

GROWTH MANAGEMENT BALLOT MEASURES IN CALIFORNIA

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TABLE OF CONTENTS

1. INTRODUCTION	1
2. WHAT IS GROWTH MANAGEMENT?	3
3. WHAT GROWTH MANAGEMENT TOOLS ARE COMMONLY USED IN CALIFORNIA?	4
3-1. HOUSING/POPULATION CAPS	4
3-1-1. <i>Population Growth Caps</i>	4
3-1-2. <i>Housing Permit Limitations</i>	5
3-2. COMMERCIAL AND INDUSTRIAL CAPS	5
3-2-1. <i>Commercial Square Footage Limitations</i>	5
3-2-2. <i>Industrial Square Footage Limitations</i>	5
3-2-3. <i>Commercial Building Height Limitations</i>	5
3-3. URBAN GROWTH BOUNDARIES.....	6
3-3-1. <i>Urban Growth Boundary (UGB), Urban Limit Line, Urban Service Boundary, Or Greenbelt</i>	6
3-3-2. <i>Phased Development</i>	6
3-4. INFRASTRUCTURE ADEQUACY	7
3-4-1. <i>Residential Infrastructure Requirements</i>	7
3-4-2. <i>Commercial/Industrial Infrastructure Requirements</i>	7
3-5. ZONING	7
3-5-1. <i>Residential Downzoning</i>	7
3-5-2. <i>Residential Rezoning</i>	7
3-5-3. <i>Commercial/Industrial Rezoning</i>	7
3-6. GENERAL CONTROLS.....	8
3-6-1. <i>Growth Management Element</i>	8
3-6-2. <i>Subdivided Lot Restrictions</i>	8
3-6-3. <i>Other Measures</i>	8
3-7. VOTE REQUIREMENTS	8
3-7-1. <i>Voter Approval for Changes in Zoning or General Plan Land Use Designations</i>	8
3-7-2. <i>Council Supermajority for Changes in Zoning or General Plan Land Use Designations</i>	9
4. HOW DID GROWTH MANAGEMENT IN CALIFORNIA EVOLVE?	10
4-1. RAMAPO.....	10
4-2. PETALUMA	11
4-3. OTHER SYSTEMS.....	11
5. WHAT ARE THE LEGAL REQUIREMENTS OF GROWTH MANAGEMENT IN CALIFORNIA?	13
5-1. A NOTE ON ANNEXATION.....	15
6. HOW ARE GROWTH MANAGEMENT TECHNIQUES ADOPTED BY LOCAL GOVERNMENTS IN CALIFORNIA?	16
7. WHERE AND HOW ARE GROWTH MANAGEMENT TOOLS USED IN CALIFORNIA?	18
7-1. THE 1988 UCLA SURVEY.....	19
7-2. THE 1992 UCLA SURVEY.....	22
7-3. THE 1998 UCB/HCD SURVEY.....	23
7-4. THE 1998/1999 PPIC/UCR SURVEY	26
7-5. OFFICE OF PLANNING AND RESEARCH DATA	26

8. WHERE AND HOW ARE BALLOT MEASURES USED TO IMPLEMENT GROWTH MANAGEMENT IN CALIFORNIA.....	28
8-1. THE SOLIMAR DATABASE.....	29
8-2. FREQUENCY OF GROWTH MANAGEMENT BALLOT MEASURES.....	30
8-3. PATTERNS OF PASSAGE AND FAILURE	33
8-4-1. Frequency.....	36
8-4-2. Passage and Failure Rate of Specific Tools.....	38
8-5. TRENDS OVER TIME.....	40
8-5-1. Frequency.....	40
8-5-2. Passage and Failure Rate of Specific Tools.....	40
8-6. TRENDS BY GEOGRAPHICAL LOCATION	41
8-7. TRENDS BY COUNTY.....	42
8-8. DIFFERENCES BETWEEN JURISDICTIONS WITH BALLOT MEASURES AND JURISDICTIONS WITHOUT BALLOT MEASURES.....	44
8-9. TRENDS BY OTHER FACTORS.....	45
8-9-1. Size of Population.....	46
8-9-2. Rate of Population Growth.....	46
8-9-3. Racial Composition	46
8-9-4. Median Income.....	47
9. WHAT ARE THE IMPACTS AND IMPLEMENTATION ISSUES ASSOCIATED WITH GROWTH MANAGEMENT TOOLS IN CALIFORNIA?	48
9-1. ANALYSES OF GROWTH MANAGEMENT OVERALL.....	49
9-2. HOUSING AND POPULATION CAPS	50
9-3. COMMERCIAL AND INDUSTRIAL CAPS	50
9-4. URBAN GROWTH BOUNDARIES AND INFRASTRUCTURE ADEQUACY.....	52
9-4-1. Urban Growth Boundaries.....	52
9-4-2. Infrastructure Adequacy.....	55
9-5. ZONING TECHNIQUES	56
9-6. VOTER APPROVAL	57
10. CASE STUDIES OF IMPLEMENTATION ISSUES ASSOCIATED WITH GROWTH MANAGEMENT BALLOT MEASURES	58
10-1. HOUSING CAPS	58
10-1-1. Residential Growth Management Systems, City of Petaluma.....	58
10-1-2. Proposition A, City of Oceanside.....	60
10-2. URBAN GROWTH BOUNDARIES.....	62
10-2-1. Contra Costa County, Measure C.....	62
10-3. INFRASTRUCTURE	64
10-3-1. Measure Y, Control Traffic Initiative, El Dorado County.....	64
10-4. SUBSEQUENT VOTER APPROVAL REQUIREMENTS.....	66
10-4-1. SOAR Initiative, Ventura (San Buenaventura).....	66
10-4-2. Proposition S, City of Escondido	68
11. CONCLUSION	70
APPENDIX A: BIBLIOGRAPHY	71
APPENDIX B: ARTICLES FROM CALIFORNIA PLANNING & DEVELOPMENT REPORT	74
BALLOT INITIATIVES	74
URBAN GROWTH BOUNDARIES/LIMIT LINES.....	75
MISCELLANEOUS.....	75

Executive Summary

The concept of "ballot-box zoning" is more deeply embedded in California than it is in any other state. Over the past 30 years, it is estimated that at least 1,000 different measures dealing with development, growth, and land use have appeared on local ballots around the state. Virtually all of these measures have called on local governments to engage in some form of "growth management" — that is, they have sought to impose additional planning policies that focus on the *timing* and geographical *sequencing* of growth within a community.

The impact of growth management ballot measures in California has been widely debated — and, indeed, litigated — over the past 20 years. Builders have often argued that ballot-box zoning slows growth by subjecting development approvals to expensive and unpredictable political campaigns. Planners have often argued that ballot-box zoning undermines comprehensive community planning by de-coupling specific development decisions from the overall planning processes. Even environmentalists have split on the question of ballot-box zoning. Though they generally favor "direct democracy," some environmentalists have pointed out that ballot-box zoning can exacerbate sprawl by lowering densities.

This report concludes that growth management techniques that are proposed and adopted via the ballot do not — *in and of themselves* — encourage or discourage "Smart Growth." Rather, the impact of ballot-box zoning on community growth patterns in California depends on circumstances and especially on the way the ballot measures are subsequently implemented by cities and counties around the state. Ballot-box zoning can be used to defeat Smart Growth, either by builders who want to continue sprawl or by citizens who want to lower densities. But ballot-box zoning can also be used to promote Smart Growth if it is used to combine enhanced public involvement with thoughtful consideration of the growth choices most communities face.

Some of the most important specific findings contained in this report include the following:

- Ballot-box zoning remains geographically concentrated in a relatively small number of coastal metropolitan counties around the state, mostly in Southern California and the Bay Area. Use of the ballot migrated from the Bay Area to coastal Southern California in the early to mid 1980s and this geographical pattern has not shifted dramatically since then.
- Citizen activists and elected officials who use the ballot as an alternative to traditional planning processes do *not* use different growth management tools. The growth management toolbox used on the ballot is virtually identical to the toolbox used by cities and counties in regular planning processes. Most specifically, it consists of seven broad categories of tools:
 - 1) housing and population caps;
 - 2) commercial and industrial caps;
 - 3) infrastructure adequacy ordinances;
 - 4) alterations in zoning;
 - 5) urban growth boundaries;
 - 6) voter approval requirements; and
 - 7) broad and general growth management techniques.

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- Though the same tools are used, the overall approach at the ballot box appears to be different in the Bay Area and Southern California. Bay Area voters are much more likely to use urban growth boundaries and housing and population caps to manage growth. Southern California voters are much more likely to use downzoning and voter approval requirements — which could be a recipe for more sprawl.
 - Voters appear to be able to parse the difference between ballot-box growth management tools designed to promote growth and those tools designed to manage growth. So-called "slow-growth measures" pass much more frequently; and when Smart Growth tools such as urban growth boundaries are on the ballot, they pass far more frequently when they are associated with a growth management campaign rather than a "pro-growth" campaign.
 - During the 1990s, there was a significant shift from traditional techniques that restrict the overall amount of growth (housing and population caps) to techniques that are more consistent with Smart Growth concepts, such as constraining geographical expansion of urban growth (urban growth boundaries or UGBs).
 - At the same time, the 1990s also saw a dramatic rise in subsequent voter approval measures, which require voters to approve future changes in General Plans, UGBs, or densities and can inhibit efforts by local governments to plan for growth in a rational and predictable manner.
 - Ballot-box growth management — like jurisdictional-level growth management of any kind — often fails to take into account the larger regional implications of constraining or directing growth on a local level. Since growth results in numerous regional impacts, managing it at the local level can undermine Smart Growth approaches.
 - Whatever growth management tools are adopted by voters, it's still up to the local government to implement those tools. How they are implemented can encourage or discourage the use of Smart Growth principles.

Some of these trends are encouraging; some are not. But they do suggest that, if approached strategically, growth management ballot measures can be used to encourage the use of Smart Growth principles in some of the fastest-growing and most crowded parts of California precisely when those principles are most needed. The key is to focus on growth management tools such as urban growth boundaries that encourage more compact infill development.

Perhaps the most important recent trends are the decline in housing and population caps, and the rise in UGBs and subsequent voter approval requirements. UGBs are a staple of Smart Growth because they discourage geographical expansion of urban areas and therefore encourage revitalization and infill development in already urbanized areas. However, the mere passage of a UGB does not ensure such a pattern; indeed, a poorly constructed UGB program will sometimes encourage leapfrog development to the other side of the UGB or to more distant towns or cities. UGBs must be accompanied by a strong policy statement that development inside the boundary is encouraged and by a series of code revisions that will facilitate growth in infill locations that are friendly to transit and other alternative forms of transportation. UGB ballot measures should

facilitate Smart Growth by taking the extra step of directing the local government to alter its existing codes to facilitate infill and compact, mixed-use development patterns, rather than simply outlawing sprawl.

Similarly, subsequent voter approval requirements can cut both ways. Subsequent voter approval measures come in two basic packages. The first involves voter approval to permit the geographical expansion of urban growth (a UGB); the second involves voter approval to increase densities inside the urban boundary (essentially, any General Plan Amendment).

A subsequent voter approval requirement for UGBs clearly promotes a "Smart Growth" result. Future expansions of the UGB also require voter approval, which means that landowners and developers of "greenfield" sites outside the UGB must make the case to voters that expanding the urban boundary is good for the community.

But a subsequent voter approval requirement for density increases or for individual projects inside the boundary can hinder a "Smart Growth" result by giving infill opponents more political power. It is not uncommon for voters to support both a UGB and a restriction on densities inside the boundary. If the combination of these two restrictions suppresses growth below market levels, then two unfortunate consequences will result. First, compact development will never be achieved inside the boundary, thus limiting the possibility of transit and other alternative forms of transportation and growth. Second, some growth will leapfrog over the boundary to another jurisdiction — often one that encourages lower densities.

So ballot-box zoning must be strategically crafted in order to promote Smart Growth rather than undermine it; and it must take place in the context of a regional growth consensus that encourages Smart Growth in all communities.

Ballot-box zoning is one of the most powerful tools available to California citizens in shaping the future of their own communities. Both citizen activists and elected officials can use it wisely to promote Smart Growth — if they understand the opportunities and the pitfalls of the campaign-driven planning process that emerge from the passage of growth management ballot measures.

1. INTRODUCTION

Over the past 30 years, the term “growth management” has taken root in California to describe an array of land-use planning tools — mostly regulations — used by local governments to manage, shape, and sometimes restrict new real estate development. Well into the 1980s, California was regarded as being at the forefront of national efforts to manage growth. Even today, innovative techniques in California receive national attention. For example, voter-approved Urban Growth Boundaries in both the Bay Area and Ventura County have received widespread publicity over the past few years.

Over time, many of the growth management tools used in California have migrated to other states — including Oregon, Washington, Florida, and Maryland — which have also received national attention. However, the California system remains unique for two reasons.

First, California’s system of growth management *is extremely decentralized*. Unlike all the states listed above, California has never passed a statewide growth management law. Therefore, for better or worse, growth management in California is driven by actions of the state’s 477 cities and 58 counties, which have great freedom in adopting and implementing growth management techniques. Few state requirements oversee or constrain the use of these techniques, and the localities often have little political motivation to coordinate growth management efforts with each other or examine the impact of their growth management tools on a broader geographical area.

Second, growth management tools *have been adopted — and continue to be implemented — through the use of ballot measures far more in California than in other states*. Research suggests that the vast majority of growth management tools in California has been enacted by elected City Councils and Boards of Supervisors. (Glickfeld and Levine, 1992.) And California is not alone in actively using the ballot to deal with growth management. Other Western states with easy access to the ballot, such as Colorado and Washington, have also enacted growth management through ballot measures. Recent research suggests that, unlikely as it seems, growth management measures frequently turn up on local ballots in the Midwestern states of Ohio and Illinois. (Myers and Puentes, 2001.)

However, there is little doubt that California is by far the national leader in local growth management measures — and citizen activism that has placed those measures on the ballot by initiative. Although estimates vary, it would appear that at least 1,000 different growth management measures have appeared on local ballots in California since 1971. (Graymer, Glickfeld, & Morrison, 1987; Harrison, et al 2000.) A national survey of the November 2000

election by the Brookings Institution Center on Urban and Metropolitan Policy found that, of 89 local measures dealing with growth management appearing on ballots nationally, 44 of them (49.4%) appeared on ballots in California. Of the 35 growth management ballot measures that were placed on the ballot via citizen initiative, 21 of them (60%) appeared on ballots in California. (Myers and Puentes, 2001.)

This paper is the first phase of a project by the Local Government Commission, with funding from the Hewlett, Packard and Irvine Foundations and the help of Solimar Research Group, to inform local government officials, citizen groups and community activists about growth management efforts in California and the role that ballot measures play in enacting and implementing those growth management efforts.

The purpose of the project is to:

1. Identify what tools and techniques are typically used in growth management initiatives in California.
2. Describe the geographical patterns and policy patterns of growth management initiatives in the state.
3. Describe their likely impact if they are adopted.
4. Identify best practices that citizens can use in drafting initiatives and local governments can use in assessing and implementing them.
5. Disseminate this information to citizen activists and local government officials in order to help them.

This background paper is being written to identify and discuss the typical growth management tools and techniques used in land-use planning in California, with special emphasis on those growth management tools and techniques adopted by voters as a result of ballot measures. This paper discusses California's growth management landscape; identifies and describes the tools and techniques that are typically used; discusses where and when these tools and techniques have been used; and reviews existing research and expert consensus on the impact that these tools have on growth patterns in the state.

This paper seeks to catalogue and describe these tools and techniques however they are adopted. It is our observation that the "universe" of growth management tools appears to be identical no matter what the method of adoption. This paper also seeks to describe how and where growth management tools are used in the state, especially those that have been adopted by ballot measure. Finally, this paper seeks to review research and expert opinion on the impact of these growth management tools and the implementation issues that arise from their adoption.

These techniques can either be adopted by the local governing body or by the ballot initiative process. However, they are generally the same list of tools regardless of the method of adoption and therefore are presented as one comprehensive list in this paper.

2. WHAT IS GROWTH MANAGEMENT?

Growth management measures are those local government land-use regulations that restrict the rate, intensity, type, and distribution of development in a jurisdiction whether adopted as an ordinance by the governing body or enacted through the initiative ballot process. “In addition to use and bulk [which is regulated by traditional zoning and land-use regulation], growth management schemes also regulate ‘timing’ and ‘sequencing’ of development within a community.”(Fulton 1999, p.190)

Some authors make a strict distinction between *growth controls*, which limit the amount of development and restrict growth below its natural market rate (i.e. population and housing caps) and *growth management measures*, which regulate the quality, location, sequencing and impacts of development (i.e. infrastructure controls). For the purposes of this paper all of the tools, including growth controls, will be referred to under the broader rubric of *growth management* techniques. It is our belief that growth control policies usually involve elements of growth management and vice versa. However, it is useful to understand that there can be a difference between reducing the total amount of growth through a strict control on the one hand, and redistributing or mitigating it on the other.

It is also important to clarify that many researchers and policy makers refer to “growth management” at a regional or statewide level as opposed to a more local one. This is especially true in states such as Florida or Washington, where there is a state level Growth Management Act in place. California has made repeated attempts to adopt a statewide growth management law over the past 15 years, but so far the state has not done so. Therefore, in California, “growth management” usually refers to a set of techniques adopted by cities and counties at the local level, and that is how we will use it in this paper.

3. WHAT GROWTH MANAGEMENT TOOLS ARE COMMONLY USED IN CALIFORNIA?

Over the past 20 years, growth management has come to mean many things to many different parties. To builders and developers, it can mean providing the infrastructure required to support new urban growth. To environmentalists, it can mean actually suppressing the overall amount of growth. To planners, it can mean directing growth into appropriate locations with appropriate conditions. Among experts however, there is considerable agreement as to what the universe of growth management tools and techniques in use in California is.

More than a decade ago, UCLA researchers Madelyn Glickfeld and Ned Levine undertook two comprehensive surveys of over 500 local governments in California and their growth management techniques. Based on that survey, Glickfeld and Levine compiled a list of 17 different growth management techniques, which they later collapsed into seven tools. Since that time, virtually all other expert researchers in the field of California growth management — including John Landis, Rolf Pendall, and Harvey Molotch and Kee Warner — used these 7 tools and 17 techniques as a basis and, in general, did not deviate from this list.

Based on this literature and our own knowledge of the field, we believe that the universe of growth management tools commonly used in California still consists of these 7 general categories of tools and the 17 specific techniques. We have renamed the 7 tool categories to reflect current lexicon. They are:

- Housing/population caps
- Commercial/industrial caps
- Urban growth boundaries
- Infrastructure adequacy requirements
- Zoning
- General Growth Management
- Voter Requirements

3-1. Housing/Population Caps

3-1-1. Population Growth Caps

Population growth caps establish a population growth limit or restrict the level of population growth for a given time period. These are usually implemented by restricting the number of housing units permitted for construction.

3-1-2. Housing Permit Limitations

Housing permit limitations restrict the total number of residential building permits in a given time period.

As we will explain below, population and housing controls are the “granddaddies” of growth management in California. They were first imposed in growing suburban communities in the 1970s to meter the rate of growth per year — either to prevent the community from being overwhelmed or to help calibrate new residential growth with infrastructure construction. Although population growth caps purport to control the actual number of people in a community, in point of fact both population and housing caps seek to manage growth by restricting and controlling the number of housing units in a community. (Population caps limit housing construction through the use of assumptions about how many people, on average, will live in each housing unit.) Population and housing caps were popular in the 1970s and 1980s but they have not spread to very many new communities in the last decade.

3-2. Commercial and Industrial Caps

3-2-1. Commercial Square Footage Limitations

Measures to restrict the amount of square footage of commercial structures that can be built within a given time frame.

3-2-2. Industrial Square Footage Limitations

Measures to restrict the amount of square footage of industrial structures that can be built within a given time frame.

3-2-3. Commercial Building Height Limitations

Measures enacted within the last five years to restrict the permitted height of commercial buildings. Restricts the structural floor area that can be built on a given parcel (floor-area ratio).

These are the non-residential equivalents of the population and housing controls described above. Implicitly, of course, these types of measures restrict the built space available for employment and retail transactions, just as limiting housing construction limits population. Although many communities in California have adopted controls on population and housing, relatively few have adopted restrictions on the amount of non-residential development. (Many have adopted height limits.)

The tool most often used to restrict non-residential growth is the floor-area ratio or FAR. The floor area ratio or FAR refers to the ratio of gross building floor area to the net lot area of the building site. The floor area ratio was developed as a more refined and adaptable measure of intensity than building coverage. It expresses in one measure, instead of several, the mathematical relation between volume of building and unit of land. FAR, however, cannot

replace more traditional bulk controls entirely. Often it is not a sufficient height control nor does it regulate the placement of the building on the site.

3-3. Urban Growth Boundaries

3-3-1. Urban Growth Boundary (UGB), Urban Limit Line, Urban Service Boundary, Or Greenbelt

A limit, inside of and other than the boundaries of the jurisdiction, beyond which residential, commercial, or industrial development is not currently permitted.

3-3-2. Phased Development

Phased (or tiered) development areas where development approval is deferred until a certain time period or until existing developed areas are substantially developed.

Urban growth boundaries and related tools have become increasingly popular in the last 10 years, especially in certain counties in the Bay Area and along the coast. Simply put, these boundaries seek to limit urban growth to specific geographical areas through regulatory restrictions and/or limitations on infrastructure expansion.

Although these tools have become more important in recent years, there is great variation around the state in the definition of what is “urban” and what is “rural.” In some cases, non-urban land uses must involve parcels 40 to 320 acres in size — that is, parcels for which farming, ranching, and other rural economic uses are viable. In other cases, non-urban land uses can be as small as one acre in size — that is, any use that does not require a sewer and water hookup.

