

# Chapter Two – Constraints On Housing Maintenance, Improvement, and Development

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## Introduction

As described in the Executive Summary and Chapter One, the City of Los Angeles is facing a severe housing crisis that negatively affects the health and safety of its residents, the environment, the City's economic and social health, its racial justice and equity goals, and has created a humanitarian emergency on our streets. The dire situation requires a robust analysis of the challenges to producing, maintaining and improving housing that is affordable to households of all income levels and appropriate for special needs populations.

This chapter provides a summary of governmental constraints, non-governmental constraints and constraints for housing for people with disabilities and special needs. This includes an analysis of the preservation of at-risk expiring affordable units. A complete analysis of constraints can be found in Appendix 2.1.

Many housing constraints are out of the City's direct control, while others are due in part to the local requirements and conditions that pose constraints to the production and preservation of housing. Some of the most important constraints include governmental regulations, such as zoning, land use requirements, entitlement and permitting procedures, infrastructure requirements, and fees; as well as non-governmental constraints such as market conditions, financing, source of funding requirements, opposition to housing, and environmental conditions. There are often sound policy

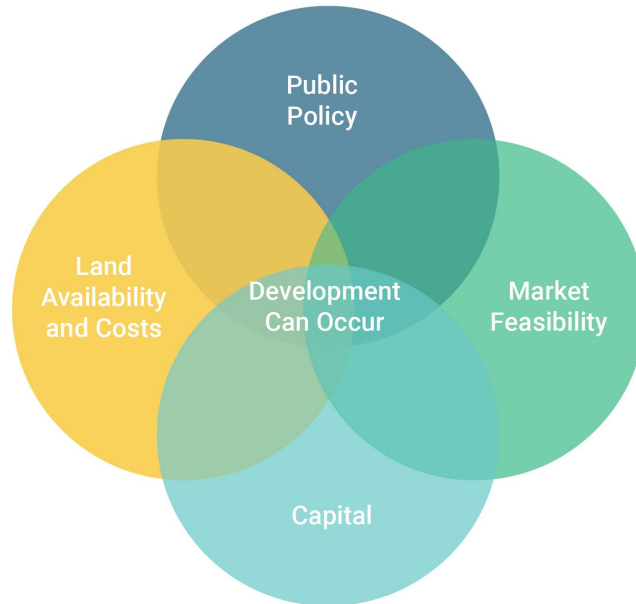
reasons for current fees and regulations, so any changes should be carefully considered with regards to expected effectiveness to meet housing needs and the potential impacts to other General Plan goals.

The City has developed a wide array of responses to counter housing constraints and to facilitate residential development. This section summarizes the key governmental and non-governmental constraints that impact and limit the potential of housing production and preservation in the City, and then the City's strategies to address them. The City continues to proactively explore additional responses to these housing obstacles in the form of new efforts and programs identified in Chapter Six.

## Constraints Overview

Constraints are factors that impact the feasibility, costs, and timelines of housing projects, which in turn affect the City's ability to meet the housing needs of all its residents and to affirmatively further fair housing goals. Constraints affect a housing development's location selection, density, design, and permitting process--all of which impact whether or not housing can be developed, maintained or improved. The presence of any one constraint has the potential to prevent housing from being produced or preserved, as illustrated below. Constraints to production also include essential regulations and requirements that provide community benefits such as open space, infrastructure, and design standards. In evaluating constraints, this chapter will also consider the services and benefits that constraints to production provide as well.

## Housing Development Constraints



Source: Los Angeles Department of City Planning

Federal, state, and local land use regulatory requirements, permitting fees, and public funding availability can constrain housing development in the City. Key regulations include the Zoning Code and local planning documents, the Building Code, and the California Environmental Quality Act (CEQA). For example, zoning limits where residential uses are permitted in the City, as well as maximum height, required parking and maximum densities. Lengthy and complicated entitlement and permitting processes lead to delays and uncertainty, driving up costs and preventing many potential projects from being realized. Environmental constraints can also affect and limit housing production, especially in the Very High Fire Severity Zones and the Coastal Zone.

