GROWTH MANAGEMENT SYSTEM
(Policy AG/LU-119)

EXISTING
Policy AG/LU-119: The following is the Growth Management System for Napa County:

1. Introduction

The Growth Management System Element of the Napa County General Plan was adopted as required by Slow Growth Initiative Measure A, approved by the voters in 1980. The Board of Supervisors made the implementation of Measure A a matter of high priority. The Conservation, Development and Planning Department was given primary responsibility to prepare a Growth Management System which satisfied both the intent and letter of Measure A, while at the same time limiting government controls. Before expiration of Measure A in December 2000, the Board of Supervisors reaffirmed the policies of Measure A and the establishment of a housing allocation program, when it passed Ordinance No. 1178 on November 28, 2000.

Measure A and Ordinance No. 1178 provide that the annual number of new housing units in the unincorporated area of the County of Napa shall be allocated so as to allow an annual population growth rate that shall not exceed the population growth rate of the nine Bay Area counties (Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Sonoma, and Solano), provided that the annual population growth rate limit shall not exceed one percent in the County of Napa. The annual allocation of building permits relates to permits for the construction of new residential units on a site. It does not affect permits related to rebuilding, remodeling, renovating, or enlarging existing units, moving an existing dwelling from one unincorporated site to another unincorporated site, or units exempted by “grandfathering” under Section 4.2 below.

When the Growth Management System was originally adopted, the annual allocation for building permits for new construction of residential units in Napa County was set at 109 dwelling units. This figure was derived by using the most recent United States Census available at the time. However, since the adoption of Measure A, there have been changes in population and a new United States Census was released in 2000. Based on these changes, the new annual permit allocation shall be 114 dwelling units.

The Growth Management System of the General Plan describes the derivation of the 114 dwelling unit (D.U.) annual allocation, the division of the annual allocation into housing type categories, the timing and methods used for issuing building permits, and the required provisions for affordable housing units.

While the Growth Management System of the General Plan is not a mandatory component of the General Plan (in the sense of Government Code Sec. 65302), it satisfies the requirement (Government Code Sec. 65302.8) that the County is accommodating its share of regional need for housing for the following reasons:

First, the 1% population growth rate approximates the Bay Area population growth rate. “Population growth rate” means the change in the total population in one year's time stated as a percentage either increasing or decreasing, based on the census and other relevant data (as provided by the California Department of Finance's Demographic Research Unit and supplemented by the United States Census whenever available) for the unincorporated area of Napa County adjusted for annexations and incorporations and the entirety of the nine Bay Area counties.

Second, the total number of D.U.s grandfathered will augment the annual allocation, in terms of the total number of units permitted.
**Third**, plans for Napa County, its constituent cities and town and ABAG, all call for city-centered urban development, which reduces the unincorporated area’s proportional share of the County’s total share of the regional housing needs.

Historically, the county has seldom, if ever, reached the maximum annual allowance of the building allocations. The actual historical average number of building permits has been approximately 68 units per year, not counting second units or other exempted development as enumerated under subsection two of the Building Permit Allocation section below.

2) **Annual Growth Rate Calculation**

The annual allocation of building permits, until next updated, will be 114 D.U., not counting exempted/grandfathered units.

The 114 D.U. allocation was determined using data from the 2000 U.S. Census, in the following manner:

Multiply the number of housing units in the unincorporated area (11,415 using the 2000 Census) by 0.01 to account for 1% annual growth.

Dwelling units permitted each year (114) may be converted to population by multiplying by the “average household size.” In the 2000 Census, there were 2.62 persons per occupied housing unit.

3) **Review Following Census**

The Board of Supervisors shall modify the Growth Management System and related ordinances by July 1, 2005, again by June 30, 2009, and at least every five years thereafter to reflect any changes in the annual population growth rate for the nine Bay Area counties. In setting the annual number of new housing units allocated, the Board of Supervisors shall use the most recent census and other relevant data provided by the California Department of Finance’s Demographic Research Unit for determining the persons per household and the vacancy rate of year round housing units. The United States Census may be used as a supplementary resource whenever available.

