

## 3 Regional Housing Constraints Analysis

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Actual or potential constraints to the provision of housing affect the development of new housing and the maintenance of existing units for all income levels. State housing element law requires cities and counties to review both governmental and non-governmental constraints to the maintenance and production of housing for all income levels. Since local governmental actions can restrict the development and increase the cost of housing, state law requires the housing element to “address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing” (Government Code Section 65583(c)(3)). The housing element must also analyze potential and actual constraints upon the development, maintenance, and improvement of housing for persons with disabilities.

Non-governmental constraints are not specific to each community and are described in this section at the regional level. Governmental constraints, on the other hand, are specific to each local government and are described only generally in this section. The appendices contain a more detailed governmental constraints analysis for each local government.

### 3.1 Non-Governmental Constraints

The availability and cost of housing is strongly influenced by market forces over which local governments have little or no control. Nonetheless, state law requires that the housing element contain a general assessment of these constraints, which can serve as the basis for actions to offset their effects. The primary non-governmental constraints to the development of new housing are land costs, construction costs, and availability of financing. This section also addresses environmental constraints that might affect housing development.

#### 3.1.1 Land Costs

The cost of land can be a major impediment to the production of affordable housing. Land costs are influenced by many variables, including land scarcity and developable density (both of which are indirectly controlled through governmental land use regulations), location, site constraints, and the availability of public utilities. As shown in Table 3-1 and Table 3-2 larger sites (over 10 acres) have a much lower cost-per-acre in both the cities and unincorporated areas.

Table 3-1 summarizes land prices for properties available for sale in August 2023. Data indicates that the price per acre for small parcels in incorporated areas is significantly higher than large parcels in both incorporated and unincorporated areas. Small parcels range from 0.06 acres to 9.7 acres and have an average listed price of \$620,389.39 per acre in incorporated areas and \$209,575.81 per acre in unincorporated areas. Large parcels range from 11.8 to 1,000.2 acres and have an average listed price per acre of \$313,157.89 in incorporated areas and \$119,282.49 in unincorporated areas. The average list price for small and large parcels is \$598,444.28 per acre in incorporated areas and \$119,282.49 in unincorporated areas.

**Table 3-1 Listed Land Prices – Merced County**

Lot Size	Average Price Per Acre (Listed)	
	Incorporated	Unincorporated
Less than 10 acres	\$620,389.39	\$209,575.81
10 or more acres	\$313,157.89	\$57,011.23
Average \$/acre	\$598,444.28	\$119,282.49

Source: Zillow, Inc., 2023.

Table 3-2 includes the average prices paid for land per acre in the county in 2022. Average prices for land sold were less for both small parcels and for large parcels when compared to prices for currently listed land. Small parcels range from 0.1 acres to 8.0 acres and have an average sale price of \$459,598 per acre in incorporated areas and \$369,403.24 in unincorporated areas. Large parcels range from 11.8 to 79.6 acres and have an average sale price of \$44,526.60 per acre in unincorporated areas. No land over 10 acres in size has been sold in incorporated areas of the county in the year 2022. The average list price for all parcels combined is \$459,598.50 per acre in incorporated areas and \$241,739.75 in unincorporated areas.

**Table 3-2 Sold Land Prices – Merced County**

Lot Size	Average Price Per Acre (Sold)	
	Incorporated	Unincorporated
Less than 10 acres	\$459,598.50	\$369,403.24
10 or more acres	No Available Data	\$44,526.60
Average \$/acre	\$459,598.50	\$241,739.75

Source: Zillow, Inc., June 2023.

### 3.1.2 Construction Costs

Construction costs can be broken down into two primary categories: materials and labor. A major component of the cost of housing is the cost of building materials, including wood and wood-based products, cement, asphalt, roofing materials, and pipe. The availability and demand for such materials affect prices for these goods.

Another major cost component of new housing is labor. The cost of labor in Merced County is comparatively low because the area’s cost of living is relatively low compared to other areas in California. However, labor for government subsidized housing work is costly for the Central Valley, as wages are rooted in the required state labor standards based on higher northern and southern California prevailing wages.

Based on recent affordable multi-family projects, the cost of construction in the county is estimated to be between \$400,000 and \$675,000 per unit.<sup>1</sup> This estimate includes direct and indirect (e.g., insurance, permits, utilities, plans) construction costs, including material, labor, and equipment costs, the price of land, development impact fees, and administrative costs.

<sup>1</sup> Central Valley Voice, City of Merced Affordable Housing Project Update, October 1, 2022, <https://centralvalleyvoice.com/2023/02/22/city-of-merced-affordable-housing-project-update/>. Accessed June 2023.

Table 3-3 shows the estimated cost of constructing a basic 1,500 square foot single family home to be \$300,252.19 in incorporated areas of the county and \$243,977.58 in unincorporated areas. This estimate includes construction costs such as materials, labor, and equipment costs, but does not include the price of land, development impact fees, administrative costs, or developer profit.

