

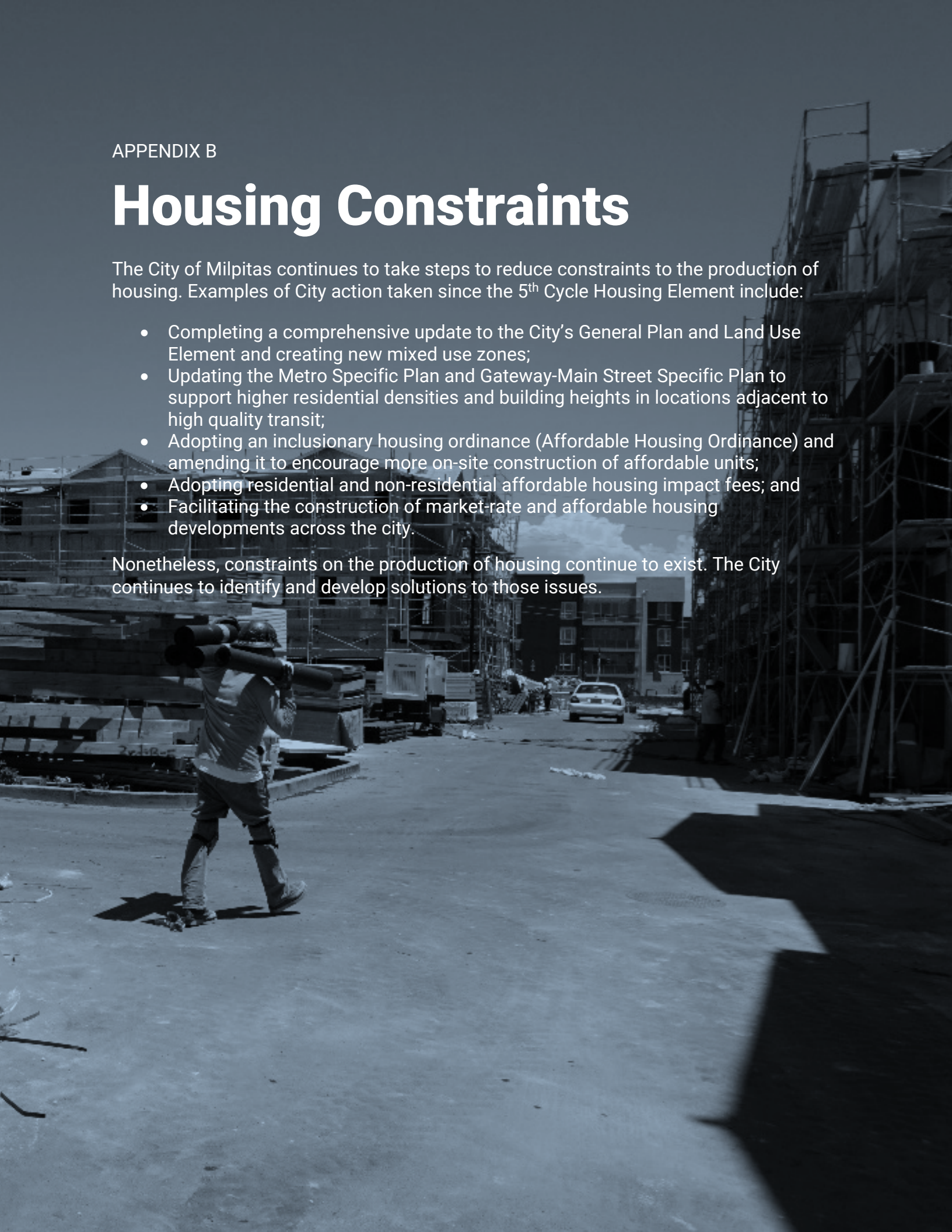
## APPENDIX B

# Housing Constraints

The City of Milpitas continues to take steps to reduce constraints to the production of housing. Examples of City action taken since the 5<sup>th</sup> Cycle Housing Element include:

- Completing a comprehensive update to the City's General Plan and Land Use Element and creating new mixed use zones;
- Updating the Metro Specific Plan and Gateway-Main Street Specific Plan to support higher residential densities and building heights in locations adjacent to high quality transit;
- Adopting an inclusionary housing ordinance (Affordable Housing Ordinance) and amending it to encourage more on-site construction of affordable units;
- Adopting residential and non-residential affordable housing impact fees; and
- Facilitating the construction of market-rate and affordable housing developments across the city.

Nonetheless, constraints on the production of housing continue to exist. The City continues to identify and develop solutions to those issues.



# Governmental Constraints

Governmental constraints are barriers to producing housing in which the City has control over. These include regulatory changes, permitting and processing, and community planning. Some of the largest constraints include zoning and building requirements, development fees, and permitting and processing.

## Land Use Controls

This section describes the land-use controls in Milpitas and discusses potential impacts on the cost and supply of housing. It also considers the impact of standards on the ability to achieve maximum allowable densities.

### GENERAL PLAN

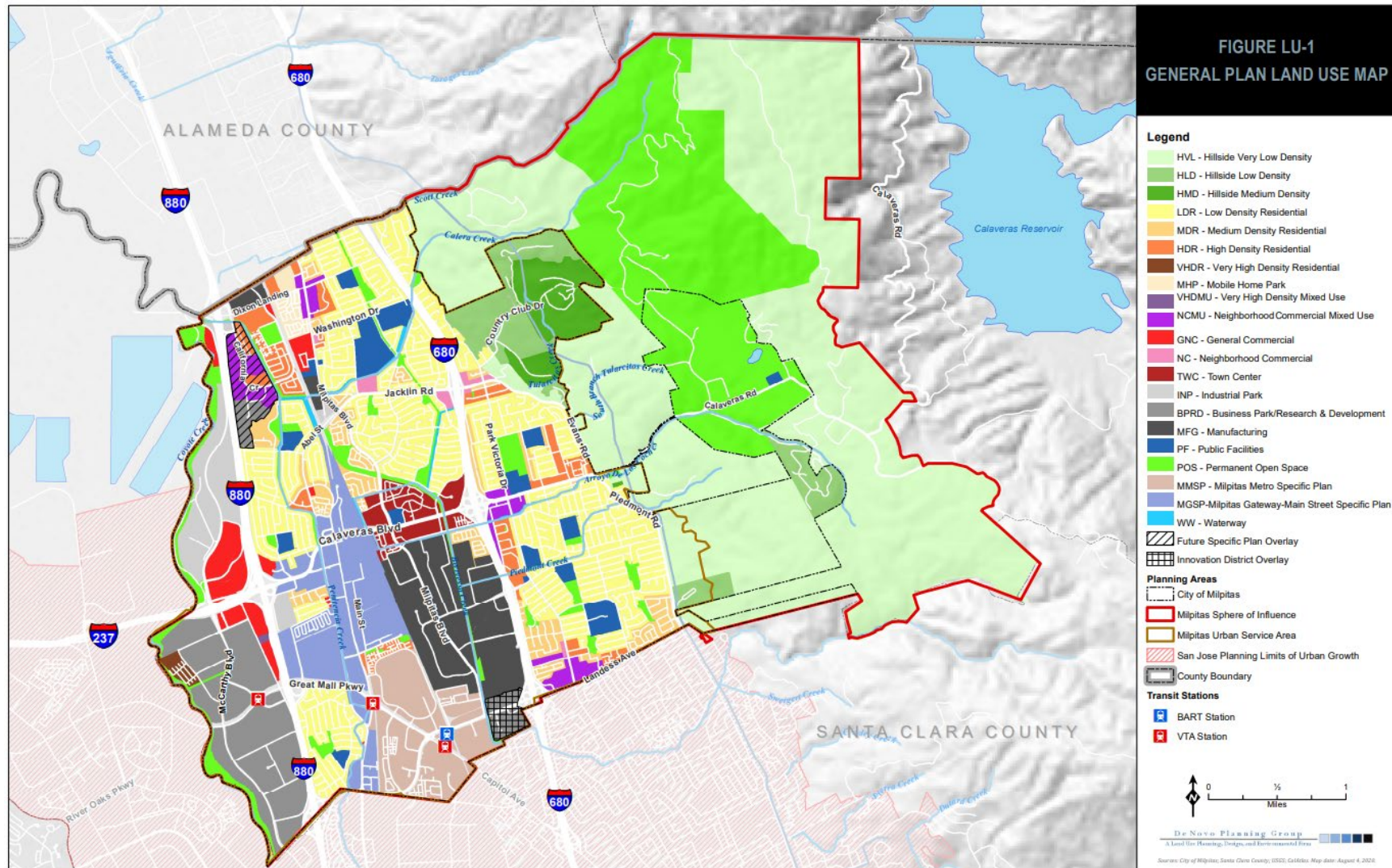
California law requires each city to adopt a comprehensive, long-term General Plan to guide its future and plan for growth. The Land Use Element of the General Plan provides development policies intended to define the existing and emerging urban form and physical development of the city. Through its goals and actions, it aims to preserve and protect high-quality neighborhoods throughout the city, promote the efficient use of limited land resources, foster strategic land use decisions, and facilitate the use of alternative transportation options, while promoting opportunities for economic development, high-quality local job growth, and fiscal sustainability.

The City completed a comprehensive update to the General Plan in 2021. The Milpitas General Plan focuses on creating a balance between different uses such as commercial, residential, and public uses of land to meet the needs of the community locally. Most of the General Plan designations permit a range of housing types to meet the needs of Milpitas residents, ranging from lower density single family, manufactured housing, moderate density plex and courtyard multifamily, and high density multifamily within the specific plan areas. The specific plan areas take advantage of proximity to high-quality transit (e.g., BART and VTA), and allow higher residential densities, taller building heights, and reduced off-street parking requirements.

