

DATE: February 8, 2017

TO: City of Hudson Planning Commission for February 13, 2017 Meeting

FROM: Greg Hannan, City Planner
Mark Richardson, Community Development Director

SUBJECT: LDC Text Amendment – Growth Management Residential Development Allocation; Ordinance No. 16-203

PC CASE NO: 2017 - 02

Project Introduction

The proposed amendments are those that were contemplated last March when the Growth Management Residential Development Allocation System was deferred in Ordinance 16-65. As reported then one recommendation of the Comprehensive Plan adopted in January 2016 is “review and evaluate the system to balance continued management of new residential development with increased flexibility and responsiveness to market demands”. The pressures on infrastructure present when the system was first implemented in 1996 have lessened significantly. Ordinance 16-65 proposed amendments that would accomplish the following:

1. Activate the system only when certain population and residential development growth factors are exceeded.
2. These factors and other development measures would be documented in a report to be presented to Council annually.
3. Growth management allocations would not be required when the system is not activated.
4. Section 1211 of the Land Development Code (LDC) should be revised to include the above, a way for activating the system when a growth factor is met, the schedule of growth management applications and allocations, and otherwise as may be advisable.

Applicable Approval Procedure

As a City initiated zoning text amendment application, this case is subject to the procedure set forth in Section 1203.03(c)(1). The ordinance is before the PC for step two of the below process.

Step	Dates	Notes
Step 1 Council	December 20, 2016	Council conducts a first reading of the application and refers the case to PC for a public hearing, review of the site specific plan, and recommendation.
Step 2 PC	February 13, 2017	PC conducts a public hearing and reviews the site specific plan and makes a recommendation to Council.

Step 3 Council	March-April, 2017	City Council conducts a second reading, another public hearing, and takes final action.
----------------	-------------------	---

Purpose & Explanation of LDC Amendment

The residential Growth Management Allocation system was adopted in May 1996 and is now Chapter 1211 of the Land Development Code. An Annual Review Report and an ordinance establishing the residential development allocation for the impending allocation period have been approved by Council every year since then, except in 2016 when Council deferred administration of the system pending amendments to the Land Development Code, but no later than December 31, 2016. Council conducted its first reading of the proposed legislation and referred the ordinance to Planning Commission for a public hearing and recommendation December 20, 2017. If Planning Commission renders its recommendation at the February 13 meeting, Council could adopt the legislation as soon as April 4.

Staff is proceeding with the directives contained in Ordinance 16-65 with the following assumptions:

1. Council wishes to maintain the system.
2. Council wishes to emphasize knowledge of the rate of development over limiting residential growth.
3. Council wishes to impose growth management only when the City's ability to meet the infrastructure needs of development is threatened.
4. Council wishes to simplify the administration of the system.

Specifically staff is recommending the following amendments to the Growth Management Chapter of the LDC:

1. Implement the system only when the number of new dwelling units resulted in an annual population growth of one and a half (1.5) percent each of the previous two years. The rate recommended in the 2004 Comprehensive Plan was 1.0 to 1.5 percent. Based on the current population of 22,437 and the number of persons per household of 2.87 this would be about 120 dwelling units per year. 40 zoning certificates for new single family detached homes were issued in 2016.
2. Maintain the current purpose and intent of the original regulations to ensure infrastructure is available for development and fiscal impact does not exceed the impact of development.
3. Delete the Findings section as most of the findings relate to the excessive growth rate and the negative impact of that rate when the system was established. These findings are no longer true.
4. Change the focus of the regulations to monitoring development rather than limiting it by moving the Review and Monitoring part of the ordinance near the beginning of the chapter.
5. Reduce the scope of the annual report. The report will assess data over the previous two years, rather than the current one year assessment. The report will be limited to a recommendation as to whether the system should be implemented and if so what the number of allocations should be. The number of allocations will be established for the next two years, rather than the current one year. The report would be submitted directly to Council, not to PC for a recommendation.
6. Suspend the Growth Management ordinance if Council decides not to implement the

- system.
7. Authorize Council to award additional allotments for hardship or other reasons or change the number of allocations as it sees fit.
 8. Simplify the system when it is implemented to:
 - a. Base the reporting and recommendation deadlines and the allocation periods on a calendar year. Award allocations once each year, not twice. Once implemented keep the system in effect for at least two years.
 - b. Repeal provisions for “priority development” so that all residential development will be treated the same.
 - c. Repeal the complex and rarely used multi-year allotment and hardship relief provisions.
 - d. Simply the application, award, and notification process. Move some of the regulations from the LDC to administrative procedures.
 9. Unallocated allotments carry over to the next year until they expire as they do now. Allotments will expire five years after they are awarded, rather than the current two years.

