES AND THE DURATION OF TEMPORARY USE PERMITS, AND AUTHORIZING THE CITY MANAGER TO ISSUE SPECIAL EVENT PERMITS AND WAIVE CERTAIN FEES DURING THIS LOCAL EMERGENCY
5. Council Items and Comments
6. Adjournment



Mayor

Posting Date Monday, July 27, 2020

The City of Tracy complies with the Americans with Disabilities Act and makes all reasonable accommodations for the disabled to participate in public meetings. Persons requiring assistance or auxiliary aids in order to participate should call City Hall (209-831-6105), at least 24 hours prior to the meeting.

Any materials distributed to the majority of the Tracy City Council regarding any item on this agenda will be made available for public inspection in the City Clerk's office located at 333 Civic Center Plaza, Tracy, during normal business hours.

AGENDA ITEM 4.A

REQUEST

AUTHORIZE THE SUBMISSION OF A BALLOT MEASURE SEEKING VOTER APPROVAL OF 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) ON THE NOVEMBER 3, 2020 GENERAL ELECTION BALLOT AND OTHER ELECTION RELATED ACTIONS INCLUDING THE SUBMISSION OF AN ARGUMENT FOR THE MEASURE, IF APPROVED, AND DESIGNATION OF AN AUTHOR

EXECUTIVE SUMMARY

At the July 21, 2020 Tracy City Council meeting, the City Council directed staff to prepare a ballot measure requesting voter approval of an ordinance exempting development projects (up to 2,200 dwelling units per area) in commuter or passenger rail focused transit-oriented development areas that include workforce housing from the City's Growth Management Ordinance on the November 2020 ballot.

This item requests Council approval of a resolution authorizing the submission of a ballot measure, including the ballot question and proposed ordinance. The resolution further authorizes the City Clerk to allow for the submission of arguments for and against, as well as rebuttals, regarding the measure; authorizes the submission of an argument for the measure on behalf of the Council, and directs the City Attorney to prepare an impartial analysis of the ballot measure. This item further requests that Council, by motion, designate an author of the Council's argument for the measure.

DISCUSSION

Background

At the July 21, 2020 Tracy City Council meeting the City Council directed staff to prepare a ballot measure for the November 2020 ballot seeking voter approval of an ordinance to exempt residential development projects from the City's Residential Growth Management Plan, codified in Chapter 10.12 of the Tracy Municipal Code ("TMC") and commonly referred to as the "Growth Management Ordinance" ("GMO") in transit-oriented development areas that include at least five percent (5%) to a maximum of ten percent (10%) of dwelling units that would be affordable for rent or purchase by persons with gross household incomes of 120% or below of the City of Tracy area median income (as adjusted for household size). The proposed Ordinance (Attachment A) would amend the GMO to create an exemption for a maximum of 2,200 dwelling units in each Council-designated Transit Oriented Development (TOD) area that includes commuter or passenger rail service.

Transit Oriented Development

Since the beginning of 2018, the Tri-Valley San Joaquin Valley Regional 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. The plans for Valley Link include a potential station in Downtown Tracy in the vicinity of the Transit Station, as well as possible stations in the Ellis historical area in Tracy and in the Mountain House area within the City's Sphere of Influence. According to Valley Link, the project could potentially begin passenger service as soon as 2027/2028. However, project timing is dependent on securing needed funds.

One component of the Valley Link project is to promote and encourage the development of TOD projects and programs in the cities along the anticipated Valley Link rail line. Valley Link adopted a policy to support the advancement of TOD in Valley Link station areas including the development and implementation of station area plans that meet or exceed a corridor-level threshold of 2,200 housing units within a half mile radius of stations. According to Valley Link, the TOD projects "adjacent to stations will also further reduce Vehicle Miles Traveled (VMT) and greenhouse gas emissions (GHG) for the project."

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 in and around the existing Tracy Transit Station. The TOD study was envisioned to encompass several phases, the first being a study of the area to identify key planning concepts and a project boundary that would inform the creation of a Specific Plan (development policy and zoning) and station area plan. On July 21, 2020, staff provided City Council an update of the TOD study with the recommendation that the City prepare a specific plan for the entire project area to:

- Comprehensively plan for future development opportunities that accompany the introduction of Valley Link commuter rail service in the Tracy downtown area and on other key opportunity sites beyond, including the Urban Reserve-1 (UR-1) site; and
- Implement Valley Link's policy direction for the ½-mile radius station area (station area) that will surround the future Valley Link station.

The TOD study presentation also included a request from Council Members Veronica Vargas and Rhodesia Ransom that Council discuss a potential ballot measure that would amend the City's Growth Management Ordinance to allow more housing within the future TOD areas and provide direction to staff. Council accepted staff's recommendation to prepare a specific plan for the area around the existing Tracy Transit Station, including UR-1 and the Heinz site that could accommodate transit oriented development, and include policies to prevent gentrification and discourage displacement in these TOD areas. Council further directed staff to prepare the ballot measure that is being discussed tonight. As indicated to Council, the deadline to submit a ballot measure to the County Registrar of Voters for the November 3, 2020 ballot is August 7, 2020.

City of Tracy's Growth Management Ordinance- Chapter 10.12 of the TMC

In 1987, the Tracy City Council adopted the City's Residential Growth Management Plan, codified in Chapter 10.12 of the TMC and commonly referred to as the "Growth Management Ordinance" ("GMO") to regulate the rate of residential growth in accordance with the availability of required infrastructure and public services (Attachment B with redlines). Section 10.12.020 of the TMC states that the purpose and intent of the GMO is as follows:

- 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
- 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
- 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
- Encourage development which will efficiently utilize existing and planned future, public facilities; and
- 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
- 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.

The GMO requires that most residential housing projects first obtain a Residential Growth Allotment (RGA) in order to be issued a residential building permit. Since its adoption, the GMO has been amended various times, including by voter initiative. In 2000, Tracy voters approved a voter initiative titled Measure A which restricted the number of residential building permits that can be issued in Tracy annually 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, subject to certain exemptions.

The following residential development projects are exempt from the RGA requirement under the GMO:

- Remodels and minor additions
- Replacement dwelling units
- Four units or fewer on a single lot
- Accessory dwelling units
- Active-adult residential units approved by a ballot measure (e.g. Tracy Village)
- Residential dwelling units necessary to achieve the City's Regional Housing Needs Allocation ("RHNA") goals in a particular income category (during each planning period)

In addition, the GMO contains an exception to the calculation of the annual average for building permits issued to certain affordable housing residential projects.

Any changes to the GMO that are inconsistent with the language and intent of Measure A require voter approval. The GMO is implemented by staff in accordance with the language in the TMC and the GMO Guidelines adopted by Council resolution pursuant to Section 10.12.050. The GMO Guidelines were last revised in 2014 by Resolution No. 2014-145 (Attachment C).

Affordable and Workforce Housing

On June 4, 2019, the City Council conducted a workshop on workforce and affordable housing led by David Early, of PlaceWorks, Inc., which included a review of Tracy area housing costs and wages, existing affordable housing incentives, and potential projects or programs to help address housing affordability in Tracy (Attachment D). The workshop included a robust discussion regarding incomes and affordability in the City of Tracy. The discussion highlighted the fact that the median income in Tracy is higher than the San Joaquin County median income and, because the GMO exemptions rely on County income levels rather than City of Tracy income levels, the GMO's existing exemptions for affordable housing are underutilized/not used.

For example, there are two affordability exemptions in the current GMO. Section 10.12.080 of the GMO set asides up to 150 RGAs a year for affordable housing units that meet income level requirements for low, very low, or moderate income levels based on San Joaquin County area median income (as adjusted for family size). No developer has ever utilized this exemption in the history of the GMO.