Non-governmental constraints, such as market conditions can increase the cost of land, building materials, and labor necessary for the production of housing. Public opposition to new housing is often strong, and has led to decades of policies that have made housing creation harder and often increased development risk and timelines, particularly in the higher resource areas of the City.

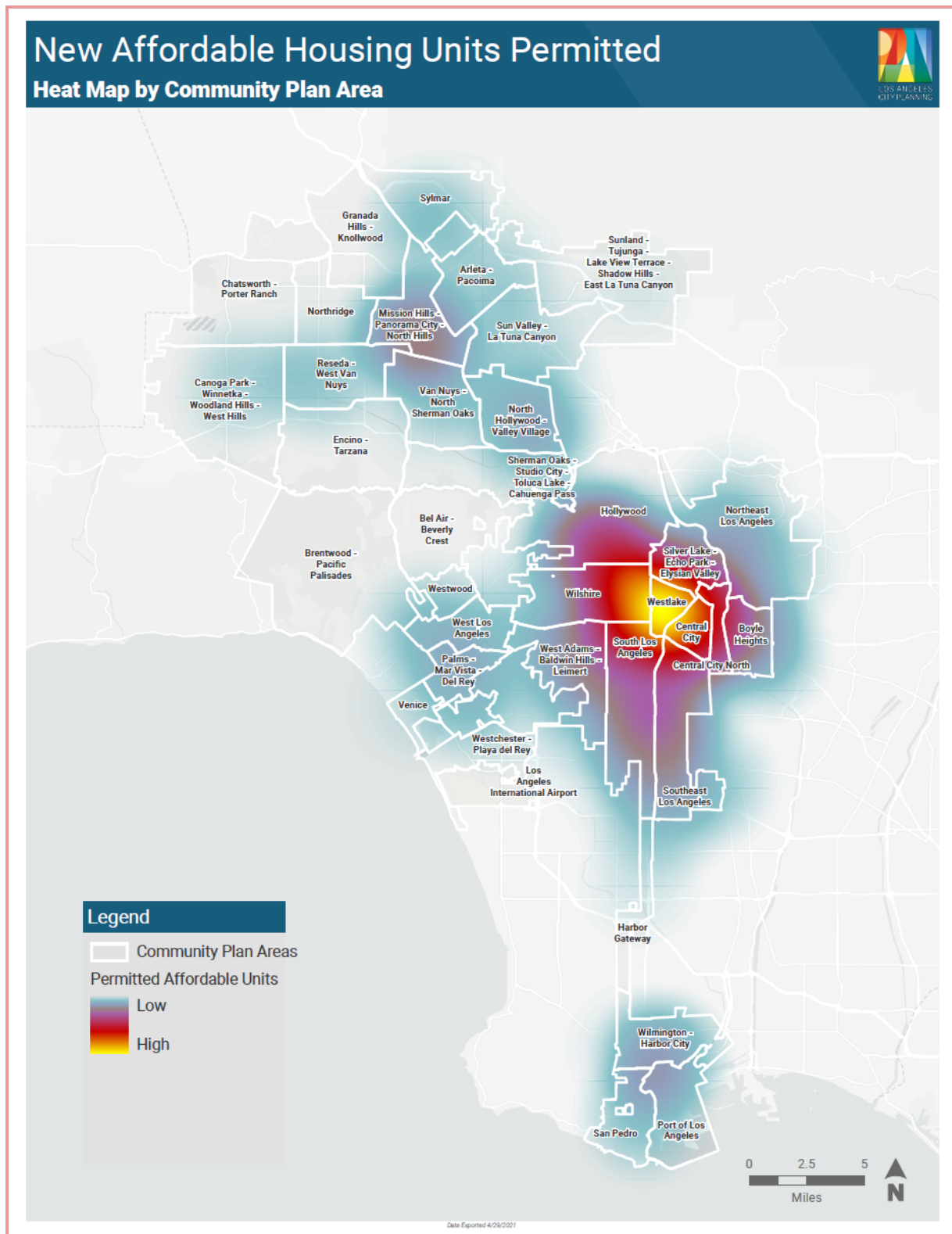
Housing constraints have especially impacted affordable housing production. Zoning capacity and its inequitable distribution throughout the City has limited the production of affordable housing in higher resource areas, and instead concentrated its production in the areas with the lowest resources (see Map 2.1). Existing land use and zoning, combined with high land values, have resulted in conditions that make it infeasible to develop affordable housing in many areas of the City which have the highest incomes, resources, amenities, and access to economic opportunity.