**Table 3-3 Estimated Construction Cost**

Item	Cost	
	Incorporated	Unincorporated
Material <sup>1</sup>	\$180,151.32	\$146,386.55
Labor <sup>2</sup>	\$114,095.83	\$92,711.48
Equipment <sup>3</sup>	\$6,005.04	\$4,879.55
<b>Total</b>	<b>\$300,252.19</b>	<b>\$243,977.58</b>

Notes: Based on average costs of lots and units sold in 2022 and 2023. Typical 6,000 sq. ft. residential lot and 1,500 sq. ft. single-family unit; assumed 20 percent administrative costs and developer profit (margin).

<sup>1</sup>: Calculated as 60 percent of cost after removing 20 percent margin.

<sup>2</sup>: Calculated as 38 percent of cost after removing 20 percent margin.

<sup>3</sup>: Calculated as two percent of cost after removing 20 percent margin.

Source: Zillow, Inc, June 2023; Mintier Harnish., 2023.

There is little that municipalities can do to mitigate the impacts of high construction costs except by avoiding local amendments to uniform building codes that unnecessarily increase construction costs without significantly adding to health, safety, or construction quality.

### 3.1.3 Availability of Financing

Financing for affordable housing projects and programs are available through federal, state, and local funding sources. Funding through these programs can help developers, local governments, and non-profit organizations offset the cost to build new affordable housing units, preserve or rehabilitate existing affordable housing, and fund programs that offer homebuyer assistance to low-income households.

Mortgage interest rates have a large influence over housing affordability. Higher interest rates increase a homebuyer’s monthly payment and decrease the range of housing that a household can afford. Lower interest rates result in a lower cost and lower monthly payments for the homebuyer. As shown in Figure 3-1, in the past 10 years mortgage rates across the United States remained relatively steady (between 3.5 and 4.8 percent through 2019, then dropped below three percent between 2020 and 2021). During 2022, mortgage rates increased significantly, reaching a high of 7.08 percent for a 30-year fixed-rate mortgage at the end of 2022. As shown in Figure 3-1 below, in 2023, mortgage rates started to decline slightly, but have since rebounded, making it difficult for households to purchase a home.

When interest rates rise, the market typically compensates by decreasing housing prices. Similarly, when interest rates decrease, housing prices begin to rise. There is often a lag in the market, causing housing prices to remain high when interest rates rise until the market catches up. Lower-income households often find it most difficult to purchase a home during this period.

**Figure 3-1 Historical Mortgage Rates in the United States (2013-2023)**



Source: Freddie Mac Primary Mortgage Market Survey.

Interest rates are determined by national policies and economic conditions and there is little that a local government can do to affect these rates. However, to extend homebuying opportunities to lower-income households, jurisdictions can offer interest rate write-downs. Additionally, government insured loan programs may be available to reduce mortgage down payment requirements.

High interest rates can also affect the cost of development. Where financing is available, construction capital seems to be directed at the best transactions—those with large, established, and well-capitalized sponsors. Given recent trends of increasing interest rates, the availability of financing is likely to be more of a constraint on new housing construction during this Housing Element planning period than it has been in the recent past.

### **Mortgage and Rehabilitation Financing**

In 2022, the most recent data set available for the County of Merced, shows that 10,760 households applied for a home financing loan which includes loans for home purchase, home improvement, and refinancing. Table 3-4 shows that of the total applications received for home purchase, 47.7 percent of the loans originated while 15.7 percent were denied. The term “Loan Origination” refers to the entire process of receiving a mortgage for a home purchase, including all steps from the loan application to the dispersal of funds. A loan becomes originated once all purchase loan documents have been completed in full and funds are approved to be dispersed.

**Table 3-4 Loan Purpose and Action Taken**

Loan Action	Home Purchase (% of total)	Home Improvement (% of total)	Refinancing (% of total)	Other (% of total)	Total (% of total)
Loan Originated	2,700 (25.1%)	258 (2.4%)	526 (4.9%)	1,651 (15.3%)	5,135 (47.7%)
Application Approved but not Accepted	160 (1.5%)	24 (0.2%)	43 (0.4%)	101 (0.9%)	328 (3.0%)
Application Denied	325 (3.0%)	266 (2.5%)	232 (2.2%)	861 (8.0%)	1,684 (15.7%)
Application Withdrawn	707 (6.6%)	58 (0.5%)	294 (2.7%)	689 (6.4%)	1,748 (16.2%)
Purchased Loan	840 (7.8%)	9 (0.1%)	82 (0.8%)	252 (2.3%)	1,183 (11.0%)
Other	133 (1.2%)	56 (0.5%)	137 (1.3%)	356 (3.3%)	682 (6.3%)
<b>Total Loans</b>	<b>4,865 (45.2%)</b>	<b>671 (6.2%)</b>	<b>1,314 (12.2%)</b>	<b>3,910 (36.3%)</b>	<b>10,760 (100.00%)</b>