The General Plan Land Use Designations Map specifies the allowed uses and densities / intensities for each parcel within the city. Milpitas' residential land use designations include low to moderate density residential designations, multiple high-density residential designations, two specific plan areas, and two mixed-use zones. The commercial and industrial land use designations do not allow housing. Figure B-1 shows the General Plan Land Use map, and Table B-1 summarizes the General Plan land use designations that allow residential development in the city. The City's Zoning Code has not been updated to be consistent with the 2021 General Plan update, but the update is anticipated to be complete in 2024.



FIGURE B-1: 2021 GENERAL PLAN LAND USE MAP



This page is intentionally left blank.

**TABLE B-1: 2021 GENERAL PLAN LAND USE DESIGNATIONS**

<b>Land Use Designation</b>	<b>Residential Type and Characteristics</b>	<b>Density (units per acre)</b>	<b>Acreage</b>	<b>Zoning</b>
Hillside Very Low Density (HVL)	This designation includes most of the Hillside Area.	0.1	607.63	R1-H
Hillside Low Density (HLD)	Hillside areas with a density of 1 unit per gross acre.	1	391.04	R1-H
Hillside Medium Density (HMD)	Hillside areas with a density of 3 units per gross acre.	3	239.00	R1-H
Low Density Residential (LDR)	All housing units are either on separate lots or as part of a clustered Planned Unit Development. Single unit detached residences will be the typical housing type in this category.	3 to 5	1,491.12	R1
Medium Density Residential (MDR)	Single-family attached, multi-family, duplexes, or clustered residences would typically be built within this density range.	6 to 15	305.14	R1, R2
High Density Residential (HDR)	This density range accommodates a variety of multi-family housing types, ranging from row houses to triplexes and fourplexes, stacked townhouses, walk-up garden apartments, and multi-family apartments and condominiums.	16 to 30	229.74	R3
Very High Density Residential (VHDR)	Development at this density consists generally of multi-story apartments and condominiums, and similar types of residential uses.	31 to 40	21.79	R4
Mobile-Home Park	The area accommodates mobile homes up to 7 units per gross acre. All development operations and applications must be consistent with the mobile home standards included in the Milpitas Municipal Code.	Up to 7	53.11	R1-MHP
Very High-Density Mixed Use (VHDMU)	Permitted uses include residential, office, commercial, hotel, and medical uses.	Up to 75 and FAR up to 1.5	3.00	MXD3, R5

Land Use Designation	Residential Type and Characteristics	Density (units per acre)	Acreage	Zoning
Town Center (TWC)	Residential-only projects are not permitted. Residential developments up to 40 units per acres may be permitted within the Town Center as part of a mixed-use development project to increase economic support to the commercial uses.	Up to 40 and FAR up to 0.85	133.58	TC
Neighborhood Commercial Mixed Use (NCMU)	<p>The Neighborhood Commercial Mixed-Use (NCMU) designation is intended to accommodate a mix of commercial and residential uses with an emphasis on commercial activity as the primary use, and residential uses, hotel, and office development allowed on a limited basis.</p> <p>The City Council may consider the approval of residential-only projects in the NCMU land use designation, provided the project is 100% affordable to the “low” and “very low” income categories, in order to increase the stock of affordable housing in Milpitas.</p>	Up to 21*	140.34	NCMU**, C1, C2, MXD, CO
<p>* Calculated based on the General Plan definition of NCMU allowing multifamily dwelling units at a rate of 1 unit per 1,500 square feet of new or rehabilitated neighborhood-serving retail and commercial services with a maximum FAR of 0.75.</p> <p>** The Zoning Ordinance needs to be updated to reflect the creation of specific new zoning standards to support the NCMU land use designation of the General Plan.</p>				

Source: 2021\_Milpitas General Plan

The City’s General Plan increased residential capacity by 11,186 units at buildout. The residential and mixed-use designations have allowed the City to meet and exceed its RHNA goals in the past, particularly for moderate and above moderate incomes and continue to promote future residential development.

Overall, these designations do not pose a significant constraint to residential development in Milpitas except for the Town Center (TWC) and Neighborhood Commercial Mixed Use (NCMU) designations. The TWC and NCMU districts aim to create vibrant mixed-use places and require a minimum amount of commercial development with residential uses. This commercial requirement may impede redevelopment of parcels in these zones and pose a constraint to increasing housing in the city. The following sections explore these two designations in more detail. Both designations are being analyzed through a separate Housing Opportunity Zone process (on-going program, HE Element Program 15) and potential modifications may be recommended to encourage housing production.

## TOWN CENTER DESIGNATION (TWC)

The Milpitas General Plan defines the TWC designation as follows:

***TOWN CENTER (TWC) (UP TO 40 UNITS PER ACRE AND FAR UP TO 0.85).*** This designation provides for a variety of commercial, professional, civic, restaurants, hotels, residential, and entertainment uses. Projects may consist of a wholly non-residential development, or a mixed use residential project that integrates residential and nonresidential uses vertically or horizontally. Residential-only projects are not permitted. Residential developments up to 40 units per acres may be permitted within the Town Center as part of a mixed use development project to increase economic support to the commercial uses. Developers wanting to maximize the residential component of the parcel are required to provide a minimum FAR of 0.35 for the non-residential component. Sites developed with a mix of uses, or non-residential uses, must adhere to a FAR maximum of up to 0.85.

While commercial uses are emphasized to create a community-serving retail district, the minimum non-residential requirement of 0.35 FAR may be a constraint to housing production. On the ground, one rarely sees 0.35 FAR in a vertical mixed-use project, because the amount of parking needed typically makes this amount of commercial infeasible (1 stall per 250 square feet). For example, a one-acre parcel would require a minimum of 15,250 square feet of non-residential area and similar area to accommodate the required 60 parking stalls. A range of 0.10 to 0.20 FAR for commercial is more common for vertical mixed-use or a mix of vertical and horizontal mixed-use projects.

Likewise, the maximum density of 40 dwelling units per acre is not a typical density for vertical mixed-use projects. In a podium mid-rise building type, 40 dwelling units per acre can generally fit in two floors of residential, whereas a more typical mixed-use project includes four or five-story residential floors (80 or more dwelling units per acre). The above analysis is typical for single parcel projects. The redevelopment of the large format shopping centers, however, may be able to accommodate the requirement in a horizontal mixed-use project with structured or rooftop parking.

## NEIGHBORHOOD COMMERCIAL MIXED USE (NCMU)

The Milpitas General Plan defines the NCMU designation as follows:

***“NEIGHBORHOOD COMMERCIAL MIXED-USE (NCMU) (FAR UP TO 0.75, AND UP TO 1 UNIT PER 1,500 SQUARE FEET OF NONRESIDENTIAL DEVELOPMENT).*** The Neighborhood Commercial Mixed-Use (NCMU) designation is intended to accommodate a mix of commercial and residential uses with an emphasis on commercial activity as the primary use, and residential uses, hotel, and office development allowed on a limited basis. The NCMU designation encourages active neighborhood serving uses at the ground level, including grocery stores, specialty retail, restaurants, plazas, or walk-in personal services such as banks and salons at FARs up to 0.75.

*This designation also provides opportunities for vertical or horizontal mixed-use residential development to provide for area vibrancy and to encourage the redevelopment of aging commercial centers by allowing Multifamily dwelling units at a rate of 1 unit per 1,500 square feet of new or rehabilitated neighborhood-serving retail and commercial services. The City Council may consider the approval of residential-only projects in the NCMU land use designation, provided the project is 100% affordable to the “low” and “very low” income categories, in order to increase the stock of affordable housing in Milpitas “*



The NCMU designation aims to create vibrant mixed-use activities nestled within existing neighborhoods throughout Milpitas. The designation seeks to preserve existing neighborhood commercial, allowing new residential development within the commercial area. While the new General Plan designation allows for the development of housing, it includes strict limits on the amount of residential that is allowed in relation to the amount of commercial space provided. The General Plan allows projects to build 1 dwelling unit per 1,500 sf of new or rehabilitated commercial. With the provision of the maximum allowed non-residential FAR of 0.75, a project would be limited to the maximum residential density of 21 dwelling units per acre.

It is unlikely that a mixed-use project would be feasible that instituted the residential to non-residential ratio requirements of the General Plan designation. The disproportionate percentage dedicated to commercial use limits the feasibility of residential use.

Only currently vacant sites or sites with developer interest in the NCMU designation are identified in the Sites Inventory to meet the RHNA goals of the City. They are included in the “Rezone Sites” category with a maximum density of 30 du/ac.

## SPECIFIC PLANS

There are two specific plan areas in Milpitas, and both are currently undergoing an update— Milpitas Metro Specific Plan (anticipated adoption ~~winter early 2022~~2023) and the Milpitas Midtown Specific Plan (updated 2010, anticipated adoption winter 2024). The Milpitas Metro Specific Plan, formerly the Transit Area Specific Plan, has a Public Draft available for review, and the Midtown Specific Plan (renamed Gateway-Main Street Specific Plan) is in its initial stages of an update process. This analysis evaluates the updated Public Draft Metro Specific Plan and the existing Gateway-Main Street Specific Plan.

Much of the new housing growth is expected to occur in these two specific plan areas. The City’s updated General Plan increased residential capacity by 1,435 units at buildout in the Midtown Specific Plan and by 6,296 units in the Metro Specific Plan area. Both specific plan areas take advantage of proximity to transit to allow high density, mixed-use developments with reduced parking requirements.