Definitions of terms related to UGBs:

- Urban Growth Boundary — The line on a map that is used to mark the separation of urbanizable land from rural land and within which urban growth should be contained for a period of time specified by a growth management program.
- Urban Growth Area — An area in which urban growth shall be encouraged and outside of which growth can only occur if it is not urban in nature. Urban growth areas are based on the population forecast and include areas and densities sufficient to permit the urban growth that is projected to occur for a specified period.
- Urban Service Area — An area in which urban services will be provided and outside of which such services will not be extended.
- Urban Reserve — An area outside of an urban service area but within an urban growth boundary in which future development and extension of services are planned. The urban service area and urban reserve combined, in many places, constitute the urban growth area. Also called Future Urbanized Area.

In the simplest case, a phased development system prohibits development in areas that lack sewers or some other basic public service. In more sophisticated systems a combination of services must be available before development is permitted — and the local planning policies may lay out a system of geographically sequencing new development to conform with plans for infrastructure construction. Often developers may, at their own expense, supply services that are lacking. The number of building permits issued may be subject to a quota, with preference given to proposals that meet public goals by providing good design, open space, energy efficiency,

public amenities or low-cost housing. Some uses such as nonresidential development or housing for the elderly, may be exempt from the controls.

Phased development controls can slow growth to allow municipalities to budget expenditures for expansion of municipal services to developing areas over a longer time period. Slower growth can prevent the overburdening of existing facilities while new ones are being constructed. Phasing can also encourage growth near existing built-up areas, thus helping to reduce sprawl.

3-4. Infrastructure Adequacy

3-4-1. Residential Infrastructure Requirements

Measures that specifically require adequate service levels (i.e. road capacity or traffic congestion) or service capacity (i.e. water or sewer service capacity) prior to or as a condition of residential development approval.

3-4-2. Commercial/Industrial Infrastructure Requirements

Measures that specifically require adequate service levels (e.g. road capacity) or service capacity (e.g. water or sewer service) prior to, or as a condition of, commercial or industrial development approval.

These measures also go by many other names: Adequate Public Facilities Ordinances (APFOs), Level of Service (LOS) requirements, or Concurrency requirements. (The term “concurrency” is derived from the Florida Growth Management Act and is not widely used in California.) In general, these measures prohibit the construction of new development unless the public infrastructure is in place to support it. In general, infrastructure adequacy is measured by predicting the impact on “levels of service” — that is, specific standards for virtually all public infrastructure, including roads (congestion levels), schools (capacity and crowding), parks (acres per person), and police and fire services (response times).

3-5. Zoning

3-5-1. Residential Downzoning

Measures to reduce the permitted residential density by general plan amendment or ordinance.

3-5-2. Residential Rezoning

Measures to rezone or redesignate land previously zoned for residential use to agriculture, open space, or other less intense uses.

3-5-3. Commercial/Industrial Rezoning

Measures to rezone or redesignate land previously zoned for commercial use to residential, agriculture, open space or other less intense uses.

Zoning is, of course, the most basic land-use regulatory tool. All jurisdictions in California are required to have zoning ordinances, and zoning must be “comprehensive” — that is, it must apply to all parcels in the jurisdiction. Zoning typically dictates the uses permitted on each parcel, the size and massing of the buildings permitted, and other requirements such as the number of parking spaces. One of the most common tools in California growth management is simply to alter the zoning (and usually the land-use designation in the General Plan as well) to permit only less intense uses — for example, rezoning commercial land to residential use; or “downzoning” residential property so that it can accommodate fewer units per acre than it could before.

3-6. General Controls

3-6-1. Growth Management Element

A comprehensive plan to address growth issues within the context of the general plan

3-6-2. Subdivided Lot Restrictions

Measures that restrict the total number of new subdivided lots that can be created in a given time frame.

3-6-3. Other Measures

Other measures to control the rate, intensity, type or distribution of development. (This could include infill and redevelopment strategies.)

This category includes a variety of miscellaneous approaches to managing growth in California communities. The Growth Management Element has become increasingly popular in the last 20 years as a means of incorporating the community’s growth management goals into the comprehensive context of the General Plan. It can contain a wide range of tools within it, but most often it contains some kind of long-term restriction on the amount of housing and non-residential space, along with some kind of infrastructure finance and monitoring plan.

3-7. Vote Requirements

3-7-1. Voter Approval for Changes in Zoning or General Plan Land Use Designations

Measures to require voter approval for certain kinds of changes to the zoning ordinance and the general plan land-use designations, including an increase in residential densities and a change on specific parcels from open space or agricultural use to residential or other urban uses.

3-7-2. Council Supermajority for Changes in Zoning or General Plan Land Use Designations

Measures to require that some or all general plan and zoning ordinance amendments that allow increased residential densities or other increases in urbanization be approved by a greater than simple majority of the governing board of local jurisdictions.

So-called “subsequent voter approval” requirements have been growing in popularity in recent years. These are typically enacted by ballot measure and have the effect of “locking in” the current zoning or general plan land use designation. Most often, they have been used to discourage “upzonings” and rezoning of property from agricultural or open space use to urban use. Obviously, they foster a culture of ballot-box planning in communities; once the vote requirement has been instituted, it is a virtual guarantee that future issues will be decided at the ballot box.

4. HOW DID GROWTH MANAGEMENT IN CALIFORNIA EVOLVE?

According to Levine, Glickfeld and Fulton, there are five primary conditions that have fueled the increased use of local growth management techniques. They are:

- population growth
- urban sprawl
- decentralized employment
- local fiscal difficulties, and
- declines in federal and state infrastructure funding.

Most of these conditions arose in the 1960s and 1970s, when the state freeway system was completed, development began to move into suburban areas more aggressively than before, and Proposition 13 first placed a “fiscal squeeze” on local governments, which had to provide infrastructure for new development.

Prior to this era, Post-War construction and the building industry flourished in a pro-growth, pro-development environment. Growth was seen as necessary for economic prosperity, however, this growth machine eventually began to raise concerns over regional issues such as smog and land use patterns as well as quality of life more generally.

4-1. Ramapo

The origins of local growth management policies — as they have come to be defined and used today in California and elsewhere — can be traced back to the 1960s in Ramapo, New York. Between 1960 and 1970 the population in Ramapo more than doubled causing concern about the future of the town. With the help of prominent land-use lawyer Robert Freilich, the city developed a growth management plan with several elements that have come to form the basis for a set of tools utilized by many jurisdictions facing similar challenges:

1. *Timing and sequencing* — All development became subject to a timing and sequencing schedule that forced some landowners to wait up to eighteen years to develop their property.
2. *Linkage between timing/sequencing and the capital improvement program* — This linkage was built into a point system where, for example, developers who provided sewer systems versus septic tanks or were in close proximity to parks were awarded higher scores.

3. *Integration of planning, zoning, and the capital improvement program* — This is the equivalent to “consistency” in a modern-day California general plan, with zoning and the infrastructure construction program reinforcing the growth-management concepts contained in the plan.
4. *Lower taxes for some undeveloped land* — The plan called for the purchase of development rights from owners of undeveloped land and more importantly, landowners who had sold their development rights would be taxed at a much lower rate than those who had not.

This system was innovative because it was the first time that a local government tied development approvals to the provision of public infrastructure in a way that expressly sequenced new growth in a particular geographic location. It became a legal precedent when it was upheld as constitutional by the New York State Court of Appeals (New York’s highest court). [*Golden v. Planning Board of Town of Ramapo*, 283 N.E. 291, appeal to the U.S. Supreme Court dismissed, 409 U.S. 1002 [1972]].

The integration of different planning policies — most frequently the General Plan and the zoning ordinance — became embedded in California law as the “consistency” requirements. (See below.) The tax-break method is often used by California counties that participate in the Williamson Act farmland preservation program. However, the other two ideas contained in the Ramapo program — timing/sequencing and linkage between timing/sequencing and the capital improvement plan — formed the basis of many local growth management systems in California.

4-2. Petaluma

Around the time that the Ramapo case was being litigated, many small communities in California, especially in the Bay Area, were experiencing high levels of growth because the opening of new freeways essentially converted them from independent towns into suburbs of larger cities. In the early 1970s, many of these cities began to search for ways to control or manage this new residential growth, and so they followed Ramapo’s example.

The first and most famous of these cities was Petaluma, along Highway 101 in southern Sonoma County. From 1972 to 1977, the city imposed “a cap of 500 housing units per year and an allocation system that awarded those units to builders who met criteria for both aesthetics and public services.”(Fulton, 1999, 189) The cap applied to all housing units that were part of projects involving 5 or more units and thus did not apply at all to housing growth resulting from single family homes not part of a larger project. These restrictions were challenged in court but later upheld as a proper exercise of police power and since have become widespread throughout California. The idea of a housing “cap” — along with a competition or “beauty contest” to allocate the building permits — became a core component of growth management in many suburban communities in California.

4-3. Other Systems

As time went on, other, more sophisticated concepts were introduced, and the idea of growth management spread to more parts of the state. For example, in the 1970s, under the leadership of Mayor Pete Wilson (and with the assistance of Robert Freilich), the City of San Diego implemented a “tier” system of growth management. This system divided the city into three

categories — urbanized area, planned urbanized area, and future urbanizing area, which basically were the equivalent of urban, suburban, and rural designations.(Fulton 1999, p.195) To discourage development in the rural area, developers were required to fully pay the cost of infrastructure if they wanted to develop. This was combined with tax incentives under the Williamson Act, which provides tax breaks for farmland preservation for landowners who maintain their land for agricultural use. Finally, to encourage infill development, fees were waived in the urban area. In hindsight, it appears as if this plan worked too well, because developers took advantage of the waived fees to build in the urbanized area to the point where the city suffered from a lack of infrastructure in this inner core.

Over time, some cities and counties began to combine different growth management tools into a package that sought to link timing, sequencing, and infrastructure. Most such attempts were implemented as growth management elements to the local general plan. One good example was the growth management system implemented by the City of Carlsbad, in San Diego County, in the 1980s. The system did not include an annual “cap” on residential building permits, but it did include an overall “cap” for the 20-year life of the general plan. The growth management system designated the sequence of development, as Ramapo’s had done, and also permitted development only when infrastructure was already available. New development was also expected to pay for the new infrastructure, and a fiscal component laid out a plan for each residential unit and how much it would pay in the form of impact fees.

5. WHAT ARE THE LEGAL REQUIREMENTS OF GROWTH MANAGEMENT IN CALIFORNIA?

In California in particular, growth management techniques are most often monitored by “citizen enforcement” or, in other words, monitoring and litigation brought about by citizen or other interest groups. It is therefore important for citizen groups to understand the legislation that governs growth management and how it has been interpreted over time.

From a legal standpoint, growth management falls into the general realm of land-use regulation. Land-use regulation is the power of local governments to restrict the activities of private property owners. It is based on the “police power” of the jurisdiction to make decisions for the public good. However, if it is overly restrictive it can violate the constitution or state law. The constitutional issue is a question of “takings” or whether the state has infringed upon or taken away property owners’ rights to use and enjoyment of their land.

The police power includes the right to regulate land use through zoning, health, environmental and related legislation; to license engineers, architects, real estate brokers and other professionals; to tax and collect taxes; and to adopt laws regulating real estate and commercial transactions. In the exercise of its police power, the state may take various actions that directly and indirectly affect the value of private property positively or, without any compensation to the property owner, negatively.

Through zoning and related regulations, local governments may directly reduce the value of private property.¹ However, the police power does not include the power of eminent domain — if the state wishes to acquire private property, it is constitutionally required to do so in accordance with due process of law and to provide just compensation to the property owner. Thus, if a regulation adopted pursuant to the police power unreasonably interferes with the use or enjoyment of private property, it may be found to constitute a taking and therefore be unconstitutional.

In spite of this decision in favor of the growth controls in Petaluma, there are legal constraints on growth management. Cities and counties in California do not have unlimited power to restrict growth through growth management systems. In utilizing police power, local governments must prove that their actions further legitimate governmental (public) interest and bear a reasonable relationship to public welfare. The courts have been particularly receptive to the idea that growth

¹ The only local government agencies with regulatory power over land use are cities and counties. The legal requirements for both are the same.

management should not restrict the housing supply. The court held that Petaluma's interest in preserving small town character and avoiding uncontrolled and rapid growth were within the broad police power concept of "general welfare" and were therefore a proper object of zoning regulation. The court noted that although the plan could have the effect of frustrating legitimate regional housing needs, it offered more housing opportunities for low and moderate income persons than existed prior to the adoption of the plan. Therefore, the court was able to distinguish this case from other cases in which zoning regulations that had an exclusionary impact had been invalidated.

According to land use attorney Daniel J. Curtin, in the 1976 case of *Associated Home Builders, Inc. v. City of Livermore*, the California Supreme Court said that local growth management systems must be addressed in light of three questions:

1. What are the probable effects and duration of the ordinance?
2. What are the competing interests affected by the ordinance? (for example, environmental protection versus the opportunity of people to settle where they choose)
3. Does the ordinance, in light of its probable impact, represent a reasonable accommodation of the competing interests?

Furthermore, the court said that the public welfare must include the welfare of all people who would be affected significantly by the ordinance, not just those who live within the boundaries of the city or county enacting the measure. This standard has given rise to considerable litigation over the question of whether growth management techniques that appear to restrict the supply of housing violate the state's housing element law, which requires cities and counties to take regional housing needs into account in their General Plans.

In the *Livermore* case, the court essentially said that the cities that restrict housing must take into account the regional impact of their actions. In the more recent case of *Building Industry Association v. City of Oceanside*, 27 Cal.App.4th 744 (1994), an appellate court ruled that Oceanside's growth management system (which was passed by initiative) violated state housing law because it appeared to discourage construction of low- and moderate-income housing. Many growth management systems around the state comply with this requirement by providing affordable housing projects with streamlined processing or exempting them from the growth management system altogether.

Implicit in the housing discussion above is another legal requirement of growth management systems in California: They must be consistent with a local government's other planning policies. Thus, for example, a growth management system contained in the General Plan cannot be inconsistent with the Housing Element, which is also part of the General Plan. Nor can a growth management system create an inconsistency between the General Plan and the zoning ordinance. (In the 1980s, some citizen activists sought to control growth by altering the zoning ordinance but not the General Plan — a practice overruled by the courts in *Leshner Communications v. City of Walnut Creek*, 52 Cal.3d 531 (1990).)

5-1. A Note On Annexation

Often, the literature on growth management also mentions “annexation” as a commonly used tool or technique. Annexations, spheres of influence, and other tools used by Local Agency Formation Commissions (LAFCOs) around the state may well influence the timing and sequencing of growth, but they are not tools that may be used by local governments unilaterally. The LAFCO process is a state process, governed by the Hertzberg-Cortese-Knox Act. Therefore, local governments cannot undertake LAFCO actions by themselves, nor may LAFCO or annexation actions be placed on a local ballot. This practice was specifically ruled illegal by the Court of Appeal in *L.I.F.E. Committee v. City of Lodi*, 262 Cal.Rptr. 166 (1989).

One important distinction to make is that annexations and related LAFCO issues deal with governmental boundaries rather than boundaries for growth. The LAFCO does not make decisions about land-use and growth; rather, it “decides who decides,” in the sense that it determines which property will be inside the boundaries of cities (and, in some cases, which of several competing cities will get the land), and which property will remain in unincorporated areas. In many counties, urban development does not occur only in cities; it also occurs in unincorporated county territory. In such cases, the LAFCO’s decision may not be as meaningful in determining where growth does and does not go.

Although the city may plan for an area located outside its boundaries (and its sphere of influence), the city does not have actual land-use regulatory authority over any property outside its boundary until that property is formally annexed. Annexation is usually a pro-forma decision by the LAFCO if the property is within the sphere of influence.

The distinction between local growth management and LAFCO-driven annexation issues can be subtle and hard for voters to understand. For example, every city has the authority to create a “planning area” for its general plan of whatever size it wishes. This planning area need not have any relationship whatsoever to that city’s sphere of influence, which is created by the LAFCO. Similarly, cities that create Urban Growth Boundaries do not have to make those boundaries coterminous with that city’s sphere of influence; the UGB can be smaller (or larger) if the city so desires. In many cases, cities, counties, and LAFCOs work together to ensure that UGBs and spheres of influence coincide, but differing political agendas sometimes preclude this from happening.

6. HOW ARE GROWTH MANAGEMENT TECHNIQUES ADOPTED BY LOCAL GOVERNMENTS IN CALIFORNIA?

There are two ways in which growth management techniques are adopted:

By the governing body of a city or a county, or
By the voters through a ballot measure, usually an initiative.

The early growth management schemes such as the one in Petaluma were adopted by government ordinance. However, under the California system, any legislative (policy) act undertaken by a local government's governing body can also be undertaken by the voters through the initiative process. In fact, there are at least four different methods of placing growth management measures on the ballot in California.

Ballot measures on land use can be divided into four categories:

Initiative petitions — Ordinances and/or general plan amendments drafted by citizen petitioners and placed on the ballot.

Board or Council-Sponsored Measures — Ordinances and/or general plan amendments drafted and placed on the ballot by the local agency for voter ratification; some are placed on the ballot as alternatives to citizen drafted initiatives or “tandem measures.”

Referenda — Citizen petitions to ask voters to reverse a council or board action.

Advisory Initiatives — Policy guidelines drafted either by citizens or the local agency and voted upon to give local elected officials clear notice as to voter sentiment on an issue.

Although ballot measures often receive the most publicity in the realm of growth management, in reality, only a small percentage of growth management tools are adopted by voter approval. Even though there have been somewhere between 700 and 1,000 ballot measures on growth management in California over the last 30 years, the vast majority of growth management tools in place are ordinances adopted by the governing body of a local government. In their analysis of measures adopted in the 1970s and 1980s, Glickfeld and Levine found that approximately 85% had been adopted by the local government's governing body. However, they found, some techniques — such as population and housing caps and supermajority requirements — were adopted by initiative more often (usually between 25% and 40% of the time).

Most growth management tools adopted via the ballot are adopted by citizen initiative, rather than the other ballot techniques described above. Very often, the initiative campaign is accompanied by a political campaign to elect the initiative's proponents to the local governing body. Occasionally, a growth management tool will be placed on the ballot by the governing body because it is so controversial that elected officials want voters to make the decision; and occasionally disgruntled citizens or developers will place a growth management tool on the ballot as a referendum in an attempt to overturn the governing body's decision.

7. WHERE AND HOW ARE GROWTH MANAGEMENT TOOLS USED IN CALIFORNIA?

Much anecdotal information exists about the use of growth management techniques in California. In general, it is believed that they originated in the Bay Area and migrated later to Southern California, and that they are more common in the coastal metropolitan areas than in the Inland areas.

No current comprehensive data exists from which to make a systematic analysis of the geographical patterns of growth management. The next section of this paper will describe the geographical patterns of growth management ballot measures over the past 15 years. However, a series of past studies on growth management — and recent studies on similar topics — permit us to draw some general conclusions about which growth management tools have been used most frequently in the past, (whether adopted by ballot measure or by elected officials) and about the geographical patterns that characterize growth management in California.

A detailed description of what we know from past research follows. In general, however, the research consistently suggests the following:

- Since the late 1980s at least, most local governments in California have used at least one growth management tool from the list described above.
- The use of growth management techniques originated in the Bay Area in the 1970s and migrated during the 1980s to Southern California.
- Whether passed by ballot measure or by ordinance, the adoption of new growth management tools tends to “follow” the economic cycle — declining two to three years after a recession starts, and picking up again two to three years after the economic recovery starts.
- The infrastructure adequacy requirement is by far the most common growth management tool used by local governments in California.
- Numerical caps on housing and population were popular in the 1970s and 1980s in certain parts of the state, especially the Bay Area. In the last decade, however, their popularity has dwindled while the popularity of urban growth boundaries and similar techniques has increased.

- Individual growth management tools tend to be adopted in clusters that reflect the seven categories of tools identified above (housing/population caps, commercial/industrial caps, UGBs, infrastructure adequacy, zoning, voter requirements, and general growth management).
- Individual growth management tools are often adopted at different points in time and “layered” on top of one another in local government policies and codes.
- Traditionally, different parts of the state have had different growth management “styles.” The Bay Area has focused on limiting the overall amount of growth through numerical caps and on limiting the geographical expansion of growth through urban growth boundaries. Southern California has focused on reducing residential densities and on ensuring adequate infrastructure.

7-1. The 1988 UCLA Survey

Most of the baseline information now known about local growth management tools and techniques in California emerged from two statewide surveys of local governments conducted by Glickfeld and Levine of UCLA in 1988 and 1992.

Surveying 443 (approximately 85%) of the state’s local governments in 1988, Glickfeld and Levine asked about the presence of 15 different growth management tools. They found that 72% of those jurisdictions had adopted at least one growth management measure; and this figure was similar for both cities and counties.

On average at that time, jurisdictions had adopted 1.9 tools. Overall, Glickfeld and Levine identified 907 different growth management tools in place at that time. Given the high profile of growth management ballot measures at the time, they were surprised to find that only about 14% of growth management tools and techniques were adopted directly by voters, whereas 86% were adopted by elected City Councils and Boards of Supervisors.

Of the 907 tools in place at that time, the most popular were infrastructure adequacy (26.3 of all tools were either residential or commercial/industrial infrastructure adequacy requirements) and zoning (21.3% were some form of zoning restriction from the list above). (See Table 1.) Housing and population caps, commercial and industrial caps, voter requirements and urban growth boundaries were, relatively speaking, not widely used. One of the most surprising findings, however, was that UGBs were much more popular among counties than cities.²

The 1988 survey also provided detailed geographical information about where growth management tools were used at that time. Map 1 depicts this geographical pattern by showing, by county, the average number of growth management tools that were in place in jurisdictions around the state at the time of the survey. It reveals that, at that time, growth management ordinances could be found most frequently in California’s coastal metropolitan areas, and in the non-metropolitan areas along the Central Coast.