Although the scope of the popular Growth Management annual report is being reduced at Item 5 above, the City is designing a new more accessible annual report that will summarize the state of development.

Recommendation

Pending testimony offered at the public hearing, staff recommends that Planning Commission recommend that Council approve the requested text amendment.

If Planning Commission agrees with this recommendation it may use the following as the basis for its recommendation to Council:

Based on the evidence and representations to the Commission by City staff, 115 Executive Parkway – Suite 400, Hudson, Ohio 44236, as applicant and other interested parties, at a public hearing of the Planning Commission held at its regular meeting on February 13, 2017, the Planning Commission in Case No. 2017-02 recommends that City Council approve Draft Ordinance No. 16-203, An Ordinance Amending Chapter 1211 “Growth Management Residential Development Allocation” of the Land Development Code in its entirety.

AN ORDINANCE AMENDING CHAPTER 1211, "GROWTH MANAGEMENT RESIDENTIAL DEVELOPMENT ALLOCATIONS," OF THE LAND DEVELOPMENT CODE IN ITS ENTIRETY.

WHEREAS, it is a recommendation of the City's 2015 Comprehensive Plan that the City "review and evaluate the [residential growth management allocation] system to balance continued management of new residential development with increased flexibility and responsiveness to market demands;" and

WHEREAS, pursuant to Ordinance No. 16-65, this Council deferred administration of the residential Growth Management Allocation system pending review and amendment of the Land Development Code, specifically Chapter 1211, "Growth Management Residential Development Allocations," of the Land Development Code; and

WHEREAS, Ordinance No. 16-65 proposed code revisions that would accomplish the following: (1) activate the system only when certain population and residential development growth factors are exceeded; (2) these factors and other development measures would be documented in a report to be presented to Council on an annual basis; (3) growth management allocations would not be required when the system is not activated; and (4) Chapter 1211 should be revised to include the foregoing; and

WHEREAS, City staff has reviewed Chapter 1211, "Growth Management Residential Development Allocations," of the Land Development Code and recommends amendments to Chapter 1211 that address and implement the concepts identified in Ordinance No. 16-65 and the City's 2015 Comprehensive Plan; and

WHEREAS, this Council has introduced the within Ordinance and referred it to the Planning Commission pursuant to its obligation under Land Development Code Section 1203.03 to follow said procedure; and

WHEREAS, the Planning Commission has submitted its recommendation to Council and Council has held its own public hearing on this Ordinance, and upon which Council determines that the proposed amendments to Chapter 1211 of the Land Development Code should be adopted as being consistent with the public health, safety and general welfare.

NOW, THEREFORE, BE IT ORDAINED by the Council of Hudson, Summit County, State of Ohio, that:

Section 1. Chapter 1211, "Growth Management Residential Development Allocations," of the City's Land Development Code is amended to read in its entirety as follows:

“CHAPTER 1211 GROWTH MANAGEMENT RESIDENTIAL DEVELOPMENT ALLOCATION.

Section 1211.01 Purpose and Intent

The purpose and intent of this Chapter is to:

- (a) Establish a Growth Management Development Allocation System in the City of Hudson that will be implemented when the rate at which the city issues zoning certificates for certain residential dwelling units and subdivisions exceeds thresholds established by Council.
- (b) Implement the policies and goals of the 2015 City of Hudson Comprehensive Plan (2015 Comprehensive Plan adopted in January 2016) relating to land use, infrastructure, transportation, parks and recreation, residential commercial and employment areas, Downtown Phase II plan and community services.
- (c) Establish a residential development management and allocation system to control the rate of residential development to ensure that:
 - (1) Growth is orderly and that municipal infrastructure and public services are available concurrently with such development and to prevent further deterioration of public facility and infrastructure service levels.
 - (2) The fiscal impact of such development does not exceed revenue available from such development and other sources to pay the cost of infrastructure and services which it necessitates.