Source: FFIEC Home Mortgage Disclosure Act. 2022 Dataset

Conventional loans are made by the private sector (banks, mortgage companies, etc.) and are not guaranteed or insured by the U.S. government. Conversely, government-backed loans, such as those issued by the Federal Housing Administration (FHA), Department of Veterans Affairs (VA), and the Rural Housing Services/Farm Service Agency (RHA/FSA), are completely or partially insured by the U.S. government. Within the County 8,028 of the applications received were for conventional loans and 2,732 were for government backed loans. Table 3-5 shows that 37 percent of the conventional loans originated, and 12.6 percent of the applications were denied. The table also shows that 10.7 percent of the government backed loans originated and 3.1 percent of the applications were denied.

County data shows that the white racial group has the highest amount of loans originated (2,819). The white racial group also had the highest percentage of loans originated (55.1 percent) when looking at the total of loans received within each racial group's share of applications received. Within ethnic groups, Hispanic or Latino made up 37.2 percent of the total applications of loans received while Non-Hispanic or Latino made up 31.6 percent. Of the share of Hispanic or Latino ethnicity that applied, 53.0 percent of loans originated and 17.7 percent were denied. Of the Non-Hispanic or Latinos that applied, 53.1 percent of loans originated and 16.7 percent were denied.

**Table 3-5 Loan Action and Loan Type**

Loan Type	Conventional Loan	Government Backed Loan
Loan Originated	3,979 (37.0%)	1,156 (10.7%)
Application Approved but not Accepted	237 (2.2%)	91 (0.8%)
Application Denied	1,355 (12.6%)	329 (3.1%)
Application Withdrawn	1,281 (11.9%)	467 (4.3%)
Other	1,176 (10.9%)	689 (6.4%)
<b>Total Loans</b>	<b>8,028 (74.6%)</b>	<b>2,732 (25.4%)</b>

Source: FFIEC Home Mortgage Disclosure Act. 2022 Dataset

**Table 3-6 Race and Loan Action**

Racial Group	Loan Originated	Application Approved but Not Accepted	Application Denied	Application Withdrawn	Purchased Loan	Other	Total
2 or more Minority Races	9 (39.1%)	1	9 (39.1%)	2	1	1	23
American Indian or Alaska Native	44 (37.9%)	4	36 (31.0%)	15	3	14	116
Asian	596 (54.6%)	31	172 (15.8%)	201	52	40	1,092
Black or African American	116 (49.4%)	8	51 (21.7%)	46	1	13	235
Native Hawaiian or Other Pacific Islander	34 (45.3%)	0	19 (25.3%)	19	0	3	75
White	2,819 (55.1%)	161	814 (15.9%)	898	69	351	5,112
Other	1,517 (36.1%)	123	583 (14.2%)	567	1,057	260	4,107

Source: FFIEC Home Mortgage Disclosure Act. 2022 Dataset

**Table 3-7 Ethnicity and Loan Action**

Ethnicity	Loan Originated	Application Approved but Not Accepted	Application Denied	Application Withdrawn	Purchased Loan	Other	Total
Hispanic or Latino	2,122 (53.0%)	133	707 (17.7%)	695	48	297	4,002
Not Hispanic or Latino	1,806 (53.1%)	102	568 (16.7%)	635	82	205	3,398
Joint	209 (59.9%)	15	41 (11.7%)	52	9	23	349
Ethnicity not Available	996 (33.1%)	78	367 (12.2%)	366	1,044	157	3,008

Source: FFIEC Home Mortgage Disclosure Act. 2022 Dataset

## 3.2 Governmental Constraints

City policies and regulations can impact the feasibility and cost of housing development. Policies and regulatory actions include land use controls, development standards, site improvement requirements, building codes, and development fees. The following section describes these governmental constraints.

### 3.2.1 Land Use Controls

Land use controls provided in the general plan and the zoning code influence housing production in several ways. The permitted and conditionally permitted uses in each district guide new development and provide both developers and the public with an understanding of how vacant land will develop in the future. This includes the density of development that will occur within a particular zone, the compatibility of planned uses in each area, and the range and type of buildings and uses that will be located throughout the city or the county.

### 3.2.1.1 *General Plan*

Each city and county in California must prepare a comprehensive, long-term general plan to guide growth and development. The land use element of the general plan must contain land use designations, which establish the basic allowed land uses and density of development for the different ranges and areas within the jurisdiction. Under state law, zoning districts must be consistent with the general plan land use designations. The general plan land use designations must provide suitable locations and densities to accommodate each jurisdiction's regional housing needs allocation (RHNA) and implement the policies of the housing element.