Section 10.12.065, the other GMO affordability exemption, is the RHNA exemption. Tracy, like the rest of the cities in San Joaquin County, is allocated its "fair share" of the region's project housing needs by the San Joaquin Council of Governments. These "fair shares" are based on County-wide household income categories and state definitions of affordability. Per state regulations, housing is "affordable" if its cost, including taxes, insurance and utilities, is no more than 30% a household's gross income. The RHNA exemption in Section 10.12.065 allows the City to issue residential building permits in excess of the GMO's annual limits when the permits are necessary to achieve the City's RHNA goals. To date, developers' use of this exemption has been primarily to building housing for above moderate-income households (over 120% or more of the County AMI), and has been used sparingly by developers to building housing that is affordable to moderate, low or very low income households.

Proposed Ballot Measure and Amendment to GMO

Based on Council's direction, staff has prepared the proposed Ordinance (Attachment A) which, if approved, would create a new exemption for "Workforce Housing Projects in Transit-Oriented Development Areas" under Section 10.12.060. The exemption is proposed to read as follows:

Workforce Housing Projects in Transit Oriented Development Areas. The project is in a TOD Area and at least five percent (5%) and up to ten (10%) of the dwelling units are designated as Workforce dwelling units. 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 ten

years must be submitted prior to building permit issuance. A minimum of one Workforce dwelling unit must be included in the development project in order for the project to be eligible for this exemption. Any dwelling unit in a TOD Area that qualifies for another exemption contained in Chapter 10.12 shall not count towards the 2,200 maximum.

The following definitions would be added to the GMO in order to implement the Workforce Housing Exemption:

“Transit Oriented Development Area” or *“TOD Area”* means an area designated as a Transit Oriented Development Area by the City Council pursuant to an amendment to Title 10 of the Tracy Municipal Code.

“Workforce 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 of 120% or below 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.

The definition of Workforce housing is based on Council’s direction to use City income levels and to address moderate income housing. The most recent American Community Survey completed by the U.S. Census Bureau indicates that the City of Tracy area median income for a household of about 3.5 persons is \$88,309. A household of about 3.5 persons that earns \$106,068 would be considered moderate income level for purposes of determining housing affordability.

Staff included a provision that would require a development project seeking a Workforce Housing exemption from the GMO to provide documentation demonstrating that a dwelling unit constitutes a “Workforce dwelling unit” and will maintain such status for a minimum of ten years and that documentation must be submitted prior to building permit issuance. This provision is consistent with language in affordable housing exception in the GMO.

In reviewing the definitions section of the GMO, staff identified an additional amendment to the definition of RGA to eliminate the term “conveyance” which is a holdover from previous versions of the GMO. RGAs cannot be conveyed by developers and are only “allocated” by the Growth Management Board as stated in the GMO. The proposed Ordinance reflects this minor edit.

The proposed ballot question to be presented to voters is as follows:

<p>Shall the City of Tracy adopt an ordinance making development projects in transit oriented development areas that designate at least 5% and not more than 10% of the dwelling units affordable to households with gross incomes of 120% or below of the City of Tracy area median income (adjusted for household size) exempt from the City’s Growth Management Ordinance, with the exemption limited to 2,200 dwelling units per TOD area?</p>
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The proposed Ordinance and ballot label were prepared in accordance with Council's direction. Based on Council's direction the language in both items may be amended as desired by Council.

Election Related Actions

Section 9282 of the Elections Code allows "...the legislative body, or a member or members of the legislative body authorized by that body, or an individual voter who is eligible to vote on the measure, or bona fide association of citizens, or a combination of voters and associations..." to file an argument for or against a ballot measure submitted by a legislative body. The statute requires that written arguments not exceed 300 words in length and meet certain formatting requirements. The resolution sets forth the requirements for these arguments and requires their submission by the dates set by the County Registrar of Voters. In addition, the resolution requests that Council authorize the submission of an argument for the measure on behalf of the City Council and designate an author, by motion. Only one argument filed in support of, or against, a measure may be selected to appear with the measure. Section 9287 of the Elections Code provides that if multiple arguments in favor of, or against, the measure are timely filed with the City Clerk's Office, then the City Clerk must grant preference first to any argument authored by the legislative body, then to an authorized Council member or members, then to a bona fide citizens group, and finally to an individual voter registered and eligible to vote on the measure.

Section 9280 of the Elections Code provides that once a ballot measure qualifies for the ballot, the governing body may direct the City Clerk to transmit a copy of the measure to the City Attorney to prepare an impartial analysis. The proposed resolution establishes requirements and states that the analysis must be submitted by the deadline established by the County Registrar of Voters.

STRATEGIC PLAN

This item addresses the Council's Strategic Priorities of Economic Development, to continue to advance transit oriented development opportunities (Goal # 3), and Quality of Life, to engage in efforts to increase inventory of affordable and workforce housing in Tracy (Goal #4).

FISCAL IMPACT

The costs associated with placing this measure on the November 2020 ballot are estimated to be \$30,000 and are covered by the City Clerk's Office existing operational budget. Final costs are based on the number of registered voters and other measures included in the ballot.

RECOMMENDATION:

Adopt a resolution authorizing actions related to submitting a measure to the voters to approve an ordinance exempting transit-oriented development that includes workforce housing from the City's Growth Management Ordinance at the election on November 3, 2020, including:

1. Ordering the City Clerk to submit the measure to the voters at the General Municipal Election on November 3, 2020;
2. Providing for the submission of arguments for and against the measure;
3. Authorizing the filing of an argument for the measure on behalf of the entire City Council; and
4. Directing the City Attorney to prepare an impartial analysis of the measure by the date set by the County Elections Department.

Council, by motion, should designate the author or authors of the argument for the measure on behalf of the full City Council.

Prepared by: Andrew Malik, Assistant City Manager
Leticia Ramirez, City Attorney

Reviewed by: William Dean, Assistant Development Services Director
Karin Schnaider, Finance Director
Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS

A – Proposed Ordinance

B – Chapter 10.12 of the Tracy Municipal Code

C – GMO Guidelines adopted by Resolution No. 2014 -145

D – PowerPoint from June 4, 2019 Presentation by PlaceWorks Inc.

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 includes 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 DeNova 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 residential development projects in future TOD areas that include a minimum of five percent (5%) and up to ten percent (10%) of dwelling units that are affordable to households with incomes of 120% or below of the City of Tracy area median income (adjusted for household size), 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, 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.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TRACY, DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The City Council of the City of Tracy finds 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.

**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.

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“Transit Oriented Development Area” or “TOD Area” means an area designated as a Transit Oriented Development Area by the City Council pursuant to an amendment to Title 10 of the Tracy Municipal Code.

“Workforce 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 120% or below 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;

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- (2) The exemption is limited to no more than a total of four such dwelling units per subdivider per calendar year; and
- (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 five percent (5%) and up to ten (10%) of the dwelling units are designated as Workforce dwelling units. 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 ten years must be submitted prior to building permit issuance. A minimum of one Workforce dwelling unit must be included in the development project in order for the project to be eligible for this exemption. 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

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

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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).
- (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

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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.

Chapter 10.12 - RESIDENTIAL GROWTH MANAGEMENT PLAN^[6]

Footnotes:

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Editor's note— Ord. No. 1136, § 1, adopted June 2, 2009, repealed the former Ch. 10.12., §§ 10.12.010—10.12.210, and enacted a new Ch. 10.12 as set out herein. The former Ch. 10.12 pertained to similar subject matter and derived from Ord. No. 1071, § 1 (part), adopted 2005 and Ord. No. 1095, effective 2006.

Article 1. - General Provisions

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.

(Ord. No. 1136, § 1, 2009)

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.

(Ord. No. 1136, § 1, 2009)

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.

(Res. No. 2015-162, § 3(Exh. A), 9-15-2015)

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.

(Ord. No. 1136, § 1, 2009)

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.

(Ord. No. 1136, § 1, 2009)

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.

(Ord. No. 1136, § 1, 2009)

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
 - (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.

(Ord. No. 1136, § 1, 2009; Ord. No. 1184, § 1, 4-2-2013; Ord. No. 1254, § 5, 5-1-2018)

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.

