

Summary of Cities & Towns with Building Permit Allocation Systems

The following is a review of six cities and towns across the country that have a growth management program limiting building permit allocations on an annual basis. The review includes the purpose and various important elements of the different programs, and ends with staff conclusions.

City of Boulder

Purpose. To establish a 1% annual growth rate, starting in 1981, to preserve “the unique environment and high quality of life, to avoid deterioration of air and water quality” and so the pace of development doesn’t exceed the availability of public facilities and services.

Number of Allocations Calculated each year based on a 1% increase in number of existing dwelling units.

Exempt or Partially Exempt Uses

No allocation is required for lodging units, college housing, affordable housing, mixed use development or single-family lots established prior to 1976. No allocation is required for residential redevelopment that does not increase the existing number of dwelling units.

Up to 30 exemptions per year for historic landmark properties and group homes. The planning board may grant exemptions for “unmet community need”; or if constraints of building size/configuration/infrastructure phasing requires more allocations.

Banking/Carry-Over. If some allocations are not used in the prior year, they can be rolled over to the next year, up to 25% of total allocations in current year.

Allocations can be “banked” without planning board approval if banking is based on minimum building size. They may be banked with planning board approval if building configuration/infrastructure requires a certain amount of project to be built at one time.

Timing. First-come first served, quarterly basis.

City of Golden

Purpose. The intent was to implement the “People’s Ordinance” of 1995 to establish a 1% annual residential growth rate. It was based largely on Boulder methods.

Number of Allocations Calculated each year based on a 1% increase in number of existing dwelling units.

Exempt Uses Allocation system does not include college housing, residential redevelopment that does not increase existing number of dwelling units. Exemptions may be granted by ballot election or Council approval if it is a senior or urban renewal project near transit and trails, or a mixed use project with at least 25% commercial.

Banking/Carry-Over. No carry-over from year to year. Same banking requirements as Boulder.

Timing & Method. Semi-annual. Via lottery.

Hudson, Ohio

Purpose. The goal was to slow down the boom in residential development so public infrastructure and services were available at the same time as development, and to prevent further deterioration of facilities, infrastructure and service levels. Also to protect “the community character of the city as a desirable place to live and conduct business” and “to prevent overcrowding and congestion.”

The City Council also found that the cost of services and infrastructure exceeded the financial capability of the city to provide them; there was a growing imbalance between residential and non-residential uses that contributed to budget shortfalls; the city needed time to plan and provide infrastructure and services to accommodate new residential development and attract commercial development; and there was a need for affordable and senior housing that wasn't sufficiently addressed.

Number of Allocations Set annually by City Council upon hearing a report on previous year, budget information, progress toward infrastructure and service improvements.

Exempt or Partially Exempt Uses Eighty percent of annual allocation set aside for “priority development,” including (in order) affordable housing, senior housing, single-family homes on lots legally established before 1996, single-family lots on a minimum of five acres with direct access to public streets and utilities.

City Council may approve 30 more allocations per year if they are for a project that sets aside 25% of units as affordable housing for seniors, or mixed use projects that revitalize downtown or existing subdivisions that amend plans to reduce density, protect riparian habitat, preserve open space.

Allocation system does not include residential redevelopment that does not increase existing number of dwelling units.

Banking/Carry-Over. No automatic carry-over. May be carried over by Council.

Timing & Method. Semi-annual. City Manager recommends allocation list to Council.

Key West, Florida

Purpose. To manage growth due to the unacceptable length of time needed for hurricane evacuation. System was the result of legal challenges and state court decision, which required specific implementation of city's 1990 Comprehensive Plan.

Number of Allocations Annual limit on new residential/lodging permits of 91 per year from 1990 to 2002.

Exempt or Partially Exempt Uses Thirty percent of annual allocations for affordable housing. Does not include residential redevelopment that does not increase existing number of dwelling units. Does not include projects with existing vested rights. Annual “sub-quotas” on different types of residential and lodge uses were “sensitive to differing trip generating characteristics ...”

Banking/Carry-Over. No details on banking. No carry-over.

Timing & Method. No details available.

From City of Key West website, 2008: “Over time, most of the available allocations were exhausted, although a small pool of units dedicated to affordable housing and for "beneficial use" (the minimum use needed to provide owners with reasonable use of their land) have been reserved.

“On February 29, 2008, in response to legal challenges, the City invoked a "zoning in progress" doctrine to address deficiencies in the existing Building Permit Allocation System Ordinance. During the preparation of the new ordinance the City will only allocate new units for workforce housing. Because so few new units existed in the system anyway, the zoning in progress resolution has had little impact on actual development in the City. Most development continues to be redevelopment of existing units which are either acknowledged as lawfully established prior to the institution of the Building Permit Allocation System or can demonstrate that they have valid allocations.”

Mount Pleasant, South Carolina

Purpose. To manage growth for a 10-year period in order to implement capital improvements for roads, school system and improve other municipal infrastructure and services to handle new residential development.