Section 1211.02 Implementing the Allocation System

- (a) The City Council may implement the Growth Management Development Allocation System as follows:
 - (1) Annual Report. The City Manager shall on an annual basis make a recommendation to Council as to whether or not to implement the Growth Management Allocation System. The annual report by the City Manager shall include, at a minimum, the number of residential dwelling units approved by type and location during the previous two years and the resulting population increase based on the most recent U.S. Census Bureau data, a recommendation as to whether to implement the Growth Management Residential Allocation System and other data and information that the City Manager determines would be relevant to the City Council in determining whether or not the Growth Management Residential Allocation System should be initiated. If the report recommends that the system be implemented, the report shall also make a recommendation as to the number of allocations for the following two allocation years as needed or required.
 - (2) Submission of Review Report. The City Manager shall submit the report to the City Council no later than September 30 of each year.
 - (3) City Council Action. Prior to deciding whether or not to implement the Growth Management Residential Development Allotment System and adoption of an annual residential development allocation, the City Council shall hold a public hearing at which comments on the review report and recommended allocation are solicited from the City Manager and public-at-large. Council may implement the Growth Management Residential Development Allotment System if the number of dwelling units approved

by the issuance of zoning certificates each of the previous two years results in an annual population growth exceeding one and a half (1 ½) percent. By October 31 of each year, the City Council shall decide whether or not to implement the Growth Management Residential Allotment System and, if so, establish a residential development allocation for the next two years.

Section 1211.03 Applicability

- (a) If Council decides not to implement the Growth Management Residential Development Allocation System, the remainder of this Chapter does not apply.
- (b) If Council decides to implement the Growth Management Residential Development Allocation System, the City Manager will implement the system so that allocations will be awarded January 1 of the following year. The system will be implemented for a minimum of two calendar years according to the regulations in the remainder of this Chapter.
 - (1) Residential Development Allotment. No application for a zoning certificate for construction of a residential dwelling unit on a legal lot shall be granted by the City until the applicant is awarded a residential development allotment for each dwelling unit on that lot pursuant to this Chapter or such development is exempted from this Chapter as set forth below.
 - (2) Exempt Development. The following developments are exempted from the requirement of securing a residential development allotment as a condition precedent to the issuance of a zoning certificate.
 - a. All non-residential development, including civic, commercial, industrial, and institutional development; and
 - b. Remodeling, restoration, reconstruction, or replacement of legally established structures that does not increase the number of residential dwelling units that existed previously on the site.

Section 1211.04 Residential Development Allotments.

- (a) *Frequency of Allotments.*

There shall be one allocation date each of the next two years. The total number of residential development allotments approved each year by City Council shall be awarded on or before January 1 of each year except as provided in this Chapter.
- (b) *Maximum Allotment.*

No single development may apply for an allocation in excess of the number available in the allocation period or be awarded more than thirty (30) residential development allotments in any one year, except if there are no competing applicants for such allotments.
- (c) *Unallocated Surplus Allotments.*

Allotments that are not awarded in any given year shall be carried over automatically into the next year.
 - (1) For allotments that remain available after the award of allotments: one allotment shall be made available to each applicant qualifying under

Section 1211.05, "Development Allotment Application Procedures," of this Code.

(d) *Additional Allowance.*

The City Council may, upon advice of the City Manager, award residential development allotments in addition to the normal yearly allocation provided for in Section 1211.04(a) to projects of extraordinary circumstances, including:

1. Projects in which at least twenty-five (25) percent of the units to be built are deed restricted to housing for the elderly over sixty-two years of age or disabled persons or are classified as affordable housing units as defined in this Code; or
2. The project is a mixed-use commercial/residential development that will contribute substantially to the preservation, enhancement and revitalization of the downtown area of the City; or
3. Already approved subdivision plans that are proposed to be redesigned in such a manner that substantially advances the goals of the Comprehensive Plan and accomplishes one or more of the following purposes: substantially lessens the impact on public services and facilities, reduces overall densities, improves protection of sensitive natural areas such as wetlands, riparian areas, wildlife habitat, and woodlands, or provides additional public amenities such as parks, green ways, and open space; or
4. Where exceptional or other unusual conditions exist that are not common to other similarly situated developments, where the property in question will not yield a reasonable return in the foreseeable future or there will not be any beneficial use of the property in the foreseeable future without an allotment being awarded during the current allocation period, and provided that such allotment will not have the effect of nullifying or impairing the intent and purpose of this Chapter.

(f) *Adjustment of Annual Development Allocation*

If conditions warrant, the City Council, upon advice by the City Manager, may increase or decrease the annual allocation. However, if the allocation is reduced, it shall not reduce or revoke any allotments made pursuant to the previously existing allocation.