(Ord. No. 1184, § 2, 4-2-2013; Ord. No. 1201, § 1, 11-3-2015)

Article 2. - Applications

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.

(Ord. No. 1136, § 1, 2009)

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.

(Ord. No. 1136, § 1, 2009; Ord. No. 1184, § 3, 4-2-2013)

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.

(Ord. No. 1136, § 1, 2009; Ord. No. 1201, § 2, 11-3-2015)

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).
- (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.

(Ord. No. 1136, § 1, 2009)

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.

(Ord. No. 1136, § 1, 2009)

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.

(Ord. No. 1136, § 1, 2009)

ATTACHMENT C

RESOLUTION 2014-145

ADOPTING REVISED GROWTH MANAGEMENT ORDINANCE GUIDELINES

WHEREAS, On June 16, 1987, 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, 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, City Council adopted Resolution 2009-084 which amended the Growth Management Ordinance Guidelines, and

WHEREAS, On October 16, 2012, City Council adopted Resolution 2012-214, which amended the Growth Management Ordinance Guidelines, and

WHEREAS, On September 2, 2014, 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 2012-214 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:
 - 1st 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 through 2016. The application date for an RGA application in calendar years 2013 through 2016 shall be at any point during this period. The GMB shall meet as needed in response to complete RGA applications in calendar years 2013 through 2016 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 through 2016, 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.

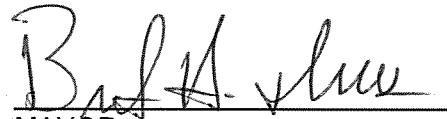
SECTION 4. In the event any provision of the Guidelines is held invalid by a court of competent jurisdiction, the Guidelines shall be construed as not containing that provision, and the remainder of the Guidelines shall remain in full force and effect.

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 2014-145 was adopted by the Tracy City Council on the 2nd day of September 2014, by the following vote:

AYES: COUNCIL MEMBERS: MACIEL, MANNE, RICKMAN, YOUNG, IVES
NOES: COUNCIL MEMBERS: NONE
ABSENT: COUNCIL MEMBERS: NONE
ABSTAIN: COUNCIL MEMBERS: NONE


MAYOR

ATTEST:


INTERIM CITY CLERK



Workforce and Affordable Housing Workshop

June 4, 2019

Agenda:

» Schedule

- Presentation by David Early: 30 slides in 30 minutes
- Questions and input on preferences from Council: 1 hour

» Topics

- Tracy's Current Affordable Housing Incentives and Tools
- Incomes and Affordability: Whom Are We Serving?
- Commute Patterns
- Workforce/Affordable Housing Tools
 - City Policies
 - Funding and Support
- Next Steps



Current Incentives and Tools:

- » **“Exception/Set-Aside” in Growth Management Ordinance**
- » **Density Bonus Ordinance**
- » **Reduced Off-Street Parking Standards**
- » **Accessory Dwelling Units (ADUs)**
- » **Community Development Block Grant (CDBG)**
- » **Home Investment Partnership Program (HOME)**
- » **Streamlined Review and Permitting Process**

Current Incentives and Tools:

» “Exception/Set-Aside” in Growth Management Ordinance

- Growth Management Ordinance, TMC Sections 10.12.080 and 10.12.100 set aside 150 RGAs per year for very low-, low-, or moderate-income housing developments
- This provision has never been used



Current Incentives and Tools:

» Density Bonus Ordinance

- TMC Section 10.08.4630; Article 36.5
- Largely follows State law for Density Bonus requirements
- Based on a sliding scale; amount of density bonus and number of incentives provided vary according to the amount of affordable housing or senior units provided
- No density bonuses have ever been used

Current Incentives and Tools:

» Reduced Off-Street Parking Standards

- TMC Section 10.08.3460(h)(3)(i)
 - Allows residential off-street parking for low- or very low-income housing to be located in the side, rear, or front-yard setback, where parking is not otherwise permitted
- TMC Section 10.08.3480
 - Allows one of the two required spaces for single-family homes to be located outside of a garage for low- or very low-income households
- No projects have been developed using these incentives.

Current Incentives and Tools:

» Accessory dwelling Units (ADUs)

- TMC Section 10.08.3180
- Self-contained secondary units built alongside single-family homes
- May be attached or detached
- May be created by the conversion of a portion of, or an addition to, the primary dwelling, garage, accessory structure, or by the construction of a new structure.
- ADU permits issued:
 - 3 in 2017
 - 7 in 2018
 - 1 in 2019

Current Incentives and Tools:

» Community Development Block Grant (CDBG)

- Must benefit very-low or low-income residents
- Types of eligible activities can include:
 - Acquisition of Real Property
Public Facilities and
Improvements
 - Special Economic Development
 - Public Services (15% cap)
 - Housing Rehabilitation
 - Commercial and Residential
Property Rehabilitation
 - Code Enforcement
 - Historic Preservation
 - Planning Activities
 - Program Administration
 - Public Facilities and
Improvements
 - Down payment Assistance
Loans (administered by San
Joaquin County)
 - None in the past ten years

Current Incentives and Tools:

» Home Investment Partnership Program (HOME)

- Types of eligible activities can include:
 - Address issues of public safety, health, and welfare
 - Rehabilitate residential properties occupied by low-income persons
 - Partner to construct income restricted family and senior housing facilities
- The City provides it's full ~\$100K annual award for rehabilitation improvements to residences and residential shelters

Current Incentives and Tools:

» Streamlined Review and Permitting Process

- The City of Tracy already processes applications efficiently



Incomes and Affordability:

» Whom Are We Serving?

- Affordability for locally-paid wages?
- For Tracy residents with median incomes?
- For low or very low incomes?
- For workforce housing?
- Owners and/or renters?
- Locally-employed and/or commuters?

Incomes and Affordability:

» Average Median Incomes

- San Joaquin County
 - Average Median Income (AMI); 4 person household:
 - 2018: \$66,300
 - 2019: \$71,400
 - Increase of 7.7%
- City of Tracy (not applicable under Housing Element law)
 - American Community Survey Household AMI:
 - 2018: \$84,330
 - 2019: Data not available
 - 2019, based on a 7.7% increase: \$90,823

Incomes and Affordability:

» 2019 Very Low, Low and Moderate Incomes

- San Joaquin County; 4 person household
 - Very Low Income (50% of AMI): \$35,000
 - Low Income (80% of AMI): \$56,000
 - Moderate Income (120% of AMI): \$85,700
- City of Tracy; household (not applicable under Housing Element law)
 - Very Low Income (50% of AMI): \$45,412
 - Low Income (80% of AMI): \$72,658
 - Moderate Income (120% of AMI): \$108,988

Incomes and Affordability:

» “Workforce” Incomes

- Entry-Level Salaries
 - Tracy Unified School District, 2018
 - Credentialed Teacher: \$52,942
 - Custodian I/Utility I: \$39,183
 - City of Tracy, 2019
 - Administrative Assistant I: \$45,994
 - Animal Services Aide: \$35,002
 - Building Permit Technician I: \$55,734
 - Maintenance Worker I: \$43,350
 - Public Safety Dispatcher I: \$64,581
 - Receptionist: \$41,812

Incomes and Affordability:

» “Workforce” Incomes

- City Council’s Desired “Head of Household” Salary = \$72,000
- Jobs at this salary, located in Tracy

Title	Company	Salary
Process Development Engineer II	Katerra	\$61,000 - \$87,000
Sales Representative	Tracy Mazda	\$60,000 - \$110,000
Branch Sales Professional	EcoShield Pest Control	\$35,000 - \$85,000
Staff Accountant I	The Wine Group	\$51,000 - \$77,000
Database Administrator	TekSynap	\$58,000 - \$80,000

www.indeed.com, www.glassdoor.com, 2019

Incomes and Affordability:

» Estimated Tracy Median Household Income: \$90,823

Sales and Rentals	Cost ^a	Household Income Needed	Income Category
Median list price	\$575,184	\$150,400	180%
Median sale price	\$485,600	\$127,500	150%
Median rent price	\$2,350	\$104,300	120%

a. Source: www.zillow.com, 2019.