### MILPITAS METRO SPECIFIC PLAN

The Milpitas Metro Specific Plan (Metro Plan) area is envisioned as a dense, transit-oriented hub with higher residential density standards and lower parking ratios compared to the rest of Milpitas. The Metro Plan creates eight land use classifications and zoning districts that are specific to the project area. Six land use classifications allow medium to very high-density residential uses. The Metro Plan estimates increasing residential capacity by 7,000 new residential units at buildout within its boundaries, approximately 700 units more than the General Plan estimated.



**TABLE B-2: METRO SPECIFIC PLAN LAND USE DESIGNATIONS**

Land Use Designation	Residential Type and Characteristics	Density (units per acre)	Zoning
Residential Retail High Density Mixed Use (RRMU)	Supports vertically mixed-use development that have ground floor retail and active uses with residential or office uses on upper floors.	Mixed Use: 1-2.5 FAR* Residential Only: 40-85 units/ac	Metro High Density Mixed Use (MXD2-Metro)
Boulevard Very High-Density Mixed Use (BVMU)	Supports high-density housing, retail, and small-format employment.	Mixed Use: 2.5-5.0 FAR* Residential Only: 85-250 units/ac	Metro Very High-Density Mixed Use (MXD3-Metro)
Multi-Family High Density Residential (MFH)	Supports medium-density residential development such as stacked flats and apartments.	Residential: 30-40 units/ac	Metro Multi-Family High Density Residential (R3-Metro)
Multi-Family Very High Density Residential (VHD)	Allows high-density residential development, such as multi-story apartments and condos.	Residential: 40-85 units/ac	Metro Multi-Family Very High Density Residential (R4-Metro)
Urban Residential (URR)	Allows very high density, residential-only development, such as multi-story.	Residential: 70-120 units/ac	Metro Urban Residential (R5-Metro)
Business Park Research & Development, Residential (BPRD-R)	Supports office, R&D, office-supportive commercial retail, hotels, and allows residential as secondary uses.	Mixed-use: 1.0- 5.0 FAR;* minimum of 1.0 FAR of office or R&D	Innovation District Residential (INND-R)

\* Ground floor retail and active uses are required on 80 percent of the ground floor facade along any Activity Street  
Source: 2022 Public Draft Milpitas Metro Plan

The Milpitas Metro Plan allows significantly higher densities in the Metro Plan area with generous height limitations that would allow innovative architectural designs. These designations do not pose a constraint to housing development. Metro Plan adoption is anticipated in Fall 2022, with changes to the Zoning Ordinance expected to be updated by the end of 2023.

The Metro Plan does not have a specific affordable housing strategy that is different from city-wide inclusionary housing ordinance. Other features of the Metro Plan include an On-Site Parking Reduction program that could accelerate redevelopment, promote higher densities, and result in lower construction costs.

#### MILPITAS MIDTOWN SPECIFIC PLAN (NOW GATEWAY-MAIN STREET SPECIFIC PLAN)

Midtown Specific Plan area is envisioned as mixed-use community that includes high-density, transit-oriented housing with public spaces while maintaining industrial, service, and commercial uses. Preparation of an updated Milpitas Midtown Specific Plan (renamed Gateway-Main Street Specific Plan) is underway. Revised zoning districts have not been prepared but will be considered during the process. As such, the Housing Element analyzes the 2021 General Plan land use designations for the sites within the Gateway-Main Street Specific Plan area.

The City's updated General Plan increased residential capacity by 1,435 units at buildout in the Gateway-Main Street Specific Plan within its boundaries over 589 acres. The existing Midtown Specific Plan includes four designations that allow residential uses in the specific plan area.

**TABLE B-3: MILPITAS MIDTOWN SPECIFIC PLAN LAND USE DESIGNATIONS**

Land Use Designation	Residential Type and Characteristics	Density (units per acre)	Zoning
Mixed-Use	Supports multifamily and single-family attached units, including upper story residential units, townhouses and flats	Mixed Use: 0.75 FAR Residential Only: 21-30 units/ac	MXD
Multifamily Very High Density	Supports row houses and townhouses to lofts and stacked flats with structured parking	Residential: 31-40 units/ac	R4
Multi-Family High Density	Supports row houses to triplexes and fourplexes, stacked townhouses and walk-up garden apartment	Residential: 12-20 units/ac Maximum up to 40 with special planned unit development (PUD) approval	R3
TOD Overlay Zone	Allows multifamily residential development, such as multi-story apartments and condos.	Residential: 41-60 units/ac	R4-TOD

Source: 2010 Milpitas Midtown Specific Plan and Zoning Code

The current Midtown Specific Plan designations do not necessarily pose a constraint to housing development. The City, however, may consider increasing densities during the Gateway-Main Street Specific Plan update process in line with the Metro Plan area to further encourage housing production.

## ZONING DESIGNATIONS AND DEVELOPMENT STANDARDS

Chapter 10 of the Milpitas Municipal Code contains the City's Zoning Ordinance. The Zoning Ordinance serves to implement the General Plan and specific plans, regulating the type, location, density, and scale of residential development to protect and promote the health, safety, and general welfare of residents. The Zoning Ordinance sets forth the City's specific residential development standards. There are five residential-only zones, three mixed-use zones, and one commercial zone that allows for residential development. Additionally, there are overlay zones that allow higher density and height limits for each of these zones, as described in the forthcoming sections.

The Zoning Ordinance has not been updated to ensure consistency with the 2021 General Plan. The following section contains an analysis of the current Zoning Code as it will continue to govern development in the city until updates are adopted. A summary of the types of residential uses permitted in each zoning designation is shown in Table B-4.

Use types include the following:

- P:** Permitted
- MCS:** Minor Conditional Use Permit
- P/C:** Permitted/Conditional Use Permit
- C:** Conditional Use Permit
- MC:** Minor Conditional Use Permit
- O:** Subject to an alternative review process
- NP:** Prohibited Use

## DEVELOPMENT STANDARDS IN RESIDENTIAL AND MIXED-USE DISTRICTS

Table B-5 provides a summary of the development standards for each zoning district where residential is allowed. For the residential zones, R1 has the lowest required density between 3 to 15 dwelling units per acre and R5 has the highest density allowing up to 60 dwelling units per acre. The heights within the residential districts range between three stories to a maximum of six stories. There is no minimum lot area requirement for the R4 and R5 districts. The three mixed use zones also define residential density limits with between 30 to 60 dwelling units per acre. The MXD zones have higher maximum allowed building height where projects can go as high as twelve stories. These development standards continue to be viewed as necessary to protect the public health, safety, and welfare and maintain the quality of life, and are not considered constraints on the development of housing for all income levels.

While residential use is not an allowed use in the CO, C1, C2, HS, and TC zones, the recently adopted AB 2011 and SB 6 provide pathways for qualifying residential development on commercially zoned properties. AB 2011 provides a ministerial approval pathway for multifamily projects on commercially zoned properties that pay prevailing wages for construction workers, meet affordable housing requirements, and meet other eligibility requirements. SB 6 also allows residential development on commercially zoned properties without requiring a rezoning that pay prevailing wages for construction workers and meet skilled and trained workforce requirements. SB 6 projects are not eligible for ministerial review.

**TABLE B-4: PERMITTED RESIDENTIAL DEVELOPMENT BY ZONING DISTRICT**

Use	R1	R2	R3	R4	R5	CO	C1	C2	HS	TC	MXD	MXD2 (Ground Level)	MXD2 (Upper Floor)	MXD3
Condominiums and condo conversions	NP	SFR: C Duplex: C	C	C	C						C	C	C	
Duplex (Two dwellings)	NP	P	NP	NP	NP									
Group dwelling	NP	NP	NP	C	C									
Guest house	C	NP	NP	NP	NP									
Manufactured home <sup>1</sup>	P	P	NP	NP	NP									
Multi-family dwellings (Three or more units)	NP	NP	P	P	P						P <sup>8</sup>	NP <sup>8</sup>	P <sup>8</sup>	P <sup>8</sup>
Planned unit development <sup>2</sup>	P	P	P	P	P									
Accessory dwelling unit <sup>3</sup>	P	SFR: P Duplex: P	P	P	P						P <sup>9</sup>	NP <sup>9</sup>	P <sup>9</sup>	P <sup>9</sup>
Single-family dwelling	P	P	NP	NP	NP									
Single-room occupancy residences <sup>4</sup>	NP	NP	C	C	C	NP	NP	NP	C	NP				
Transitional and supportive housing	P <sup>5</sup>	P <sup>5</sup>	P <sup>6</sup>	P <sup>6</sup>	P <sup>6</sup>						P	NP	P	P
Caretaker (in conjunction with contractor's yard or mini-storage complex)						NP	NP	C	C	NP				
Emergency shelters <sup>7</sup>						NP	NP	NP	P/C	NP				

<sup>1</sup> Refer to Subsection XI-10-13.07, Manufactured Homes for standards.



<sup>2</sup> Refer to Subsection XI-10-54.07, Planned Unit Developments for standards.

<sup>3</sup> In conjunction with existing or proposed legal single-family, duplex, or multi-family dwellings. Refer to Subsection Milpitas Zoning Code XI-10-13.08, Accessory Dwelling Units for standards.

<sup>4</sup> Refer to Milpitas Zoning Code XI-10-13.13, Special Uses, Single Room Occupancy Residences.

<sup>5</sup> Permitted only in single family dwellings.

<sup>6</sup> Permitted only in multi-family dwellings.

<sup>7</sup> Refer to Milpitas Zoning Code XI-10-13.14, Special Uses, Emergency Shelters

<sup>8</sup> Ground level residential is prohibited in the Ground Level Commercial Area as shown on the Midtown Specific Plan Land Use Map.