Section 1211.05 Development Allotment Allocation Procedures

(a) *Application for Allotment*

The application for an allotment shall be completed on a form provided by the City Manager. Such application shall specify:

- (1) The number of allotments requested in terms of residential units;
- (2) A development schedule showing the elapsed times projected for each phase of the development process; and
- (3) Other documentation and information that the City Manager may require in order to review the application and apply the standards and obtain compliance with the intent and purposes of this Chapter.

(b) *An "applicant"*

An applicant for a residential development allotment under Chapter 1211 must be the title owner in fee simple of the property. An "applicant" may also be an

individual, ownership entity or organization which has a legally valid and enforceable option contract or purchase agreement for a residential lot. The title owner in fee simple of the lot shall, however, be considered to be a co-applicant for purposes of the “Maximum Allotment” provision set forth in Section 1211.04(e) and for purposes of the minimum of one automatic allotment per year per applicant set forth in Section 1211.05(c). In other words, the co-applicant owner shall have the total number of allotments to which the owner may be entitled reduced by the number of allotments awarded to co-applicant option holders or purchasers and will lose any right the co-applicant owner may have to one automatic allotment per year. In the event that through this process the number of applicants is reduced below the number of available allotments, a random selection for the balance of the allotments will be conducted. The option holder or purchaser shall not be a family member, business associate, agent, and employee or related in any way to the co-applicant title owner in fee simple.

(c) *Application Deadline*

All applications for a Residential Development Allotment shall be submitted according to the following schedule:

Application Date	Annual Allotment Award Date
December 1	January 1

(d) *Limitation on Number of Applications*

An individual, ownership entity, or organization may submit only one (1) allotment application per lot in each allocation period, except there shall be no limitation on the number of separate lots within a contiguous development or physically separate developments under common ownership that may be included in one allotment application submitted by an individual or organization except as provided in Section 1211.04.

(e) *Completeness Determination/Additional Information*

The City Manager shall review for completeness all applications. If the application is determined to be incomplete, the City Manager shall reject it and notify the applicant in writing of such rejection and the reasons therefore, within ten (10) working days. Failure of the applicant to submit the requested information within ten (10) working days from the time the notification is mailed to the applicant shall preclude the application from being reviewed and processed during that annual allocation period.

(f) *Changes in Allotment Request*

Once submitted, an applicant may not alter its application to request an increased number of allotments.

(g) *Fee for Review of Application*

Each allotment application shall be accompanied by a processing fee as may be established by resolution of the City Council. Such fees shall be nonrefundable. Additional fees are not required for processing of the same allotment application, if substantially unaltered, during successive allocation periods. The allotment

processing fee shall be in addition to all other City development processing and permit fees.

(h) *Residential Development Allotment Recommendation and Award*

The City Manager shall, utilizing the allocation formula set forth in Section 1211.06, calculate allotments for the annual allotment period and award allotments up to the maximum number authorized by Council by January 1st of each year.

(i) *Notification of Allotment*

All applicants who received an allotment shall be notified by mail or e-mail. Successful applicants may apply for issuance of a Zoning Certificate for the applicable number of residential dwelling units subject to complying with requirements of all other applicable City Chapters and regulations.

(j) *Withdrawal of Allotment Application*

An applicant may elect to withdraw an allotment application without prejudice at any time prior to an allotment being made by the City Manager.

(k) *Transferability of Allotments*

(1) All allotments granted pursuant to this Chapter shall be valid only for the individual lot or lots which were the subject to the application unless they are revoked or expire in accordance with provisions herein. Allotments awarded to one lot may be transferred to another legally-established lot within the same development or subdivision, provided, however, that the subject lots are under common ownership.

(2) An allotment which has been granted to a particular lot shall remain with that lot upon conveyance of that lot to another person, except in situations where the lot is conveyed back to the person who was the owner or applicant at the time of the award of the allotment. Additionally, allotments granted to an applicant who has an option contract or purchase agreement on a lot may not be transferred to any other person, including the grantor of the option or the seller of the subject lot without the express written approval of the City Manager.

(l) *Expiration of Allotment*

An allotment granted pursuant to this Chapter shall be valid for five years from the date it is awarded. An allotment for a residential unit for which construction has not begun within five years of such award shall automatically expire and the owner shall be required to secure a new allotment to construct a residential unit.