Income Category ^a	Maximum Household Income ^a	Maximum Affordable Rent ^b	Maximum Affordable Purchase Price ^c
Very Low: 50%	\$45,412	\$885	\$163,900
Low: 80%	\$72,658	\$1,566	\$270,600
Moderate: 120%	\$108,988	\$2,475	\$413,000
Above-Moderate: 150%	\$136,235	\$3,156	\$519,800
Above-Moderate: 180%	\$163,481	\$3,837	\$626,500

a. Percent categories and limits based on Tracy Median Income, \$90,823; (2018 American Community Survey Data with 7.7% increase)

b. Assumes 30% of household income spent on rent and utilities (assumes \$250 per month for utilities)

c. Housing Payment Assumptions: 5% down payment, 30 year fixed mortgage at 4.5%; homeowner's insurance at \$90/month, private mortgage insurance (PMI) at 0.4%, property tax at 1.25% of sales price; maximum 30% of income spent on principal, interest, insurance and taxes.

Source: PlaceWorks, 2019

Commute Patterns:

- 84% of Tracy's employed residents commute out of Tracy
- 78% of Tracy's workers commute into Tracy

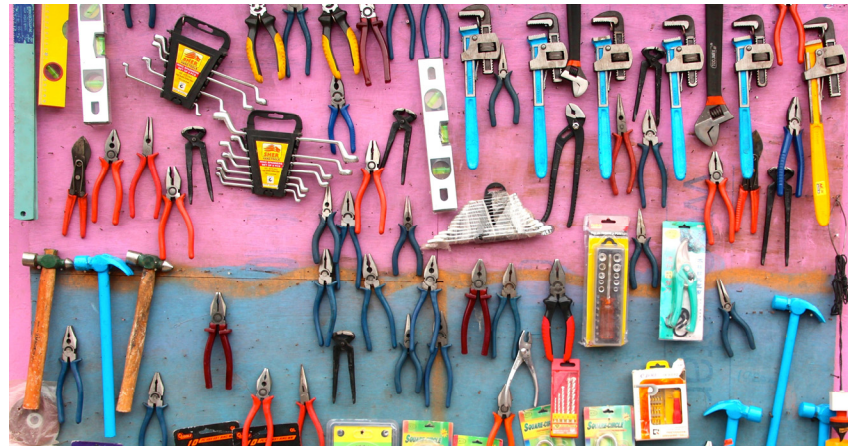
The top 10 locations for out- and in-commuting:

Out-Commute	Total	In-Commute	Total
Livermore, CA	2,780	Stockton, CA	2,534
Stockton, CA	1,885	Manteca, CA	1,420
Pleasanton, CA	1,536	Modesto, CA	1,068
San Jose, CA	1,486	San Jose, CA	605
Modesto, CA	1,094	Lathrop, CA	500
Oakland, CA	900	Livermore, CA	384
Fremont, CA	870	Mountain House, CA	345
San Francisco, CA	658	Lodi, CA	318
Sacramento, CA	608	Patterson, CA	293

Source: Newmark Knight Frank 2018 (US Census, 2015)

Tools:

- » Part 1: City Policies
- » Part 2: Funding and Support



Tools:

» Part 1: City Policies

- Inclusionary housing
- Mobile home parks or tiny houses
- Broader range of house sizes or housing types ("missing middle")
- Modified development standards
- Modified development fees
- Measure A amendment

Tools:

» Inclusionary housing

- Requires developers to provide affordable housing as part of every housing project
- Can apply to both ownership and rental
- In-lieu fee option required
- Typically 10% - 20% required in each project
- Requires administrative resources

Tools:

» Mobile home parks or tiny houses

- New mobile home parks not as common due to existing regulatory environment
- Tiny homes can be “affordable by design”
- Similar projects currently proposed in Antioch and Stockton



City of Stockton

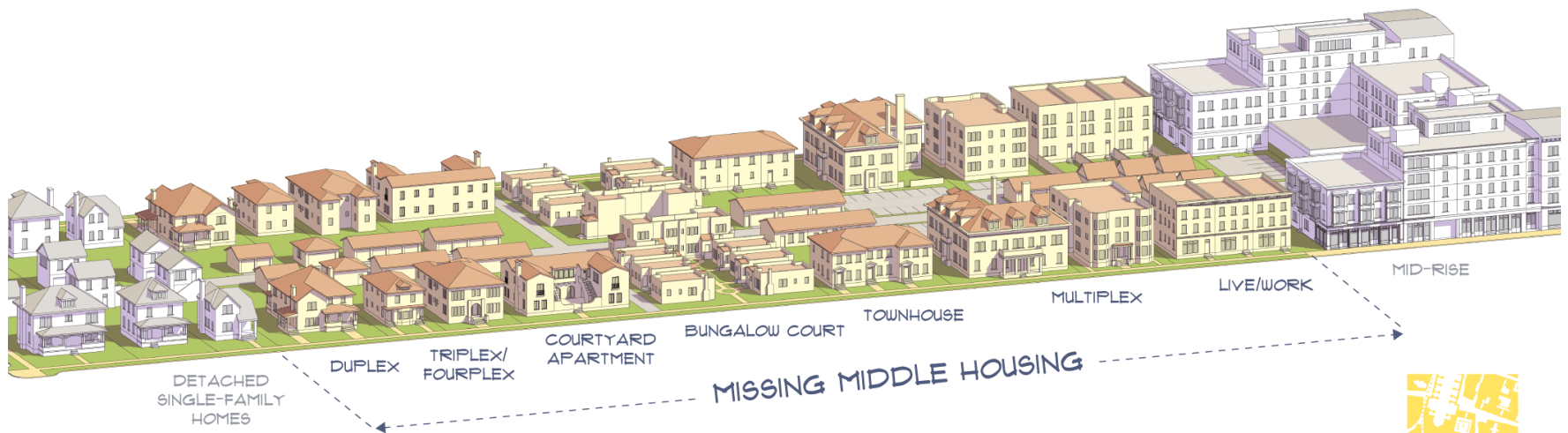


www.tumbleweedhouses.com

Tools:

» Require broader range of house sizes or housing types ("missing middle")

- Multi-unit housing types such as duplexes, fourplexes, bungalow courts, and mansion apartments



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Tools:

» Modified Development Standards

- Increase minimum dwelling units/acre
- Reduced parking requirements for affordable units
- Reduced ADU standards (such as parking and setback requirements)
- Require a percentage of smaller units

Tools:

» Modified Development Fees

- Adjust fees based on affordability, number of bedrooms or square footage
 - No known examples in California
 - May conflict with AB 1600
- Adjust water and wastewater fees by meter size or land use
 - Recently implemented in Sacramento

Tools:

» Measure A amendment (voter approval required)

- Options:
 - Remove the cap?
 - *Unlikely to specifically encourage affordable housing production, unless linked with other policies*
 - Exemptions for affordable units?
 - *Already in place and underutilized*
 - Exemptions for mixed market-rate / affordable or mixed unit type projects?
 - *May be most effective*
 - Tie to other changes to the growth management system?