Town Council found that town has experienced unprecedented residential growth due to proximity of City of Charleston and public beaches, increasing traffic congestion and noise, and requiring greater town workforce and infrastructure. The town’s road system is barely capable of handling current traffic volumes, a situation which will worsen, posing a threat to public safety in the face of a hurricane. Growth has outpaced the town’s ability to gain funding for road upgrades – these can be funded and implemented by 2010. If growth not managed, taxes will increase substantially to maintain levels of service of town facilities, including roads and schools etc.

The allocation program “recognizes the expectations of owners and developers, allows all applicants a fair opportunity for a permit, but at a pace that allows for capital improvements needed to maintain the coveted quality of life in the town.”

The town seeks a plan that would not foreclose to the less fortunate the opportunity for access to reasonably priced safe and sanitary housing.

Number of Allocations Annual report to Council describes number of permits sought and obtained in the past year and progress toward capital improvements. Allocation between 2000 and 2005 is 3,442 single-family and 253 multi family, based on 3% annual growth. From 2005 to 2010, allow 3,720 single family and 1,590, based on 3% annual growth rate.

Exempt or Partially Exempt Uses Each residential unit requires one allocation (including duplex and multi-family), but multi-family allocations granted in bulk and may exceed quarterly allocations. Does not apply to residential redevelopment where no new dwelling units are created. Affordable housing is exempt.

Banking/Carry-Over. If allocations run out, allocations from the next quarter can be used – but NOT at end of each year. Unallocated permits can carry over to the next year.

Timing & Method. Quarterly process. First come, first served.

Half Moon Bay, California

Purpose. Electorate approved Measure A in 1991, limiting annual building permits to 3% growth with a priority for downtown infill. Purpose is to preserve the quality of life in the community; protect and enhance public and private open space, parks and recreation facilities; and ensure that adequate public school facilities will be available to serve new development.

Electorate approved measure D in 1999, reducing annual growth rate to 1%: To protect the health and safety of existing and future residents by controlling the rate of future residential growth in the City during periods of infrastructure capacity constraints, particularly those related to water supply, sewage treatment capacity, school facilities, open space, parks, and streets and highways.

Number of Allocations Calculated by determining how many additional dwelling units would result in 1% growth in population. Half of the allocations to be used only in downtown infill area.

Exempt or Partially Exempt Uses Affordable housing density bonuses as provided by state law are exempt. Allocations not required for residential redevelopment that does not increase existing number of dwelling units.

Banking/Carry-Over. Information not available.

Timing & Method. Semi-annual. Via Lottery.

Conclusions

In all cases, the purpose of an annual cap on the issuance of building permits is a mixture of preserving quality of life and natural resources, preventing traffic congestion and allowing the municipality to provide necessary infrastructure and services.

In some case, setting the annual limit on building permits is a simple calculation allowing for a 1% growth rate (either in dwelling units or population). In other cases, the annual limit is set after the legislative body reviews a report on progress toward providing necessary infrastructure and services. In Mount Pleasant, there is a “sunset” on the permit-capping program. The permit allocation system is tied to a specific period of time (10 years) during which the town will upgrade roads and schools. Once infrastructure projects are completed, Mount Pleasant intends to drop the pacing program.

This provides the P&Zs with a choice of different rationales for implementing a pacing system, ranging from the somewhat undefined (quality of life) to very specific achievements (for example, ‘solving’ the Entrance to Aspen, or some other major improvement). Interestingly, local public feedback revealed an interest in future growth at the AABC, but only if “substantial improvements” are made to the transportation system.

In all the above cases, exemptions are made for affordable housing and a list of other “desired” types of development, such as senior housing, mixed use development in downtown areas etc. One potential in the Aspen Area would be to exempt residential redevelopment from pacing if the property is owned by a local employee who agrees to place a Resident Occupied designation on the property until it is sold to someone who doesn’t qualify under APCHA eligibility requirements. (This was a suggestion from Marcella Larson.)

It is interesting to note that all of the building permit capping systems in this study exempt “scrape and replace” redevelopment. They specifically exempt redevelopment that does not increase the number of dwelling units. This does not mean the city or county must also exempt residential development from a pacing program.

It is important to recognize that the *annual cap on building permits* is the method by which these cities and towns manage growth: Staff refers to this kind of system as *downstream growth management*. In contrast, the City of Aspen and Pitkin County have placed annual caps on the *number of development approvals* since 1976: Staff refers to this kind of system as *upstream growth management*. There are no examples of municipalities that use both an *upstream* and a *downstream* growth management system. The likely reason is that both kinds of growth management control growth, with the only difference found in *when* such controls are applied during the review process.

In certain ways, both systems have similar weaknesses in terms of actually controlling the number of building permits that are acted upon each year. In *downstream* systems, the capability for “banking” building permit allocations (in some cases, for up to five years) allows applicants to vary when construction will actually occur. In *upstream* systems, the legal notion of “vested rights” allows applicants to vary when construction will actually occur.

In both cases, growth control municipalities remain at the whim of the national economy to a significant degree when it comes to the intensity of construction activity. One of the key questions becomes: Is a municipality willing to deny/limit the banking of building permits allocations, or deny/limit the extension of vested rights beyond the three years mandated by state law, or deny/limit the extensions of building permits?