² Glickfeld and Levine defined UGBs broadly to include urban service area boundaries, which are often infrastructure-driven rather than regulation-driven. It is these boundaries that many counties use to constrain urban growth.

Map 1



Solimar Research Group
6/15/01

Table 1: Comparison of 1988 and 1992 UCLA Survey Findings

	1988 Survey			1992 Survey			Difference, 1988-1992		
	Number of Tools	% of Total Tools	% of Jurisdictions	Number of Tools	% of Total Tools	% of Jurisdictions With Tool	Number of Tools	% Increase	% of Total Tools
Housing/Population Caps	90	9.9%		99	6.8%		9	10.0%	1.6%
Housing Caps	50	5.5%	11.3%	59	4.0%	12.7%	9	18.0%	1.6%
Population Caps	40	4.4%	9.0%	40	2.7%	8.6%	0	0.0%	0.0%
Commercial/Industrial Caps	139	15.3%		370	25.3%		231	166.2%	41.7%
Commercial Square Footage Limitations	14	1.5%	3.2%	25	1.7%	5.4%	11	78.6%	2.0%
Industrial Square Footage Limitations	13	1.4%	2.9%	20	1.4%	4.3%	7	53.8%	1.3%
Commercial Building Height Limitations	112	12.3%	25.3%	125	8.6%	26.9%	13	11.6%	2.3%
FAR Restrictions				200	13.7%		200	#DIV/0!	36.1%
Urban Growth Boundaries	79	8.7%		150	10.3%		71	89.9%	12.8%
Urban Growth Boundaries	79	8.7%	17.8%	86	5.9%	18.5%	7	8.9%	1.3%
Phased Development				64	4.4%	13.8%	64	#DIV/0!	11.6%
Infrastructure Adequacy	237	26.1%		356	24.4%		119	50.2%	21.5%
Residential Infrastructure Requirements	129	14.2%	29.1%	190	13.0%	40.9%	61	47.3%	11.0%
Commercial/Industrial Infrastructure Requirements	108	11.9%	24.4%	166	11.4%	35.7%	58	53.7%	10.5%
Zoning	193	21.3%		291	19.9%		98	50.8%	17.7%
Residential Downzoning	121	13.3%	27.3%	160	11.0%	34.4%	39	32.2%	7.0%
Residential Rezoning	27	3.0%	6.1%	47	3.2%	10.1%	20	74.1%	3.6%
Commercial/Industrial Rezoning	45	5.0%	10.2%	84	5.7%	18.1%	39	86.7%	7.0%
General Growth Management	51	5.6%		93	6.4%		42	82.4%	7.6%
Growth Management Element	51	5.6%	11.5%	72	4.9%	15.5%	21	41.2%	3.8%
Subdivided Lot Restrictions				21	1.4%	4.5%	21	#DIV/0!	3.8%
Vote Requirements	30	3.3%		35	2.4%		5	16.7%	0.9%
Voter Approval	19	2.1%	4.3%	24	1.6%	5.2%	5	26.3%	0.9%
Supermajority Requirement	11	1.2%	2.5%	11	0.8%	2.4%	0	0.0%	0.0%
Other	88	9.7%		67	4.6%		-21	-23.9%	-3.8%
Other Measures	88	9.7%	19.9%	67	4.6%	14.4%	-21	-23.9%	-3.8%
Total Measures	907			1461			554	61.1%	
Total Jurisdictions	443			465					

7-2. The 1992 UCLA Survey

In 1992, Glickfeld and Levine conducted a follow-up survey of 465 California jurisdictions, a response rate of almost 90%. In addition to the 15 tools on the 1988 survey, they added three more, including phased or tiered development, restrictions on the number of subdivided lots, and restrictions on the floor-area ratio for building permitted on a commercial or industrial parcel.

The two surveys are not directly comparable, because they did not cover exactly the same jurisdictions (approximately 410 jurisdictions responded both years; the rest were different each time), and three measures were added to the survey. Nevertheless, the survey did document a significant increase in the number of growth management tools in place between 1988 and 1992.

Overall, the 1992 survey found 1,461 growth management tools in place in jurisdictions around the state, an increase of 554 (61%) from 1988. About half of this increase (269) was accounted for by the three additional types of tools covered by the 1992 survey. Among those tools included in both the 1988 and 1992 surveys, Glickfeld and Levine found an increase of 285, or 31.4%. (See Table 1.)

In numerical terms, most of this increase came in the areas of zoning and infrastructure adequacy. These were already the most popular tools in 1988, yet their frequency grew by 50% between 1988 and 1992. In 1992, Glickfeld and Levine found 356 infrastructure adequacy tools in place (24% of the total) and 291 zoning tools (19.9%). These tools were in place in 35% to 40% of all California jurisdictions.

Some less popular growth management tools also showed substantial increases between 1988 and 1992, including commercial and industrial square footage limitations, which (combined) increased from 27 to 45, an increase of 66.7%.

Interestingly, however, several high-profile tools that are widely associated with controlling growth were not commonly used in either 1988 or 1992 and did not increase much in their use between 1988 and 1992. These included housing/population caps (up 10%, from 90 to 99); UGBs (up 8.9%, from 79 to 87); and voter requirements (up 16.7%, from 30 to 35).

The 1992 study also revealed several important regional differences in the frequency of use. In addition to describing these patterns, the Glickfeld/Levine surveys conducted a factor analysis in order to determine if certain measures were more likely to be adopted in combination with others or, conversely, if the adoption of a particular type of measure usually precluded the adoption of another. A positive factor score between categories (using the 7 categories outlined at the beginning of the paper — population, infrastructure, floor space, zoning, political, general, and vacant land) indicates that they tended to occur in conjunction with one another.

- The central coast had the highest average number of measures enacted per jurisdiction, increasing from 2.8 measures per jurisdiction in 1988 to 4.5 measures per jurisdiction in 1992. The region had strong or moderate positive factor scores for all seven combined growth management strategies.

- The San Francisco Bay region increased from an average of 2.2 measures per jurisdiction in 1988 to 3.6 measures per jurisdiction in 1992, and had positive scores for five of the seven combined growth management strategies — commercial/industrial space, population, zoning, political, and general control.
- The Sacramento region jumped from being one with low average measurement enactment (1.9 in 1988) to being the third highest (3.5 in 1992), and had positive factor scores for four of the seven combined growth management strategies including commercial/industrial floor space, population, infrastructure, and vacant land controls.
- The central inland region similarly increased from an average of 1.8 measures per jurisdiction in 1988 to 3.3 in 1992 and had positive factor scores for infrastructure and vacant land controls.
- The south coast, including Los Angeles, Orange and San Diego counties, went from approximately 2.0 measures per jurisdiction to 3.0 and had positive factor scores for three of the seven combined growth management strategies — zoning, political, and general control.
- The southern inland had moderate to low positive factor scores for three of the seven combined growth management strategies — infrastructure, zoning, and political controls.
- The north coast, north central, northeast, and central east had the fewest and least restrictive number of measures. None of the jurisdictions in this region had enacted population restrictions, housing limitations, required super-majority council vote for an upzoning, nor enacted any commercial/industrial square footage limitations. The northeast region had moderate scores for zoning and vacant land control strategies. The central eastern region had moderate scores for the infrastructure control strategy. The north coast and north central region had no positive scores on any of the seven strategies.
- More than 50% of the jurisdictions in the Sacramento, central inland and south inland regions had enacted requirements for adequate infrastructure prior to approval of residential developments.
- More than 50% of the jurisdictions in the central coast area had enacted requirements for adequate infrastructure prior to approval of commercial or industrial developments, and more than 50% of jurisdictions had downzoned residential land to agriculture or open space uses.
- More than 50% of the jurisdictions in the San Francisco Bay area had enacted floor area restrictions, which is consistent with the low rise suburban pattern of commercial development throughout the Bay Area.

7-3. The 1998 UCB/HCD Survey

In 1998, researchers at the University of California, Berkeley (UCB), working in cooperation with the California Department of Housing and Community Development (HCD), conducted a survey of California local governments that replicated some aspects of the 1988 and 1992 UCLA surveys. The UCB/HCD survey covered 322 cities and 48 counties, or approximately 65% of the

state's local government jurisdictions. The survey asked these jurisdiction about growth management tools adopted between 1995 and 1998, including most of the tools covered in the 1988 and 1992 UCLA surveys.

Overall, the UCB/HCD survey found that local governments had not adopted a large number of growth management tools during this period, which was characterized by a recession. Furthermore, as Table 2 shows, the survey found that most of the tools adopted during this period dealt with zoning (including "upzoning") of property and annexations (which the UCLA surveys had not covered). Few new tools associated with strict growth control were adopted, including housing and population caps, urban growth boundaries, and voter requirements. It is fair to conclude that by the mid 1990s, the overwhelming majority of California local governments had adopted some form of growth management and few strict new controls were put into place.

The UCB/HCD survey did find regional differences in growth management regimes. As the authors concluded in their report to HCD: "Among regions, cities in Northern California were slightly more likely to have enacted annexation restrictions, urban growth boundaries, residential APFOs [infrastructure adequacy requirements] and general plan growth management elements than cities in other California regions. Hoping to attract rather than impede growth, cities in the Central Valley were significantly more likely to have engaged in upzoning or to have annexed land for development; they were also more likely to have increased residential development fees." (HCD, 2000.) The size of cities was not found to be a significant factor, though a city's population growth rate did matter; fast-growing cities were more likely to have engaged in zoning changes, while slow-growth cities were more likely to have adopted classic growth management tools such as a residential infrastructure ordinance or a vote requirement.

GROWTH MANAGEMENT BALLOT MEASURES IN CALIFORNIA

Table 2: 1998 UCB/HCD Survey Results: New Growth Management Tools Adopted Between 1995 and 1998

	Number of Tools	% of Total Tools	% of Jurisdictions With Tool	Cities	% of Total Tools	% of Jurisdictions With Tool	Counties	% of Total Tools
Housing/Population Caps	8	2.7%		7	3.0%		1	3.0%
Housing Caps	8	2.7%	2.2%	7	3.0%	2.2%	1	3.0%
Population Caps	0	0.0%	0.0%	0	0.0%	0.0%	0	0.0%
Commercial/Industrial Caps	25	8.4%		21	9.0%		4	12.1%
Commercial Square Footage Limitations	3	1.0%	0.8%	3	1.3%	0.9%	0	0.0%
Industrial Square Footage Limitations	0	0.0%	0.0%	0	0.0%	0.0%	0	0.0%
Commercial Building Height Limitations	22	7.4%	5.9%	18	7.7%	5.6%	4	12.1%
Urban Growth Boundaries	18	6.1%		15	6.4%		3	9.1%
Urban Growth Boundaries	18	6.1%	4.9%	15	6.4%	4.7%	3	9.1%
Infrastructure Adequacy	23	7.7%		20	8.5%		3	9.1%
Residential Infrastructure Requirements	13	4.4%	3.5%	12	5.1%	3.7%	1	3.0%
Commercial/Industrial Infrastructure Requirements	10	3.4%	2.7%	8	3.4%	2.5%	2	6.1%
Zoning	88	29.6%		48	20.5%		10	30.3%
Residential Downzoning	29	9.8%	7.8%	24	10.3%	7.5%	5	15.2%
Residential Rezoning	29	9.8%	7.8%	24	10.3%	7.5%	5	15.2%
Commercial/Industrial Rezoning	0	0.0%	0.0%	0	0.0%	0.0%	0	0.0%
Upzonings*	30			25			5	
General Growth Management	12	4.0%		11	4.7%		1	3.0%
Growth Management Element	12	4.0%	3.2%	11	4.7%	3.4%	1	3.0%
Vote Requirements	7	2.4%		5	2.1%		2	6.1%
Voter Approval	7	2.4%	1.9%	5	2.1%	1.6%	2	6.1%
Supermajority Requirement	0	0.0%	0.0%	0	0.0%	0.0%	0	0.0%
Other Measures	116	39.1%		107	45.7%		9	
Annexation Restrictions*	4	1.3%	1.1%	3	1.3%	0.9%	1	3.0%
Annexations*	91	30.6%	24.6%	87	37.2%	27.0%	4	12.1%
Residential Fee Increases*	21	7.1%	5.7%	17	7.3%	5.3%	4	12.1%
Total Measures	297			234			33	

7-4. The 1998/1999 PPIC/UCR Survey

In 1998 and 1999, the Public Policy Institute of California and the University of California, Riverside, surveyed planners in most California cities about the use of growth management tools, as well as attitudes and motivations behind the use of those tools. The survey covered 297 cities, 62% of all the cities in the state and 76% of the cities from which responses were solicited. Some of the questions on the survey asked about some of the growth management tools discussed above. Among the findings (See Table 2):

- 5% of the city planning directors said their city requires a vote for at least some zoning changes. That figure was 8% for cities in Southern California.
- 9% of responding cities said they have annual housing caps. That figure was 18% for the Bay Area.
- 27% of cities said new development must be tied to meeting traffic standards. That figure was 34% for the Bay Area.

The survey also asked planning directors to rank what they thought were the most important factors in constraining or slowing growth. Statewide, the biggest factors were not formal growth management policies, but, rather, land supply and the cost of new infrastructure. Growth management policies such as residential density restrictions were considered to be important as a limiting factor in Southern California and, to a lesser extent, in the Bay Area.

7-5. Office of Planning and Research Data

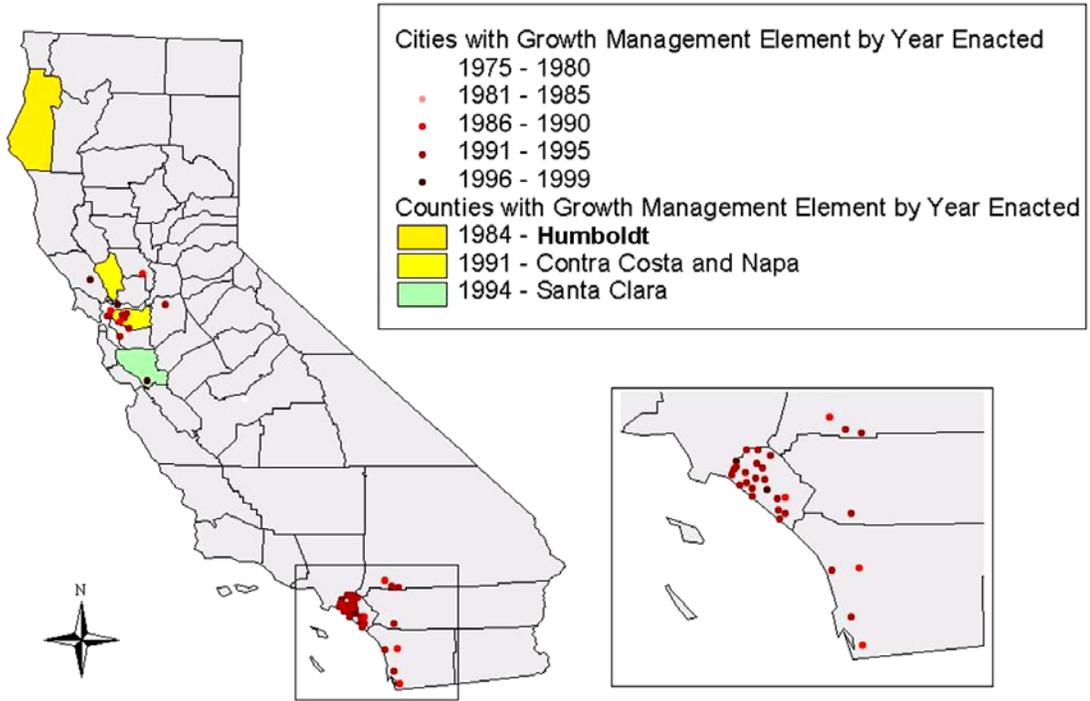
The Governor's Office of Planning and Research compiles data from local jurisdictions annually as part of its "Book of Lists." Two recent compilations are relevant to use here: their list of cities and counties with growth management elements, and their list of cities and counties with urban growth boundaries as elements in their general plans.

Map 2 shows that the UGBs are scattered throughout the state. (Also, the UGB data does not conform closely to other information on UGBs in California.)

However, the growth management element data suggests growth management elements are, not surprisingly, concentrated in the Bay Area and metropolitan Southern California, with the Bay Area more likely to have county-level growth management elements. The attached map shows the geographic locations of these counties and cities. According to OPR, three counties and fifty-four cities have growth management elements in their general plans. Furthermore, the Glickfeld/Levine 1992 survey of jurisdictions revealed that twenty-six counties and sixty cities use urban limit lines. These trends will have a great impact on the future of growth management in California.

Map 2

Growth Management Element in the General Plan



Source: The California Planners' Book of Lists 2000

8. WHERE AND HOW ARE BALLOT MEASURES USED TO IMPLEMENT GROWTH MANAGEMENT IN CALIFORNIA

California is almost unique in the extent to which ballot measures are used to adopt and implement growth management policy. Our best estimate is that approximately 1,000 measures associated with growth management have been placed on local ballots around the state. Although a few other states have seen local ballot measures from time to time, it would appear that no other state has institutionalized the use of growth management ballot measures as California has.

The first growth-related ballot measures appeared in the 1960s. (Hart, 1982.) According to the best estimate, 42 measures appeared on local ballots in California during the 1970s, with the vast majority appearing on ballots in the Bay Area. (Glickfeld, Graymer, and Morrison, 1987.) During this period, the California Supreme Court issued a series of rulings that made it easier for citizens to place initiatives and referenda dealing with land use issues on local ballots. The critical issue was which land-use decisions were “legislative” in nature — and therefore subject to the California constitution’s provisions on initiatives and referenda.

These decisions culminated in a sweeping 1980 ruling, which concluded that even the rezoning of small amounts of land (in that case, 68 acres held by three landowners) was legislative in nature and therefore could be placed on the ballot. (*Arnel Development Co. v. City of Costa Mesa*, 28 Cal.3d 511 [1980].) Ever since, it has been clear that any General Plan amendment, Specific Plan, or rezoning can be placed on the ballot; whereas “quasi-judicial” decisions such as subdivision approvals, conditional use permits, and variances cannot.

As a result of the *Arnel* ruling, the number of ballot measures increased during the 1980s. Between 1980 and 1985, 42 measures appeared on the ballot. (Glickfeld et al, 1987). In addition, more ballot measures began to appear in Southern California — 31%, or double the figure for the 1970s. The watershed year was 1986, the beginning of a real estate boom. More than 50 measures were placed on local ballots around the state, including a major commercial downzoning in Los Angeles and a cap on office construction in San Francisco.

Since then, more than 500 growth management measures have appeared on local ballots around the state. As stated above, this total is apparently only a small minority of the overall growth management activity by local governments in California during this time. (Glickfeld and Levine, 1992.) However, there is little question that ballot measures have had a disproportionate impact on the expectations of both policymakers and the public, especially in some parts of the state.

Ballot measures typically get far more publicity than the actions of local elected officials, partly because the media feels a responsibility to inform voters about issues on which they must vote. Furthermore, the threat or likelihood of a ballot measure by citizen activists can often influence how local elected officials make policy choices. One indication of the significance that ballot measures have in growth management policy in California is the attitude of local planning directors as reflected in the 1998/1999 survey by PPIC and UC Riverside. In that survey, researchers found that 16% of the planning directors said initiatives have been “a major source of policies to slow residential development.” That figure was 33% for the Bay Area, 13% for Southern California, and only 4% for the Central Valley.

Based on this and other survey results, the authors concluded, “it is fair to say that there is a strong reservoir of support for residential growth in California’s *city governments*, but also that planners perceive a powerful undercurrent of resistance to new housing on the part of many *residents*.”

There is no single comprehensive database on growth management ballot measures in California, so it is difficult to obtain a clear picture of what the statewide trends in ballot measures are. However, Solimar Research Group has assembled a database of 600 growth management measures that appeared on local ballots around the state between 1986 and 2000, which provides a basis for analysis.

8-1. The Solimar Database

This database is a combination of the database compiled by the California Association of Realtors between 1986 and 1992 and the database compiled on a running basis since 1986 by *California Planning & Development Report*. It is not comprehensive, as it emphasizes ballot measures that appeared on June and November ballots and does not include ballot measures that appeared on special election ballots at other times. However, it probably includes most growth management ballot measures appearing on local ballots in California during this period.

The Solimar database includes the jurisdiction where the election was held; the date of the election; and the final vote count, so it was possible to code specific ballot measures by “pass” and “fail”.³ In addition, the Solimar database includes two other important pieces of information for every ballot measure: whether the measure appeared on the ballot as part of a “pro-growth” election, a “slow-growth” election, or a neutral election; and which of the seven growth management tools described above were included in the ballot measures.

The “pro/slow” election is a judgment made by the editors of *California Planning & Development Report (CP&DR)* at the time of the election, based not only on the actual content of the ballot measure but also the electoral context within which the vote on the ballot measure took place. These judgments were made on a running basis beginning in 1986 and confirmed by the editors during the summer and fall of 2000.

³ Passage is defined as receiving more than 50% of the vote. In some cases, a ballot measure might have received 50% of the vote and yet not been enacted because of a “poison pill” clause in a competing measure that received even more votes.

It may seem counter-intuitive that ballot measures using "growth management" tools might be considered "pro-growth." But there are many instances when, in the context of an election, the use of growth management tools is, by and large, intended to *promote* growth rather than restrict it or constrain it. Some examples include:

- Instances in which developers or elected officials place a more "pro-growth" set of growth management tools on the ballot as an alternative to a restrictive citizen measure.
- Instances in which growth management tools are altered to permit more growth, such as "upzoning" or expansion of an urban growth boundary.
- Instances in which a previous ballot measure has mandated subsequent elections to permit development that otherwise would not be permitted.