Tools:

» Part 2: Funding and Support

- State Funding
- Local Funding
- Local Support

Tools:

» State Funding

- SB 2 State grant funding
 - Year 1: planning grant
 - Year 2 (and beyond): housing subsidies for construction
- Cap and Trade Funds for TOD development
 - New rail service
 - Current ACE service
- New State HCD programs to support affordable housing

Tools:

» Local Funding

- Subsidize with City General Fund
- Successor Agency funding
 - \$4 million RFP forthcoming for affordable housing development
- Local bond measure

Tools:

» Local Support

- Dedicated staff to pursue funding, work with affordable housing developers and move projects along
- Prepare a blanket EIR on future housing sites to expedite permitting
- Prepare an inventory of available sites to show to interested developers

Next Steps:

» Community Engagement

- General Public
- Development Community

» Recommendations to City Council

- Memo of Recommendations
- City Council Presentation





Workforce and Affordable Housing Workshop

June 4, 2019

RESOLUTION NO. 2020 _____

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 ten (10) years, a minimum of 5% (at least one unit) and a maximum of 10% of its dwelling units as "workforce dwelling units", 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 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 making development projects in transit oriented development areas that designate at least 5% and not more than 10% of the dwelling units affordable to households with gross incomes of 120% or below of the City of Tracy area median income (adjusted for household size) exempt from the City’s Growth Management Ordinance, with the exemption limited to 2,200 dwelling units per TOD area?	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 printed upon the same sheet of paper and mailed to each voter with the sample ballot for the election 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:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

AGENDA ITEM 4.B

REQUEST

AUTHORIZATION TO NEGOTIATE A COMMUNITY BENEFIT AGREEMENT WITH PROLOGIS, LP REGARDING A REQUEST TO AMEND THE NORTHEAST INDUSTRIAL SPECIFIC PLAN APPLICATION SPA20-0005 AND PROVIDE DIRECTION TO STAFF

EXECUTIVE SUMMARY

Prologis, LP (Prologis) seeks City Council authorization to begin the process to negotiate a community benefit agreement between the City and Prologis. Prologis is requesting an amendment to the Northeast Industrial (NEI) Specific Plan to accommodate a proposed new light industrial user that includes a request to allow for a greater height limit, up to 125 feet, to accommodate a new light industrial user. The current height limit for industrial buildings in the NEI area is 60 feet. Council has made previous project specific height amendments: from 40 feet up to 46 feet (by request of Crate and Barrel) and from 46 feet to 60 feet (City-initiated in response to increasing interest from the industrial development community).

According to Prologis, a trend is occurring in the e-commerce sector, whereby fulfillment centers are looking to not only expand operations, but to maximize land utilization thereby increase the height of their proposed new centers. Such is the case with a new e-commerce tenant looking to locate to the NEI area of the City. In an effort to respond to these new trends, Prologis is requesting authorization to negotiate a Community Benefit Agreement with the City as part of their request to amend the NEI Specific Plan.

On July 16, 2020, Prologis submitted a letter requesting that staff seek City Council authorization to negotiate a Community Benefit Agreement or similar agreement for the purposes of amending the NEI Specific Plan. A draft of the request letter is attached.

DISCUSSION

On May 26, 2020, Prologis submitted a Development Review Permit application for approval of approximately 823,500 square foot light industrial building to be located in the City's NEI area, generally located at the southwest corner of Chrisman Road and Grant Line Road. The proposed user is a light industrial fulfillment center that is similar to neighboring tenants in the area. The proposed tenant, however, desires to build to a height of 100 feet with multiple levels or mezzanines within the building.

Prologis has indicated, due to the Coronavirus Pandemic, fulfillment center / e-commerce tenants are looking to expand in the area and are looking to maximize land utilization as much as possible. In the instance of this specific user, they desire to build a taller building taking advantage of newer technology to set up multiple floors or mezzanines of fulfillment operations. While Prologis understands the desires of the end users, they also have stated that they are sensitive to the needs and priorities of the community. Prologis has produced a line-of-sight rendering, which shows that this proposed new building will not be visible from City neighboring residential uses;

however, it will be more visible in the immediate area, particularly along Grant Line and Chrisman Road. Prologis is working with staff on architectural treatments and landscaping and feels that the height impact of this Project can be addressed; however, they also are offering the City a Community Benefit Agreement as part of their specific amendment request.

The specific request is to allow staff to begin negotiations with Prologis, LP on the following items:

- Possible legislative amendments to the NEI Specific Plan to provide relief from current height restrictions for the purpose of accommodating a project that would provide economic stimulus to the City of Tracy; and
- The provision of public benefits (infrastructure such as a gymnasium) as one example, or monetary contribution by Prologis.

Staff is requesting Council authorization to begin negotiations of a Community Benefit Agreement and further direction.

Any such Agreement would be processed along with the requested Specific Plan Amendment and Development Review Permit for the actual site development for the end user. Whereas the Development Review Permit requires the City to make findings of compliance with City regulations, the Specific Plan Amendment does not because it constitutes “rule making” or a legislative action. When the City makes new policy, or zoning regulations, such as height limits, they are done at public hearings and are at the discretion of City Council after Planning Commission review. Subsequent projects are then required to conform to the new regulations. For this request, the City would process the Specific Plan Amendment, Development Review Permit, and Agreement, if any, together as is customary and in conformance with TMC Section 10.08.3950.

The City currently does not have a formal procedure to process requests for Community Benefit Agreements, so staff has utilized the Development Agreement (DA) procedures adopted via Resolution No. 2016-115 which establish a two-step process for evaluating requests for a DA. The first step requires an application for a DA to include information such as property owner signatures, proposed term of the agreement, proposed public benefit, a description of the property and proposed land uses, among other information related to the property. The DA procedures also require the City Council to first authorize staff to enter into negotiations for the proposed DA, before staff can actually begin such negotiations.

The second step would involve negotiation between the applicant and staff and preparation of a proposed DA, which would then be presented to both the Planning Commission and the City Council for review and consideration at public hearings. In this case, the agreement would not take the form of an actual DA which is approved and adopted by ordinance, provides the applicant with vested rights to develop a project over time (e.g. 20 years), and subject to other requirements under state law.

The City Attorney's Office advises the use of a Community Benefit Agreement or other form of agreement that acknowledges that the approval of a Specific Plan amendment is a discretionary act within the City Council's legislative authority and outlines the community or public benefit the applicant is providing that is beyond what is required by the City's existing codes and master plans.

Staff has not yet analyzed Prologis' request; however, it should be noted that City Council is not being asked to approve these proposals at this time. Rather, the City Council is only being asked to allow staff to negotiate with Prologis regarding their request.

If the City Council so authorizes staff, staff will proceed to analyze the July 16, 2020 request. After such review and analysis would provide the Planning Commission and City Council with its analyses and recommendations regarding the July 16, 2020 request at a future date.

STRATEGIC PLAN

This agenda item relates to the Quality of Life Strategic Priority: To provide an outstanding quality of life by enhancing the City's amenities, business mix and services and cultivating connections to promote positive change and progress in our community in our community.

FISCAL IMPACT

Negotiating a Community Benefit Agreement will be funded by the applicant in accordance with a City approved Cost Recovery Agreement.

RECOMMENDATION

Staff recommends that the City Council authorize staff to begin negotiations with Prologis LP as outlined in their July 16, 2020 request and provide direction to staff as needed.

Prepared by: Andrew Malik, Assistant City Manager

Reviewed by: Karin Schnaider, Finance Director
Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS

Attachment A – July 16, 2020 Letter from Prologis LP requesting to begin negotiations of a Community Benefit Agreement or other such Agreement

July 16, 2020

Ms. Jenny Haruyama
City Manager
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

Re: Northeast Industrial Specific Plan

Dear Ms. Haruyama:

On behalf of Prologis LP (“Prologis”), I am writing you to respectfully request that you seek and obtain City Council authorization permitting City Staff to begin negotiating with Prologis on the following items: (i) possible legislative amendments to the Northeast Industrial Specific Plan (“NEI SP”) to provide relief from height restrictions currently contained in the NEI SP (and possibly other amendments) for the purpose of accommodating a project that would provide economic stimulus to the City of Tracy (“City”); and (ii) the provision of public benefits (e.g., infrastructure such as a gymnasium as one example, or monetary contribution) by Prologis to the City in connection therewith.

Prologis is honored to have a longstanding partnership with the City and we look forward to continuing our mission to bring high quality customers to the City and its residents.