### 3.2.1.2 *Zoning Code*

Land use controls provided in the zoning code influence housing production in several ways. The permitted and conditionally permitted uses in each district guide new development and provide both developers and the public with an understanding of how land will develop in the future. This includes the density of development that will occur within a particular zone, the compatibility of planned uses in a given area, and the range and type of buildings and uses that will be located throughout the jurisdiction.

Local governments regulate the type, location, and scale of residential development primarily through the zoning code. The zoning code implements the general plan. It contains development standards for each zoning district consistent with the land use designations of the general plan.

## 3.2.2 Residential Development Standards

Each jurisdiction's zoning code contains development standards for each zoning district. These standards vary by jurisdiction, but typically include density, parking requirements, lot coverage, height limits, lot size requirements, setbacks, and open space requirements. The Housing Element must analyze whether development standards impede the ability to achieve maximum allowable densities.

### 3.2.2.1 *Parking*

Parking requirements may present a constraint to housing by reducing the amount of available lot areas for residential development. Specific parking constraints within the participating jurisdictions are discussed in their respective Housing Constraints appendices.

### 3.2.2.2 *Open Space and Park Requirements*

Open space and park requirements can decrease the affordability of housing by increasing developer fees and/or decreasing the amount of land available on a proposed site for constructing units. Some jurisdictions require that park space is set aside in new subdivisions, or that developers pay a fee in lieu of providing parks. If such requirements are too onerous or expensive to implement, they can constrain a developer's ability to develop housing.

### 3.2.2.3 *Density Bonus*

A density bonus allows a parcel to accommodate additional residential units beyond the maximum for which the parcel is zoned. California density bonus law (Government Code Section 65915) establishes the following minimum affordability requirements to qualify for a density bonus:

- The project is eligible for a 20 percent density bonus if at least five percent of the units are affordable to very low-income households, or 10 percent of the units are affordable to low-income households.
- The project is eligible to receive a five percent density bonus if 10 percent of for-purchase units are affordable to moderate-income households.

A project can receive additional density based on a sliding scale. A developer can receive the maximum density bonus of 50 percent when the project provides either 15 percent very low-income units, 24 percent low-income units, or 44 percent moderate-income units.

Density bonus law also requires cities and counties to grant a certain number of incentives depending on the percentage of affordable units developed. Incentives include reductions in zoning standards, reductions in development standards, reductions in design requirements, and other reductions in costs for developers. Projects that satisfy the minimum affordable criteria for a density bonus are entitled to one incentive from the local government. Depending on the amount of affordable housing provided, the number of incentives can increase to a maximum of three incentives from the local government. If a project uses less than 50 percent of the permitted density bonus, the local government must provide an additional incentive.

Additionally, density bonus law provides density bonuses to projects that donate land for residential use. The donated land must satisfy all the following requirements:

- The land must have general plan designations and zoning districts that allow for the construction of very low-income affordable units as a minimum of 10 percent of the units in the residential development;
- The land must be a minimum of one acre in size or large enough to allow development of at least 40 units; and
- The land must be served by public facilities and infrastructure.

Density bonus law also imposes statewide parking standards that a jurisdiction must grant upon request from a developer of an affordable housing project that qualifies for a density bonus. These parking standards are summarized in Table 3-8. These numbers are the total number of parking spaces including guest parking and handicapped parking. The developer may request these parking standards even if they do not request the density bonus.

**Table 3-8 Statewide Density Bonus Parking Standards**

Number of Bedrooms	Required On-Street Parking (spaces)
0 to 1 bedroom	1.0
2 to 3 bedrooms	1.5
4 or more bedrooms	2.5

Source: California Government Code, Section 65915.

### 3.2.2.4 On- and Off-Site Improvement Standards

On/off-site improvement standards establish infrastructure or site requirements to support new residential development such as streets, sidewalks, water, sewer, drainage, curbs, and gutters, street signs, park dedications, utility easements, and landscaping. While these improvements are necessary to ensure public health and safety and that new housing meets the local jurisdiction's



development goals, the cost of these requirements can sometimes represent a significant share of the cost of producing new housing.

Although improvement requirements and development fees increase the cost of housing, jurisdictions have little choice in establishing such requirements due to the limitations on property taxes and other revenue sources needed to fund public improvements.

### 3.2.3 Provision of a Variety of Housing Types

State Housing Element Law (Government Code Section 65583(c)(1) and 65583.2(c)) requires that local governments analyze the availability of sites that will facilitate and encourage the development of a variety of types of housing for all income levels, including multi-family rental housing, factory-built housing, mobile homes, housing for farmworkers and employees, emergency shelters, transitional and supportive housing, single-room occupancy (SRO) units, group homes and residential care facilities, and accessory dwelling units.