Obviously, the pro- or slow-growth *context* is a highly subjective judgment made by the editors of *CP&DR*. In some instances, the editors concluded that the measures, while they would alter how development is dealt with, would not have a pro- or slow-growth impact; these were regarded as "neutral."

The tools were included in the database by Solimar staff in the summer and fall of 2001. In most cases, this information was obtained from the actual ballot measure language and/or from the ballot pamphlet descriptions. In some cases prior to 1992, descriptions contained in the California Association of Realtors database were used as the basis for coding.

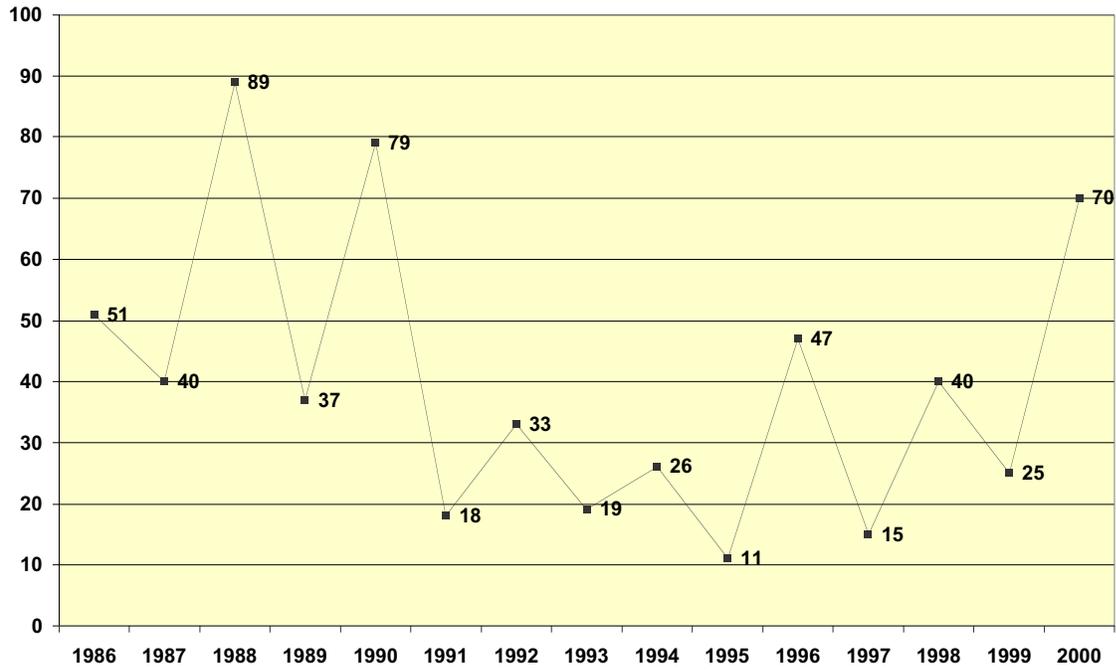
In refining the database for this analysis, Solimar and *CP&DR* staff also pared the database down to measures including planning and regulatory tools only. A previous Solimar analysis was based on 660 measures, including some measures involving funding of open space and infrastructure. These measures were removed from the database for the current analysis. After they were removed, 600 measures remained.

8-2. Frequency of Growth Management Ballot Measures

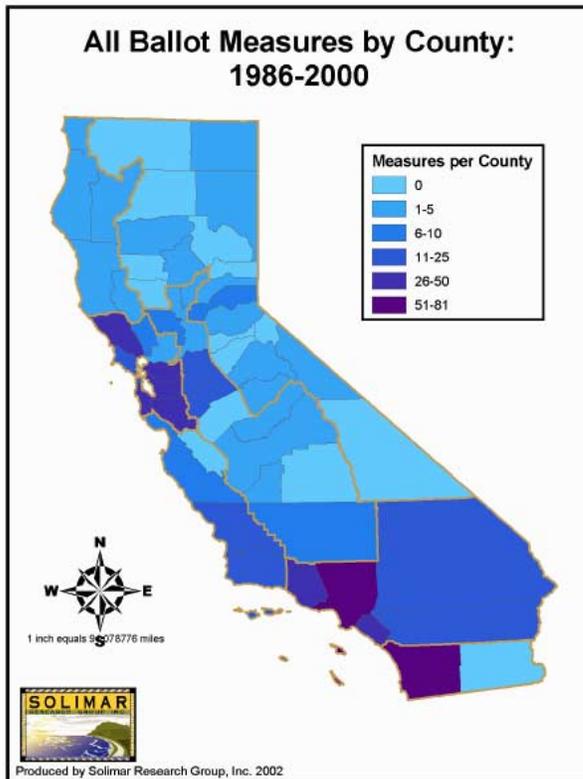
The Solimar database contains exactly 600 ballot measures over the 15-year period between 1986 and 2000, or an average of exactly 40 ballot measures per year. The vast majority (484, or 80.7%) appeared on city ballots, as opposed to countywide ballots.

As Chart 1 shows, the annual variation is considerable, fluctuating between a high of 89 in 1990 and a low of 11 in 1995. In general, the frequency was high during the economic boom of the late 1980s, then dropped dramatically during the recession of the early 1990s, and went up again during the economic recovery of the late 1990s, although it did not reach the late-1980s level again.

Chart 1: Ballot Measures By Year, 1986-2000



Map 3

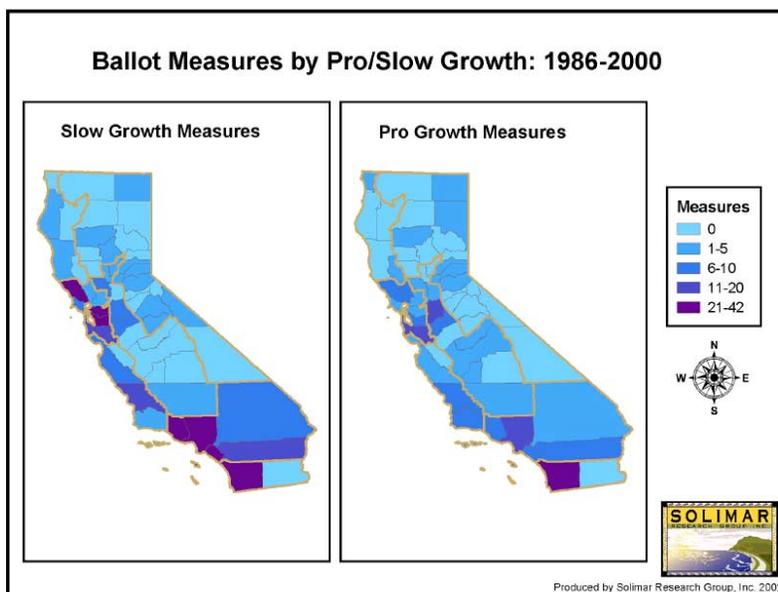


Of these 600 measures, 354 (59.0%) were coded by Solimar/CP&DR staff as occurring within the context of slow-growth elections, while 207 (34.0%) were coded as occurring within the context of pro-growth elections and 39 (7.0%) were coded as occurring within the context of a neutral election. (See Table 3.) The pro/slow/neutral breakdown was approximately the same for measures that appeared on city ballots and those that appeared on countywide ballots, though the percentage of neutral elections was measurably higher on countywide ballots.

Table 3: Frequency of Slow/Pro/Neutral Measures, 1986-2000

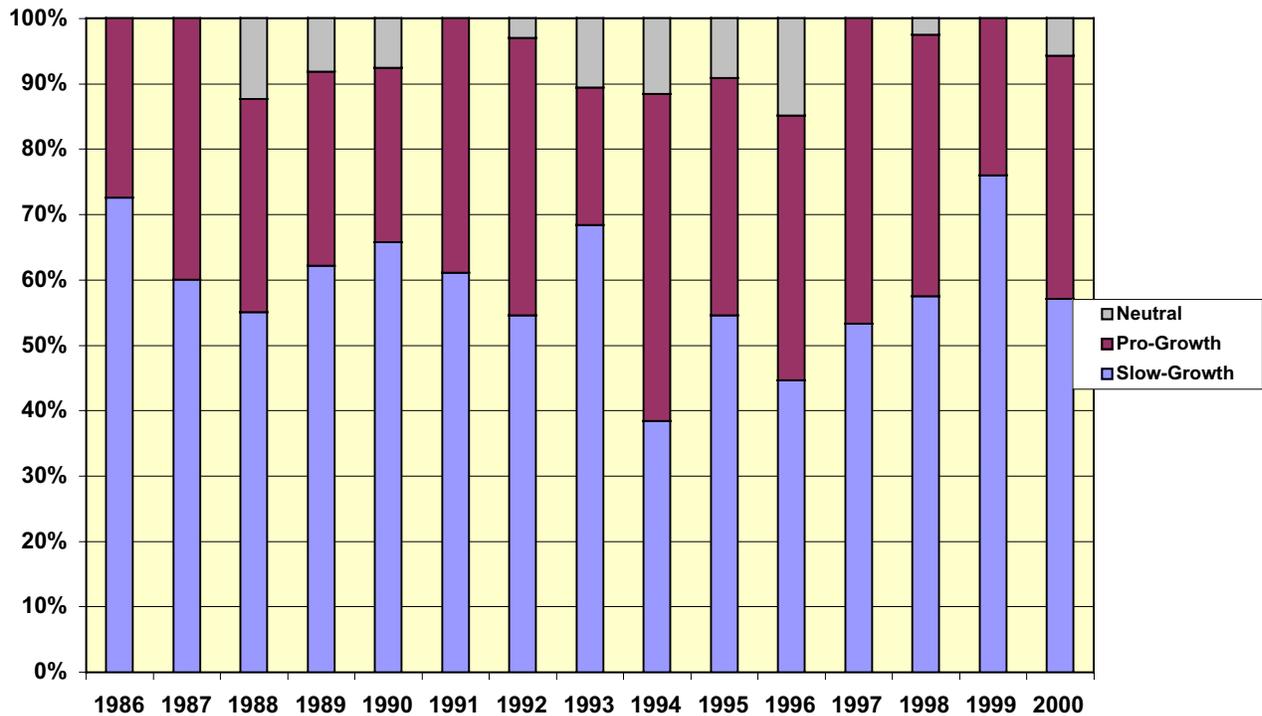
All Ballot Measures		
Type of Measure	Frequency	Percent
Slow-Growth	354	59.0%
Pro-Growth	207	34.5%
Neutral	39	6.5%
<i>Total</i>	<i>600</i>	
City Ballot Measures		
Slow-Growth	290	48.3%
Pro-Growth	174	29.0%
Neutral	20	3.3%
<i>Total</i>	<i>484</i>	
County Ballot Measures		
Slow-Growth	64	10.7%
Pro-Growth	33	5.5%
Neutral	19	3.2%
<i>Total</i>	<i>116</i>	

Maps 4 & 5



The pro/slow/neutral breakdown showed a pattern over time that was similar to the overall frequency. Until 1991, slow-growth ballot measures accounted for more than 60% of all ballot measures each year. The pro/slow ratio changed during the recession of the early 1990s. In 1994, perhaps the height of the recession, the number of pro-growth elections exceeded the number of slow-growth elections. The slow/pro ratio did not return to its pre-recession ratio consistently until 1998.

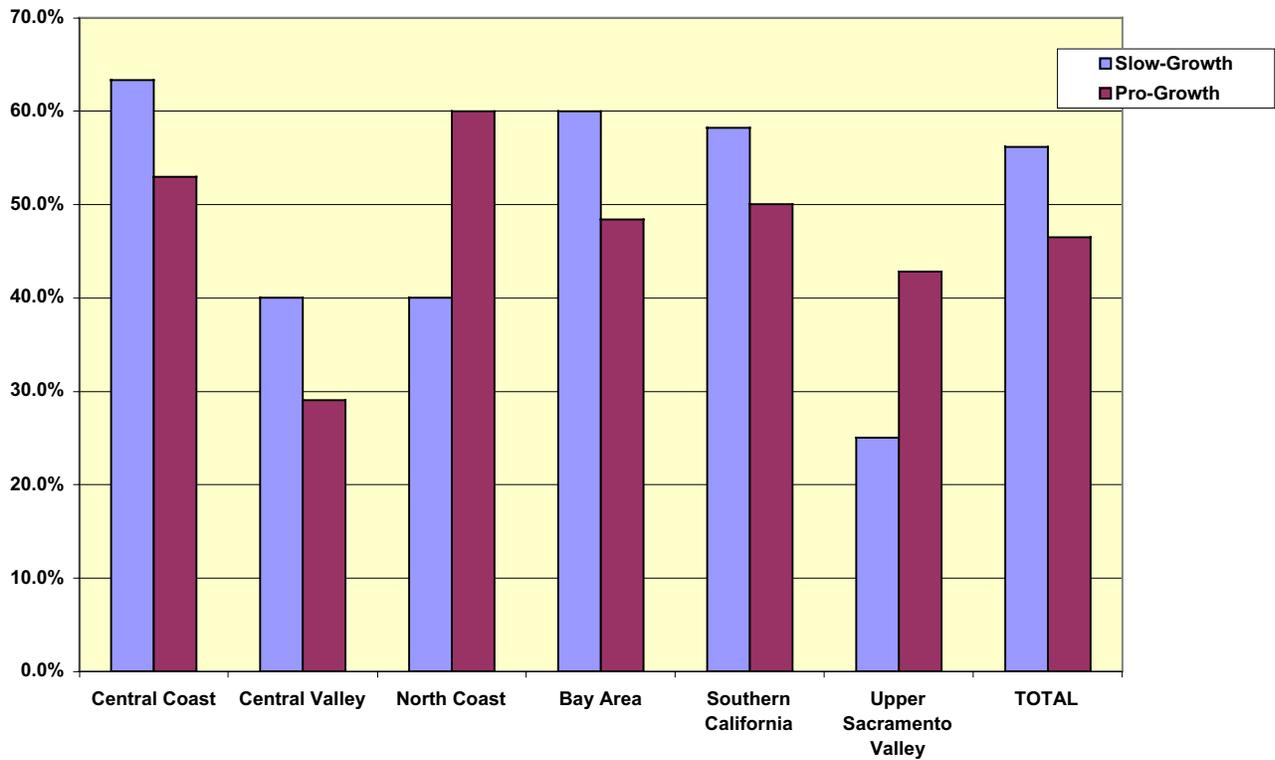
Chart 2: Type of Ballot Measure as Percentage of Total



8-3. Patterns of Passage and Failure

Statewide, slow-growth measures passed 56.2% of the time, while pro-growth measures passed only 46.4% of the time. There was a nine-point difference in city measures (a 57.2% pass rate for slow-growth measures compared to a 48.3% pass rate for pro-growth measures) and a 15-point difference for countywide measures (51.6% as against 36.4%).

Chart 3: Pass Rates, Pro- and Slow-Growth Measures, by Region



Maps 6 & 7

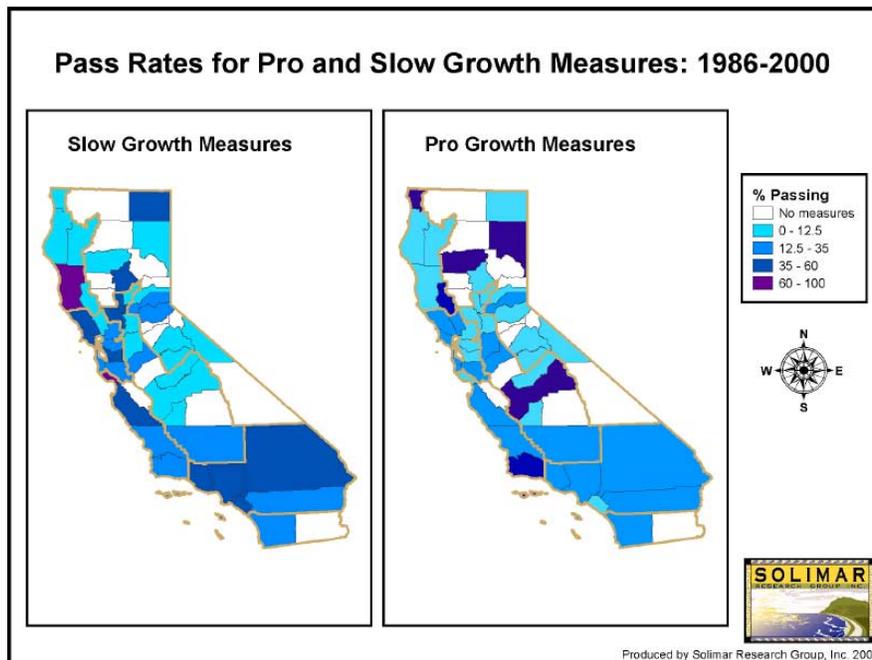


Chart 4: Passage Rate of Slow-Growth Measures, 1986-2000

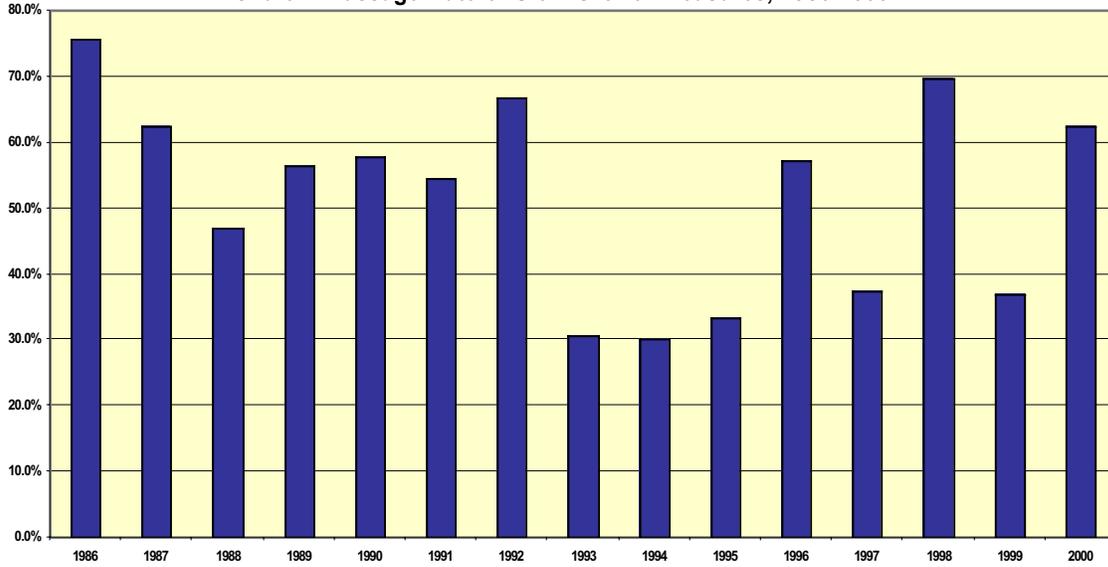
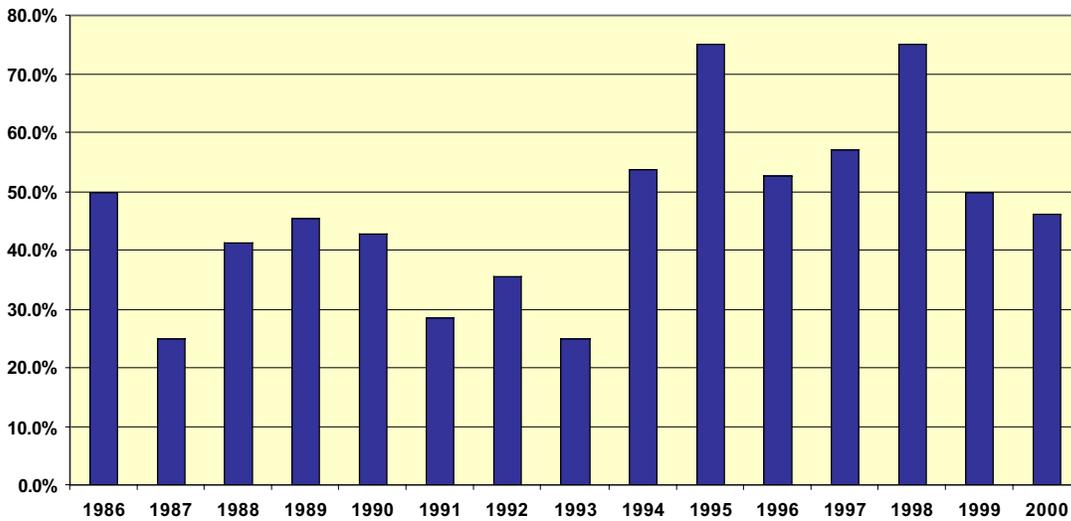


Chart 5: Passage Rate of Pro-Growth Measures, 1986-2000



8-4. Trends In Specific Growth Management Tools

Solimar coded the database to determine which growth management tools were contained in the ballot measures. The seven groups of tools described above were coded as: general growth management, housing/population caps, commercial/industrial caps, infrastructure adequacy, zoning, urban growth boundaries, and subsequent voter approval requirements. Each ballot measure could contain more than one tool.

The 600 ballot measures in the Solimar database were coded as having 763 different tools contained within them, or an average of approximately 1.25 tools per measure. The 42 neutral measures each contained only one tool. Slow-growth measures were slightly more likely to contain more than one tool than pro-growth measures (1.36 to 1.16 tools per ballot measure.) There was little difference between city ballot measures and countywide ballot measures in this regard.

8-4-1. Frequency

As Table 3 shows, over the course of the 15 years, *general growth management* accounted for the most tools appearing on ballot measures (233, or 30.5%), followed by *vote requirements* (18.5%) and *zoning* (17.6%). *Infrastructure adequacy* — the most popular tool among growth management methods adopted by elected officials — was the least popular tool on ballot measures (only 4.3%).