Sincerely,

Prologis LP



Ali Harandi
Vice President, Investment Officer

AGENDA ITEM 4.C

REQUEST

ADOPT AN URGENCY ORDINANCE AMENDING ORDINANCE NO. 1285 OF THE CITY OF TRACY, AS PREVIOUSLY AMENDED BY ORDINANCE NO. 1289, EXTENDING CERTAIN DEADLINES AND THE DURATION OF TEMPORARY USE PERMITS, AND AUTHORIZING THE CITY MANAGER TO ISSUE SPECIAL EVENT PERMITS AND WAIVE CERTAIN FEES DURING THIS LOCAL EMERGENCY

EXECUTIVE SUMMARY

On March 12, 2020, the City of Tracy declared the existence of a local emergency due to the serious threat to the public health, safety, and welfare of the City posed by the presence and continued transmission of the novel coronavirus (COVID-19). Pursuant to Government Code section 8630 and Tracy Municipal Code Section 3.24.050, the City Council is authorized to make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency.

The Governor's Stay at Home Order in response to COVID-19, and the requirements for social distancing, have impacted the ability for applicants and the City to process development/land use applications and other types of projects. In response to these impacts, the City Council previously adopted Urgency Ordinance No. 1285 on March 30, 2020, as amended by Ordinance No. 1289 adopted on May 19, 2020 extending deadlines occurring before July 31, 2020, and established by the Tracy Municipal Code or Council Resolution for sixty (60) days. The proposed Urgency Ordinance requests that Council amend the Urgency Ordinance to expand the scope to cover any deadline occurring before September 30, 2020 for sixty (60) days.

The City Council previously delegated certain authority to the City Manager during the period of the public health emergency that authority will be in effect until the local emergency is terminated. The proposed Urgency Ordinance seeks to expand the authority previously delegated to the City Manager to also include the authority to issue special event permits allowing the purchase, and if appropriate the consumption of alcohol on public property. In addition, the proposed Urgency Ordinance would extend the length of a temporary use permit up to one hundred eight (180) days, and authorize the City Manager to waive related fees in cumulative amount of up to twenty-five thousand dollars (\$25,000).

DISCUSSION

On March 4, 2020, Governor Newsom declared a state of emergency for California associated with the outbreak of COVID-19. In response to the growing health crisis, the City Manager, in her authority as the Director of Emergency Services, proclaimed a local emergency in Tracy on March 12, 2020 due to COVID-19. The City Council ratified that emergency declaration on March 17, 2020.

Public health experts have explained that COVID-19 is easily transmissible from person to person. To slow the spread of the disease, on March 19, 2020, the Governor of California issued Executive Order N-33-20 ordering all individuals within the State of

California to stay home or at their place of residence, except as needed to maintain continuity of operation of the federal critical infrastructure sectors, critical government services, schools, childcare, and construction. This Executive Order was very similar to the Directive adopted by the City Council on March 18 recommending residents remain at home except to receive or provide essential services.

The Governor, in coordination with the State Public Health Officer, previously articulated a four-stage framework to allow for gradually relaxing the shelter in place requirements, while continuing to preserve public health. In May and June previously halted activities and business operations were gradually starting to resume. However, in recent weeks there has been a significant increase in community transmission and illness from COVID-19, and health officials have reported that the rate of occurrence of new cases per day and hospitalization rates have been steadily rising over the last month, as has the positive test rate. There have been over 4,000 new cases of COVID-19 in San Joaquin County in the last two weeks, and over 40 deaths.

Due to the increasing occurrence of new cases, San Joaquin County has now been on the State of California's "Monitoring List" for over 3 days, which has resulted in certain restrictions being re-instituted. Certain industries and activities that had previously been allowed to re-open have once again been required to closed, including dine-in restaurants, wineries, movie theaters, family entertainment centers, gyms and fitness centers, personal care services and shopping malls.

The Tracy Municipal Code (TMC) establishes various deadlines, including deadlines related to the processing of land use, subdivision and zoning applications. The City's operations have adjusted in response to COVID-19. Applicants have also had to adjust their operations in response to this public health emergency and in order to implement social distancing protocols, which has impacted their ability to process their applications. Normal operation of City Hall and most businesses have not fully resumed, and the disruptions caused by COVID-19 to businesses are significant and ongoing.

Business allowed to reopen are subject to health and safety guidelines to minimize the risk of spread of COVID-19, such as increased physical distance between tables, required use of face coverings by staff, frequent cleaning of high touch surfaces, and similar restrictions. In order to comply with health orders and regulations, many businesses are moving operations outside, which requires a temporary use permit pursuant to Tracy Municipal Code section 10.08.4240. Temporary use permits are currently only valid for a maximum of thirty (30) days, but the social distancing requirements imposed by COVID-19 related health orders are anticipated to continue in some form for the foreseeable future. Similarly, in order to comply with health orders and regulations, many events that previously would have occurred inside will need to move outside. It is anticipated that organizers of those events may seek to obtain special event permits to use public streets or City parks for those events.

The City Council previously adopted an Urgency Ordinance to extend all development application deadlines scheduled to occur before July 31, 2020 and established by the TMC, by Resolution of the City Council, or by City Policy, for sixty (60) days. The purpose of this action was so that project processing and public consideration could continue as the City and the public mitigate the threat of COVID-19. This Urgency Ordinance would extend deadlines scheduled to occur before September 30, 2020.

Deadlines occurring on or after October 1, 2020 would not be extended by the ordinance. Examples of such deadlines include, but are not limited to:

- Development review permit approval generally lapses two (2) years after the date it became effective unless a building permit has been issued. If a permit is set to expire on September 15, the ordinance will delay the expiration date until November 15;
- Building permits expire unless work is commenced within 180 days. If a permit is set to expire on August 31, the proposed ordinance will delay the expiration date until October 30.

The proposed Urgency Ordinance would not apply to deadlines established by State law, unless such deadlines are waived or extended by the Governor.

Urgency Ordinance No. 1285, as amended by Ordinance No. 1289, also authorized the City Manager to take certain actions regarding improvement and professional services agreements, acceptance of improvements, and grant applications, as well as approving change orders. In addition to those previously delegated authorities, the proposed urgency ordinance would authorize the City Manager to issue special event permits allowing the consumption of alcoholic beverages on public property, such as streets and parks. Currently special event permits are issued administratively, unless the event will involve alcohol, in which case City Council approval by resolution is required. The City Manager can, within her discretion, continue to refer these special event permits to the City Council.

The proposed Urgency Ordinance would also take new actions designed to support local Tracy businesses by making it easier for them to operate in compliance with social distancing requirements and other restrictions imposed by COVID-19 health orders. In order to comply with these requirements, many businesses are required to operate outdoors. Temporary outdoor business operations currently require a temporary use permit that is only valid for a maximum of thirty (30) days. There is also an application fee for a temporary use permit.

The proposed urgency ordinance would extend the length of a temporary use permit to one hundred and eighty days, with a possible 60 day extension. While it is currently unknown how long social distancing requirements and other restrictions will remain in place, it is almost certain that those restrictions will continue for more than 30 days. Requiring businesses to apply for a new temporary use permit every 30 days will unnecessarily burden these businesses and require significant staff resources. In addition, the proposed ordinance will authorize the City Manager to waive the application fee for temporary use permits issued to facilitate business operations, including non-profits, affected by public-health orders, as well as any related encroachment permit application, and any fees related to the use of public facilities by businesses have to move their operations outdoors in order to comply with COVID-19 related State and County public health orders and guidance. The proposed ordinance will limit the fee waivers to a cumulative amount of twenty-five thousand dollars (\$25,000) across all businesses. The purpose of the fee waiver is to assist businesses that are struggling during the extraordinary economic circumstances caused by COVID-19.

The proposed Urgency Ordinance is necessary to facilitate the operation of local businesses in compliance with applicable health orders. COVID-19 has significantly impacted the economy, and the Urgency Ordinance was designed to allow the City to support economic activity while protecting public health and complying with social distancing requirements.

Prior to taking any action using her delegated authority under the Urgency Ordinance, the City Manager will continue to receive a written report on the proposed action, with input from all relevant departments. The report closely resembles a staff report that is normally presented to the City Council. The City Manager will also provide periodic updates to the City Council on actions she has taken using her delegated authority.