#### 3.2.3.1 *Manufactured Housing*

Manufactured housing can serve as an alternative form of affordable housing in low-density areas where the development of higher-density multi-family residential units is not allowed or not feasible because of infrastructure constraints. California Government Code Sections 65852.3 and 65852.4 specify that a jurisdiction must allow manufactured homes on a foundation on all “lots zoned for conventional single family residential dwellings.” Permanently sited manufactured homes built to the HUD Code are subject to the same rules as site-built homes, except architectural requirements concerning the manufactured home’s roof overhang, roofing materials, and siding materials may be imposed.

The only two exceptions that local jurisdiction are allowed to make to the manufactured home siting provisions are if: 1) there is more than 10 years difference between the date of manufacture of the manufactured home and the date of the application for the issuance of an installation permit; or 2) if the site is listed on the National Register of Historic Places and regulated by a legislative body pursuant to Government Code Section 37361.

#### 3.2.3.2 *Accessory Dwelling Units*

An accessory dwelling unit (ADU) is an additional self-contained living unit either attached to or detached from the primary residential unit on a single lot. It has cooking, eating, sleeping, and full sanitation facilities. ADUs can be an important source of affordable housing since they can be constructed relatively cheaply and have no associated land costs. They can also provide supplemental income to the homeowner, allowing the elderly to remain in their homes or moderate-income families to afford a home.

To encourage ADUs, state law requires cities and counties to adopt an ordinance authorizing ADUs to be allowed ministerially and by right in any zoning district which allows either single-family or multi-family residential uses. Local governments are precluded from prohibiting ADUs in residentially zoned areas or zones which allow either single-family or multi-family residential uses.

#### 3.2.3.3 *Multi-Family Housing*

Multi-family housing includes duplexes, apartments, condominiums, or townhomes, and is the primary source of affordable housing.

### 3.2.3.4 *Group Homes / Residential Care Facilities*

The Lanterman Developmental Disabilities Services Act (Lanterman Act) sets out the rights and responsibilities of persons with developmental disabilities. A state-authorized, certified, or licensed family care home, foster home, or a group home serving six or fewer disabled persons or dependent and neglected children on a 24-hour-a day basis must be considered a residential use that is permitted in all residential zones. Group homes and residential care facilities with seven or more residents must be allowed by right in all residential zones. .

### 3.2.3.5 *Emergency Shelters*

Emergency shelters are defined as:

“Housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.”

Government Code Section 65583 requires every jurisdiction in California to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use permit or other discretionary permit. To address this requirement, a local government may amend an existing zoning district, establish a new zoning district, or establish an overlay zone. The zone(s) must provide sufficient opportunities for new emergency shelters to meet the homeless need identified in the analysis and must in any case accommodate at least one year-round emergency shelter. Emergency shelters may only be subject to those development and management standards that apply to residential or commercial use within the same zone, except the local government may apply certain objective standards, as follows:

- The maximum number of beds or persons permitted to be served nightly by the facility.
- Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone.
- The size and location of exterior and interior on-site waiting and client intake areas.
- The provision of on-site management.
- The proximity to other emergency shelters if emergency shelters are not required to be more than 300 feet apart.
- The length of stay.
- Lighting.
- Security during hours that the emergency shelter is in operation.

Chapter 654, Statutes of 2022 (AB 2339), adds additional specificity on how cities and counties plan for emergency shelters and ensure sufficient capacity for low-income housing in their housing elements.

### 3.2.3.6 *Low-Barrier Navigation Centers*

Government Code Section 65662 requires that the development of low-barrier navigation centers be allowed as a use by right in zones where mixed uses are allowed or in nonresidential zones that permit multi-family housing. For a navigation center to be considered “low barrier,” its operation

should incorporate best practices to reduce barriers to entry, which may include, but are not limited to, the following:

- Permitting the presence of partners if it is not a population-specific site, such as for survivors of domestic violence or sexual assault, women, or youth.
- Pets.
- Ability to store possessions.
- Providing privacy, such as private rooms or partitions around beds in a dormitory setting or in larger rooms with multiple beds.

### 3.2.3.7 *Transitional and Supportive Housing*

State law requires cities and counties to treat transitional housing and supportive housing as a residential use and allow transitional and supportive housing in all zones that allow residential uses, subject only to those restrictions that apply to other residential uses of the same type in the same zone.

Transitional housing is a type of housing used to facilitate the movement of homeless individuals and families to permanent housing. Residents of transitional housing are usually connected to supportive services designed to assist the homeless in achieving greater economic independence and a permanent, stable living situation. Transitional housing can take several forms, including group quarters with beds, single-family homes, and multi-family apartments; and typically offers case management and support services to help return people to independent living (often six months to two years). State law (Government Code Section 65582 (j)) defines transitional housing as:

“Transitional housing” means buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance.