<sup>9</sup> Only allowed within multi-family dwellings, subject to the requirements of Subsection XI-10-13.08, Accessory Dwelling Units.

Source: City of Milpitas Zoning Code

**TABLE B-5: ZONING DISTRICTS AND DEVELOPMENT STANDARDS**

Zone	Zoning Districts	Density (units per acre)	Min. Lot Area (sq. ft)	Max. Building Height (ft/stories)	Front Yard Setback	Side Yard Setback	Street Side Yard Setback	Rear Yard Setback
R1	Single-Family District	3 to 15	R1-2.5: 2,500 R1-3: 3,000 R1-4: 4,000 R1-5: 5,000 R1-6: 6,000 R1-8: 8,000 R1-10: 10,000	30	R1-2.5: 20 R1-3: 20 R1-4: 20 R1-5: 20 R1-6: 20 R1-8: 25 R1-10: 25	R1-2.5: One side 5 R1-3: One side 5 R1-4: One side 6 R1-5: Adj. to garage 6, total ten feet. R1-6: Adj. to garage 6, total 13. R1-8: One side 7, total both sides 17 R1-10: One side 8, total both sides 20	<b>10</b>	R1-2.5: 15/20 R1-3: 15/20 R1-4: 15/20 R1-5: 20/20 R1-6: 25/25 R1-8: 25/30 R1-10: 30/35
R2	One and Two-Family District	7 to 11	Single-Family 6,000 Two-Family 8,000	30/2.5	Single-Family: 20 Two-Family: 20	Single-Family: Single Story: One side 4, total both sides 12. Two-story: One side 6, total both sides 15.	10	Single-Family: 25/25 Two-Family: 25/30

Zone	Zoning Districts	Density (units per acre)	Min. Lot Area (sq. ft)	Max. Building Height (ft/stories)	Front Yard Setback	Side Yard Setback	Street Side Yard Setback	Rear Yard Setback
						Two-Family: Single Story: One side 7, total both sides 12. Two-Story: One side 8, total both sides 20		
R3	Multi-Family High Density District	12 to 20	8,000 2,000 per dwelling unit	35/3.5	20	Single Story: One side 5 ft., total both sides 12 ft. Two-2.5 story: One side 10 ft., total both sides 25 ft. Three-3.5 story: One side 12 ft., total both sides 30 ft.	10	Single Story: 30 ft. Two/2.5 story: 35 ft. Three/3.5 story: 40 ft.
R4	Multi-Family Very High Density District	31 to 40	None	60/4	8 min/15 max from back of sidewalk	10	Same as Front Yard	10
R5	Urban Residential	41 to 60	None	75/6	Min: 12 Min: 20	15 20 for buildings over 3 stories which abut residential uses	Min: 12 Max: 20	15 20 for buildings over 3 stories which abut residential uses

Zone	Zoning Districts	Density (units per acre)	Min. Lot Area (sq. ft)	Max. Building Height (ft/stories)	Front Yard Setback	Side Yard Setback	Street Side Yard Setback	Rear Yard Setback
TC	Town Center	0.85 FAR 40 du/ac	N/A	None	20 ft. 35 ft. along E. Calaveras Blvd.	0 ft. 15 ft. when abutting R District	20 ft. 35 ft. along E. Calaveras	0 ft. 15 ft. when abutting R District
MXD	Mixed Use	21 to 30	N/A	45/3		Ground Level Commercial Area: 0 All other areas: 10		10
MXD2	High Density Mixed Use	31 to 40	N/A	75/6		0 Except when abutting residential use and for portions of buildings over 60 ft. or four stories tall, where the interior side yards shall be a minimum of 10		10 15 when abutting residential 20 for portions of buildings over 60 or four stories tall.
MXD3	Very High Density Mixed Use	41 to 60	N/A	150/12	12 min 20 max.	10 15 when abutting residential. 20 for portions of buildings over 60 or four stories tall.		15 20 when abutting residential 30 for portions of buildings over 60 or four stories tall.

Source: City of Milpitas Zoning Code

Overall, these zoning districts do not pose a significant constraint to residential development in Milpitas except for the Town Center (TC) and Neighborhood Commercial Mixed Use (NCMU). As described in the General Plan section, the TC zone allows a residential density to up to 40 dwelling units per acre. However, residential is only permitted in this zone when it is accompanied with a minimum 0.35 FAR of non-residential space. Likewise, the Zoning Ordinance has not been amended to include residential use in the areas designated NCMU in the General Plan. The land use listed under NCMU is zoned C1, C2, or other designations which currently do not allow residential use.

The Milpitas Municipal Code Section XI-10-12 also defines combining regulations for a series of overlay districts that provide for additional density and height allowances that may be applicable to a particular area. For example, the TOD Overlay Zone allows higher densities near transit stations to encourage the creation of walkable and attractive mixed-use neighborhoods. The TOD Overlay Zone can be combined with any zoning district on lands that are generally within a 2,000-foot walk from a rail transit station. The overlay districts and their corresponding density and building height limits relevant to the Housing Element are elaborated in Table B-6.

**TABLE B-6: OVERLAY DISTRICTS**

Overlay District	Applicability	Density (dwelling units per acre unless otherwise specified)	Max. Building Height (ft/stories)
High Rise (-HR)	All zones near highways	60 to 150	N/A
Mobile Home Park (-MHP)	"R1-6," "R2," "R3-20," and "HS"	7	N/A
Transit Oriented Development (-TOD)	Any zoning district on lands that are generally within a 2,000 foot walk from a rail transit station	MXD-TOD: 31 to 40 MXD2-TOD: 31 to 50 MXD3-TOD: 41 to 75 R3-TOD: 21 to 40 R4-TOD: 41 to 60 R5-TOD: 41 to 75	MXD-TOD: 60/4 MXD2-TOD: N/A MXD3-TOD: up to 24 stories with PC review R3-TOD: 60/4 R4-TOD: 75/6 R5-TOD: N/A
H Hillside Combining District	Combined with R1 Single Family Residential District		17/1

Source: City of Milpitas Zoning Code

Milpitas's open space requirements may be a constraint or limiting factor to new housing. The City requires projects to provide for the dedication of land, payment of fees, or combination of both for park and recreational purposes. The subdivision ordinance requires up to 5 acres per 1,000 residents be dedicated outside of the Metro and Main Street-Gateway Specific Plan areas and up to 3.5 acres per



1,000 residents within the Specific Plan areas. Additionally, units must provide usable public and private open space for each unit, typically 150 to 300 square feet depending on the housing types. As a comparison, the City of San Jose requires between 100 and 160 square feet of public and private open space per unit depending on the project type. While the City's new Objective Design Standards articulate and streamline these standards, developers flagged open space requirements as a challenge to maximizing densities.

## SENATE BILL 9 IMPLEMENTATION

Senate Bill 9 (SB 9) is a new law enacted by the State of California that increases the allowed density on certain single-family lots. SB 9 adds two new sections to the Government Code §§ [65852.21](#) and [66411.7](#) that make it easier to add a second single-family residence or split an existing lot (urban lot-split) in areas which meet the requirements. The City of Milpitas adopted an Urgency Ordinance to implement SB 9 before the law went into effect on January 1, 2022.

The City adopted guidance on SB9 implementation includes resources published on the website to guide property owners through the process. Owners can consult with the Planning Department if their property is eligible for SB 9 and submit a complete SB 9 Application Package.<sup>1</sup> After submission, the City will follow the following timelines to determine the approval or denial of an application. An application for a parcel map for an urban lot split is approved or denied ministerially, by the Planning Director or his or her agent, without discretionary review.

- **Completeness & Eligibility Review.** The City will issue a determination of completeness and eligibility within 30 days of receipt of an application.
- **Action on the Application.** City staff will issue an approval or denial on the application within 60 days of the completeness determination.

## OFF STREET PARKING REQUIREMENTS

The cost of providing structured parking can add over \$35,000 per housing unit to the overall costs of a multifamily housing development project. While developers and lenders often necessitate parking in multifamily housing development, parking-related requirements can impact multifamily housing development and costs, particularly for affordable units.<sup>2</sup>

Parking requirements for multi-family dwellings and the residential component of mixed-use development are based on the number of bedrooms and include requirements for additional guest parking. Table B-7 shows minimum parking requirements for the different land uses in the zoning districts outside of the specific plan areas and overlay districts. Lower density zones require as much as three spaces per unit, while higher density zones require one space or less per unit.

Through mWhile the parking requirements in Milpitas are at the higher end in the Bay Area, mixed-use overlay zones, and specific plan areas, and projects implementing the City's Affordable Housing Ordinance, the City has worked to have reduced parking requirements to encourage more housing development in these areas of the city. Table B-8 shows the parking requirements for projects in an

<sup>1</sup> Application requirements are available here: <https://www.milpitas.gov/milpitas/departments/senate-bill-9-sb9/>

<sup>2</sup> Carolina Reid, Adrian Napolitano, and Beatriz Stambuck-Torres, "The Costs of Affordable Housing Production: Insights from California's 9% Low-Income Housing Tax Credit Program" The Turner Center for Housing Innovation at University of California, March 2020.

overlay zone. Table B-9 shows the parking requirements for projects in the Metro Plan area. Furthermore, AB 2097 preempts local parking requirements and eliminates parking minimums with ½ mile of high-quality transit. Most of the new housing development is expected to occur in these areas of the city.