Chart 6: Statewide Frequency of Tools, 1986-2000

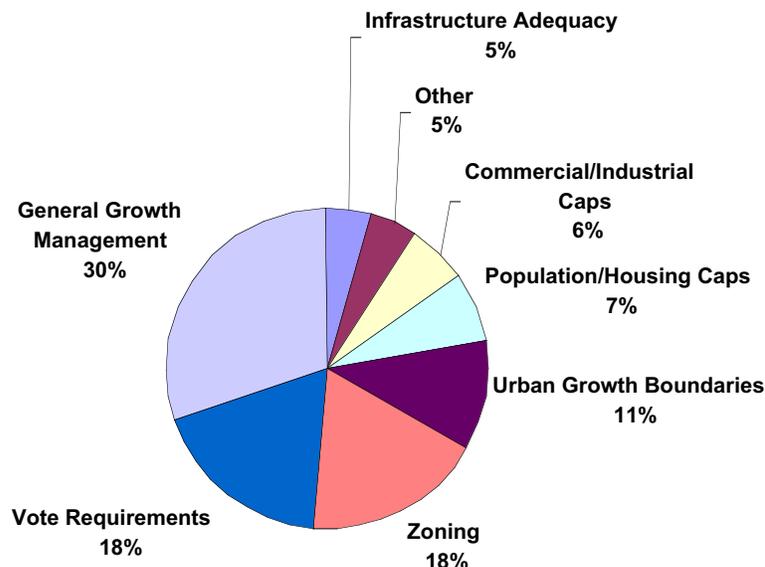


Chart 7: Frequency of Slow-Growth Tools Statewide, 1986-2000

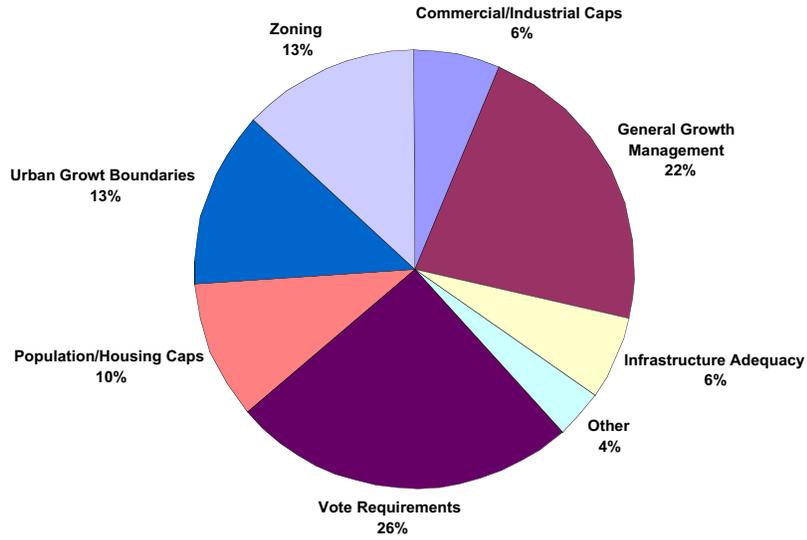
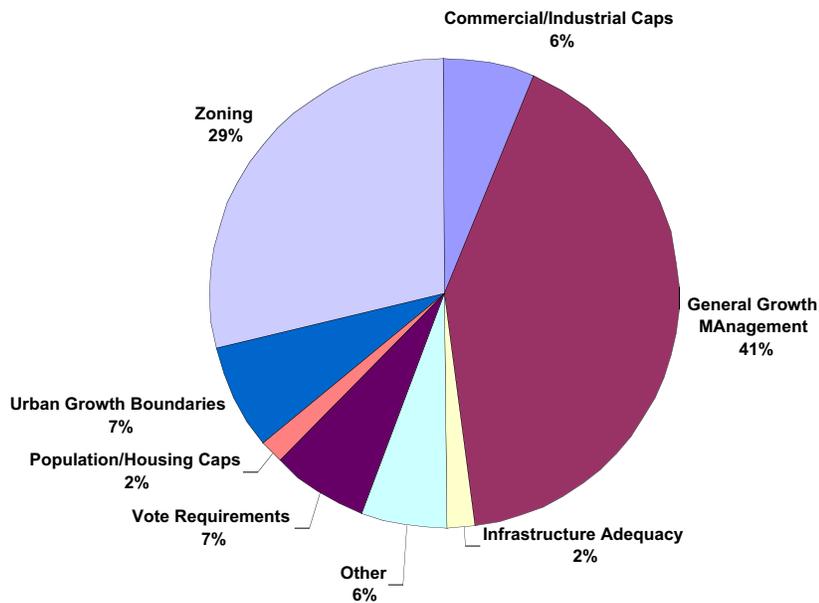


Chart 8: Frequency of Pro-Growth Tools Statewide, 1986-2000



The slow/pro/neutral breakdown of the tools reveals a somewhat different picture, however. *General growth management* and *zoning* are used much more frequently for pro-growth and neutral purposes than other tools.

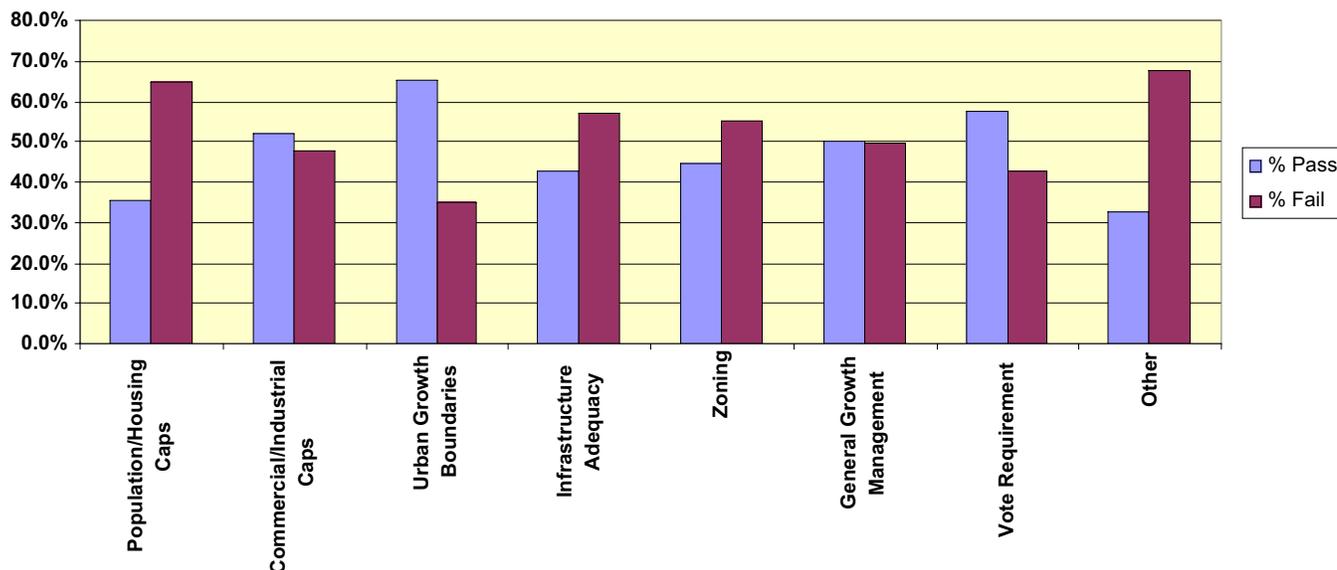
General growth management accounted for 41% of the pro-growth tools, but only 22% of the slow-growth tools. (See Charts 7 and 8.) *Zoning* made up 29% of pro-growth tools but only 13% of slow-growth tools. The opposite was true for most other tools. UGBs accounted for 13% of slow-growth tools but only 7% of pro-growth tools. Vote requirements accounted for 26% of slow-growth tools but only 7% of pro-growth tools.

8-4-2. Passage and Failure Rate of Specific Tools

Of the 763 tools contained in our ballot measure database, 382 passed and 381 failed. Individual tools had very different pass rates, however. The evidence suggests that, in most cases, voters are more likely to adopt growth management tools that are associated with slow-growth efforts, or are commonly used for slow-growth purposes.

As Chart 9 shows, UGBs (65.7%) and vote requirements (57.4%) had the highest pass rates. Commercial and industrial caps (52.5), general growth management (50.2%), zoning (44.85), and infrastructure adequacy (42.9%) all ranked in the middle. The pass rates for population/housing caps (35.2%) were the lowest of all tools.

Chart 9: California Tools by % Pass/Fail



When the pass rates of the individual tools are broken down by slow- and pro-growth ballot measures, an even more striking pattern emerges. Overall, the statistics for all tools were similar

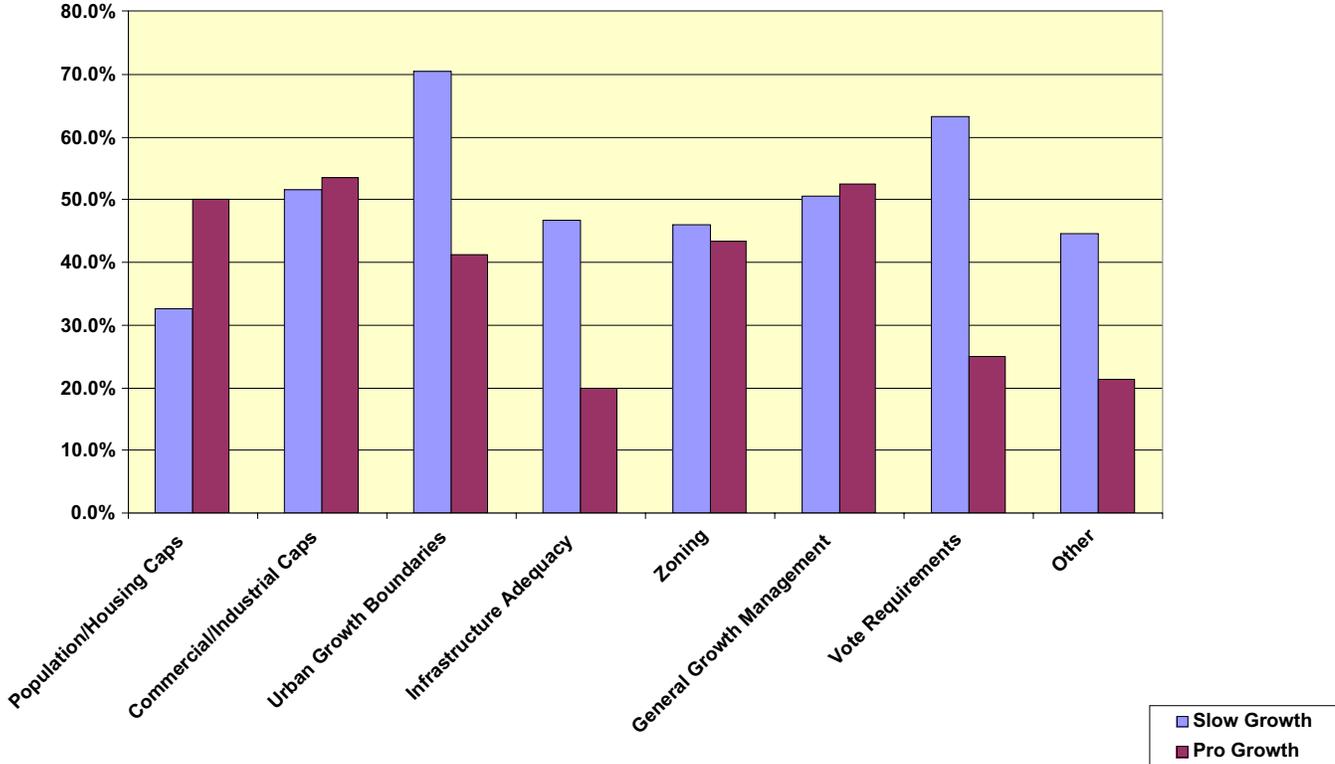
to the statistics for all measures. Slow-growth tools passed 53.5% of the time, while pro-growth tools passed 46.5% of the time and neutral measures passed 40.5% of the time.

However, voters appeared much more likely to approve strong growth management tools, such as UGBs and vote requirements, if they were associated with a slow-growth election. This is not true for other tools.

As Chart 10 shows, UGBs have passed 70.3% of the time when associated with slow-growth ballot measures, but only 41.8% of the time when associated with pro-growth ballot measures. A similar spread exists for vote requirements (63.1% versus 25.0%) and, surprisingly, infrastructure adequacy (46.7% versus 20.0%). The number of pro-growth infrastructure adequacy situations was very small.

For general growth management, zoning, and commercial/industrial caps, voters tended to approve these tools about half the time no matter whether they were associated with a pro- or slow-growth ballot measure. Surprisingly, population and housing caps were much more likely to pass if associated with a pro-growth ballot measure than a slow-growth ballot measure, though the number of slow-growth population/housing caps was very small.

Chart 10: Pass Rates, Pro- and Slow-Growth Elections, by Growth Management Tool



8-5. Trends Over Time

8-5-1. Frequency

Just as the frequency of the ballot measures has varied considerably over time, so have the results when broken down by tool and by slow- and pro-growth measures. To provide focus to the time analysis, we aggregated the results by three five-year periods (1986-1990, 1991-1995, and 1996-2000) that more or less approximate the economic cycle (boom, recession, recovery).

Almost half of the 721 pro- and slow-growth measures appeared during the boom of the late 1980s (344, or 47.7%). The frequency tailed off dramatically during the recession and rose during the recovery to approximately two-thirds of the level of activity during the boom. The slow/pro breakdown remained approximately the same during each period (about two-thirds of the tools associated with slow-growth measures and about one-third associated with pro-growth measures).

However, the frequencies of the individual tools varied considerably over time. (Table 5.) Most significantly, UGBs and vote requirements, which pass more often and are usually associated with slow-growth ballot measures, have increased dramatically in frequency in recent years. UGBs rose from 6.4% of all ballot tools in 1986-90 to 7.9% in 1991-95 and finally to 19.4% in 1996-2000. Vote requirements rose during the three time periods from 14.5% of all ballot tools to 15.7% and finally to 27.3%. More than half of all UGB and vote requirement tools appeared on ballots in the last five years. In part, this is undoubtedly due to the impact of the California Supreme Court's 1995 ruling in the *De Vita* case, which upheld Napa County's requirement to put changes to its UGB on the ballot for a vote.

Meanwhile, general growth management tools, which are often associated with pro-growth measures and do not pass as often, were far more common in the past and their frequency has declined in recent years. General growth management accounted for 33.4% of all tools on the ballot between 1986 and 1990. That figure rose to 37.8% in 1991-1995 but dropped to only 17.0% in 1996-2000.

All these trends become even more striking when tools are broken out by slow- and pro-growth ballot measures. General growth management dropped from 26.1% of all tools appearing on slow-growth ballot measures during the 1986-90 period to only 11.4% of tools during the 1996-2000 period, while UGBs increased from 7.1% to 23.5%. Even in pro-growth ballot measures, UGBs and vote requirements increased their frequency while general growth management declined dramatically.

8-5-2. Passage and Failure Rate of Specific Tools

As stated above, the pass rate of the 763 tools is almost exactly 50%. For slow-growth tools, the pass rate is 53.5%; for pro-growth tools, it is 46.5%. These figures have changed over time in approximate relationship to the economy.

Between 1986 and 1990, almost exactly half of the tools passed, but in those boom times slow-growth tools did much better — passing 54.2% of the time as compared to 37.7% for pro-growth tools. Between 1991 and 1995 — the recession period — the pass rate dropped to 44.9% overall. It was 47.5% for slow-growth tools and 40.4% for pro-growth tools. Between 1996 and 2000 — the recovery period — the pass rate improved dramatically, to approximately 55% for both slow- and pro-growth measures.

The pass rates for individual tools have changed over time as well, but not always according to any formulaic result. For example:

- The pass rate for UGBs rose substantially from 50% in the 1980s to approximately 70% during both periods of the 1990s. Slow-growth UGBs have passed with remarkable frequency (36 of 47 between 1991 and 2000, or 76.5%).
- The pass rate for other measures has bounced around. Vote requirements, for example, dropped from 63.3% in the late 1980s to 45.0% in the early 1990s and then back to 59.4% in the late 1990s. These figures were even more accentuated for slow-growth ballot measures.
- General growth management dropped from 49.6% in the late 1980s to 37.5% in the early 1990s to 72.5% in the late 1990s — the latter increase owing to a remarkably high pass rate (21 of 24, or 87.5%) for pro-growth general growth management tools in the late 1990s.
- The pass rate for zoning measures moved from 45.8% in the late 1980s to 59.3% in the early 1990s and then down to 34.1% in the late 1990s. This last figure is due largely to the fact that zoning tools proved extremely unpopular in slow-growth ballot measures in the late 1990s (only 22.2% pass rate).

8-6. Trends By Geographical Location

Our past analysis (Harrison et al, 2000) revealed that most growth management ballot measures have appeared on ballots in a small number of coastal metropolitan counties. Our new analysis makes the same finding.

Of the 763 slow- and pro-growth tools in our database, 585 (76.7%) were contained in ballot measures in either metropolitan Southern California (including San Diego) or the Bay Area. The top 5 counties in ballot activity were, in order, San Diego (106), Los Angeles (75), Contra Costa (50), Ventura (47), and Orange (41).

Table 4: Region by Tools

	C/I	% C/I	GEN	% GEN	INF	% INF	OTH	% OTH	VOTE	% VOTE	P/H	% P/H	UGB	% UGB	ZON	% ZON	TOTAL
	CAPS	CAPS									CAPS	CAPS					
Central Coast	2	3.6%	21	37.5%	2	3.5%	4	7.1%	12	21.2%	2	3.5%	5	8.8%	8	14.1%	56
Central Valley	0	0.0%	37	44.6%	5	6.0%	0	0.0%	8	9.6%	12	14.4%	8	9.6%	13	15.5%	83
North Coast	0	0.0%	9	75.0%	0	0.0%	0	0.0%	2	15.7%	0	0.0%	0	0.0%	1	7.7%	12
SF Bay	22	8.5%	75	29.1%	9	3.5%	7	2.7%	48	18.6%	14	5.4%	34	13.1%	49	18.9%	258
Socal	22	6.7%	85	26.0%	16	4.9%	25	7.6%	65	19.9%	24	7.3%	36	11.0%	54	16.5%	327
Upper Sac	0	0.0%	6	22.2%	3	11.0%	1	3.7%	6	21.9%	2	7.2%	0	0.0%	9	32.5%	27
Total	46		233		35		37		141		54		83		134		763

Patterns among cities were far more dispersed. The 484 measures appearing on city ballots in our database represent 174 different jurisdictions. Only 10 cities have had 7 or more growth management ballot measures, led by San Francisco (24) and San Diego (22). Most of the leading cities either have subsequent vote requirements in place (San Diego, Lodi, Escondido) or have a long history of taking land use issues to the ballot on a regular basis (Hermosa Beach, Morro Bay, Simi Valley).

The two major metropolitan regions in the state did not show major differences in the frequency with which tools appeared in local ballot measures. Among the two smaller regions, the Central Valley and the Central Coast, population and housing caps were disproportionately popular in the Central Valley while vote requirements were disproportionately popular in the Central Coast (see Table 4).

The overall passage rates for growth management tools, and for tools associated with slow- and pro-growth tools, did not vary much between Southern California and the Bay Area. Pass rates in the Central Valley were very low — 28.0% overall and 32.4% for slow-growth tools. Pass rates in the Central Coast region were slightly above statewide averages.

However, the passage rates for different tools varied considerably between the two major regions — reinforcing trends identified in previous research that characterize different approaches to growth management in the different regions.

Bay Area voters were much more likely to approve urban growth boundaries (87.1% for slow-growth measures, 82.4% overall) than were voters in Southern California (52.2% for slow-growth measures, 45.7% overall). Although overall pass rates for zoning tools were approximately the same (49.1% in Southern California, 46.8% in the Bay Area), the pass rate for slow-growth zoning tools in Southern California was much higher (60.7% versus 40.9% in the Bay Area). Somewhat surprisingly, Southern California voters approved vote requirements more often than Bay Area voters (69.6% for slow-growth measures, 66.1% overall, versus 61.5% for slow-growth measures in the Bay Area and 54.8% overall).

These results suggest that Bay Area voters are more interested than their Southern California counterparts in containing the geographical expansion of urban growth, whereas Southern California voters are more interested in growth management techniques that tend to reduce densities and, possibly, exacerbate sprawl as a result. These findings are consistent with findings by Glickfeld and Levine in the past regarding all growth management tools.

8-7. Trends by County

The slow/pro split in the top counties varied measurably. Slow-growth measures dominated in Contra Costa (92.3% of all ballot measures), Orange (81.8%) Alameda (80%), Sonoma (77.8%), and Ventura (75%). Slow-growth measures appeared much less frequently in San Mateo (48.3%), Santa Clara (51.9%), and San Diego (55.6%). At 63.6%, Los Angeles County was in the middle. Thus, the East Bay and the South Bay had different profiles, and San Diego had a different profile than the rest of Southern California.