As an Urgency Ordinance, the proposed ordinance must be approved by four-fifths of the City Council to be adopted. If adopted, the proposed Urgency Ordinance would go into effect immediately.

STRATEGIC PLAN

This agenda item does not specifically advance any of the City Council Strategic Priorities.

FISCAL IMPACT

The urgency ordinance would allow the City Manager to waive up to twenty-five thousand dollars (\$25,000) in fees across all businesses. The staff time and related costs that would have been paid for by those fees will instead be paid for by the General Fund. There are no other direct fiscal impact of adopting the urgency ordinance. However, delaying deadlines will likely result in the delayed payment of various fees and charges by applicants.

RECOMMENDATION

Staff recommends that the City Council adopt the Urgency Ordinance amending Ordinance No. 1285, as previously amended by Ordinance No. 1289, extending certain deadlines and the length of temporary use permits, and authorizing the City Manager to waive fees up to a cumulative total of \$25,000 delegating authority for specific actions to the City Manager in response to this public health emergency.

Prepared by: Leticia Ramirez, City Attorney

Reviewed by: Midori Lichtwardt, Assistant City Manager
Karin Schnaider, Finance Director

Approved by: Jenny Haruyama, City Manager

ORDINANCE No. _____

AN URGENCY ORDINANCE AMENDING ORDINANCE NO. 1285 OF THE CITY OF TRACY, AS PREVIOUSLY AMENDED BY ORDINANCE NO. 1289, EXTENDING CERTAIN DEADLINES, WAIVING CERTAIN FEES AND AUTHORIZING THE CITY MANAGER TO TAKE CERTAIN ACTIONS REGARDING PUBLIC IMPROVEMENT AGREEMENTS, ACCEPTING IMPROVEMENTS, GRANT APPLICATIONS AND PROFESSIONAL AND GENERAL SERVICES AGREEMENTS, EXTENDING TEMPORARY USE PERMITS, AND ISSUING SPECIAL EVENT PERMITS DURING THIS LOCAL EMERGENCY

WHEREAS, International, national, state, and local health and governmental authorities are responding to an outbreak of respiratory disease caused by a novel coronavirus named "SARS-CoV-2," and the disease it causes has been named "coronavirus disease 2019," abbreviated COVID-19 ("COVID-19"); and

WHEREAS, COVID-19 is easily transmissible from person to person, and new cases of COVID-19 continue to occur throughout California; and

WHEREAS, In response to the growing public health crisis, the City Manager, in her authority as the Director of Emergency Services, proclaimed a local emergency in Tracy on March 12, 2020, due to COVID-19 and the City Council ratified that emergency declaration on March 17, 2020 pursuant to Tracy Municipal Code Chapter 3.24; and

WHEREAS, The City Council adopted a directive on March 18, 2020 recommending residents remain at home except to receive or provide essential services; and

WHEREAS, On March 19, 2020, the Governor of California issued Executive Order N-33-20 ordering all individuals within the State of California to stay home or at their place of residence, except as needed to maintain continuity of operation of the federal critical infrastructure sectors, critical government services, schools, childcare, and construction; and

WHEREAS, On May 4, 2020, the Governor of California issued Executive Order N-60-20 ordering all individuals within the State of California to comply with the State Public Health Officer's orders regarding reopening of businesses unless stricter local regulations exists; and

WHEREAS, In May and June previously halted activities and business operations were gradually starting to resume, but many of those activities have once again halted; and

WHEREAS, In recent weeks there has been a significant increase in community transmission and illness from COVID-19, and health officials have reported that the rate of occurrence of new cases per day and hospitalization rates have been steadily rising over the last month, as has the positive test rate; and

WHEREAS, There have been over 4,000 new cases of COVID-19 in San Joaquin County in the last two weeks, and over 40 deaths; and

WHEREAS, San Joaquin County has now been on the State of California's "Monitoring List" for over 3 days, which has resulted in certain restrictions being re-imposed; and

WHEREAS, Certain industries and activities that had previously been allowed to reopen have once again been required to closed, including dine-in restaurants, wineries, movie theaters, family entertainment centers, gyms and fitness centers, personal care services and shopping malls; and

WHEREAS, Business allowed to reopen will be subject to health and safety guidelines to minimize the risk of spread of COVID-19, such as increased physical distance between tables, required use of face coverings by staff, frequent cleaning of high touch surfaces, and similar restrictions; and

WHEREAS, The Tracy Municipal Code establishes various deadlines, including deadlines related to the processing of land use, subdivision and zoning applications; and

WHEREAS, Normal operation of City Hall and most businesses has not fully resumed; and

WHEREAS, Applicants have had to adjust their operations and implement social distancing protocols in response to the public health emergency, which has impacted their ability to process their development applications; and

WHEREAS, The City Council previously extended by sixty (60) days any deadline scheduled to occur before May 31, 2020 and established by the Tracy Municipal Code, a Resolution of the City Council, or any City policy regarding development and land use approvals so that project processing and public consideration can occur after the threat of COVID-19 has reduced and social distancing is no longer required; and

WHEREAS, The City Council also previously extended deadlines established by the Tracy Municipal Code and scheduled to occur before July 31, 2020 by sixty (60) days; and

WHEREAS, The disruptions caused by COVID-19 to businesses are significant and ongoing; and

WHEREAS, The City Council desires to extend deadlines established by the Tracy Municipal Code and scheduled to occur before September 30, 2020 by sixty (60) days; and

WHEREAS, The City Council previously authorized the City Manager to take certain actions reserved for the City Council by the Tracy Municipal Code in order to minimize the need for public meetings regarding non-critical items during this emergency period, while still allowing important economic development projects to proceed; and

WHEREAS, The City Council does not intend to delegate authority to the City Manager to take any action required by State law to be taken by the City Council or Planning Commission; and

WHEREAS, In order to comply with health orders and regulations, many businesses are moving operations outside, which requires a temporary use permit pursuant to Tracy Municipal Code section 10.08.4240; and

WHEREAS, Temporary use permits are currently only valid for a maximum of thirty (30) days, but the social distancing requirements and similar restrictions imposed by

COVID-19 related health orders are anticipated to continue in some form for the foreseeable future;

WHEREAS, In order to comply with health orders and regulations, many events that previously would have occurred inside will need to move outside, and organizers of those events may seek to obtain special event permits to use public streets or City parks for those events; and

WHEREAS, Consumption of alcohol is prohibited on public property without a special event permit approved by the City Council pursuant to Tracy Municipal Code Chapter 4.40 and Section 4.12.1190(d); and

WHEREAS, During this time of staying home and other social distancing measures, many businesses are experiencing substantial declines in business income as a result of business closures or the loss of hours, which threatens businesses ability to pay rent, maintain payroll, and continue operating; and

WHEREAS, Many businesses may face layoffs or permanent closure as a result of the pandemic; and

WHEREAS, Even as certain COVID-19 restrictions begin to ease, many local businesses will continue to be affected by social distancing requirements; and

WHEREAS, Businesses are an integral part of the economy and community of Tracy; and

WHEREAS, Local businesses are a significant source of jobs, tax revenue and essential services for the community; and

WHEREAS, Business closures will negatively impact the local economy by laying off employees and ceasing to provide services to residents of the City, and negatively impact local health by reducing the number of retail and commercial spaces available to provide essential services while maintaining social distancing, and will decrease tax revenues available to the City to respond to COVID-19 and other public health and safety concerns; and

WHEREAS, The economic impacts from COVID-19 and related health orders have significant, and have led to increased levels of unemployment and decreased incomes for many businesses and residents of Tracy; and

WHEREAS, According to the most recently reported data from the State of California, the unemployment rate in San Joaquin County is approximately 15.9% compared to 6.7% prior to the start of the COVID-19 pandemic; and

WHEREAS, California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the public health, safety, and general welfare of their citizens; and

WHEREAS, California Government Code Section 36937 authorizes the City Council to introduce and adopt an ordinance it declares to be necessary as an emergency measure to preserve the public peace, health, and safety at one and the same meeting if passed by at least four-fifths affirmative votes; and