4) **Building Permit Allocation**

1) **Character**: “Character” is defined as “the aesthetic and physical qualities which may be controlled, including density, building type (e.g., single-family detached or attached, apartment, mobile home parks), setbacks, height limits, landscaping, building coverage, color, siding material, roof overhang material, accessory buildings, parking, orientation, style and signing.”

Regulated building types are divided into the following four categories:

A) Category 1 is a single dwelling built by or for a permit holder (owner-builder or his contractor) who is building only one dwelling unit per year.

B) Category 2 is any type of dwelling which requires no discretionary review, but the permit holder is building more than one dwelling unit per year. A good example would be the small-scale builder using existing lots.
C) Category 3 is any type of residential project for 2 or more dwelling units which require discretionary review (e.g., subdivision, parcel map, use permit). A large-scale housing project would be a good example.

D) Category 4 is housing which is affordable to persons with moderate or below moderate income. This category would require an agreement signed by the developer and the County; the agreement shall contain guarantees that the dwelling units would be affordable to persons of moderate or below moderate income for at least forty years.

Category 1 and 2 permits would be issued from those applications for residential building permits which do not require discretionary review (i.e., a use permit or subdivision approval). Category 3 (and some Category 4) permits would be issued from those applications associated with an approved project that has undergone discretionary review (which according to state law, has included environmental review and a finding of consistency with the General Plan).

2) Exempted Development:

The following types of construction are exempt from the provisions of the Growth Management System:

A) Industrial.
B) Commercial.
C) Commercial Residential (rental for less than a thirty-day period).
D) Replacement housing (on the same site as a pre-existing unit which has been removed, demolished or burned within the past year) (but not in conjunction with #5).
E) Relocation of existing units (already in the unincorporated area, but not inside the Lake Berryessa Take-Line).
F) Additions, renovations, and refurbishments of existing dwelling units.
G) Dwelling units located inside the Lake Berryessa Take-Line.
H) Accessory buildings of any type (except dwelling units).
I) Guest cottages.
J) Dwelling units for which building permit applications were filed by July 28, 1981.
K) Dwelling units covered by development agreements approved prior to July 28, 1981.
L) Dwelling units covered by both use permits and development plans approved prior to July 28, 1981 [i.e., Silverado (280 D.U.), Meadowood (7 D.U.), and Villa Berryessa MHP (96 D.U.).]
M) Second units exempted pursuant to Gov. Code Sec. 65852.2.

3) Location of Growth: The Growth Management System defines “Location” as “Within the County, including sub-area, whether inside or outside the incorporated jurisdictions, or where on a specific site.” This General Plan
expresses the County’s policy of encouraging urban-centered growth focused in urbanized areas. Higher density development would normally occur in the urban areas as a result of the availability of water and/or sewer facilities. Preference is to be given to the urbanized (non-agricultural) areas identified in the County’s General Plan such as Angwin and those County islands surrounded by the City of Napa and/or the City of American Canyon.

4) **Timing**: “Timing” is defined as “the relationship of the number of building permits issued in one year to the total number of permits issued over several years.” The annual allocation of building permits shall be 114 D.U. per year.

When an annual allocation has not been used, the remainder may be carried over three years, except for Category 4, which may carry over indefinitely. The remainder (“X”) which is carried over from “year 1” is immediately and continuously available in “year 2” and again in “year 3” (as described in Section 6 of the Growth Management System Element). However, the remainder at the end of “year 3” must be reduced by “X” (but not made less than zero) on December 31st of “year 3.” Category 1, 2, and 3 permits which would otherwise cease to exist at the end of “year 3” may be applied toward Category 4.

At the discretion of the Board of Supervisors, the unused allocation in Categories 1, 2, and 3 may be transferred from one category to another (including additions to, but not subtractions from, Category 4) on an annual basis. The Commission shall review the year’s construction permit record and consider transfer of surplus allocations. Following their review the Commission shall forward to the Board of Supervisors their recommendations for such changes in the allocation system, as they feel are warranted for the balance of the year, along with the supporting data for their recommendations.