In addition, certain types of zoning laws have played an important role in causing racial disparities in housing. There is now ample research finding a relationship between restrictive land use regulations and racial segregation, higher housing prices, a worsening racial wealth gap and disparities in many other measurable social outcomes.<sup>1</sup>

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<sup>1</sup> Rouse, C., Bernstein J., Knudsen H., and Zhang J., White House Article, June 17, 2021. "Exclusionary Zoning: Its Effect on Racial Discrimination in the Housing Market," located: <https://www.whitehouse.gov/cea/blog/2021/06/17/exclusionary-zoning-its-effect-on-racial-discrimination-in-the-housing-market/>

Map 2.1.



Appendix 2.1 includes an analysis of an array of potential constraints to the production, maintenance and improvement of housing. This includes the following governmental and non-governmental issues:

### **Governmental Constraints**

- General Plan, Land Use, the Zoning Code, and Neighborhood Implementation Tools.
- Entitlement Process
- Building Code and Building Permit Procedures
- On-/Off-Site Improvements and Infrastructure
- Entitlement Appeals
- Fees Affecting Housing Development
- Creation of Affordable Housing Covenants
- Availability of Public Funding for Housing
- Inadequate Public Funding for Homelessness Housing

### **Non-Governmental Constraints**

- Land Costs
- Construction Costs
- Financing Availability

Furthermore, State law requires that jurisdictions demonstrate how they provide for, and do not duly constrain, a variety of important housing types including multi-family rental housing, factory-built housing, mobile homes, housing for agricultural employees, supportive housing, single-room occupancy (SRO) units, emergency shelters, and transitional housing. The full constraints analysis in Appendix 2.1 describes where these uses are permitted and how the City provides for these and other housing types.

The City has taken many actions over the last eight years to alleviate constraints, including many that were prior Housing Element programs. These include a variety of actions including ordinances, directives, planning efforts, implementation memos, administrative actions and other implementation steps. The following efforts to alleviate constraints are identified and described in Appendix 2.1:

### **Alleviating Constraints Due to the General Plan, Land Use, Zoning Code, and Neighborhood Implementation Tools**

- Mayoral Executive Directives (ED) 13 and 19
- The New Zoning Code (*recode:LA*)
- Community Plan Updates
- The Density Bonus Ordinance
- Transit Oriented Communities (TOC) Program
- Accessory Dwelling Units (ADUs)
- Unpermitted Dwelling Units (UDUs)
- Emergency Homeless Shelters
- Permanent Supportive Housing (PSH) Ordinance
- Interim Motel Conversion (IMC) Ordinance
- Floor Area Averaging and Transfer of Floor Area Ratios (TFAR)

#### **Alleviating Constraints Due to the Entitlement Process**

- Community Plan Updates and the New Zoning Code
- Process and Procedures Ordinance
- Land Use Incentives Programs
- Density Bonus Memo: Ministerial Review Process for On-Menu Incentives
- Senate Bill 375 and CEQA
- Streamlined Infill Projects (SIP) per Senate Bill 35 and Assembly Bill 2162
- Assembly Bill 1179 and CEQA Exemption for Supportive Housing and Emergency Shelters
- The Expedited Processing Section
- Development Services Case Management (DSCM) Office
- The Priority Housing Project (PHP) Program
- Housing Services Unit
- Implementation of State Law (Housing Accountability Act, The Housing Crisis Act of 2019)

#### **Alleviating Constraints due to the Building Code and Building Permit Procedures**

- Accessory Dwelling Unit (ADU) Standard Plan Program
- The Parallel Design-Permitting Process
- Development Services Case Management (DSCM)

- Preliminary Plan Check Service
- Early Start Permits

### **Alleviating Constraints due to On-/Off- Site Improvements and Infrastructure**

- Exemptions and Reductions to Improvement Requirements
- Waiver of Dedication and Improvement (WDI)
- Deferring Costs of Required Improvements