Recent California law has modified parking requirements for projects near high-quality transit. Passed in 2022, AB 2097 preempts local parking requirements and eliminates parking minimums with ½ mile of high-quality transit, effective 2023. Similarly, for properties undergoing the SB9 process, cities may not impose parking requirements when a parcel is located within ½ mile of high-quality transit. Similarly changes in ADU regulations, State Density Bonus waivers, and SB 35 streamlined approvals have led to further parking reductions for specific projects in Milpitas.

Parking regulations in Milpitas are higher relative to some adjacent cities, particularly for studio and 1-bedroom units. For instance, minimum parking requirements for a 1-bedroom unit outside of overlays is 1.75 and 1.4 within (inclusive of guest parking requirements). As a comparison, the City of San Jose requires 1.25 spaces per 1-bedroom unit (inclusive of guest parking). Other communities, like Mountain View and Sunnyvale, have eliminated parking minimums and adopted parking maximums within specific and precise plan areas where housing is encouraged, similar to the Metro Plan area.

Although the Metro Plan includes a significant reduction in parking requirements due in part to its adjacency to high-quality transit, the specific plans (HE Program 20) and Zoning Ordinance (HE Program 21) will need to be updated to reflect AB 2097 and the elimination of minimum parking ratios. The City will also evaluate and revise off-street parking requirements for studio and 1-bedroom units to address constraints and encourage housing. Table B-9 shows the parking requirements for projects in the Metro Plan area. Likewise, pursuant to Government Code Section 65913.4(e)(1)(A), the City is prohibited from imposing automobile parking standards on a project deemed eligible for streamlined review under SB 35 when it is located within ½-mile of public transit. While these parking standards may not act as a constraint to housing or affordable production in the overlay zones or the specific plan areas, outside of these areas, parking may act as a constraint.

**TABLE B-7: MINIMUM PARKING REQUIREMENTS FOR PROJECTS NOT IN AN OVERLAY DISTRICT**

<b>Mixed-Use and Residential Designations</b>	<b>Minimum Parking Spaces Required (parenthesis inclusive of guest parking)</b>
Studio	1 space per unit (1.15)
1 Bedroom	1.5 spaces per unit (1.75)
2-3 Bedroom	2 spaces per unit (2.15)
4 or more	3 spaces per unit + 1 additional space per each additional bedroom (3.15)
Senior Housing	1 space per unit + 2 per manager's unit
Guest Parking	15% of the total required (structured) 20% of the total required (private garages)
Bicycle Parking	5% of the total required (Residential + Commercial Uses)
Ground Floor Retail	1 per 250 sq. ft.
Office	If building is 1,000 sq. ft. or smaller: 1 per 250 sq. ft.; If building is larger than 1,000 sq. ft.: 3.3 per 1,000 sq. ft.
Other Uses	Refer to Table 53.09-1 of the Zoning Code

Source: City of Milpitas Zoning Code

**TABLE B-8: PARKING REQUIREMENTS FOR PROJECTS IN AN OVERLAY DISTRICT**

Use	MXD/MXD2/MXD3	
	Min Required	Max Allowed
Studio	0.8 covered	1.0 covered
1 Bedroom	1.2 covered	1.5 covered
2 + Bedrooms	1.6 covered	2.0 covered
Guest Parking	15% of required total	
Bicycle Parking	Long-term Bicycle Parking: 1 per 4 housing units (25%) Short-term Bicycle Parking: 1 per 20 parking spaces required (5%)	
Retail	0.8 per 250 sq. ft.	1.0 per 250 sq. ft.
Office	0.8 per 303 sq. ft.	1.0 per 303 sq. ft.
Other Uses	Refer to Table 53.09, Parking Schedule, of the Zoning Code.	
Parking for Carpools	1% of required total	

Source: City of Milpitas Zoning Code



**TABLE B-9: PARKING REQUIREMENTS FOR PROJECTS IN THE METRO PLAN AREA**

Land Use	Minimum Requirement	Maximum Requirement
Residential/Lodging	0.5 spaces per unit	1.5 spaces per unit
Non-Residential	1 space per 1,000 sf	2 spaces per 1,000 sf

Source: 2022 Public Draft Metro Plan

## DENSITY BONUSES

State density bonus regulations have changed significantly in recent years. AB 1763, adopted in 2019, requires a density bonus to be granted for projects that include 100 percent lower income units, but allows up to 20 percent of total units in a project that qualifies for a density bonus to be for moderate-income households. Additionally, density bonus projects must be allowed four incentives or concessions, and developments within ½ mile of a major transit stop are allowed a height increase of up to three additional stories or 33 feet. For most projects, a density bonus of 80 percent is required; however, there are no limitations on density for projects located with ½ mile of a major transit stop. The bill also allows developers to request the elimination of minimum parking requirements for rental units affordable to lower-income families that are either supportive housing or special needs housing, as defined. AB 2345, which took effect on January 1, 2021 further incentivizes the production of affordable housing by increasing the maximum density bonus from 35 percent to 50 percent for projects not composed exclusively of affordable housing.

The State Density Bonus Law allows developers of projects with five or more dwelling units to obtain more favorable local development requirements in exchange for building or donating land for affordable or senior units. The SDBL (found in California Government Code Sections 65915 – 65918) provides incentives to encourage the development of housing, including increase in project densities and reduction of parking or development standards depending on the amount of affordable housing or other specified community benefits.

Local jurisdictions are required to grant a density bonus and other incentives or concessions to housing projects which contain one of the following:

- At least 5% of the housing units restricted to very low-income residents.
- At least 10% of the housing units restricted to lower income residents.
- At least 10% of the housing units in a for-sale common interest development restricted to moderate income residents.
- 100% of the housing units (other than manager's units) restricted to very low, lower and moderate-income residents (with a maximum of 20% moderate).
- At least 10% of the housing units targeted for transitional foster youth, disabled veterans or homeless persons, with rents restricted at the very low-income level.
- The project donates at least one acre of land to the city for very low-income units, and the land has the appropriate general plan designation, zoning, permits and approvals, and access to public facilities needed for such housing.
- The project is a senior citizen housing development (no affordable units required).

The amount of the density bonus is set on a sliding scale, based upon the percentage of affordable units at each income level. Base density allowed is calculated based on either the zoning district or General Plan land use designation, whichever allows higher density. Affordable projects with as little as 5% Very Low income or 10% Low Income units are eligible for up to 50% increase in density. Projects which have

all affordable units are eligible for an 80% increase in density. The SDBL explicitly supersedes any local ordinances and takes precedence when there is any conflict between the two; a city, however, may provide additional density bonus over the minimum state requirement.

The City of Milpitas' Density Bonus Ordinance (DBO) was adopted in 2008. In Milpitas, if the housing development meets criteria- at least 5% of the housing units restricted to very low-income residents or at least 10% of the housing units restricted to lower-income residents, the density bonus shall be an increase of 20% over the maximum allowable residential density under the general plan and zoning ordinance. If the housing development meets criterion - ten percent (10%) of the total dwelling units in a condominium project restricted to moderate income, the density bonus shall be an increase of five (5%) percent over the maximum allowable residential density under the general plan and zoning ordinance. The City's current Density Bonus Law does not fulfill the requirements of the SDBL. The Housing Element's Program 21: Zoning and Building Code Amendments includes an action to update the City's density bonus provisions.

## PARKING

Upon the developer's request, the City may not require more than the following parking ratios for a density bonus project (inclusive of parking for persons with disabilities):

- Studio or 1 Bedroom – 1 space
- 2 or 3 Bedroom – 1.5 spaces
- 4 Bedroom 2.5 spaces

Even lower parking ratios apply to affordable housing projects that are within specific proximity of transit services and facilities (although local jurisdictions can require higher parking ratios if supported by a parking study).

## CONCESSION AND WAIVERS

In addition to the density bonus, the jurisdiction is also required to provide one or more "incentives" or "concessions" to each project which qualifies for a density bonus. A concession or incentive is defined as reduction in site development standards or a modification of zoning code or architectural design requirements, such as a reduction in setback or minimum square footage requirements, or other regulatory incentives or concessions which actually result in identifiable and actual cost reductions. The number of required incentives or concessions is based on the percentage of affordable units in the project, with the larger the percentage of affordable units and the higher.

If any other city development standard would physically prevent the project from being built at the permitted density and with the granted concessions/incentives, the developer may propose to have those standards waived or reduced. The city is not permitted to apply any development standard which physically precludes the construction of the project at its permitted density and with the granted concessions/incentives other than those that would cause a problem for public health, safety, the environment, historical property, or would be contrary to law.

## BONUS RELATED TO PROXIMITY TO TRANSIT

Height or FAR limits in the local zoning are development standards for which waivers can be requested for a density bonus project. Eligible 100% affordable housing developments built within a half-mile of a major transit stop may increase building height by 3 additional stories or 33 feet over any prescribed zoning standard and have no other limit on density.

The SDBL also requires that cities and counties provide a “development bonus” to commercial developers who partner with affordable housing developers for the construction of affordable housing on the commercial project site, or offsite within the jurisdiction located near schools, employment and a major transit stop. Unlike the primary Density Bonus Law, there is no fixed amount of increased density available. Instead, the development bonus can be any mutually agreeable incentive, including up to a 20% increase in development intensity, floor area ratio, or height limits, up to a 20% reduction in parking requirements, or other exceptions.

Under new amendments effective in 2019, a local jurisdiction is also permitted under the SDBL to grant a floor area ratio bonus rather than a traditional density bonus to certain high density affordable housing projects adjacent to public transit. This option would need to be specifically adopted by the Milpitas City Council as an amendment to the City’s DBO since it is not automatically available. Eligible projects are also entitled to special parking ratios of one-tenth of a parking space per affordable unit and one-half space per market rate unit. To be eligible for the floor area ratio bonus, the project must restrict at least 20 percent of the units to very low-income tenants, must be located within a transit priority area or near a major transit stop, and must be in compliance with local height limits.