5) **Affordable** Housing: “At least 15% of those housing units permitted each year shall be for housing capable of purchase or rental by persons with moderate or below moderate income.”

The 15% affordability housing requirement is described as follows:

“Income information provided annually by the Federal Department of Housing and Urban Development (HUD) and the California Department of Housing and Community Development (HCD) shall be used; moderate shall mean up to 120 percent of the County median income. Capable of purchase or rental shall mean that not more than 30% of the (gross) household income shall be spent on housing costs such as rent payment, mortgage payment, insurance, taxes, and condominium membership fees.”

Income figures are published annually by HUD and HCD. Depending on rental or sale, inflation, interest rates, down payment requirements, insurance, taxes, utility costs, and miscellaneous fees, many housing developments might qualify as “affordable.”

Affordable housing can be of any type (detached or attached single-family, multiple family, mobile home, manufactured home, live/work loft, or other in a residential or mixed-use zone). It is estimated that mobile homes, manufactured homes, multiple family homes, and farm labor housing will meet the
affordability criteria more readily than other types of dwellings. Development of affordable housing (pursuant to Category 4 in the Growth Management System) requires a written agreement with the County and any designated agency prior to issuance of the building permits. It is the developer’s responsibility to identify how the unit(s) will meet the “affordable” criteria, and this documentation will be included as part of the agreement. (See the Housing Element regarding incentives for the construction of affordable housing.)

Developers may count appreciation and tax write-off advantages to the owner into ownership affordability calculations.

The most recent HUD/HCD information will be used in calculating affordability. The most recent HUD/HCD figures at the time the unit is marketed may be used or an adjustment using the Consumer Price Index will be allowed if one year has passed and HUD or HCD has not issued a new figure.

6) Process of Distributing Building Permits: The Growth Management System assigns a share of the annual allocation to each of four categories of regulated development as show below:

**TABLE AG/LU-C:**
**RESIDENTIAL BUILDING PERMIT CATEGORIES, SHARES OF ANNUAL ALLOCATION, BUILDING PERMIT AVAILABILITY DATES**

<table>
<thead>
<tr>
<th>Category</th>
<th>Share Of Annual Allocation</th>
<th>Building Permit Availability Dates * January 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Owner-Occupied</td>
<td>69 D.U.</td>
<td>69 D.U.</td>
</tr>
<tr>
<td>2) Small-Scale Builder</td>
<td>14 D.U.</td>
<td>14 D.U.</td>
</tr>
<tr>
<td>3) Large-Scale Builder</td>
<td>14 D.U.</td>
<td>14 D.U.</td>
</tr>
<tr>
<td>4) “Affordable” Housing</td>
<td>17 D.U.</td>
<td>17 D.U.</td>
</tr>
</tbody>
</table>

* Unused permits in Categories 1, 2 and 3 will be considered for redistribution once a year, no later than November.
### TABLE AG/LU-D:
**Measuring A Growth Management System; Building Permit Distribution System**

<table>
<thead>
<tr>
<th>Category of Regulated Development*</th>
<th>Annual Allocation**</th>
<th>Building Permit Distribution Process:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>When Supply Exceeds Demand</td>
</tr>
<tr>
<td>1 Owner-Builder (one building permit per year)</td>
<td>69</td>
<td>First approved, first served</td>
</tr>
<tr>
<td>2 Small-Scale Builder (2 or more permits) (no discretionary review required) (final map must be recorded)</td>
<td>14</td>
<td>Discretionary Review; First approved, First served</td>
</tr>
<tr>
<td>3 Large-Scale Builder (2 or more permits) (discretionary review required)</td>
<td>14</td>
<td>May require discretionary review; Housing Agreement; First approved, First Served</td>
</tr>
<tr>
<td>4 Affordable Housing (Written rent/sale price limitation agreement required)</td>
<td>17</td>
<td></td>
</tr>
</tbody>
</table>

*Note that the following types of development are exempted from regulation of the Growth Management System: industrial, commercial, commercial-residential (less-than-monthly rental), replacement housing, additions to and renovations of existing dwelling units, certain house moving, dwellings inside the Lake Berryessa Take-Line, accessory buildings, guest cottages, units covered by development agreements approved prior to July 28, 1981, and units covered by both development plans and use permits approved prior to July 28, 1981.