### **Alleviating Constraints Due to Entitlement Appeals**

### **Alleviating Constraints Due to Fees Affecting Housing Development**

- Exemptions from Park and Quimby Fees
- Affordable Housing Linkage Fee (AHLF) Exemptions and Credits/Deductions

### **Alleviating Constraints in the Coastal Zone**

- The City's Mello Act Ordinance
- The Venice Local Coastal Program
- Land Use Incentives Programs

### **Alleviating Constraints due to Inadequate Public Funding for Housing**

### **Alleviating Constraints due to Inadequate Public Funding for the Homeless Housing and Prevention**

- Waiting List Limited Preference: Homeless Program
- Waiting List Limited Preference: Tenant-Based Supportive Housing Program
- Permanent Supportive Housing Project-Based Voucher Program
- HUD-VASH Program
- Emergency Housing Vouchers (EHVs)
- Waiting List Limited Preference: Homeless Veterans Initiative
- Continuum of Care (Shelter Plus Care) Program
- Moderate Rehabilitation Single Room Occupancy (SRO) Program
- Moving On Program
- Home For Good
- Homeless Incentive Program (HIP)



## Constraints for Housing for People with Disabilities and Special Needs

Federal and State laws have been enacted which require updating local regulations to ensure that no City procedures or development standards pose obstacles to the production or preservation of housing for people with disabilities. This includes a variety of housing types, treatment facilities, community facilities, and short- and long-term housing. In line with those efforts, every five years the City of Los Angeles previously completed an Analysis of Impediments to Fair Housing Choice (AI), as required by the U.S. Department of Housing and Urban Development (HUD). This study and subsequent updates assess land use and zoning constraints on housing for individuals with disabilities and compliance with Fair Housing laws, Americans with Disabilities Act (ADA), and other housing laws and court decisions affecting housing rights.

More recently, per HUD's final 2015 Affirmatively Furthering Fair Housing (AFFH) rule, the City developed and submitted to HUD its first Assessment of Fair Housing (AFH) Plan in 2017, which replaced the previous AI requirement. Los Angeles' 2018-2023 AFH Plan was completed in partnership between the Los Angeles Housing and Community Investment Department (HCIDLA) and the Housing Authority of the City of Los Angeles (HACLA). The City's AFH Plan was adopted by City Council and Mayor in October 2017.

Persons with mobility disabilities, including people who use wheelchairs, and people with hearing and vision disabilities often require special housing to accommodate their special conditions. For many who have mobility disabilities, features such as handrails, ramps, wider doorways, specially designed cabinetry and electrical outlets, special door and faucet handles, and non-skid flooring are necessary. People who have hearing disabilities may require doorbells and emergency alarms that use flashing light instead of sound, and people who are blind or have a visual disability may require that large print, braille labels, or tactile dots be placed on equipment, tools, facilities, and documents. In addition, people with developmental disabilities may live in small group homes or with a roommate and be provided with support services.

The City's Zoning Code has been developed over many decades and sometimes includes obsolete terminology and provisions that may have unintentionally diminished housing opportunities for people with disabilities. The City's Code includes the following definition of a person with disabilities as a person who has: (a) physical or mental disabilities, which seriously restricts that person from operating a motor vehicle; (b) is

expected to be of long, continued and indefinite duration; (c) substantially impedes his or her ability to live independently; and (d) is of a nature that the ability to live independently could be improved by more suitable housing conditions (LAMC Section 12.21 A.4 (u))”.

The siting of disability-related special needs housing is not restricted regarding location. There are no distance requirements in the City regulating the siting of any type of disability-related housing. The Los Angeles Building Code (LABC) incorporates provisions of the California Building Code (CBC) related to needs of people with disabilities. Local amendments to CBC tailor the LABC to local conditions but do not diminish the ability to accommodate people with disabilities.