**CUMULATIVE EFFECT OF LAND USE CONTROLS**

Milpitas has made efforts to help alleviate constraints to the production of housing from the City’s land use controls.

- Adopting a comprehensive General Plan update in 2021
- Adopting Objective Design Standards in 2022
- Updating the Metro Specific Plan (adoption Spring 2023)
- Updating the Gateway Main Street Specific Plan (adoption end of 2023)
- Initiating the Housing Opportunity Zone program (2023)
- Initiating a Zoning Ordinance update (2024)

Since the start of the 5<sup>th</sup> Housing Element Cycle through the end of 2021, 3,034 housing units were permitted in Milpitas. This provides a proxy for the impact of land use regulations in Milpitas. While the City has permitted double the number of units needed to meet the above moderate-income RHNA, it has not issued sufficient permits to meet the goal in the moderate- and lower-income categories. These numbers reflect the challenges faced in building housing for low- and moderate-income categories with State and local funding to meet housing needs. Likewise, the City’s Affordable Housing Ordinance went into effect in 2018. Projects entitled before that date were not subject to the inclusionary requirement.

**TABLE B-10: HOUSING UNIT PERMITS ISSUED COMPARED TO RHNA DURING THE 5<sup>TH</sup> CYCLE**

	<u>Very Low- Income Units</u>	<u>Low Income Units</u>	<u>Moderate Income Units</u>	<u>Above Mod Income Units</u>	<u>Total Units</u>
<u>RHNA (2025- 2023)</u>	<u>1,004</u>	<u>570</u>	<u>565</u>	<u>1,151</u>	<u>3,290</u>
<u>City Accomplishment: Total Permitted Units (2015- 2021)</u>	<u>243</u>	<u>20</u>	<u>13</u>	<u>2,758</u>	<u>3,034</u>

<u>Percentage of RHNA</u>	<u>24.2%</u>	<u>3.5%</u>	<u>2.3%</u>	<u>239.6%</u>	
---------------------------	--------------	-------------	-------------	---------------	--

Source: 2021 Annual Progress Report

As described in this chapter, land use controls may still constraint housing production. As shown in Appendix E: Future Housing Needs, Table E-7, pipeline projects with planning and building permits have average densities of 80 percent and 145 percent of allowable density, respectively. In general, higher-density, multifamily projects tend to achieve a higher overall percentage of maximum allowable densities than townhome projects. The combination of market demand for specific types of housing, along with requirements for off-street parking, open space, and other standards may yield fewer residential units for an individual project. For example, through the Housing Opportunity Zone, the City completed site test comparisons for the sites in the Neighborhood Center Mixed Use (NCMU) designation. Those test fits found that redeveloping those sites is less feasible, owing to the limited amount of allowed housing, higher parking requirements, and/or the need for higher heights to maximize residential density.

While Milpitas's overall development standards do not necessarily present a significant constraint to achieving housing goals, the City includes a series of program actions to review and address those issues. This includes:

- Program 15 includes action steps to revise these standards in the NCMU and TC districts.
- Program 20 revises the Metro and Gateway-Main Street Specific Plans, including their zoning standards.
- Program 21 includes steps to address zoning standards, parking, open space, and other standards to remove constraints to housing.

## On and Off-Site Improvement Requirements

Site improvements are required to ensure that minimum standards for public facilities are maintained to protect public health, safety, and welfare. Site improvements can include improvements on-site, frontage improvements, or off-site improvements. The City's Zoning Code Section 3-8 includes on-street improvements or payment in lieu of dedication or both for projects.

As an urbanized community, most on- and off-site improvements are already in place. Typical On-site improvements may include improving streets (such as, curb, gutters, driveways, sidewalks), providing access routes, dedicating a right-of-way for storm drainage, or paying for past improvements undertaken by the City; and off-site improvements are required of discretionary projects as mitigation measures for impacts on the transportation, infrastructure, and utility networks. The cost of providing facilities, such as streets, sidewalks, stormwater facilities, sanitary sewers, water lines, and other utilities that serve the site being developed is the responsibility of the development. Developers or owners are required to contribute their fair, equitable share to the street improvements in such areas when their property develops or when they seek a permit of the kind.

Off-site improvements in the form of Impact Fees are further explored in the Governmental Constraints section. While on- and off-site improvements increase the costs of development, they are required to mitigate the impact of new development on the City's infrastructure and are largely unavoidable. However, the City will continue to mitigate the impact on housing through the use of regulatory incentives, funding assistance, and other strategies (Housing Program 16).





# Provision for a Variety of Housing Types

State housing element law requires local jurisdictions to identify adequate available sites through appropriate zoning and development standards to encourage the development of a variety of housing types for all economic segments of the population as well as housing types that serve special needs groups such as persons with disabilities, farmworkers, and persons experiencing homelessness. The City of Milpitas Zoning Ordinance allows for a wide variety of residential uses in its residential and mixed-use zones and to some extent in its commercial zones. Table B-4 summarizes the permit requirements for various residential uses in each zoning district. Additional discussion on the housing types is below.

Housing Element Program 21 includes actions to amend the Zoning Code to comply with AB 2162 (Supportive Housing), AB 139 (Emergency Shelters), AB 101 (Low Barrier Navigation Centers), and farmworker housing.

## SINGLE FAMILY DWELLINGS

Single-family dwellings represent 72% of the city's housing stock. As defined by the Milpitas Zoning Ordinance, a single-family dwelling is defined as "a detached building designed exclusively for occupancy by one (1) family for living purposes and having only one (1) kitchen." Single family housing is permitted only in R1 and R2 zones of the city.

## MANUFACTURED HOMES

Manufactured homes are permitted by right in R1 and R2 zones of the city. Title XI-10-13.07 specifies standards and procedures for manufactured homes. These standards subject manufactured homes to the same standards as single-family dwellings consistent with the requirements of Government Code Section 65852.3.

## MOBILE HOMES

Mobile homes represent 2% of the city's housing stock. The Zoning Ordinance defines mobile home as "a transportable structure designed to be used as a dwelling unit when connected to required utilities." [There are three mobile home parks in Milpitas- Mobile Lodge of Milpitas, Friendly Village, and Pioneer Mobile Home Park.](#) The City establishes a Mobile Home Park Overlay (-MHP) that promotes the expansion and diversification of the available housing opportunities within the City of Milpitas by the establishment of standards for the creation of planned mobile home parks (XI-10-12.04). The overlay applies to "R1-6," "R2," "R3-20," and "HS."

Title XI-20 of the Zoning Ordinance establishes standard for the conversion of mobile home parks to other uses to ensure available space in mobile home parks for low and very low-income families.

## MULTI-FAMILY DWELLINGS

Multi-family dwellings represent 26% of the city's housing stock. The City defines **multiple-family** dwelling as a building or portion thereof, designed for occupancy by three (3) or more families living independently of each other. Multi-family dwellings are permitted by right in R3, R4, R5, and all mixed-use zones, as shown in Table B-4.

In 2008, the City adopted a condominium conversion ordinance (Title XI-10-54.14) to maintain an adequate supply of housing, including rental housing. The ordinance requires findings that a proposed conversion would not adversely affect the supply and availability of rental housing in Milpitas. It further

requires that the vacancy is above six percent and two-thirds of the units indicate their desire to convert such project to condominium ownership. Tenant protections such as Notice to tenant(s) of intention to convert; and Tenant(s) exclusive right to purchase their unit(s) upon the same terms and conditions that such units will be initially offered to the general public are provided.

## ACCESSORY DWELLING UNITS

The State legislature has passed numerous bills in recent years with the goal of facilitating the development of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs). These bills, including [AB 2221, SB 897, AB 68, AB 587, AB 881, and SB 13](#), limit how local jurisdictions can regulate ADUs and JADUs with provisions related to development standards, application and approval process, and fees. [The City Council voted on December 6, 2022 to amend its local Zoning Ordinance for consistency with State ADU law.](#)<sup>3</sup>

The City defines an ADU as “an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. An ADU also includes an efficiency unit as defined in Section 17958.1 of the Health and Safety Code and a manufactured home as defined by Section 18007 of the Health and Safety Code.”

Title XI-10-13.08 provides standards to allow and regulate accessory dwelling units and junior accessory dwelling in conformance with Government Code Sections 65852.2, ~~and 65852.22,~~ [and 65852.23 and section 17980.12 of the Health and Safety Code](#). ADUs are approved ministerially without discretionary review or public hearing and are permitted in all residential zones and mixed-use zones in Milpitas.

The City has also implemented the following tools to streamline the ADU permitting process by providing detailed information to residents and will continue to support them through Housing Element Program 4:

- The [Development Review Handbook](#) provides a step-by-step explanation of the City’s permitting process, the roles and responsibilities of all participants, and an introduction to planning and zoning.
- The [ADU Toolkit](#) guides and inspires homeowners through a full-service review to facilitate ADU production.
- [Symbium Build](#) is a [web-based](#), ADU visualization tool that allows homeowners to determine where an ADU can be located on their property based on the City’s requirements.

## SINGLE ROOM OCCUPANCY (SRO)

The City defines Single Room Occupancy (SRO) Residence as “a multi-tenant building consisting of single room dwelling units that are the primary residence of its occupants, containing either individual or shared kitchen and bathroom facilities. These units are small (generally less than 350 square feet) and provide a valuable source of affordable housing for individuals and can serve as an entry point into the housing market for formerly homeless people.”

