

# Growth Law Legalities Explained

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An ordinance that limits population growth because there are insufficient services to support more housing could be in trouble in the courts, Deputy County Counsel Dwight Herr advised county supervisors Tuesday.

Herr said, however, that a growth management ordinance that allows for all segments of the community to have limited access to permits for new buildings would be upheld in court -- as the Petaluma ordinance was.

The county board heard reports from Herr and "an overview" report on the economics of growth management from McDonald and Grefe, a San Francisco-based consultant firm that is working on the county's economic report.

The reports are among a series of studies that will be used as a basis for the county's proposed growth management program, now scheduled for completion after the June 6 primary election.

At the primary, county voters will cast ballots on Measure J, which would mandate the board to approve a growth control ordinance based on this county's "fair share" of the statewide population increase.

Although it would not mandate county government to hold the line at the state increase in population—which is expected to continue to be about one-half of the Santa Cruz County population increase—it will mean that a local decision must determine the "fair share" concept, officials said.

One clause of Measure J would prevent new major residential developments on the basis that services are not available.

Herr said that in the "home builders vs. Livermore" lawsuit, the legality of putting a moratorium on building until services are provided was upheld, but the issue was sent back to trial court to determine if the measure was in the interest of the "welfare of the region." Herr advised that if the board includes substantial limitations in its

growth ordinance based on the inadequacy of services (sewers, water, schools, roads), it should have plans for "development of a fiscally responsible program for providing and maintaining essential public services" if it wants to avoid problems in court.

The economic impact report basically states that the more the county is built-out, the more services it will need at a greater cost to the agencies providing services.

It holds that the greatest financial impact on a growth limitation law will be on the building trades, and possibly on the agricultural industry if their lands are used for development.

Even as the report warned of the costs to developers, it noted that the demand for housing here would still make it possible for the added costs to be passed on to the home buyer. The report recommends that a management plan not involve "annual quotas" only but implement several strategies that include intensive urban infill, urban expansion and a policy to expand services.

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