GROWTH MANAGEMENT BALLOT MEASURES IN CALIFORNIA

Table 5: Region Tools by Pass/Fail

	CENTRAL COUNTY		CENTRAL VALLEY		NORTH COAST		SF BAY		SOCAL		UPPER SAC	
	<i>Pass</i>	<i>Fail</i>	<i>Pass</i>	<i>Fail</i>	<i>Pass</i>	<i>Fail</i>	<i>Pass</i>	<i>Fail</i>	<i>Pass</i>	<i>Fail</i>	<i>Pass</i>	<i>Fail</i>
C/I CAPS	1(50%)	1 (50%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	11 (50%)	11 (50%)	12 (54.5%)	10 (45.5%)	0 (0%)	0 (0%)
GEN	11(52.4%)	10 (47.6%)	13 (35.1%)	24 (64.9%)	4 (44.4%)	5 (55.6%)	37 (49.3%)	38 (50.7%)	51 (60%)	34 (40%)	1 (16.7%)	5 (83.3%)
INF	2 (100%)	0 (0.0%)	2 (40%)	3 (60%)	0 (0%)	0 (0%)	3 (33.3%)	6 (66.7%)	7 (43.8%)	9 (56.25%)	1 (33.3%)	2 (66.7%)
OTH	1 (25%)	3 (75%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	1 (14.3%)	6 (85.7%)	10 (40%)	15 (60%)	0 (0%)	1 (100%)
VOTE	8 (66.7%)	4 (33.3%)	2 (25%)	6 (75%)	2 (100%)	0 (0%)	26 (54.7%)	22 (45.8%)	41 (63.1%)	24 (36.9%)	2 (33.3%)	4 (66.7%)
P/H CAPS	0 (0%)	2 (100%)	3 (25%)	9 (75%)	0 (0%)	0 (0%)	8 (57.1%)	6 (42.9%)	8 (33.3%)	16 (66.7%)	0 (0%)	2 (100%)
UGB	3 (60%)	2 (40%)	6 (75%)	2 (25%)	0 (0%)	0 (0%)	28 (82.4%)	6 (17.6%)	17 (47.2%)	19 (52.8%)	0 (0%)	0 (0%)
ZON	6 (75%)	2 (25%)	1 (7.7%)	12 (92.3%)	0 (0%)	1 (100%)	22 (44.9%)	27 (55.1%)	27 (50%)	27 (50%)	4 (44.4%)	5 (55.6%)

Slow-growth measures won at least half the time in all the top counties except for Contra Costa, with Sonoma (76.2%) and Los Angeles (74.3%) leading the slow-growth pass rate. Pro-growth pass rates varied dramatically in the top counties, from more than 70% to just over 20%.

8-8. Differences Between Jurisdictions With Ballot Measures And Jurisdictions Without Ballot Measures

As stated above, not all jurisdictions saw growth management measures on their ballots during the 1986-2000 period. Using 1990 and 2000 Census data, the Solimar analysis compared the characteristics of jurisdictions that had ballot measures and those that did not. We found the following differences:

- Cities with ballot measures had significantly smaller populations in 1990 (a median of 14,000 persons versus 45,000 persons) and lower population growth between 1990 and 2000 (11% versus 12%) than cities without ballot measures.
- Cities with ballot measures actually had a median income in 1990 that was approximately 35% below those cities without ballot measures (\$29,000 versus \$39,000). However, cities with ballot measures saw their median income rise more quickly between 1990 and 2000 (42% versus 39%).
- There was little difference in the percentage of white population between the two types of cities; but there was a significant difference in the change in white population. Both types of cities lost white population, but cities with ballot measures lost 22% between 1990 and 2000 compared with 16% for cities without ballot measures.
- Cities with ballot measures had dramatically lower growth in both multi-family and single-family housing than cities without. The mean increase in multi-family housing (5 units or more) between 1990 and 2000 was 18.6% for cities with ballot measures and 55.9% for cities without ballot measures. Single-family housing increased 2.6% in cities with ballot measures and 4.7% in cities without.

In addition to simply calculating these differences, we ran a series of statistical correlations to determine which community characteristics correlated with cities that had growth management ballot measures during this period and which did not. We found the following results.

Cities with ballot measures were positively correlated with:

- Larger population
- Faster-growing population
- Larger white populations.
- Higher median incomes.

There was no significant correlation between growth management ballot activity and:

- Change in white population
- Change in income
- Change in single-family or multi-family housing

We found that the greater the amount of ballot activity, the stronger the association with the four factors listed above: population size, population change, larger white populations, and higher median incomes.

When examining individual tools, we found that most tools (except subsequent voter requirement and “other,” a grab-bag category) was positively correlated with:

- Population size
- Population change
- White population

We also found that there was a positive statistical correlation between subsequent voter requirements and multi-family housing — though this finding only points to a relationship and we cannot state with certainty what causes this relationship.

In addition to the above results, we found that the vote requirement was used more often in cities with a larger white population and higher incomes. The tool of zoning was associated positively, though only slightly, with city income.

Table 6: Comparison of Cities With And Without Ballot Measures

Median Income			
	1990	2000	% Change
Cities With Ballot Measures	\$ 29,632	\$ 42,719	42.1%
Cities Without Ballot Measures	\$ 39,975	\$ 54,417	38.9%
Population			
	1990	2000	% Change
Cities With Ballot Measures	33,259	38,153	18.3%
Cities Without Ballot Measures	40,079	45,476	12.5%
White Population			
	1990	2000	% Change
Cities With Ballot Measures	64.4%	52.1%	-21.7%
Cities Without Ballot Measures	67.9%	58.5%	-15.7%
Change in Housing Stock, 1990-2000			
	Single-Fam	Multi-Fam	
Cities With Ballot Measures	2.6%	18.6%	
Cities Without Ballot Measures	4.7%	55.9%	

8-9. Trends By Other Factors

In addition to comparing cities with ballot measures to cities without ballot measures, we also examined the trends in different types of cities based on population, race, and income. In each

case, we analyzed both the existing characteristics in 2000 and the change from 1990 to 2000. The analysis was conducted for all cities where growth management measures had appeared on the ballot and for all counties (city and countywide measures within each county were aggregated to the county level).⁴

8-9-1. Size of Population

In general, smaller cities were more likely to place slow-growth measures on the ballot. Overall pass/fail rates did not seem to follow any particular pattern.

General growth management and zoning were the most common tools used in all size categories. However, smaller cities were more likely to place vote requirements on the ballot and larger cities were less likely. Oddly, UGBs appeared slightly more often on ballots in larger cities, though the UGB numbers across all categories did not vary a great deal.

8-9-2. Rate of Population Growth

Slow-growth measures were much more likely to appear on the ballot in cities growing very fast (population increase of 15% or more between 1990 and 2000). Among specific tools, general growth management and vote requirements were frequently used across all categories. However, UGBs were far more frequent in rapidly growing cities than in slow-growing cities, whereas zoning showed something of a reverse pattern. The use of population and housing caps also increased noticeably with an increase in the rate of a city's population growth.

8-9-3. Racial Composition

Most literature on growth management has speculated that, if the motive for managing growth is exclusionary, growth management tools might be used more frequently in communities with a large white population.

We looked at racial composition in two different ways: First, by examining each community's white population in 1990; and, second, by examining the change in white population between 1990 and 2000.

Regarding white population in 1990, we found that cities with smaller white populations used commercial/industrial caps and zoning disproportionately. Meanwhile, cities with larger white populations used urban growth boundaries more frequently. It is also important to note that cities

⁴ The county-level analysis was based on the 721 tools contained in the 561 slow-and pro-growth measures (not including the 42 tools in the 39 neutral measures). The city-level analysis was based on available data involving tools in city-only ballot measures and usually included 580 to 595 tools (out of a total of 621 tools appearing on city ballots); the variation occurred because of missing data (regarding the other factors, not the tools) in a number of cases.

with smaller white populations had a disproportionate share of pro-growth measures, while cities with large white populations had the largest proportion of slow-growth measures.

Regarding the change in white population, it is important to bear in mind that most communities in California lost white population during the 1990s. We found that tools associated with slow-growth ballot measures were dramatically more likely to be found in cities that were holding their white population. Overall, 67.1% of tools on city ballots were associated with slow-growth measures; for cities that retained their white population, that figure was 86.4%. Also, the tool of subsequent vote requirements was used more frequently in communities that were retaining their white population.

8-9-4. Median Income

We examined the median income of communities with ballot measures in the same way: median income in 1990 and the change in median income between 1990 and 2000. It is important to note that the cities and counties that had growth management ballot measures had a higher median income overall than the state as a whole.

We found that ballot measures were most frequent in those communities with the lowest median income and with the highest median income in 1990. However, low median income cities passed slow-growth measures less than half the time.

Regarding median income change between 1990 and 2000, we found a distinctive pattern among jurisdictions (cities and counties) located in counties where the median income rose rapidly. Jurisdictions in these counties tended to have more slow-growth ballot measures; tended to pass them more frequently; and saw an increase in the use of the subsequent voter requirement tool.

9. WHAT ARE THE IMPACTS AND IMPLEMENTATION ISSUES ASSOCIATED WITH GROWTH MANAGEMENT TOOLS IN CALIFORNIA?

The impacts of growth management techniques are difficult to measure and therefore the source of much debate. This is especially true given the wide-ranging nature of growth management tools. For example, urban growth boundaries, housing caps, adequate infrastructure requirements, and voter requirements are all designed to perform fundamentally different tasks.

Many jurisdictions have adopted several growth management tools, often “layering” one on top of another over time. For example, many jurisdictions that adopted housing and population caps in the 1970s and 1980s subsequently adopted urban growth boundaries in the 1990s. In these situations, it is very difficult to disentangle the impact of one tool from the impact of another.

The impact of growth management tools also depends a great deal on how the tools are used and implemented by the jurisdictions that adopt them. For example, some tools — such as housing and population caps — overtly seek to limit the overall amount of growth in a jurisdiction. Whether they actually do limit growth, however, depends on implementation, because some communities set the “caps” high while others set them low. The same is true for urban growth boundaries, which can be either tight or loose. We will attempt to document some of these implementation issues here and explore them in more detail through case studies later phase in this report.

Furthermore, scholarly research on these impacts is incomplete and expert opinion varies widely. So it is impossible to say with certainty what effect a given growth management tool is likely to have — especially considering how different local community situations can be. Also, research has not always distinguished between different types of growth management. Rather, researchers have often lumped “growth management” into a single category.

Nevertheless, it is possible to pose the same fundamental set of questions for almost all of these growth management tools — and examine the answers to these questions to the extent that they are available.

These questions are as follows:

1. *Impact on Amount of Growth Locally:* Is the tool effective in controlling the overall amount of growth within the jurisdiction where it is adopted, or are other factors more influential (e.g. general economic conditions)?

2. *Impact on Amount of Growth Regionally*: Does the tool suppress the overall amount of growth within the metropolitan region or in the state as a whole?
3. *Impact on Density and Sprawl*: Does development become denser or more sprawling as a result of this tool's use?
4. *Impact on Housing Cost*: Does the tool directly or indirectly increase the cost of development, in particular housing costs?
5. *Impact on Specific Population and Economic Groups*: Does the tool's use have the effect of excluding certain ethnic or income groups from the community where it is adopted?
6. *Impact on Jurisdiction's Fiscal Well-Being*: Does use of the tool exert a fiscal impact on the jurisdiction that adopted the tool, or create a disparity between existing development and new development with respect to assessments or levels of service?
7. *Impact on Geographical Sequencing of Growth Locally*: Does use of the tool have the effect of spatially and temporally directing growth within the jurisdiction adopting it?
8. *Impact of Geographical Sequencing of Growth Regionally ("Bounce Effect")*: Does growth "bounce" out of the jurisdiction adopting the tool into other jurisdictions as a result of the tool's use.
9. *Impact on Rate of Growth*: Does the use of this tool have an impact on the rate of growth over time?
10. *Impact on Decision-Making Process*: Does the use of this tool change the decision-making process for new development?

9-1. Analyses of Growth Management Overall

Much of the research on the impact of growth management has dealt not with individual growth management tools. Rather, this research has dealt with the combined impact of a growth management regime, or with a comparison among different communities that have adopted different types of growth management regimes.

As with the documentation of growth management techniques, the most comprehensive research in this arena has been done as a result of the two surveys of growth management conducted by Glickfeld and Levine in 1988 and 1992.

By combining their survey results with other community characteristics, Glickfeld and Levine (1992), found that the enactment of local growth management measures did not have an impact on the amount of construction at the state, metropolitan, or county levels. They concluded that growth management by individual jurisdictions in California created a "bounce" effect, usually to the edge of the metropolis rather than into adjacent jurisdictions.

Engaging in further analysis based on this same data, Levine (1999) concluded that during the 1980s, more than 500,000 housing units in California were either not produced or displaced to

another jurisdiction as a result of growth management policies. Levine acknowledged a great deal of variability in the possible results of his model and recognized that this figure might be high, but nevertheless argued that growth management had a significant impact.

When unbundling the impact of individual growth management tools, however, Levine found that the tools which had the greatest impact on a reduction in housing construction were not urban containment policies *per se*, but, rather, policies that reduced the size or density of allowable construction (including commercial and industrial construction as well as residential construction). Neither urban growth boundaries nor adequate public facilities ordinances played an important role.

Based on his survey of 1,100 jurisdictions in the 25 largest metropolitan areas in the nation, Pendall (1995) examined the impact of growth management tools on the housing and socioeconomic characteristics of those communities. In general, he found that many growth management tools -- most obviously "low-density-only zoning" -- tend to skew communities toward detached housing and other factors. Most significantly, he found that an agglomeration of growth management tools has an impact. "With each new control it uses, a community reduces its growth, shifts its housing stock toward single-family dominance, reduces the local proportion of renters, lowers its rental affordability, lowers the growth of black residents, and reduces balance."

In a comparison of three communities — Santa Barbara, Santa Monica, and Riverside — Warner and Molotch (2000) analyzed the impact of a variety of growth management techniques, though many of these techniques do not fit neatly into the typology outlined in this paper. In general, they found that residential controls did not stifle housing construction. They also found that growth management techniques had shifted non-residential development in Santa Monica from oceanfront to inland locations. Restrictions on commercial development in Santa Barbara stimulated redevelopment in the downtown core because of a "replace same" exemption.

9-2. Housing and Population Caps

9-3. Commercial and Industrial Caps

As the statistics discussed above suggest, housing and population caps are not widely used. Nevertheless, they have been the subject of considerable research attention. This is probably because they are high profile and controversial; because they were the first major growth management tools used in California; and because on their face they would seem to be designed to overtly suppress growth. Commercial and industrial caps have not been widely analyzed.

As with so many growth management tools, the impact of housing and population caps appears to depend a great deal on how the caps are crafted and implemented. The best-known empirical research (Landis, 1992) compared seven cities in California that have growth management tools in place (five of which had housing or population caps) with seven comparable cities that did not have those tools in place at the time they were analyzed.⁵

⁵ The seven pairs of cities were Thousand Oaks and Camarillo with Simi Valley; Redlands with Upland; Livermore with Redwood City; San Luis Obispo with surrounding San Luis Obispo County; Lodi with Turlock; and Walnut Creek with Fairfield. Thousand Oaks, Camarillo, Redlands, Livermore, and San Luis Obispo all had housing caps, while Lodi had an annexation restriction (later ruled unconstitutional) and Walnut Creek had an infrastructure adequacy ordinance.

Landis concluded that the *local amount* of growth did not seem to be reduced by the presence of growth management tools such as housing caps. Of the five housing cap cities analyzed, three grew faster than their counterparts and two grew more slowly. His analysis of the impact on *regional growth* was inconclusive. He attempted to determine whether a shortage of housing supply existed relative to demand in all counties where the cities he analyzed were located. He found, oddly, that housing shortfalls did not exist in any county except Ventura County, where the growth management cities under analysis (Camarillo and Thousand Oaks) produced more housing than the control city of Simi Valley.⁶

Regarding *housing cost*, Landis found that "median single-family home prices did not rise any faster or to higher levels in the seven case-study communities than in their counterpart pro-growth cities." Regarding *fiscal impact* to cities, Landis found that the cities using growth management tools had a slight advantage in the balance of revenues and expenditures than the control cities, but that both groups of cities were in good financial shape.

Landis's most important conclusion was that housing caps were neither created nor implemented in a way that constrained growth significantly — at least not relative to the control cities. First, he found that housing caps were adopted during or immediately after a housing construction boom. For this reason, the caps were set at a high level, and subsequent housing development proposals did not reach the cap. Second, implementation techniques (including exemptions and carryover of units from one year to the next) created more "give" in the regulatory system. And third, Landis hypothesized that the control cities in his analysis managed growth in a similar fashion but on an ad-hoc basis (for example, by reducing the number of units on each project in front of the Planning Commission rather than restricting the overall quantity as a matter of policy).

The implementation issues raised by Landis's study merit further discussion. Since the passage of the first housing cap in Petaluma thirty years ago, housing caps have been implemented largely through the use of scoring systems based on criteria set up by the community imposing the caps. Inevitably, these scoring systems reflect the values of the community. Because many housing caps have been imposed in upper-middle-class suburbs, the caps often reflect high demand for quality-of-life amenities, including open space, parks, and trails. There is considerable anecdotal evidence that this system has driven developers to build high-end housing, which has a greater profit margin, thus giving the developers the financial capacity to absorb the cost of these amenities.

Such requirements may counteract the preferable treatment accorded to affordable housing in housing cap systems. Under the edict of the *Oceanside* case, many housing-cap communities give preferential treatment (i.e. additional points in the scoring system) to affordable housing, as Petaluma does. In many cases, communities exempt affordable housing from the housing cap process altogether, as is the case in Thousand Oaks.

An early study of Petaluma (Schwartz, Hansen, and Green, 1981 and 1984) found that the price of housing was significantly higher in Petaluma than in two nearby communities that do not impose growth controls. The researchers suggested that low- and moderate-income housing

⁶ Simi Valley later adopted a housing cap which is still in effect.

development had been curtailed in Petaluma as a result of growth control despite rewarding points to developers for the production of affordable housing units. It is also possible that a housing cap and a point system can create a two-tiered situation, with development focused only on high-cost, high-amenity single-family homes and affordable multi-family developments.

Besides the impact of point systems and affordable housing exemptions, housing caps also raise a number of other implementation issues — especially with regard to timing and geographical sequencing of residential development. These include the following:

- *Whether housing cap systems can and should create more flexibility by permitting “carryovers” from one year to the next, or by allocating housing units for two or more years at a time rather than one.*
- *Whether housing units allocated to developers in a particular year should stay with those developers forever or whether there should be a “sunset,” after which allocations either expire or are returned to the city’s pool.*
- *Whether to set aside units for specific types of housing or specific geographical areas within the community. Theoretically, developers may shift either the type or location of their projects if the process for those types or locations is streamlined; however, it is unclear whether such streamlining “works” if it contravenes market trends.*
- *How to implement caps based on population. Most population caps must be translated into restrictions on housing units, which requires assumptions about household size and how many individuals will occupy specific types of housing units.*

9-4. Urban Growth Boundaries and Infrastructure Adequacy

Urban Growth Boundaries and Infrastructure Adequacy fall into a particular category of growth management tool. They do not overtly seek to suppress or redistribute the overall amount of growth; rather, they seek to subject growth to certain requirements. As Pendall (1995) put it, these tools are “protective without intrinsically seeking to slow growth.” However, they are often perceived as tools that can be used to suppress growth, because they bound it geographically and/or potentially increase the cost.

9-4-1. Urban Growth Boundaries

Urban Growth Boundaries are among the most researched of all growth management tools. In policy terms, they are based on a theoretical relationship between supply and demand for land. The price of land inside a boundary should rise, thus providing urban developers with motivation to develop at higher densities. Outside the boundary, the price of land should decline, thus ensuring the economic viability of resource-based activities that usually cannot compete in land markets with urbanization.

Pendall et al (2002) conclude that most research studies on urban growth boundaries have methodological flaws, but clearly suggest the following conclusion:

Urban growth boundaries raise land prices, and the longer they are in effect and the more tightly they are drawn around existing development, the more severe this inflationary effect. When the boundaries encompass sufficient land to accommodate future growth — or even, as in the Oregon case, are accompanied by increased developable areas — they may not have this inflationary effect.

In other words, the impact of urban containment policies is largely a matter of implementation. In a journal article based on his 1994 survey, Pendall (2000) found that growth boundaries in and of themselves did not consistently reduce housing growth in the 1980s. In part, he concluded that this was because “growth boundaries often encircle areas that are much larger than needed to accommodate future housing construction.” In an earlier work, Pendall (1995) found that communities with UGBs tend toward more owner-occupancy than rentals; he also found that, holding other things constant, these same communities grew faster during the 1980s than others did.

Most of the research on the relationship between UGBs and the cost of housing and other development has been focused on Portland, which has had a metropolitan UGB, pursuant to the state’s growth management law, for more than 20 years. In general, this research suggests that, in and of itself, the UGB has not increased housing prices substantially. This was partly because it was drawn expansively to begin with and partly because the Portland economy was depressed throughout much of the 1980s and 1990s, after the boundary was put into effect (Nelson, Pendall, Dawkins, and Knaap 2001.)

Recent data for Portland show that the trend toward higher density continued during the economic boom of the 1990s, with average lot sizes falling 13.5% in Clackamas and 20% in Multnomah County (Phillips and Goodstein 2000, 336; citing data by Mildner, Deuker, and Rufolo 1996). Thus, there is considerable evidence that urban containment policies do increase densities and also in some cases increase multi-family construction. But the overall impact of these changes on the metropolis as a whole depends on the way that containment policies work together and the level to which they direct growth into specific areas.

The California experience on UGBs is somewhat different than the experience in Portland. First and most important is the fact that, in California, UGBs are enacted by local option, rather than pursuant to a state law.

Under the Oregon law, metropolitan Portland was required to base the UGB on an analysis of a 20-year demand for urbanized land; the region is required to reassess the UGB every five years based on a similar analysis. In California, no such analysis is required, and UGBs are most often implemented at the level of the individual jurisdiction, rather than the metropolis.

Thus, the impact of UGBs in California is much more dependent on the way they are implemented at the local level. Glickfeld, Levine, and Fulton (1996) found that California jurisdictions adopt two distinctly different types of UGBs — tight “perimeter control lines” and much looser and more flexible “orderly expansion lines.” Perimeter control lines are more likely to be adopted by coastal municipalities, and therefore are more likely the model for most UGBs adopted by ballot measure in California. Orderly expansion lines are more likely to be adopted by inland counties, especially those in the Central Valley seeking to maintain an orderly transition from agricultural land to urban growth. Glickfeld et al also found that, in many cases,

the impact of UGBs was diminished by the fact that land use policies outside the line — while limiting growth to “rural” land uses — permitted low-density residential suburbanization, usually through one-acre residential zoning.