---

<sup>3</sup> [Milpitas City Council Agenda. 2022. Item 21: Conduct a Public Hearing and Introduce an Ordinance Amending Section 13 “Special Uses” of Chapter 10 “Zoning” of Title XI of the Milpitas Municipal Code Relating to Accessory Dwelling Units \(ADUs\) and Junior Accessory Dwelling Units \(JADUs\)](#)

SROs are a key component of Milpitas's supply of affordable housing, providing very-low- and extremely low-income residents the ability to remain in Milpitas and avoid homelessness. XI-10-13.13 of the Milpitas Zoning Code details the location of SROs, minimum standards for areas and other requirements. SROs need a Conditional Use Permit in residential zoning districts R3, R4, and R5 and the commercial HS zone. According to the Zoning Code allows, an SRO shall be located at least a quarter mile away from schools, parks, day care centers, adult businesses, and half mile of fixed rail or buses with 30-minute minimum headways. An SRO shall be at least 1,000 feet away from other SROs.

The code requires an SRO to be at least 150 square feet in area without individual kitchen ~~et~~ bathroom facilities or a minimum of 300 square feet with full kitchen and bathroom facilities. An SRO unit cannot exceed 400 square feet and it must contain a closet or storage area within the unit. For SROs without individual bath and kitchen facilities, common facilities shall be provided that adequately serve the residents of the SRO facility. Additionally, one laundry facility shall be provided for every twenty units, with at least one washer, dryer, and laundry tub per floor. Finally, the code also requires two hundred (200) square feet of interior usable common space, excluding janitorial storage, laundry facilities and hallways. SROs are required to provide one parking stall per unit.

A management plan shall be submitted to the City Planning Division for review and approval prior to issuance of an occupancy permit. Management plans shall be resubmitted to City Planning Division on an annual basis for review and approval. A facility with ten or more units shall provide on-site management.

Unit sizes, spacing, parking requirements, and conditional use permits may be a constraint to SRO production. Program 21 includes an action step to review and revise the standards and permit procedures.

## EMERGENCY SHELTERS AND LOW BARRIER NAVIGATION CENTERS

SB 2 (2007) requires local jurisdictions to identify at least one zone where emergency shelters are permitted by right if adequate capacity in existing shelters is not sufficient to serve the population in need of emergency shelter. This determination is based on the number of individuals experiencing homelessness identified in the most recent point in time count.

In 2019, the State Legislature passed AB 139, which limits the development and performance standards that a local jurisdiction can impose on emergency shelters. Section XI-10-13.14 of the Milpitas Zoning Code requires that emergency shelters be permitted by-right (non-discretionary) in at least one zone with sufficient capacity to accommodate the local need for emergency shelter. The section lists minimum standards for the emergency shelter such as number of beds, parking, length of stay, distance from other emergency shelters and so forth.

- Maximum number of beds are limited to 30;
- Parking requirements shall be either one space per three hundred (300) square feet of habitable floor area, or sufficient to serve the parking demand determined in a study prepared by the applicant and approved by the Planning Division;
- Size and location of onsite client waiting and intake areas;
- An emergency shelter shall not be located within 300 feet of other emergency shelters;
- Length of stay shall not exceed 90 days;
- Exterior lighting of the property shall be designed to provide a minimum maintained horizontal illumination of at least one foot candle of light on parking surfaces and walkways that serve the facility. Illumination shall not extend across property lines to an adjacent property;
- Provision of onsite management; and,
- Securing during operating hours.

AB 139 limits parking for emergency shelters based on staffing level only, not on shelter capacity. The City also requires a separation between two emergency shelters of at least 300 feet. Program 21 of the Housing Element includes an action to update the zoning standards for emergency shelters to be compliant with AB 139.

The 'HS' or 'Highway Services' zone allows Emergency Shelters and occupies 113 acres of land on 40 parcels in Milpitas. Three parcels are over 10 acres, currently used as mobile home parks, and nine parcels are less than 0.5 acres. The average parcel size in the HS' zone is 2.8 acres. Existing uses include hotels, gas stations, surface parking lots, mobile home parks, some retail, and recreational uses. Many parcels in the 'HS' zone are underutilized and are included within the Gateway Main Street Specific Plan area. These parcels are identified in the Sites Inventory under the "Rezone Sites" category and will be rezoned to allow residential use. With 125,249 unsheltered individuals, the City will need five-ten shelters with maximum 30 beds each. The 'HS' zone has adequate sites that are vacant or underutilized to allow Emergency Shelters. The HS zone allows 0.5 FAR, has no required side or rear setbacks, and has no building height limits. Sites in the HS zone are within walking distance to ample commercial and recreational facilities. These characteristics indicate the feasibility for either redevelopment or potential conversion of existing structures to emergency shelters in this zone. A management plan for emergency shelters is required to be submitted to the City Planning Division for review and approval prior to issuance of occupancy permit and on an annual basis for continued review.

AB 101 (2019) defines "low barrier navigation centers" and requires local jurisdictions to permit them by right in zones that allow mixed-use development and nonresidential zones that permit multifamily uses, provided the facility meets certain standards. Per AB 101, a *low barrier navigation center* is "a Housing First, low-barrier, service enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing." Housing First refers to an overall approach to serving individuals experiencing homelessness where a decent, safe place to live is provided before addressing any other barriers or factors that may have resulted in the person's homelessness. Low barrier shelters may also provide additional flexibility, such as allowing partners to share living space or allowing pets.

In addition to requiring local jurisdictions to permit low barrier navigation centers by right in certain areas, AB 101 requires jurisdictions to act on applications for these facilities within a specified timeframe. The provisions of AB 101 are effective through the end of 2026, at which point they are repealed. Low barrier navigation centers are not addressed in the Milpitas Zoning Ordinance. Housing Element Program 21 includes an action to update the Zoning Code to contain provision for Low Barrier Navigation Centers.

## TRANSITIONAL AND SUPPORTIVE HOUSING

Pursuant to State law (SB 2 of 2007 and SB 745 of 2013), transitional and supportive housing are residential uses that shall only be subject to the same permitting requirements and development standards as other residential dwellings of the same type in the same zone. Transitional and supportive housing is permitted in all residential zones of the city and is also permitted in all mixed-use districts except on the ground level. Therefore, the City's requirements pertaining to transitional housing are compliant with State law and do not constrain their development.

The Milpitas Zoning Ordinance defines Transitional Housing and Supportive Housing as follows:

***"Transitional Housing"** means buildings configured as rental housing developments but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months as defined in the California Health and Safety Code Section 50801(e), as may be amended.*

*"Supportive Housing" means housing with no limit on length of stay, that is occupied by the target population as defined in Section 11302 of Title 42 of the United States Code, as may be amended, 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 as defined in the California Health and Safety Code Section 50801(e), as may be amended.*

AB 2162 (2018) introduced new regulations to facilitate the development of supportive housing. For cities with a population of less than 200,000, supportive housing projects with 50 or fewer units must be permitted by right in all zones where multifamily and mixed-use residential development is permitted, provided the project meets other specified criteria. Additionally, local jurisdictions may not require parking for supportive housing projects located within one half mile of a public transit stop. While supportive housing is already by right in multifamily and mixed-use zones, the City will clarify process requirements for streamlined approval (Program 21) and remove minimum parking requirements near transit AB 2097 (Program 21).

EMPLOYEE AND FARM EMPLOYEE HOUSING

The Employee Housing Act (Health and Safety Code Section 17021.5) requires local jurisdictions to consider employee housing providing accommodations for six or fewer employees as a single-family structure with a residential land use designation. The Milpitas Zoning Ordinance does not include any provisions related to employee housing, and Housing Element Program 21 includes an action to develop provisions related to employee housing.

The City’s recently adopted 2021 General Plan does not include a land use designation for agricultural uses; however, section XI-10-40 of the Zoning Ordinances maintains standards for agricultural zones and three parcels in the city continue to be zoned A: Agricultural use. The City’s Zoning Ordinance does not identify farm worker housing separately as a permitted use. Pursuant to the State Employee Housing Act, farmworker housing up to 36 beds or 12 units is considered an agricultural use to be similarly permitted as other agricultural uses in the same zones. Housing Element Program 21 includes an action to resolve the zoning for agriculturally-zoned parcels.

~~There is 6.68 acres of agricultural land located in Milpitas according to the Milpitas Zoning map and the 2015-2019 American Community Survey estimated about 100 workers employed in agriculture, forestry, and fishing industries residing in the City. According to the 2017 Census of Agriculture compiled by the U.S. Department of Agriculture, there were a total of 359 farms, employing 4,175 seasonal and permanent farmworkers in Santa Clara County. Among these farms, 243 farms employed 1,747 workers who worked fewer than 150 days a year. Milpitas has few farmworkers and limited parcels zoned for agricultural use and thus, the need for farmworker housing in the city will be minimal during the 2024-2032 Housing Element Update cycle.~~

**TABLE B-10: FARMWORKERS IN SANTA CLARA COUNTY** ~~Farmworkers in Santa Clara County~~

<del>Farmworkers in Santa Clara County</del>	<del>Number</del>	<del>Percentage of total</del>
<del>Permanent workers (employed for more than 150 days)</del>	<del>2,418</del>	<del>57.9%</del>
<del>Seasonal workers (employed for less than 150 days)</del>	<del>1,757</del>	<del>42.1%</del>
<del>Total workers</del>	<del>4,175</del>	<del>100%</del>

~~Source: USDA Census of Agriculture, Table 7, 2017~~

## HOUSING FOR PERSONS WITH DISABILITIES

Individuals with disabilities may have special housing needs related to restricted mobility, the ability to care for oneself, and the ability to live independently. State law requires the Housing Element to analyze the City's zoning regulations, permitting procedures, and building codes to identify any potential constraints to the development of housing for persons with disabilities.