Supportive housing links the provision of housing and social services for the homeless, people with disabilities, and a variety of other special needs populations. Similar to transitional housing, supportive housing can take several forms, including group quarters with beds, single-family homes, and multi-family apartments. State law (Government Code Section 65582 (g)) defines supportive housing as:

“Supportive housing” means housing with no limit on length of stay, that is occupied by the target population and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

State law (Government Code Section 65582 (i)) defines the target population as:

“Target population” means persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people.

### 3.2.3.8 *Farmworker Housing / Employee Housing Act*

The Employee Housing Act (Health and Safety Code Section 17021.6) requires that any employee housing consisting of no more than 36 beds in group quarters or 12 units or spaces designed for use by a single family or household, shall be deemed an agricultural land use. No conditional use permit, zoning variance, or other zoning clearance shall be required of employee housing that is not required of any other agricultural activity in the same zone. The permitted occupancy in employee housing in a zone allowing agricultural uses shall include agricultural employees who do not work on the property where the employee housing is located. Under Assembly Bill 1783, certain multi-family farmworker housing projects are allowed to be approved with a streamlined, ministerial approval process. Eligible farmworker housing must be located on agricultural land which is not environmentally sensitive or subject to certain hazards and must meet other eligibility requirements pursuant to Health and Safety Code Section 17021.8.

### 3.2.3.9 *Single-Room Occupancy Units*

Single-room occupancy (SRO) units means a living or efficiency unit, as defined by California Health and Safety Code section 17958.1, intended or designed to be used as a primary residence by not more than two persons for a period of more than 30 consecutive days and having either individual bathrooms and kitchens or shared bathrooms and/or kitchens. SRO units can provide affordable private housing for lower-income individuals, seniors, and persons with disabilities. These units can also serve as an entry into the housing market for formerly homeless people.

### 3.2.4 On- and Off-Site Improvement Standards

On- and off-site improvement standards establish infrastructure or site requirements to support new residential development such as streets, sidewalks, water, sewer, drainage, curbs, and gutters, street signs, park dedications, utility easements, and landscaping. While these improvements are necessary to ensure public health and safety and that new housing meets the local jurisdiction's development goals, the cost of these requirements can sometimes represent a significant share of the cost of producing new housing.

Each jurisdiction-specific analysis describes specific site improvement standards for each jurisdiction. Although improvement requirements and development fees increase the cost of housing, jurisdictions have little choice in establishing such requirements due to the limitations on property taxes and other revenue sources needed to fund public improvements.

### 3.2.5 Housing for Persons with Disabilities

In accordance with Senate Bill 520 (Chapter 671, Statutes of 2001), jurisdictions must analyze the potential and actual governmental constraints on the development of housing for persons with disabilities.

#### **Definition of Family**

There are several state and federal rules that govern the definition of "family", including the federal Fair Housing Amendments Act of 1988, the California Fair Housing and Employment Act, the California Supreme Court case *City of Santa Barbara v. Adamson* (1980), and the California Constitution privacy clauses. The laws surrounding the definition of family have several purposes: to protect people with disabilities, to protect non-traditional families, and to protect privacy. According

to HCD and Mental Housing Advocacy Services, there are three major points to consider when writing a definition of family:

- Jurisdictions may not distinguish between related and unrelated individuals.
- The definition may not impose a numerical limit on the number of persons in a family; and
- Land use restrictions for licensed group homes for six or fewer individuals must be the same as those for single families.

### 3.2.5.1 *Reasonable Accommodation Procedures*

Both the federal Fair Housing Amendment Act (FHAA) and the California Fair Employment and Housing Act direct local governments to make reasonable accommodations (i.e., modifications or exceptions) in their zoning laws and other land use regulations when such accommodations may be necessary to afford disabled persons an equal opportunity to use and enjoy a dwelling. It may be reasonable to accommodate requests from persons with disabilities to waive a setback requirement or other standards of the zoning code to ensure that homes are accessible for the mobility impaired. Whether a particular modification is reasonable depends on the circumstances and must be decided on a case-by-case basis.

### 3.2.5.2 *California Building Code*

The 2022 California Building Code Title 24 regulations provide for accessibility for persons with disabilities. The Housing Element must identify the version of the Building Code adopted in each jurisdiction and whether a jurisdiction has adopted any amendments to the Code that might diminish the ability to accommodate persons with disabilities.

### 3.2.5.3 *Zoning and Land Use Policies*

Restrictive land use policies and zoning provisions can constrain the development of housing for persons with disabilities. The Housing Element must analyze compliance with fair housing laws, provisions for group homes, and whether or not jurisdictions have adopted any minimum distance requirements or other zoning procedures or policies that would limit housing for persons with disabilities.

## 3.2.6 *Planning and Development Fees*

The County collects various fees to cover the costs of processing permits and development impact fees. These include fees for planning and zoning approvals, subdivision map act approvals, environmental review, building permits, among others. Permitting fees and development impact fees are determined by the County and posted in the Master Fee Schedule online. Permitting and development fees are periodically updated and approved by a city council or County board of supervisors.