Section 1211.06 Resident Development Allotment Calculation

(a) *Prorata Allotment Formula*

For each annual allocation period, the number of allotments to be awarded to each applicant shall be equal to the number of allotments requested by the applicant multiplied by the total number of allotments available in that allocation period divided by the total number of allotments requested in that allocation period. Prior to allocation, however, all applicants shall be granted a minimum of one automatic allotment requested in that allocation period, and such proration shall be subject to all other provisions of this chapter affecting allocations and grants of

allotments. Nevertheless, no more than one (1) automatic allotment shall be awarded to an applicant in any one year.

Explanatory Note: The proposed allotment system is a prorata one, that is, an applicant will receive a prorata share of the allotments available based on the number of allotments it requests. To ensure equity for small applicants, every applicant receives at least one allotment. For example, assume there are fifty (50) units available in the first semiannual of the year for allotment to applicants with priority status. Applicant Smith requests twenty (20) units, and the overall number of requests by ten (10) applicants is for one hundred (100) units. Applying the formula above produces an allocation of nine (9) units for Applicant Smith as follows:

Step 1: Award one (1) allotment to each applicant (10), including one (1) to Smith which leaves forty (40) allotments for award. Applicant Smith gets one (1) unit.

Step 2: Apply Formula

$$\frac{\text{Allotments Requested by Smith (20)} \times \text{Total Number Available (50-10=40)}}{\text{Total Units Requested (100)}} = 8$$

Step 3: Add Step 1 and Step 2 for total allotment = 9 Units

(b) *Insufficient Allotment Availability*

If insufficient allotments are available to allow a minimum automatic allotment of one allotment per applicant, a random selection shall be held by the City Manager to determine the order in which allotment requests are awarded.

(c) *Excess Allotments*

In the event that fewer allotments are requested than are available during any allotment period, the City Manager shall grant all allotments requested within two weeks of the application date without further action of the City Council.

(d) *Rounding Down of Allotments*

Allotments shall be rounded downwards for fractional numbers.

Section 1211.07 Appeals and Relief

(a) *Appeals*

(1) Any party-in-interest aggrieved by a final decision or order of the City Manager pursuant to this Chapter may appeal to the City Council. All appeals shall be filed within ten (10) days after such final decision or order. Upon the filing of an appeal, the City Manager, as relevant, shall forward to the City Council all relevant files and records relating to the matter.

(2) The filing of an appeal shall not stay the action of the City Manager.

(3) The City Council may affirm, modify, or overrule the decision of the City Manager based on the criteria provided in this Chapter.

(4) If as a result of a successful appeal, additional allotments are made, the City Council shall instruct the City Manager as to how many dwelling units shall receive allotments, when such allotments are to be made, and what effect such allotments will have on the current or subsequent annual

allocation to ensure that the annual residential dwelling unit allocation established pursuant to Section 1211.04 is not exceeded.

- (5) Any party-in-interest aggrieved by a final decision or order of the City Council pursuant to this Chapter may appeal as provided by law.

Section 1211.08 Rules of Procedure and Administrative Regulations

The City Manager is authorized to adopt rules of procedure and administrative regulations to implement the provisions of this Chapter.

Section 1211.09 Relationship to Other Ordinances

(a) *Zoning Certificates*

No Zoning Certificate relating to any non-exempt residential development shall be issued until the applicant shall have been awarded a residential development allotment whenever such an allotment is required by the terms of this Chapter.

(b) *Conflict*

To the extent of any conflict between this Chapter and any other City ordinance or regulation, the more restrictive is deemed to be controlling. Otherwise, all provisions and procedures contained in those ordinances and regulations and in this Code shall remain in full force and effect and shall regulate all changes in land use and development.

(c) *Compliance with Other Ordinances*

In addition to the requirements of this Chapter, the applicant shall comply with all other applicable City land development ordinances and regulations prior to the City issuing a Zoning Certificate.

Section 1211.10 History of this Chapter/Effective Date

This Chapter was adopted as Growth Management Ordinance No. 96-31 by the City Council of the City of Hudson, and became effective, on May 11, 1996. Amended on _____, 20____.”

Section 2. Chapter 1211, “Growth Management Residential Development Allocation,” of the City’s Land Development Code, as it existed prior the effective date of this Ordinance, be, and the same is hereby, repealed.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4. This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED:

David A. Basil, Mayor

ATTEST:

Elizabeth Slagle, Clerk of Council

I certify that the foregoing Ordinance was duly passed by the Council of said Municipality on _____, 20__.

Elizabeth Slagle, Clerk of Council