**Unused permits in Categories 1, 2 and 3 will be considered for redistribution once a year no later than November.**

In order to distribute the shares of the annual allocation to ensure fairness to all applicants, the following two-step distribution system is recommended:

In the first step, building permits would be issued on a first-approved, first-served basis until all the permits in that allocation period for that category have been used. When the demand for permits in any category exceeds the supply available, the second step process, a lottery, is initiated. For example, in Category 1 and 2 (in which 83 additional building permits become available each year), each applicant whose plans have received all necessary approvals can immediately receive a building permit, if one is available. The first day of each January, an additional 83 building permits are added to the Category 1 and 2 supply. Category 1 and 2 applicants whose plans are fully approved can be issued permits until there are no more permits available in the Category 1 and 2 supply.

In the second step, permits are issued on the basis of a lottery. Building permit applications enter a lottery when they:

A) Are approved for issuance of a building permit; but
B) None is available in their category, and
C) The backlog of approved applications exceeds the next available allocation of permits in that category.
All applications approved in the first half-year in which the supply ran out are drawn from the lottery as long as the new supply of permits lasts, until none of those approved applications is left. After all of those applications are assigned permits, the next time period of approved applications would be included in the lottery and those applications would be drawn from the lottery until they all were assigned permits. The lottery would continue until there was a surplus of permits available, which would allow a return to the first step process (first approved, first served).

For example, assume Category 1 experiences a surplus of applications during the last half of 2004, and the last available permit is issued October 19, 2004. All Category 1 applicants wishing to receive a permit between then and January 1, 2005, must wait until January 1 for permits to become available, at which time they could immediately be issued permits, if the backlog of fully approved applications is no more than 69. If there was a backlog of 10 approved applications as of January 1, those applications would have permits reserved in their names which permits could be issued any time in the next 180 days. (If these reserved permits were not issued in 180 days, they would revert to the Category 1 supply and be available to other applicants.) If the backlog on January 1 was 77, there would be a drawing at the first opportunity. The first 69 applications drawn would have permits reserved as above, and the remaining eight would have to wait until January 1, 2006, at which time they would be guaranteed a reserved permit, as above. In this example, there would be no Category 1 permits issued in 2005 except to those applicants in whose name a permit was reserved.

The advantages of this system are as follows:

1) Applicants for building permits would experience minimum frustration since they would have some degree of certainty as to when they would get their permits and could plan their construction accordingly.

2) Applicants would realize it was to their benefit to submit complete plans as soon as they could, especially when asked for necessary additional information.

3) Administrative work would be kept to a minimum, since there would be no need for the County to select or grade applications by their relative merit. The choice of who gets a permit would be random, except that there would be some regard for precedence.

4) The main advantage of this system of distribution of building permits is that it limits governmental control. If the supply of building permits exceeds the demand for permits, there is no growth management control at all.

Various details of the system are as follows:

1) Lotteries, when necessary, would be by category. Lotteries for Category 1, held annually until a backlog is eliminated, would be for single permits, drawn one at a time. Lotteries for Category 2, held in January (when necessary), would be for single permits, drawn one at a time. Lotteries for Categories 3 and 4 would be held in January or later if necessary.

2) Fully approved applications would be listed by Assessor’s Parcel Number in order of approval on a chronological master list. That number would correspond to a numbered, three-part card; one part is mailed to the
applicant, one part is copied and entered in the lottery, and one part is kept on file.

3) Only one entry per person (household, business, corporation) could be included in each lottery. (This would not keep a contractor from building several homes, each under contract to a separate owner, nor would it keep an individual from participating in a number of separate ventures.)

4) Lottery cards would be dropped into a ballot box, one at a time, by the lottery secretary, mixed and drawn out one at a time by the lottery judge until all numbers have been drawn and listed in the order in which they were drawn.

5) A list of all the cards in the lottery would be displayed prior to the drawing; during the drawing the sequential order in which the cards were drawn would be noted on the photocopied list. All cards would be drawn and listed, even if the number of permits available was exceeded, so each applicant would be assured he was not left out of the drawing.