Another regulatory and practical constraint impacting housing for people with disabilities is the unwillingness of some landlords to comply with state and federal fair housing laws by providing reasonable accommodations and allowing reasonable modifications. Based on data collected citywide, physical disability was the leading cause of fair housing complaint inquiries, accounting for 47% of all inquiries from 2013-2021. Most of these complaints were from in-place tenants requesting assistance with a reasonable accommodation or modification request. Common requests included: a closer or more accessible parking space, breaking the lease, and a companion or service animal in a building that does not allow pets. Requests made after April 2020 are often related to COVID-19 pandemic issues such as restricting entry to units or requiring that management/maintenance wear PPE and maintain social distancing.

The following efforts to alleviate constraints to providing housing for people with disabilities are identified and described in Appendix 2.1:

### **Alleviating Constraints to Providing Housing for People with Disabilities**

- The Reasonable Accommodation Request Ordinance
- Reasonable Accommodation, Congregate and Group Living Arrangements
- Accessible Housing Program (AcHP)
- AcHP Grievance Procedures
- The Enhanced Accessibility Program
- Trainings and Outreach Campaigns
- Services for Homeless Households
- AcHP Challenges

## Analysis of Preservation of At-Risk Units

State law requires local governments to include in their Housing Element an analysis of existing, multi-family affordable housing units at risk of conversion to market-rate housing within the next ten years due to termination of a public funding subsidy contract, mortgage prepayment, or expiring use restrictions. While the production of new, affordable housing is critical, so is the preservation of existing affordable units to maintain a stock of affordable housing.

The City of Los Angeles currently has approximately 56,698 affordable housing units in more than 1,426 developments, serving very-low, low and moderate-income households (see Appendix 2.6). The majority of these affordable housing units are owned and operated by private entities, and were financed with local, State and Federal public subsidies, administered by State agencies or locally through the HCIDLA, the Community Redevelopment Agency of the City of Los Angeles (CRA/LA), the Housing Authority of the City of Los Angeles (HACLA), and the Los Angeles Homeless Services Authority (LAHSA). The requirements of the public funding include (but are not limited to) maintaining the affordability for a specific, extended number of years.

The City currently has 9,412 housing units at risk of losing their affordability use restrictions between October 1, 2021 and September, 30 2031. These units were designated as at-risk based on the restrictions established by the primary government funding program used to build or rehabilitate the unit, use agreement, covenant and/or rental subsidy program. In 2020, the average rehabilitation cost per unit to preserve an affordable multi-family building was approximately \$108,000 and the construction cost per unit for a new affordable multi-family building in Los Angeles was \$353,000. A combination of financial and non-financial strategies for preserving expiring affordable housing will prove necessary for this undertaking.

The affordability of the City's affordable housing units is not permanently assured. Based on the current expiring portfolio, the three major threats to preservation in the City are:

- prepayment or maturity of federally-subsidized mortgages;
- expiration and termination of subsidy contracts (Project-Based Section 8 rental subsidy contracts), and;
- the expiration of use restrictions of City-funded projects.

With most of the at-risk developments under ownership of private entities and the high demand for housing at all income levels across the City, expiring affordable units are at serious risk of converting to market rate units. The continuous demand for rental housing leads to higher rents and therefore a more compelling incentive for landlords who own buildings with at-risk affordable units to pursue opportunities for market-rate rents.

Under the Preservation program, HCIDLA will focus on preserving 300 units annually. Preservation will happen through various efforts including (a) facilitating the renewals of Project-based Section 8 (or similar) contracts, (b) facilitating the re-structure and/or purchase of properties with Project-based Section 8 (or similar) contracts, and (c) re-capitalizing existing affordable housing projects in exchange for lengthening their current affordability restrictions. Preservation projects will target all populations, including homeless, large families, and seniors. Preservation projects will also have varying levels of affordability citywide or within designated transit-oriented districts (TOD).

The City, through the HCIDLA, will also continue to dedicate staff time to support the L.A. Preservation Working Group (LAPWG) and other related activities. The LAPWG's mission and goals are to protect and preserve the City's affordable housing stock by sharing information, tracking the expiring inventory, and developing creative preservation strategies and transactions. HCIDLA will continue to dedicate staff time to support the L.A. Preservation Working Group, and provide information and continue with efforts to establish partnerships with entities qualified to acquire and manage at-risk units.