Analyzing the growth management policies of several different cities, Landis (1986) found a big difference between growth boundaries in Sacramento and San Jose. In Sacramento, he found that the UGB was flexible and changed frequently. As a result, there was a competitive land market and a wide variety of housing prices and styles. In San Jose, he found that growth management tools were designed to slow the rate of agricultural land conversion (the functional equivalent of what Glickfeld et al later called “perimeter control lines”). Because land cost went up, he found that small homebuilders had been forced from the market and the price and size of new homes had increased.

UGBs may have the effect of suppressing growth in specific jurisdictions that adopt them and causing it to “bounce” to other jurisdictions. If so, this is likely because the UGBs are used in combination with other tools that might have such an impact, especially housing and population caps. Many of the jurisdictions that have adopted UGBs via ballot measure — especially in the Bay Area and Ventura County — have done so only after putting housing and population caps into place.

Furthermore, no matter what the policies of a jurisdiction are, slow-growth politics may intervene to suppress growth inside the boundary on a case-by-case basis. A 1990 study from Portland found that densities contained in actual project approvals did not come anywhere close to planned densities. In a more recent study, Fulton, Williamson, Mallory, and Jones (2001) found similar results in Ventura County. Analyzing 126 individual project approvals between 1996 and 2001, they found that, on average, residential development was approved at 80% of zoning capacity and 54% of the capacity delineated in the jurisdiction’s General Plan. As in the Portland study, multi-family housing was approved at much closer to planned densities. The study period straddled the passage of the SOAR growth boundary initiatives in 1998 (see page 66), and the researchers found no difference in the approved densities before and after the initiative’s passage.

Thus, in instances where urban containment policies prescribe higher densities, the practical political realities of project approval — that is, opposition to higher-density development from neighbors — may discourage actual construction of higher-density projects.

Given that the impact of UGBs depends so much on implementation, a true understanding of their impact requires examination of a series of implementation questions, including the following:

1. *Was the demand for future urban land analyzed prior to the adoption of a UGB?*
2. *Was the UGB adopted on an ad-hoc basis by an individual jurisdiction or as the result of a larger regional strategy for shaping growth?*
3. *Was the UGB drawn tightly or loosely?*
4. *What are the land-use policies outside the UGB?*

5. *What is interaction between UGBs and other growth management tools that may facilitate or suppress growth, such as housing caps?*

9-4-2. Infrastructure Adequacy

The tool of infrastructure adequacy can take several forms, which can be used either to suppress or encourage growth. In its purest form it can simply be a linkage requirement stating that private development cannot move forward unless adequate public infrastructure — especially roads, sewer, and water — is available to accommodate it. Variations can include (1) an impact fee system requiring private developers to pay for all or a certain portion of infrastructure requirement for new development; and/or (2) a phasing system in which infrastructure is constructed in a specific geographical sequence (as in the Ramapo system), thus controlling the geographical sequencing of development itself.

There is little question that infrastructure requirements, however they are devised, tend to increase densities, largely because it is cheaper to provide new development with public services at higher densities. Indeed, one study found that counties with infrastructure requirements were much less likely to lose density than counties with UGBs (Pendall, 1999).

Depending on how they are implemented, however, the impact of infrastructure requirements on the geographical location of new development can vary dramatically. In Florida, for example, there is little question that the infrastructure adequacy requirement (known as concurrency) has, in many cases, driven development to or beyond the metropolitan fringe. (Nelson and Duncan, 1995; Nicholas and Steiner, 2000.) In the absence of major state funding for infrastructure upgrades, which was part of the original legislative deal for the state's growth management law, developers looked for excess road capacity, which existed principally on the fringe.

The impact of infrastructure adequacy systems that rely on geographical sequencing can also vary dramatically, depending on how they are implemented. The two most studied systems of this sort are the metropolitan urban service area in Minneapolis-St. Paul and the tiering system in the City of San Diego. In the Minneapolis-St. Paul case, the urban service area was ample to begin with; has been amended more than 60 times; and appears to contain many times more land than is required for future urban development. Thus, the Minneapolis-St. Paul system appears to have exacerbated sprawl. (Poradek, 1997.)

By contrast, the San Diego system appears to have had the opposite effect. The system created three tiers (an urbanized tier, a planned urbanizing tier, and an urban reserve tier) and used infrastructure finance policy to encourage growth in the urbanized tier, where infrastructure already existed. The urbanized tier did, in fact, receive more development; but existing infrastructure was overwhelmed as a result. Also, residents in the planned urbanizing tier successfully opposed many development projects, thereby “underutilizing” that land and increasing pressure to expand the urban reserve. (Calavita, 1997; Mandelker, 1999.)

In short, infrastructure adequacy requirements can manage the geographical sequencing of growth, but they do so at substantial cost and with many side effects. They require clearly stated goals and implementation tools and constant monitoring. “Not every jurisdiction has the capacity

to exercise this scrutiny, and even those with the most capacity sometimes are forced to make seemingly arbitrary decisions about which areas should grow and which need to wait until new infrastructure comes on line.” (Pendall et al, 2002.)

Questions that should be asked when considering infrastructure adequacy requirements include:

- *What is the intent — to stipulate how new growth will be paid for wherever it occurs or to direct growth geographically?*
- *How is new infrastructure to be paid for, and — if some of it is to be paid for with public funds — what is the decisionmaking process for allocating those funds?*
- *If the infrastructure adequacy requirement includes geographical preference areas, how are those areas altered?*
- *How does a community deal with a development proposal that does not meet the infrastructure adequacy requirements (i.e., is the project rejected)?*

9-5. Zoning Techniques

Zoning is, of course, the oldest tool for managing, restricting, or redirecting growth. As a growth management tool, zoning can be used to either increase or decrease the amount of development on a particular parcel and therefore affect development patterns.

The analysis associated with the 1988 and 1992 growth management surveys found that downzoning was a more common growth management strategy in Southern California than in the Bay Area, possibly contributing to the "bounce" factor of relocating residential development to the edge (Glickfeld and Levine, 1992; Levine, Glickfeld, and Fulton, 1996).

In analyzing the results of his nationwide survey of 1,100 jurisdictions, Pendall (1995) found that low-density-only zoning had a significant impact on communities. Among other things, Pendall asked local jurisdictions to specify their maximum zoning. He then analyzed those communities with "low-density-only" single-family zoning. He found that low-density-only zoning led to the construction of less housing than otherwise would have been created in 1990.

He also found that, in addition to decreasing overall growth rates, low-density-only zoning produced a shift away from attached housing and renters toward detached housing and owner occupancy.

Obviously, zoning can be used for any growth management purpose, including increasing overall density, decreasing overall density, and moving density around. Thus, the most important implementation issues associated with zoning as a growth management tool are:

- *Does downzoning reduce the overall amount of growth in a community and therefore encourage displacement or sprawl?*
- *Are zoning techniques — whether upzoning or downzoning — adopted in the context of an overall plan for growth management?*

9-6. Voter Approval

The impact of voter approval requirements is one of the most heavily debated issues in the entire world of “ballot-box” zoning, but little empirical research has been done on it.

Voter approval requirements can take several forms, all of which have the potential to suppress growth. In some cases, General Plan Amendments that change the land-use designation of a particular parcel of land from a rural use to an urban use may be subject to a voter approval requirement. In other cases, General Plan Amendments calling for an increase in densities (or, in some cases, an increase in more than one “level” of density) requires a vote. In still other cases, the extension of public infrastructure into certain geographical areas requires a vote.

During campaigns on voter approval requirements — and, often, in subsequent court cases as well — landowners and developers have argued that these requirements suppress growth. But this argument rests on two assumptions: First, that voters will be inclined to vote against development projects if they have the opportunity; and, second, that the vote requirement will have a “chilling” effect on the willingness of developers to move forward with projects. Courts have been unwilling to accept these arguments as sufficient reason to strike down voter requirements.

It is impossible to determine whether vote requirements have a chilling effect on development proposals. However, recent anecdotal evidence provides some idea of how voters tend to deal with these issues when confronted with them on the ballot.

Subsequent voter approval requirements do raise a series of implementation issues. Obviously, small landowners or developers may be put at a disadvantage because of the cost of elections, especially in a countywide race. But there are other implementation issues as well, including the following:

- *How can or should communities plan for future land use in an integrated way when individual parcels are subject to separate votes?*
- *What is the relationship between the proposed development and the actual action being taken by the voters?*
- *What is the relationship between the vote requirement and the regular planning process? Should developers go through the planning process before or after the vote? Should a community be able to turn a project down after the developer has won a General Plan Amendment vote?*

10. CASE STUDIES OF IMPLEMENTATION ISSUES ASSOCIATED WITH GROWTH MANAGEMENT BALLOT MEASURES

10-1. Housing Caps

10-1-1. Residential Growth Management Systems, City of Petaluma

In 1972, voters in Petaluma became the first in California — and among the first in the nation — to approve a growth-control initiative. The ballot measure capped the number of new units the city could approve in one year at 500. Since then, the cap has become an accepted part of the planning and political landscape, and it has helped ensure that municipal facilities keep pace with growth.

Residential development pressure exploded in Petaluma during 1969, when the state completed the Highway 101 freeway from the Golden Gate Bridge into Sonoma County. Until that time, Petaluma had been mostly a dairy town that saw a few hundred new homes built annually. The freeway transformed Petaluma into the northern-most bedroom community for workers in San Francisco, 40 miles to the south. In 1970, about 600 houses were built in Petaluma, a two-thirds increase from the year before. The number jumped to 900 in 1971.

The rapid growth overwhelmed public services: schools went to double sessions, the wastewater treatment system failed. Not surprisingly, there was a rapid political backlash. In 1972, voters approved an initiative that allowed the city to approve no more than 500 housing units per year. The initiative did not address building permits or certificates of occupancy. Rather, it controlled the ability to create parcels or housing units through subdivision maps and other regulated activities.

The residential growth management system was not presented as an attempt to stop growth, but rather to slow down growth so that the city and other public entities could provide adequate schools, streets, water lines, sewer treatment, parks and public safety facilities. Still, developers immediately challenged the initiative in court. In a landmark decision, the Ninth U.S. Circuit Court of Appeals upheld the residential growth management system as a proper exercise of the city's police power. (*Construction Industry Association, Sonoma County v. City of Petaluma*, 522 F2d 897 (9th Cir. 1975).)

After the court affirmed the voter-imposed law, city officials devised an implementation method for awarding "allocations" each year. Because the city typically received applications for more

than 500 units, planners and the City Council used a weighted scoring system that considered infrastructure capacity, project design and other factors. By the late 1980s, however, city officials found that nearly every project fit within a tight range of scores and the system had become a “beauty contest.” So the year after approving a new general plan in 1987, city officials adopted a new ordinance to implement the 1972 initiative. Under the revised system, the City Council set annual development objectives that addressed public service levels, preferred types of housing and other factors. The projects that best met the objectives scored highest and received allocations. Projects that received allocations were not guaranteed approval, as the projects still had to pass through the city’s normal development review process.

The 1988 implementation ordinance also allowed the city to approve more than 500 units in one year, so long as the city did not go beyond 1,000 allocations in two years or 1,500 allocations in three years. City officials created this exception to carry out a development agreement for projects within a specific plan area in the northeast part of town. Small projects on less than five acres and containing no more than 30 units (phased so that no more than 15 are created in one year) are exempt from the “allocation” process, although those units count toward the cap.

During recent years, the City Council has not adopted annual development objectives, partly because residential growth pressure has waned in Petaluma, which now has about 56,000 residents. The city has not had to turn away projects to remain under the 500-unit cap. In 2001, for example, the city approved about 350 units. Planners credit the slowdown partly to the economy and partly to the lack of large parcels of undeveloped land in town. This trend in Petaluma is consistent with research findings that communities tend to set housing caps at high levels that they are not likely to attain again in the future. (Landis, 1992.)

The lack of property available for development was compounded in 1998, when voters approved an urban growth boundary for Petaluma. The boundary is slightly larger than the city’s sphere of influence. Land is at enough of a premium that, in 2002, developers roposed building the first market-rate apartments in town since the 1980s.

With the urban growth boundary now in place, some city officials have questioned the need to maintain the 500-unit limit. However, the cap has become such a fixture that it appears politically untouchable. Many people credit the cap with giving the city a stable growth rate and preventing boom-and-bust cycles. Moreover, city officials believe the residential growth management system has done what it was designed to do: phase in development at a pace that public agencies could accommodate.

Because of its reputation as the first “growth control” city in California, Petaluma has been the subject of numerous studies. Those have concluded, for the most part, that the residential growth management system did not push development to other jurisdictions, and that larger market forces were responsible for rapidly rising home prices. This lack of negative impacts is because 500 is a large enough limit to provide the city with a sustainable growth rate, according to city officials. The system has not prevented people from building. Some landowners and developers had to wait a few years to begin their projects, but they still got to build.

What has not been addressed by either the 1972 residential growth cap or the 1998 urban growth boundary is commercial development. The Highway 101 corridor in Sonoma County has become a prime location for telecommunications companies, which have expanded quickly. During an

18-month period starting in 2000, Petaluma received applications for approximately 2 million square feet of office space. New office complexes have clogged roads, and some people blame them for driving up housing prices. However, the increase of well-paying telecommunications jobs is widely supported.

10-1-2. Proposition A, City of Oceanside

During the 1980s, housing caps became popular in coastal communities in Southern California. None of these became more well-known than Proposition A, which was passed by Oceanside voters in 1987 but was struck down by the Court of Appeal seven years later.

Oceanside is the northernmost coastal town in San Diego County, located between the more affluent community of Carlsbad to the south and the Camp Pendleton Marine base to the north. Traditionally it was known as a somewhat scruffy town that catered to the Marines. Like Carlsbad and other cities in the area, however, Oceanside began receiving a lot of suburban residential development in the 1970s. The city's population grew from 40,000 in 1970 to 77,000 in 1980. It has continued to grow since then, reaching 126,000 people in 1990 and 165,000 people in 2000. Like neighboring Carlsbad, the new projects in Oceanside (located in the inland part of the city) tended to be large-scale master-planned projects.

In 1979, the city had adopted a "public facilities and management element" (PFME) of the general plan, which gave priority to geographical areas where infrastructure was already available. In 1982, the city adopted an "interim growth management element" (IGME), which required supermajority approval by both the planning commission and city council if a project showed negative fiscal impact.

Neither of these policies slowed the rate of development, however, and building permits continued to be issued at a rate of approximately 2,000 per year. In 1987 — a year in which housing caps were adopted in many Southern California localities, including the City of San Diego — Oceanside voters approved Proposition A, a citizen initiative that restricted the number of building permits the city could issue each year to 1,000 in 1987 and 800 in subsequent years. A competing measure proposed by the City Council, which would have placed a "buildout cap" on the city as a whole and on 17 individual neighborhoods, failed.

Proposition A did not replace the regular planning process. Rather, it required housing developers to go through the additional step — after their projects were approved — of receiving "Prop. A" approval for the limited number of building permits available each year.

In addition to the cap on residential building permits, Proposition A contained two other provisions that proved important for implementation.

The first was a set of criteria by which the city was required to judge the proposed housing projects and determine which ones should receive building permits. The criteria, which were spelled out in the initiative, were divided into two categories: Availability of Public Facilities and Services (Part A), and Design and Amenities (Part B).

Under Part A, the city was instructed to rate each project on a 0-10 basis for each of the following criteria:

1. Water system capacity
2. Sewer capacity
3. Drainage capacity
4. Fire protection response times
5. School classroom capacity
6. Major road capacity
7. Capacity on Highway 76, the major state highway within city limits

Under Part B, for each project “which has not been withdrawn by the applicant for failure to meet subsection (a),” the city was instructed to rate each project on a 0-10 basis for each of the following criteria:

1. Site and architectural design quality
2. Amount and character of open space and slope landscaping
3. Traffic circulation as it relates to safety, privacy and efficiency
4. Public and/or private usable open space
5. Contributions to existing bike paths, equestrian trails, and greenbelts
6. Critical linkages to public facilities such as the major street system, schools, and parks
7. The extent of disruption to the natural topography
8. Impact on trees and archaeological sites
9. Provision of energy generation and conservation features
10. Addition of energy features such as insulation and solar techniques
11. Impact on the physical and/or aesthetic environment

The second provision was a series of exemptions from the initiative which proved important in implementing the initiative — and in the initiative’s ultimate fate in the courts. There were several exempt categories, including:

- Four units or less on a single lot
- A single-family home on a single lot
- Rehabs and remodels
- Housing projects inside the city’s redevelopment area
- Single-family projects that would otherwise qualify but whose units have an average lot size of 10,000 square feet or more
- Affordable housing projects that are subsidized by public funds, but not affordable housing projects seeking a density bonus under state housing law

At the time, the city had several dozen projects in the “pipeline” totaling approximately 3,000 units. In addition, one project, Rancho del Oro, had negotiated a specific plan for 4,000 units and had received city approval for a development agreement. Under state law, development agreements serve as an alternative method for development approval. Cities are permitted to demand more in the way of infrastructure, but developers receive a “vested right” to build that cannot be overturned by subsequent changes in land use policy such as Proposition A.

In implementing the law, the city allowed many projects to qualify for exemptions by reconfiguring their projects to meet the 10,000-square-foot rule. This practice, of course, decreased the overall number of units in those projects.

The remaining projects were required to go through the Proposition A approval process. City officials recall that, given the pipeline of approximately 3,000 units, all projects pending in 1987 had received Proposition A approval by approximately 1993. By that time, of course, the Southern California economy was in a deep recession.

However, the Building Industry Association (BIA) targeted Proposition A for an intensive litigation challenge. In pursuing the court, the BIA worked especially with the developer of the Del Oro Hills project, a 1,200-unit project adjacent to Rancho del Oro which had chosen not to pursue a development agreement with the city and therefore was subject to Proposition A.

The Building Industry Association and Del Oro Hills made a series of court arguments, but the one that emerged as most important was the fact that Proposition A did not exempt projects that applied for density bonuses under state law. The density bonus law (Government Code Section 65915) requires all local governments to provide density bonuses of at least 25% to housing developers who provide 20% of their units for low-income housing and 10% to very low-income or senior residents.

City officials attempted to interpret the law generally, but all agreed that requiring Proposition A approval for density bonuses had discouraged developers from seeking higher-density housing projects. Between 1987 and 1990, only 443 units were approved in those affordable categories that were exempt — low-income, senior citizen, and fourplex. If these trends continued, a Superior Court judge estimated, the city would be 2,350 units behind its regional fair-share housing requirements by 1996.

In 1994, after years of legal wrangling, the Fourth District Court of Appeal in San Diego struck down Proposition A, saying that Proposition A violated a combination of three important provisions in state planning and housing law: Government Code §65008, which prohibits housing discrimination; Government Code §65913.1, which requires cities to zone sufficient land for affordable housing; and Government Code §65915, the state's density bonus law. (*Building Industry Association v. City of Oceanside*, 27 Ca.App.4th 744, 33 Cal.Rptr.2d 137.)

Rather than retool Proposition A and take it back for another vote, the city ceased to implement it. By that time a recession had cut housing construction, and all of the Del Oro Hills project had worked its way through the Proposition A approval process.

10-2. Urban Growth Boundaries

10-2-1. Contra Costa County, Measure C

Most urban growth boundaries adopted by ballot initiative have actually contained the boundaries in the initiative. But in Contra Costa County, voters in 1990 approved an urban growth boundary measure that did not specify precise boundaries. Rather, the measure directed

the county Board of Supervisors to create an “urban limit line” and also to designate no more than 35% of the county’s land area for urban development. (This is approximately 168,000 acres of land.) Most of the implementation of these directives was left up to the county. This was perhaps not surprising, as Measure C was the county’s alternative to a more restrictive growth-control measure placed on the ballot by environmentalists. (The environmental alternative was defeated.)

Measure C dictated the future land use policy in three ways. First, the initiative stated that in setting aside only some lands for urban development, the county should take into account a variety of factors, including soil quality, steeply sloping land and wetlands, open space and parks, and other areas that do not have urban services. Second, the initiative directed the county to map urban and non-urban lands. And third, the initiative created a process for modifying the Urban Limit Line (ULL), including a mandate that the 65/35 ratio not be violated and that the Board of Supervisors approve the proposal by a supermajority. The initiative also laid out seven potential findings, of which the county must make at least one to change the Urban Limit Line. These findings included a disaster or emergency; a study revealing that the ULL restricts the county’s ability to provide affordable housing; and changed circumstances.

The county embarked on a General Plan update to implement Measure C, which was adopted in 1991. However, the plan did not draw an urban limit line with only 35% of the land located inside it. Rather, the plan drew a more expansive boundary that included about 46% of the land in the county (219,000 acres out of 480,000), specifying that only 35% of it could ever be developed. County analyses concluded that 144,000 acres of land inside the line was urbanized and 75,000 was not, meaning that approximately one-third of the undeveloped land inside the boundary — 24,000 acres — could be developed before the county hit its 35% maximum.

However, the county initiative could not control the actions of the cities and the Local Agency Formation Commission, which establishes a city’s “sphere of influence” (presumed ultimate development) boundaries. Cities are not bound by a county initiative; and the LAFCO is a creature of state law and not subject to local ordinances or regulations of any kind.

Until 1999, few changes were made to the Urban Limit Line. At that time, however, the county initiated an effort to reduce the Urban Limit Line by approximately 14,000 acres. This land included most of the controversial Tassajara Valley in the western part of the county as well as large chunks of land in the eastern part of the county near the fast-growing cities of Brentwood and Antioch. In 1999, the county declared that circumstances had changed — especially traffic congestion — in such a way that a reduction in the Urban Limit Line was merited.