6) The drawing operation must be conducted so as to be beyond reproach; the person who draws the numbers must be someone whose integrity and involvement bespeaks honesty and objectivity.

7) Once the underlying discretionary County permit is “used,” the permittee shall have one year (rather than 180 days) to make use of the reserved permits, by obtaining issued building permits. After one year passes, the permittee will be issued building permits as they become available consistent with the allocation procedures for new applicants.

8) All issued permits are subject to the UBC non-use revocation provision; revoked, surrendered, or returned permits will be added to the supply of permits in the category in which they were issued, but will be made available only through lottery, in order to avoid speculation.

9) Permits are neither transferable upon sale of the parcel nor transferable to a different site or substitutable for a different dwelling. Minor design changes are acceptable; major-structural changes can be made only in case of a) redesign for energy efficiency or b) down-scaling due to economic necessity.
GROWTH MANAGEMENT SYSTEM
(Policy AG/LU-119)

PROPOSED
“Policy AG/LU-119: The following is the Growth Management System for Napa County:

1) Introduction

The Growth Management System Element of the Napa County General Plan was adopted as required by Slow Growth Initiative Measure A, approved by the voters in 1980. The Board of Supervisors made the implementation of Measure A a matter of high priority. The Conservation, Development and Planning Department was given primary responsibility to prepare a Growth Management System which satisfied both the intent and letter of Measure A, while at the same time limiting government controls. Before expiration of Measure A in December 2000, the Board of Supervisors reaffirmed the policies of Measure A and the establishment of a housing allocation program, when it passed Ordinance No. 1178 on November 28, 2000. The Growth Management System Element was combined with the Agricultural Preservation & Land Use Element in the 2008 General Plan Update, and the Growth Management System was simplified in 2009 concurrent with adoption of the 2009 Housing Element Update.

The Napa County Growth Management System provides that the annual number of new housing units in the unincorporated area of the County of Napa shall be allocated so as to allow an annual population growth rate that shall not exceed the annual population growth rate of the nine Bay Area counties (Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Sonoma, and Solano) over the prior 5-7 years, provided that the annual population growth rate limit shall not exceed one percent in the County of Napa (adjusted for annexations and incorporations). The annual allocation of building permits relates to permits for the construction of new residential units on a site. It does not affect permits related to rebuilding, remodeling, renovating, or enlarging existing units, moving an existing dwelling from one unincorporated site to another unincorporated site, or units exempted from the Growth Management System as specified below.

2) Annual Growth Rate Calculation

The annual allocation of residential building permits, until next updated, will be 115, not counting exempted/grandfathered units. This allocation was determined by reviewing population data derived from the U.S. Census by Claritas Inc., The 2008 population of unincorporated Napa County (29,666) was multiplied by 0.01 to allow for a 1% growth rate, and divided by the estimated household size (2.57). The annual allocation of 115 units represents a change from the prior allocation (114 units) and from the original allocation (109 units) put in place when the Growth Management System was first adopted.

3) Review Following Census

The Board of Supervisors shall modify the Growth Management System and related ordinances based on data from the 2010 Census and each time the Housing Element is updated, or more frequently if so desired by the Board. In setting the annual number of new housing units allocated, the Board of Supervisors shall use the most recent census and other relevant data
provided by the U.S. Census, the Association of Bay Area Governments, the California Department of Finance’s Demographic Research Unit or similar sources. The annual limit shall be set by multiplying the population of unincorporated Napa County by 0.01 and then dividing by the number of persons per household. The calculation may be adjusted to reflect the vacancy rate of year round housing units, and shall include comparison to the average annual growth rate for the nine Bay Area counties over the prior 5-7 years (if less than 1%). In no instance shall the new annual limit be less than the prior limit if the units are required to meet the County’s Regional Housing Needs Allocation, except as warranted by the occurrence of annexations or incorporations since the prior calculation.

4) Building Permit Allocation

   A) Regulated building types are divided into the following four categories:

   1) Category 1 is a single dwelling built by or for a permit holder (owner-builder or his contractor) who is building only one dwelling unit per year.