WHEREAS, This Ordinance is a urgency ordinance intended to promote stability and fairness by extending deadlines for projects and applicants that would otherwise expire in the interim due to compliance with the Governor's executive orders to stay at home; and

WHEREAS, This Ordinance is also necessary to promote social distancing in order to limit the spread of COVID-19 to the maximum extent feasible because failure to adopt this Ordinance would encourage in-person meetings between staff and applicants, as well as public meetings as the City and applicants adjust to working remotely, which would negatively impact public health by forcing persons out of their residences; and

WHEREAS, This Ordinance is intended to minimize the need for public meetings by delegating authority to the City Manager to take certain actions normally taken by the City Council while continuing to allow economic development activities to occur as well as public works projects that serve the public welfare, health and safety; and

WHEREAS, This Ordinance is necessary to maintain stability for the economy of the City of Tracy, which otherwise might experience significant negative impacts if projects are terminated or temporarily shut down because they are unable to meet deadlines or receive necessary approvals during this time of emergency; and

WHEREAS, This Ordinance is a urgency ordinance intended to provide support for businesses in the City of Tracy, which might not otherwise be able to operate in compliance with health orders because of inability to pay the fees necessary to apply for a temporary use permit to operate outside and which might not otherwise be able to hold a financially successful outdoor special event if alcohol consumption is prohibited at the event; and

WHEREAS, This Ordinance is a urgency ordinance intended to provide support for businesses in the City of Tracy by extending the length of temporary use permits so businesses may operate in compliance with social distancing requirements;

WHEREAS, The negative economic impact of development projects terminating or local businesses remaining closed because they are not able to operate in compliance with health orders would lead to depressed economic activity across a range of industries; and

WHEREAS, These negative economic impacts are likely to include layoffs, decreased tax revenue for the City, and housing instability, all of which threaten the public peace, health, and safety of residents who could face a severe strain on household finances; and

WHEREAS, COVID-19 and the public health orders designed to reduce the virus's spread have had a significant impact on the economy of the City, requiring the closure of numerous business, and this Urgency Ordinance will facilitate the prompt reopening of businesses impacted by COVID-19 in a manner consistent with anticipated public health orders thereby minimizing negative economic impacts; and

WHEREAS, The Urgency Ordinance is designed to reduce and slow the transmission of COVID-19 by helping local businesses facilitate required social distancing between and among patrons and employees; and

WHEREAS, The Urgency Ordinance is designed to promote economic business stability and prevent business closures during the COVID-19 pandemic by waiving certain fees, as well

as allowing businesses to more easily operate outside and more quickly obtain special event permits to serve alcohol on public property; and

WHEREAS, The negative economic impacts from COVID-19 are unknown, but likely to be substantial and the City desires to minimize those impacts to the maximum extent possible; and

WHEREAS, The City Council finds and determines that extending deadlines established by the City, waiving certain fees, and delegating authority to the City Manager to take certain actions is essential to preventing the spread of COVID-19 in the City and to support the local economy, and thereby serve the public peace, health, and safety; and

WHEREAS, The City Council finds and determines that extending the life of temporary use permits is essential to support economic development, prevent layoffs, and maintain tax revenue in the City and thereby serve the public peace, health, and safety; and

WHEREAS, The City Council finds and declares that the public interest and necessity demand the immediate expenditure of public money to safeguard life, health, or property to ensure; and

WHEREAS, An urgency ordinance that is effective immediately is necessary to avoid the immediate threat to public peace, health, and safety as failure to adopt this urgency ordinance could result in the avoidable negative economic impacts or exposure to COVID-19 of the City's residents and community members.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TRACY, DOES ORDAIN AS FOLLOWS:

SECTION 1. Findings. The City Council of the City of Tracy finds that all of the above Recitals are true and correct and incorporated herein by reference. The provisions of the Governor's Executive Order N-28-20, Ordinance No. 1285 and Ordinance No. 1289 including their recitals, are incorporated herein as if fully set forth.

SECTION 2. Urgency Findings. The City Council of the City of Tracy hereby finds that there is a current and immediate threat to the public health, safety and/or welfare and a need for immediate preservation of the public peace, health, or safety that warrants this urgency ordinance, which finding is based upon the facts stated in the recitals above, and in the staff report dated July 28, 2020, as well any oral and written testimony at the July 28, 2020 City Council meeting. This Ordinance and any actions taken thereunder is declared by the City Council to be an urgency measure necessary for the immediate preservation of the public peace, health or safety. The facts constituting such urgency are all of those certain facts set forth and referenced in this Ordinance and the entirety of the record before the City Council.

SECTION 3. Urgency Ordinance. The City Council hereby makes the findings contained herein and hereby amends Uncodified Ordinance No. 1285, adopted by the Tracy City Council on March 30, 2020, and previously amended by the City Council through the adoption of Uncodified Ordinance No. 1289 on May 19, 2020, to read as follows:

"COVID-19 Emergency Extension of Certain Deadlines and Delegation of Authority to City Manager Ordinance

Section 1. Extension of Deadlines During the COVID-19 Emergency

A. All provisions of ordinances, regulations, resolutions, rules, and policies adopted by the City of Tracy, including, but not limited to, provisions contained in the Tracy Municipal Code and the Growth Management Ordinance Guidelines, establishing deemed complete deadlines, review deadlines, approval deadlines, application deadlines and any other type of deadline, including but not limited to permit expiration deadlines, are extended by sixty (60) days, subject to the requirements of this Ordinance.

B. The sixty (60) day deadline extension established by Section 1(A) shall apply to any deadline scheduled to occur on or before September 30, 2020.

C. Nothing in this Section 1 shall be interpreted as extending or otherwise delaying a deadline established by state or federal law.

Section 2. Additional Authority Delegated to City Manager

A. In addition to the authority delegated to the City Manager under Urgency Ordinance No. 1285, as amended by Urgency Ordinance No. 1289, the City Manager is also hereby authorized to grant approval to the following items and subject to the conditions listed below:

- i. Issue a special event permit under Tracy Municipal Code Chapter 4.40 allowing the consumption of alcoholic beverages on public property at an organized event.
- ii. Waive fees, including fees associated with the issuance of temporary use permits and rental of City facilities, previously established by the Tracy City Council for if the City Manager determines, in her sole discretion, that the purpose of the permit or rental is to facilitate business operations, including non-profit organizations, affected by public-health orders of federal, state, or county authorities. In the event that the City Manager waives fees for a temporary use permit application, the City Manager may also waive fees for any related encroachment permit application. The fees waived by this Section shall not cumulatively exceed twenty-five thousand dollars (\$25,000) in total across all businesses.

B. The authority delegated to the City Manager in Section 2(A) shall not apply to any action that is required by state or federal law to be taken by the City Council, or for any action which state law or the Tracy Municipal Code requires a public hearing.

C. The authority delegated to the City Manager in Section 2(A) shall expire upon the termination of the proclamation of a local emergency in the City of Tracy.

Section 3. Temporary Use Permits

A. Temporary Use Permits issued pursuant to Tracy Municipal Code Section 10.08.4240 may be issued by the Community Development Director for a maximum of one hundred eighty (180) days. The City Manager may extend a temporary use permit for up to an additional sixty (60) days if the City Manager determines, in his or her sole discretion, that such waiver remains necessary to facilitate business operations affected by public-health orders of

federal, state, or county authorities.

B. The authority established by this Section 3 shall expire upon the termination of the proclamation of a local emergency in the City of Tracy.

SECTION 4. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council of the City of Tracy hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 5. This Ordinance shall take effect immediately upon its adoption by a four-fifths vote of the City Council.

SECTION 6. This Ordinance shall be published in accordance with Government Code section 36933.

The foregoing Ordinance ___ was adopted at a regular meeting of the Tracy City Council on the 28th of July, 2020, by the following vote, pursuant to Government Code section 36937:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS

MAYOR

ATTEST:

CITY CLERK