State law limits fees charged for development permit processing to the reasonable cost of providing the service for which the fee is charged. Local governments charge various fees and assessments to cover the costs of processing permit applications and providing services and facilities, such as, parks, and infrastructure. Almost all of these fees are assessed based on the magnitude of a project's impact or on the extent of the benefit that will be derived. Additional fees and/or time may be necessary for required environmental review, depending on the location and nature of a project. A 2019 National Impact Fees Survey surveyed 37 jurisdictions in California. The study reports average impact fees of \$37,471 per single-family unit and \$21,703 per multi-family unit.

### 3.2.6.1 *San Joaquin Valley Air Pollution Control District Fees*

Merced County is within the regulatory jurisdiction of the San Joaquin Valley Air Pollution Control District (SJVAPCD). The air basin as a whole does not meet ambient air quality standards set at the state and federal levels and is within a “non-attainment” area for ozone, PM10 (state), and PM2.5.

As a consequence of these conditions, the SJVAPCD has implemented an Indirect Source Review (ISR) process to reduce the impacts of growth in emissions from all new land development. An Air Impact Assessment (AIA) and potential mitigation fees are required for residential projects with 50 or more dwelling units and when there is discretionary approval required. Fees are also exacted by the SJVAPCD to offset emissions created by typical operational sources. These fees can add hundreds of dollars to the cost of development. However, the cost is applied to all jurisdictions in the air basin and may be eliminated for a lesser number of units or reduced with additional mitigation measures. The SJVAPCD also offers a variety of grants and incentive programs to public agencies, residents, and businesses to help offset fees.

### 3.2.7 Local Ordinances

#### 3.2.7.1 *Inclusionary Housing Ordinance*

Implemented by local jurisdictions, inclusionary housing ordinances require developers to reserve a certain percentage of units for very low- and low-income households as a way to ensure new development incorporates affordable housing. Whether rented or sold, affordability requirements are based on the Area Median Income (AMI) with very low-income defined as household making up to 50 percent of the AMI and low-income households making between 50 and 80 percent of the AMI. Actual rents cannot exceed 30 percent of the income for the associated income group.<sup>2</sup>

#### 3.2.7.2 *Permit Procedures and Processing Times*

The processing of applications and permits for development can increase project time and costs. Processing times vary widely from a few weeks to several months depending on the type of permit required for development and if any discretionary review is required for approval. The time required to process a project varies greatly from one project to another and is directly related to the size and complexity of the proposal and the number of actions or approvals needed to complete the process.

#### 3.2.7.3 *Short-Term Housing Rentals*

Short-term housing rental ordinances regulate the ways in which residential units can be converted to short-term vacation rentals in a jurisdiction. Jurisdictions are not required to adopt short-term housing rental ordinances. However, in areas with high demand for vacation rentals, jurisdictions often adopt such policies to ensure that the existing housing stock is not diminished and that housing options are maintained throughout the community.

### 3.2.8 Code Enforcement

Building codes and their enforcement can increase the cost of housing and impact the feasibility of rehabilitating older properties that must be upgraded to current code standards. In this manner,

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<sup>2</sup> California Department of Housing and Community Development, Income Limits, 2023. <https://www.hcd.ca.gov/grants-and-funding/income-limits>. Accessed July 2023.

building codes and their enforcement can act as a constraint on the supply of housing and its affordability.

The California Building Standards Code, Title 24, serves as the basis for the design and construction of buildings in California. State law prohibits the imposition of additional building standards that are not necessitated by local geographic, climatic, or topographic conditions, and requires that local governments making changes or modifications in building standards must report such changes to the California Department of Housing and Community Development and file an expressed finding that the change is needed.

### 3.3 Environmental Constraints

Typical environmental constraints to the development of housing in Merced County include flooding, earthquakes, and wildfires. In many cases, development of these areas is constrained by state and federal laws (e.g., FEMA floodplain regulations, Alquist-Priolo Act).

#### 3.3.1 Floodplains

Official floodplain maps are maintained by the Federal Emergency Management Agency (FEMA). FEMA determines areas subject to flood hazards and designates these areas by relative risk of flooding on a map for each community, known as the Flood Insurance Rate Map (FIRM). The 100-year flood is defined as the flood event that has a one percent chance of occurring in any given year.