   2) Category 2 is any type of dwelling which requires no discretionary review, but the permit holder is building more than one dwelling unit per year. A good example would be the small-scale builder using existing lots.

   3) Category 3 is any type of residential project for 2 or more dwelling units which require discretionary review (e.g., subdivision, parcel map, use permit). A large-scale housing project would be a good example.

   4) Category 4 is housing which is affordable to persons with moderate or below moderate income as described further below. This category would require a deed restriction and/or an agreement signed by the developer; the agreement shall contain guarantees that the dwelling units would be affordable to persons of moderate or below moderate income for at least forty years.

   B) Exempted Development:

   The following types of construction are exempt from the provisions of the Growth Management System:

   1) Industrial.

   2) Commercial.

   3) Commercial Residential (rental for less than a thirty-day period).

   4) Replacement housing (on the same site as a pre-existing unit which has been removed, demolished or burned within the past year).

   5) Relocation of existing units within the unincorporated area, not including State or federal property.
6) Additions, renovations, and refurbishments of existing dwelling units.

7) Dwelling units located within the jurisdiction of other agencies.

8) Accessory buildings of any type (except dwelling units).

9) Guest cottages.

10) Dwelling units for which building permit applications were filed by July 28, 1981.

11) Dwelling units covered by development agreements approved prior to July 28, 1981.

12) Dwelling units covered by both use permits and development plans approved prior to July 28, 1981 [i.e., Silverado (280 D.U.), Meadowood (7 D.U.), and Villa Berryessa MHP (96 D.U.).]

13) Second units exempted pursuant to Gov. Code Sec. 65852.2.

C) [Reserved]

D. Carry Forward of Annual Allocations: When an annual allocation has not been used, the remainder may be carried over three years, except for Category 4 permits, which shall carry over indefinitely. Category 1, 2, and 3 permits which expire after three years shall become Category 4 permits.

E) “Affordable” Housing: At least 15% of the annual building permit allocation each year shall be in Category 4, and shall be affordable for purchase or rental by persons with moderate or below moderate income. “Affordable” means the housing cost shall not exceed 30% of the stated minimum household income adjusted for family size appropriate for the unit.

Income information provided annually by the Federal Department of Housing and Urban Development (HUD) and the California Department of Housing and Community Development (HCD) shall be used to determine the area median income. “Moderate” means up to 120 percent of the area median income applicable to Napa County, adjusted for family size by HCD in accordance with adjustment factors published and annually updated by HUD.

Affordable housing can be of any type (detached or attached single-family, multiple family, mobile home, manufactured home, live/work loft, or other in a residential or mixed-use zone). It is estimated that mobile homes, manufactured homes, multiple family homes, and farm labor housing will meet the affordability criteria more readily than other types of dwellings. Development of affordable housing pursuant to Category 4 in the Growth Management System requires a deed restriction and/or written agreement with the County prior to issuance of the building permits.
F) No more than 85% of the annual building permit allocation each year shall be in Category 1, 2, and 3 combined, and the number within each of these three categories shall be determined based on demand, with permits approved in the order their processing is completed, until the annual allocation is used up. If a lottery is needed as provided in sub-section G, below, 12% of the annual permit allocation shall be in Category 3.

G) Lottery for Distributing Building Permits:

In order to distribute the shares of the annual allocation to ensure fairness to all applicants, the following two-step distribution system is recommended:

In the first step, building permits would be issued on a first-approved, first-served basis until all the permits in that allocation period for that category have been used. When the demand for permits in any category exceeds the supply available, a lottery, shall be initiated.

In the second step, permits are issued on the basis of a lottery. Building permit applications enter a lottery when they:

i) Are approved for issuance of a building permit; but

ii) The applicable annual allocation has been used up, and

iii) The backlog of approved applications exceeds the next available allocation of permits.

Lotteries, when necessary, would be by category, with one lottery for Category 1, and 2 combined, one for Category 3, and one for Category 4. Lotteries shall be held annually until a backlog is eliminated, and shall be for single permits, drawn one at a time in January or later if necessary.