After preparing an extensive environmental impact report that did a good job of reviewing and analyzing the county’s land assets, the county Board of Supervisors approved the ULL change in 2000. At the same time, the county LAFCO — then chaired by Supervisor Donna Gerber, an opponent of the Tassajara Valley project and a leader of the movement to shrink the ULL — adopted a formal policy saying that its sphere of influence decisions would honor the county’s ULL.

These actions, however, did not sit well with the east county cities, especially Brentwood, which has been the fastest-growing city in the state in the last few years. Among other things,

Brentwood's sphere of influence as approved by the LAFCO extends eastward beyond the county's "newly shrunken" ULL. In late 2000, Brentwood, San Ramon, and three landowners sued the county.⁷ Measure C left most major decisions in the hands of elected officials and created mechanisms to account for the sophisticated tradeoffs that must be made in land-use decisionmaking. But it did not account for the fact that cities often have their own agendas and are sometimes at least partly outside the county's power.

10-3. Infrastructure

10-3-1. Measure Y, Control Traffic Initiative, El Dorado County

The politics of development might be more polarized in the Sierra Nevada foothills than anywhere else in California, and Western El Dorado County has been a center of conflict. In November 1998, county voters approved the Control Traffic Initiative, which had the apparently simple premise of requiring the county to prohibit development when roads became overly congested.

However, more than three years after 60% of El Dorado County voters backed Measure Y, county officials were still wrestling with how to implement the initiative. This failure to implement voter-approved growth policies is indicative of how difficult it is for El Dorado County civic leaders and activists to reach consensus on anything related to development.

El Dorado County stretches from the rolling grasslands of the Sacramento Valley over the crest of the Sierra Nevada Mountains to Lake Tahoe. The first discovery of gold in California occurred along the south fork of the America River in El Dorado County in 1848. Soon after, the region became known as the Motherlode, and mining of gold and other materials on a large scale continued into the middle of the 20th century. Logging of national forests and private property was another major activity in the region and continues to this day in El Dorado County.

During the 1960s and 1970s, El Dorado County and other counties in the Sierra foothills began attracting retirees from urban areas, as well as people who wanted to "get back to the land." During this time, the western portions of El Dorado, Placer and Nevada counties all began sprouting huge subdivisions marketed toward retirees and people who wanted a weekend home in a rural area. The counties also allowed extensive development of 3- to 10-acre ranchettes with little infrastructure.

During the 1980s, development pressure from Sacramento stretched along the Interstate 80 and Highway 50 corridors and into the foothills. Along I-80, the Placer County cities of Roseville and Rocklin, and unincorporated communities such as Granite Bay willingly accommodated growth and transformed into suburbs. Many Placer County growth battles were fought farther "up the hill" in and around the City of Auburn. Nevada County does not border Sacramento County and has no freeway link with the capital area, so growth pressure there was less intense.

⁷ The county prevailed in the Superior Court and two of the landowners appealed the decision. As of this writing the appeal is still pending.

El Dorado County, meanwhile, felt pressure from rapid growth in eastern Sacramento County along Highway 50. Significantly, the City of Folsom, just across the Sacramento County line from El Dorado County, grew at 5% to 10% annually beginning in the 1980s and reached a population of 51,000 by 2000. Folsom also became a center of commerce, with an Intel campus that employs several thousand people, a large factory outlet center and an auto mall. This growth in the Sacramento metro area made western El Dorado County appealing as a bedroom community. Because Placerville was, and is, the only incorporated city in western El Dorado County, the County Board of Supervisors made most growth decisions.

In 1989, the county began a torturous general plan update process that lasted 6 1/2 years. A draft plan released in 1992 appeared to allow continued growth. But as the makeup of the Board of Supervisors changed, the plan flipped to a slow-growth document in 1994 — and then back to a pro-growth scheme by the time of its adoption in 1996. Environmentalists sued over the general plan's environmental impact report and won in Superior Court in 1999.

Environmentalists and neighborhood activists also took to the ballot box. In 1996, voters rejected by a 51-49 ratio an initiative that would have required developers to prove they had a water supply for their project, set aside 25% of the county's water for nonresidential uses, and prevented approval of tract maps if traffic circulation fell below a certain level of service.

Two years later, slow-growth forces achieved success with Measure Y, a general plan amendment that focused solely on traffic. Measure Y supporters argued that developers were not providing adequate roads and that county residents were subsidizing the road improvements that were made. Under the Control Traffic Initiative, the county may not approve tentative subdivision maps if traffic falls below a certain level of service. The initiative also requires voter approval before the county can spend tax revenue to enlarge roads to serve new development. Development interests filed a lawsuit but have gotten nowhere in court.

Although the initiative's concepts were simple, county officials quickly encountered a number of complexities. The first major issue was handling the "latent demand." Entitlements for about 20,000 unbuilt dwelling units existed when voters approved Measure Y. County officials decided those projects were exempt from Measure Y, a decision that meant future developers would carry an even larger share of transportation costs.

Backers of Measure Y argued that when roads reached a certain level of congestion, the county would have to shut off development. But county officials said growth could continue if roads were expanded. This argument carried into the general plan growth forecasting process. Eventually, the county decided to prepare a forecast without Measure Y as part of the equation. This year, the county plans to do traffic modeling based on that growth forecast. After the traffic modeling is complete, county officials will look for indicators that trigger Measure Y restrictions.

Among the policy questions county officials expect to confront during the next year are how much to increase road impact fees, and whether to allow significant road building in rural areas.

Compounding the issues is Highway 50, which has become the bane of many El Dorado County residents. At commute hours, motorists jam the freeway for miles in El Dorado County and into Sacramento County. This spring, Caltrans is scheduled to complete a new carpool lane in each

direction from the community of El Dorado Hills well into Sacramento County. Still, many people expect Highway 50 congestion will continue, especially east of El Dorado Hills, where the freeway remains two lanes in each direction. Measure Y backers argue that freeway congestion requires the county to halt development. But county officials question whether Highway 50 congestion can be a factor in Measure Y considerations because the county has very little control over the freeway.

County officials hope to complete a general plan update — which will contain Measure Y implementation measures — by early 2003. But officials expect a lawsuit no matter what they decide.

10-4. Subsequent Voter Approval Requirements

10-4-1. SOAR Initiative, Ventura (San Buenaventura)

Since 1998, Ventura County has become nationally famous for the so-called “SOAR initiatives,” a series of ballot measures, adopted mostly in 1998, which cemented the county’s existing urban growth boundaries and subjected future changes to voter approval. However, the original SOAR initiative was adopted by voters in the City of Ventura (San Buenaventura) in 1995. The first test of the initiative — an election on whether to permit urbanization of agricultural land owned by a church — came four years later.

Ventura is a mostly middle-class county seat of approximately 100,000 people, stretching inland almost 10 miles from a narrow strip of land along the Pacific Ocean. Like many communities that grew quickly in the postwar era, Ventura experienced much leapfrog development, with subdivisions leaping over agricultural land to distant locations. Although some backfill occurred, even in the 1990s the eastern part of the city was characterized by a patchwork of subdivisions and agricultural land. The city’s 1989 Comprehensive Plan designated all these parcels for agricultural use until 2010. They were retained in the city’s sphere of influence, with expected annexation.

In 1995, a controversy over the possible development of one of these parcels stimulated the original SOAR initiative. The city and a developer were discussing the possibility of swapping agricultural land owned by the city for agricultural land owned by a developer. The developer’s land would be used for a city park, and the city’s land would be used by the developer to build housing.

Residents of a neighborhood adjacent to the city-owned agricultural land protested and placed a measure on the ballot to subject development of the neighboring property to a vote. This effort occurred shortly after the California Supreme Court had upheld the constitutionality of requiring voter approval for general plan amendments in *De Vita v. County of Napa*, (1995) 9 Cal. 4th 763. The initiative’s drafters borrowed heavily from the Napa County ordinance. Although the “SOAR” appellation later stood for “Save Open-space and Agricultural Resources,” the 1995 acronym in Ventura stood for “Save Our Agricultural Resources”.

Unlike the later SOAR initiatives in other cities, which essentially established urban growth boundaries, Measure I in Ventura proposed freezing the patchwork of agricultural land in place unless voters approved a change. The measure required voter approval to change the land use designation on any parcel designated in the 1989 Comprehensive Plan for agriculture. The measure created a 2030 sunset clause for this requirement.

Agricultural landowners mounted a vigorous campaign against the initiative. Unlike the 1998 initiatives, all of which received at least 65% of the vote, the 1995 Ventura initiative won narrowly, with only 52.2% of the vote. Landowners later mounted a major legal challenge, but it failed on all counts.

The first test of this “subsequent voter approval” requirement came four years later, one year after all the other SOAR measures in the county had passed. The First Assembly of God Church, which had purchased 25 acres of agricultural land some years before in hopes of building a new church, placed a measure on the ballot seeking voter approval to remove the agricultural designation in the Comprehensive Plan. At the time of the vote, the property was leased to a flower grower. The property was located adjacent to a leapfrog subdivision and had been passed over for development previously. It was surrounded on two sides by development and on the other two sides by other small agricultural parcels.

Although Ventura residents popularly believed they were deciding whether to approve a church, neither the Comprehensive Plan nor the zoning ordinance contain a “church” designation or use district. Rather, churches are permitted uses in a variety of zones. So Measure C in November of 1999 actually called for a re-designation of the Comprehensive Plan Land Use Designation from agriculture to single-family residential, and for a rezoning of the property from agriculture to R-1-1AC, which permitted one-acre lots. This was the lowest density designation available to the church, and it was extremely unlikely that one-acre parcels would be economically viable in that location. Measure C also stipulated that the land use designation and the zoning could not be altered again in the future without a vote. During the campaign, the church also committed itself to placing a deed covenant on the property prohibiting residential development. Measure C won with 54.6% of the vote.

The subsequent voter approval requirement did not circumvent the existing planning processes entirely. Even with appropriate Comprehensive Plan and zoning designations, the church must still go through the discretionary review process and review by the Planning Commission. (It has been a matter of some debate in all the SOAR cities as to whether landowners should go to the ballot first and get planning approval later or vice-versa.) However, given the existing piecemeal parcelization of agricultural land and the patchwork of urban land and farms, Ventura planners are faced with a difficult implementation challenge in this case and others that may follow. The church property stands amidst developed areas, but is adjacent to other agricultural land. There is no way of knowing, at this point, whether the adjacent land will ever be developed; so it is difficult to envision how to integrate the eventual land uses.

10-4-2. Proposition S, City of Escondido

Whereas the Ventura example provides a good illustration of a subsequent voter approval requirement for agricultural land, the case of Proposition S provides an excellent case study of a subsequent voter approval requirement for changing uses or increasing densities on land already designated for urban use.

Escondido is a suburban city along Interstate 15 in the inland portion of northern San Diego County, an area that has been a hotbed of ballot activity for decades. The city began to experience rapid growth in the 1980s. Between 1980 and 1990, the city's population grew by 58%, from 68,000 to 108,000. The housing stock grew by 55%, from 27,000 to 42,000 units. Based largely on the growth trends of the 1980s, Escondido adopted a comprehensively revised general plan in 1990 that anticipated a buildout population of approximately 150,000. This general plan envisioned a housing buildout of approximately 61,500 units — an increase of approximately 19,500, or almost 50%, from the 1990 figure.

The actual growth trends of the 1990s were very different, however. Population grew to 133,000, an increase of only 23%. The housing stock grew by only 3,000 units, to 45,000 — an increase of only 7%. Furthermore, demographic change was dramatic. The white population went down in numerical terms, while Hispanics doubled in number. The 2000 Census showed the white population at 51% and the Hispanic population at 38%. Similarly, housing production slowed considerably during the 1990s.

Despite these altered growth patterns, citizen unrest with growth grew during the 1990s. More than 30 different projects required general plan amendments between 1991 and 1997. Ironically, the net result of all these amendments was a decrease in the buildout scenario of approximately 1,800 units, most of which came from the city's purchase of Daley Ranch, a 3,000-acre property, as part of the area's endangered species protection program. Excluding Daley Ranch, all the general plan amendments during the 1990s essentially produced a "wash" in the housing buildout.

In addition, the city's demographic change altered the buildout scenario. The 1990 General Plan anticipated a household size of less than 2.5 persons per housing unit. By 2000, however, the actual household size was approximately 3 persons per housing unit. This forced the city to recalculate its buildout to approximately 180,000 residents, and switch from a buildout based on population to one based on housing.

As Escondido grew as a bedroom suburb, city officials also began to contemplate the use of more land in the city for industrial use rather than residential, in order to stimulate the creation of local jobs.

Nevertheless, in 1998 a citizen initiative was placed on the ballot which called for a subsequent voter approval requirement on certain general plan amendments. Proposition S required a public vote for any General Plan Amendment (or creation of a new Specific Plan Area) if it involved:

1. An increase in the residential densities permitted by law.
2. A change, alteration, or increase in the general plan's residential land use categories.

3. A change of the land use designation of any property from residential to industrial or commercial.

In essence, Proposition S asked voters to reaffirm the 1990 General Plan and subject any significant land use changes to a vote. Proposition S passed easily, with approximately 60% of the vote.

Subsequent to the passage of Proposition S, the city attempted to assess interest among property owners in changing land use designations. A total of 16 different landowners came forward with proposals to alter their land use designations. These properties were all over the city, and ranged from undeveloped property in low-density residential areas to property in or close to the existing developed area. Some called for increases in residential densities and some called for a redesignation of their land from residential to commercial or industrial. The 16 land use amendments combined would have altered the buildout of those parcels from 751 dwelling units to 1559 dwelling units and 155,000 square feet of commercial and industrial space.

Of those 16 land use amendments, half dropped out of the process, as the landowners chose to move forward under the existing land use designation contained in the General Plan. The remaining eight were all approved by the City Council and forwarded to the voters in November of 2000, appearing as separate ballot measures. The eight measures total involved slightly over 100 acres of land; six of the measures dealt with parcels smaller than eight acres. Four of the measures called for increasing densities on residential parcels; together they called for General Plan Amendments increasing the number of allowed residences on the four parcels from 146 to 284. Three of the measures called for re-designating residential land for light industrial use; the last would have re-designated residential land to commercial use. All four of the residential re-designations involved parcels that were six acres or less in size.

All eight measures failed. Three of the four residential density increases were defeated with more than 70% of the voters casting “no” ballots; on the fourth, voters defeated the proposal with 67% of the vote. The three rezonings to light industrial were defeated with between 60% and 65% of the vote. The only measure that came close to succeeding was the parcel that would have been switched from residential to commercial — a proposal in which the landowner had sweetened the pot by committing some proceeds from his development to benefit the local YMCA. That measure was defeated with approximately 52% of the vote.

Local planners say that the rash of ballot measures in 2000 was likely a one-time event. They say landowners are now reluctant to move forward with any proposal that would trigger a Proposition S vote, and instead work to stay within the confines of the 1990 General Plan. Eventually, the General Plan will probably have to be subject to wholesale revision. For example, the city will have to revise its Housing Element in 2004. At that point, if any proposed changes trigger Proposition S, the city will be faced with the question of whether to place the General Plan revision on the ballot in its entirety or place individual changes on the ballot as separate measures.

11. CONCLUSION

Over the past 20 years, California citizens -- and, on occasion, their elected officials as well -- have increasingly gone to the ballot box in order to introduce and alter growth management policies. These instances of "ballot-box" zoning have become so common that they are often viewed as primary drivers of land-use policy in the state.

In fact, a minority of cities and counties use ballot-box growth management on a regular basis, and these communities are concentrated in the coastal areas of the Bay Area and Southern California. In many ways, these communities represent a distinctive sub-set of California communities -- those that have developed a particular culture of ballot-box planning.

The growth management tools proposed to and approved by voters are no different than the tools adopted by elected officials. They follow the familiar typology of housing and population caps, urban growth boundaries and infrastructure adequacy requirements, growth management elements, and up- and down-zoning. The only difference is the frequent use of subsequent voter approval requirements.

The major issue is implementation. City and county officials are left to interpret and implement land-use policies crafted by citizen activists and approved by voters. These implementation issues cover a broad range of issues as well. But generally speaking, voter-approved growth management techniques make it more difficult for local officials to examine the broad-ranging impacts of development proposals. Housing and population caps, for example, may be imposed by voters outside of a broad-based planning process that considers a community's overall demand and need. Urban growth boundaries may be imposed with little or no analysis of available land supply or demand for urbanization. (Of course, UGBs might also encourage or force different development patterns; but typically these new patterns do not occur as the result of analytical examination at the time of the election.) Downzoning measures may actually encourage sprawl by spreading development out over a broader area. And subsequent voter approval requirements often encourage voters to consider projects one at a time with little consideration for a community's or a region's overall growth pattern.

Despite these challenges, there is little doubt that growth management at the ballot box is a permanent part of the California scene. Although it has not migrated to inland jurisdictions in a significant way yet, it may still, especially as growth pressures mount in inland areas. By explaining the patterns and challenges, we hope this report has helped to highlight the issues and better prepare both citizen activists and local officials for the day when growth management measures appear on the ballot.

Appendix A: Bibliography

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Appendix B: Articles from California Planning & Development Report

(Available in the archives at WWW.CP-DR.COM)

Ballot Initiatives

1. Slow Growthers Gain Mixed Results on November Ballot: Number of Ballot Measures Remains Low. Vol. 10, No. 12 — Dec 1995, p1.
2. Election Brings Modest Gains for Slow-Growthers: Number of Local Ballot Measures On the Rise. Vol 11, No. 4 — April 1996, p1.
3. Growth Measures Make a Comeback on November Ballot: 40 Measures Appear On Local Ballots. Vol. 11, No. 12 — Dec 1996, p1.
4. Slow-Growthers Do Well in November Voting: Only 12 Issues On Local Ballots Around State. Vol. 12, No. 12 — Dec 1997, p1.
5. Election Activity Focuses on Bay Area: Only One Measure On Ballot In Southern California. Vol. 13, No. 7 — July 1998, p1.
6. Farmers Support Anti-Sprawl Measures. Vol. 13, No. 8 — Aug 1998, p2.
7. Local Ballots Will Contain Many Land-Use Measures: Ventura, San Diego Will Be Hotly Contested Counties. Vol. 13, No. 9 — Sept 1998, p1.
8. Growth Results Mixed in November Balloting: Ventura Slow-Growthers Succeed, But Others Fail. Vol. 13, No. 12 — Dec 1998, p1.
9. Growth Initiatives Grow In Number: Measures Head For Ballot This November, Next Year. Vol. 14, No. 9 — Sept 1999, p1.
10. Growth-Control Initiatives Receive Mixed Reception In Off-Year Election: Voters Defeat East Bay CAPP, But Development Fight Continues. Vol. 14, No. 12 — Dec 1999, p1.
11. Slow-Growth County Takes On Housing Officials: Santa Cruz Supervisors Reject Negotiated Housing Element. Vol. 14, No. 12 — Dec 1999, p1.
12. Local Slow-Growth Measures Fare Poorly in March Balloting. Vol. 15, No. 4 — April 2000, p1.
13. Stanislaus County Considers Growth Initiatives, Salida Development Plan. Vol. 15, No. 5 — May 2000, p4.
14. Slow-Growth Ballot Measure Influences UCD Planning. Vol. 15, No. 8 — Aug 2000 p6.
15. Land-Use Initiatives Fill Ballots: Voters SOAR Over Planning Process, Could CAPP Urban Growth. Vol. 15, No. 10 — Oct 2000, p1.
16. Voters No Longer SOARing; Density Could Be The Next Ballot Fight. Vol. 15, No. 12 — Dec 2000, p1.
17. Slow-Growth Politics Gain In Fast-Growing Temecula. Vol. 16, No. 2 — Feb 2001, p4.

Urban Growth Boundaries/Limit Lines

18. San Jose Approves 'Greenline' Around City: New City Will Work With County On Growth Boundary. Vol. 11, No. 5 — May 1996, p1.
19. Bay Area Cities Begin Dealing With Urban Growth Boundaries: Activity Centers Around Sonoma, Santa Clara Counties. Vol. 12, No. 1 — Jan 1997, p1.
20. Rapidly Growing Contra Costa Considers Tighter Urban Limit Line: New Regional Planning Efforts Stretch From Bay Area To Valley. Vol. 14, No. 4 — April 1999, p1.
21. Growth Borders Start Taking Hold In Central Valley: Stanislaus County Voters Could Decide UGB Initiatives This Year. Vol. 15, No. 1 — Jan 2000, p1.
22. Sacramento County Attempts To Hold The Line On Urban Growth. Vol. 15, No. 7 — July 2000, p4.

Miscellaneous

23. Most Cities Aren't Revising Growth Control Policies: Oceanside Case Has Little Impact So Far. Vol. 10, No. 6 — June 1995, p1.
24. Ventura County to Revisit Growth Guidelines. Vol. 10, No. 11 — Nov 1995, p2.
25. BIA, Ag Advocates Agree on Compact Growth in Fresno: Farm Bureau, Chamber Also Sign Letter On Higher Densities. Vol. 11, No. 8 — Aug 1996, p1.
26. Modesto Waffles on Enforcing New Planning Restrictions. Vol. 13, No. 1 — Jan 1998, p2.
27. Davis Administration May Deal With Growth Issues: Appointments, Budget Suggest Direction. Vol. 14, No. 2 — Feb 1999, p1.
28. City May Halt Water Hookups For Unincorporated Area. Vol.14, No. 6 — June 1999, p8.
29. Housing Bills Receive Broad Support: More Than 100 Land-Use Bills Alive In State Legislature. Vol. 15, No. 4 — April 2000, p1.
30. Housing Caps: A Growth Control Mechanism That Won't Go Away. Vol. 16, No. 3 — Mar 2001, p1.