Principal flooding problems exist in the central portion of the county, as identified by FEMA. The primary cause of local flooding is due to the drainage patterns that flow towards the San Joaquin River Basin and Merced County. The numerous tributaries of the San Joaquin—the Fresno, Chowchilla, Merced, Tuolumne, Mariposa Creek, Calaveras, Mokelumne, and other rivers—flowed freely across alluvial flood plains to join the river. All of the major tributaries of the river originate in the Sierra Nevada. Most of the streams that start in the Coast Range are intermittent and contribute little to the flow of the San Joaquin. During the winter, spring, and early summer, storms, and snowmelt swell the river. A large portion of Merced County continues to be subject to inundation during flood events, as approximately 380,010 acres have been determined to be in the FEMA floodplain. Both a 100-year and 500-year flood event scenario are critical events in Merced County as the flooding would cover at least 35 to 50 percent of the County.<sup>3</sup>

Development within a flood zone typically is required to be protected against flood damage. FEMA requires developers to obtain a flood zone elevation certificate when they apply for their permit. These certificates require elevating the developed area (i.e., house pad) above the known flood level of that flood zone. Projects must obtain a flood zone elevation certificate, which may increase the cost of a development but is necessary to protect against flood risks.

Each jurisdiction's sites inventory identifies parcel-specific environmental constraints, including whether or not the site is within the FEMA 100-year flood zone. While residential development can certainly occur within these zones, it does add an additional constraint.

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<sup>3</sup> Merced County, Multi-Jurisdictional Hazard Mitigation Plan 2021-2026. <https://web2.co.merced.ca.us/pdfs/oes/MercedCounty-MJHMP-2021-2016.pdf>. Accessed May 2023.

### 3.3.2 Seismic Zones

There are a number of active and potentially active faults within and adjacent to Merced County. The nearest faults of major significance are the San Andreas to the west of Merced County, a distance of approximately 15 miles from the county line; the Hayward and Calaveras faults to the northwest; the White Wolf, Garlock, and Sierra Nevada faults to the south; and the Bear Mountain Fault Zone about five miles east of and parallel to the eastern border of Merced County. These faults have been and will continue to be the principal source of seismic activity affecting the County of Merced. The only fault known inside the County is the “Ortigalita,” also known as the “Telsa-Ortigalita Fault,” located in the western quarter of the County, dissecting the Coast Range in a northwesterly direction. This fault has not been active in historic times; however, there is no guarantee that it will never become active again.

There have been no records of major seismic activity originating in the county, with most epicenters in the county being below a magnitude 4.0. However, the county has been shaken by earthquakes originating elsewhere. There is documented evidence of six earthquakes that shook the area, those of 1872, 1906, 1952, 1966, 1984, and 1989. Major damage occurred in Los Banos in 1906, with minor damage recorded throughout the county from other occurrences.<sup>4</sup>

Although all development must consider earthquake hazards, there is no specific threat or hazard from seismic ground shaking to residential development within the county, and all new construction will comply with current local and state building codes. Between the minimal historical hazard of earthquakes in the county and the use of the most current building codes and construction techniques, earthquakes pose a less than significant danger to residential development.

### 3.3.3 Wildfire

A wildfire is an uncontrolled fire spreading through vegetative fuels, posing danger and destruction to property and watersheds. While wildfires are often the direct result of lightning strikes, they can be caused by downed powerlines or mechanical equipment or are the result of human activities like landscape debris burns, carelessness, or arson. Wildfires often start in undeveloped areas and public land areas, such as state and federal lands, but can spread to urban areas where structures and other human development are more concentrated. The predominant dangers from wildfires are:

- Injury or loss of life to people in the affected area; and
- The destruction of vegetation, property, wildlife.

Communities throughout California are increasingly concerned about wildfire safety as increased development in the foothills and mountain areas and subsequent fire control practices have affected the natural cycle of the ecosystem. Wildfire risk is predominantly associated with wildland-urban interface areas, a general term that applies to development adjacent to landscapes that support wildfire. However, significant wildfires can also occur in heavily populated areas.

Both urban and wildland fires conditions exist in Merced County which increases the chances for damage to property, loss of life and/or injury. In the wildland-urban interface, where development has expanded into rural, higher risk areas, fires can result in major losses of property and structures. In most of Merced County, the California Department of Forestry and Fire Protection (CAL FIRE) ranks fuel loading as low. Fuels are mainly crops and grasses. In the southwest corner, there are some brush, pine, and grass fuels, which are ranked as moderate fuel hazards, primarily in the area

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<sup>4</sup> Merced County, Multi-Jurisdictional Hazard Mitigation Plan 2021-2026. <https://web2.co.merced.ca.us/pdfs/oes/MercedCounty-MJHMP-2021-2016.pdf>. Accessed May 2023.



west of Interstate 5. Based on CAL FIRE's Fire Hazard Severity Zones, there are no areas in Merced County classified as Very High Fire Hazard Zones and the areas ranked High are primarily located west of Interstate 5.<sup>5</sup>

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<sup>5</sup> Merced County, Multi-Jurisdictional Hazard Mitigation Plan 2021-2026. <https://web2.co.merced.ca.us/pdfs/oes/MercedCounty-MJHMP-2021-2016.pdf>. Accessed May 2023.

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