Zoning Ordinance definitions of "family" or "household" may constrain the development of housing for persons with disabilities, specifically group homes or care facilities, when they limit the number of members of a family or household or require that family or household members be related. The Milpitas Zoning Ordinance definition for "family" is included below.

*"Family" means an individual, or two (2) or more persons related by blood or marriage or legal adoption or joined through a judicial or administrative order of placement or guardianship, or unrelated persons who function together as a single household unit."*

The definition of family is not restrictive and include unrelated persons who function together as a single household. Thus, the definition does not limit the development of different caregiving arrangements or housing types for persons with disabilities.

Milpitas has a slightly smaller proportion of individuals with disabilities than Santa Clara County overall. According to 2015-2019 ACS data, seven percent of Milpitas residents and eight percent of Santa Clara County residents reported having one or more disabilities. About 50% of the persons with disabilities are 18 years or above in age and about 10% of the population with developmental disabilities reside in Community Care Facilities in Milpitas.

## RESIDENTIAL CARE FACILITIES

The State Lanterman Developmental Disabilities Services Act (Lanterman Act) requires that licensed residential care facilities serving six or fewer individuals be treated as residential uses and permitted by right in all residential districts. Milpitas Zoning Ordinance does not explicitly define or state any provisions for Residential Care Facilities. Housing Element Program 21 includes an action to update the Zoning Ordinance to permit residential care facilities as a residential use with clear conditions for approval.

## REASONABLE ACCOMMODATION PROCEDURES

In some circumstances, development standards which may otherwise be acceptable may constrain the development of housing for persons with disabilities. For example, wheelchair access to a dwelling may not be able to be constructed without a ramp encroaching into the front yard setback. In such cases, state and federal law require local jurisdictions to provide relief from specific requirements or standards to accommodate the needs of persons with disabilities.

The City of Milpitas first added reasonable accommodation procedures to the Zoning Ordinance in 2013. Section XI-10-62 contains the application and review requirements for reasonable accommodations. The Planning Department is the approval authority for reasonable accommodations and coordinates with the Building and Safety Department if a building permit is needed. The Planning Department may choose to refer any Reasonable Accommodation application to the Planning Commission for review and final decision. An application for Reasonable Accommodation is filed and processed in the same manner as required for a Minor Site Development permit and the Planning Department may either approve, approve with modifications, or deny a request for Reasonable Accommodation based on the criterion defined in the zoning code. Housing Element Program 21 includes an action to update the Zoning Code to comply with State laws on Reasonable Accommodation Procedures.



# Inclusionary Housing

## AFFORDABLE HOUSING ORDINANCE

The City of Milpitas' Affordable Housing Ordinance (AHO) came into effect in July 2018 ~~and was recently amended in February 2022. The purpose of the AHO is to:~~

- ~~• Enhance the public welfare and assure that further housing development contributes to the attainment of the City's housing goals by increasing the production of residential units affordable by households of very low, low and moderate income.~~
- ~~• Assure that the limited remaining developable land in the City's planning area is utilized in a manner consistent with the City's housing policies and needs.~~

~~Under the AHO, new residential development projects with 10 or more units must include 15% of very-low or low-income units for rental development and 15% of very-low, low, or moderate income units for ownership development. These units must remain affordable for a minimum of 55 years. The ordinance allows several alternatives to building the required affordable housing on-site, including payment of in-lieu fees, building affordable housing off-site, dedicating land for affordable housing, and using credit transfers when a developer builds more affordable units than required. The AHO sets out the minimum percentage of affordable dwelling units, compared to the SDBL. The AHO requires all new residential projects with ten or more units to develop 15% of the total number of units as affordable units.~~

~~To encourage additional affordable housing, the City may grant waivers, incentives and/or concessions beyond those provided pursuant to State Density Bonus law, if the applicant provides affordable units in excess of 20 percent of the total number of units in the development. City grants up to two of the waivers help increase the feasibility of the construction of affordable units, such as: priority processing, reduced setback requirements, greater floor area ratio (FAR), reduced landscaping requirements, reduced interior or exterior amenities, a 20 percent reduction in parking requirements, and height restriction waivers. The applicant may also receive an additional two waivers from the list below for every additional five percent of affordable units provided above the 20 percent.~~

~~The City may also defer fees, including development processing fees and development impact fees.~~

~~Between 2018 when the Affordable Housing Ordinance took effect and early 2022, six residential development projects subject to the AHO have received approval from the City. The six residential projects consisted of three rental and three ownership developments. Five of these six projects are building affordable units on-site and not using any alternative means of compliance. The sixth project, which is an ownership development, is building almost all of the required affordable units on-site but is paying a fee in-lieu of building one unit and a fractional unit. Therefore, all six residential projects developed since the Affordable Housing Ordinance was adopted in 2018 are meeting almost all of their inclusionary housing obligations by incorporating affordable units on-site within the development.~~

~~The AHO was amended in February 2022 to ensure that residential developers would build affordable units on-site, rather than paying in-lieu fees. The 2022 amendments still provide developers with alternatives to building affordable units on-site; however, changes to the process for granting exceptions to building affordable units on-site for ownership housing, which include strengthening the City Council's required findings before allowing alternative means of compliance for ownership housing and incentivizing developers to build affordable units on-site were incorporated.~~

~~As described in Program 17, Housing Plan, the City is committed to updating the AHO, the City shall consider amendments to the ordinance with the goal of increasing the amount of affordable housing built in the city while ensuring the requirements do not pose a constraint to overall housing production.~~

## DESCRIPTION OF RELEVANT AHO REGULATIONS

The required income levels for inclusionary units are very broad: rental developments may provide either very-low or low-income units, and ownership development may provide very-low-, low-, or moderate-income units. The Ordinance provides incentives to developers to provide affordable housing units on site, however, a developer may satisfy the affordable housing requirement in other ways. ~~All exceptions to the AHO requirement require City Council approval prior to the approval for development of the project.~~

- ~~**Pay fees in lieu of creation of affordable units.** Ownership housing projects must request and secure approval from the City Council for paying fees in lieu of construction, whereas rental projects do not need special approval for this option. The affordable housing fees are adopted by City Council Resolution and adjusted annually for inflation. This section was updated after initial adoption to make it more likely for ownership projects to provide affordable units on site.~~
- ~~**Construct affordable units off-site.** With the approval of the City Council, the developer may conditionally construct affordable units at another location within the city.~~
- ~~**Dedicate land.** The City Council may conditionally permit an applicant to dedicate land to the City or a City-designated local non-profit housing developer in lieu of construction of some or all the required affordable units.~~
- ~~**Transfer credit.** Affordable unit credits are issued for each additional affordable unit constructed over the required number. The applicant may then use the credits to satisfy the requirements for another project in the city.~~
- ~~**Transfer equivalent square foot.** The applicant may choose to provide more units in an overall development; however, the gross square footage of the proposed affordable units cannot be less than the square footage of the required affordable units.~~

All exceptions to the AHO requirement require City Council approval prior to the approval for development of the project.

**TABLE B-11: BUILDING PERMIT AFFORDABLE HOUSING IN LIEU FEES BY DATE FOR RESIDENTIAL USES**

Building Permit Application Date	Ownership	Ownership	Ownership	Rental
	Single Family (Fee/Sq Ft)	Townhome (Fee/Sq Ft)	Condominium (Fee/Sq Ft)	Apartment (Fee/Sq Ft)
July 1, 2019 – June 30, 2020	\$33.00	\$33.00	\$33.00	\$33.00
July 1, 2020 – June 30, 2021	\$35.13	\$35.13	\$35.13	\$35.13
July 1, 2021 – June 30, 2022	\$37.11	\$37.11	\$37.11	\$37.11
July 1, 2022 – June 30, 2023	\$45.73	\$45.73	\$45.73	\$45.73
Each Subsequent Fiscal Year	Adjusted by Rate Index per Affordable Housing Ordinance			

Source: City of Milpitas

#### NON-RESIDENTIAL AFFORDABLE HOUSING IMPACT FEE

Any non-residential development in the city is subject to payment of a non-residential affordable housing impact fee. Some non-residential uses such as day care, nursery, school facilities, hospitals are exempt from this impact fee. Other uses not listed in the ordinance may be exempt if the City Council determines that the development will have a minimal impact upon the demand for affordable housing. The impact fee is to be calculated on a per square foot basis for net new gross floor area. Thus far, the pipeline of non-residential projects have not reached the building permit approval stage, so no impact fee has been collected by the City.

**TABLE B-12: BUILDING PERMIT AFFORDABLE HOUSING FEES BY DATE FOR COMMERCIAL AND INDUSTRIAL USES**

Building Permit Application Date	Commercial (Office, Retail and Hotel) (Fee/Sq Ft)	Industrial (R&D, Manufacturing and Warehouse) (Fee/Sq Ft)
July 1, 2019 – June 30, 2020	\$4.00	\$1.00
July 1, 2020 – June 30, 2021	\$6.00	\$3.00
July 1, 2021 – June 30, 2022	\$8.00	\$4.00
July 1, 2022 – June 30, 2023	\$9.86	\$4.93
Each Subsequent Fiscal Year	Adjusted by Rate Index per Affordable Housing Ordinance	

Source: City of Milpitas

## INCENTIVES TO ENCOURAGE ON-SITE CONSTRUCTION OF AFFORDABLE UNITS

If an applicant provides affordable units in excess of 20 percent of the total number of units in the project the City provides the following incentives:

1. **Planning waivers:** Director of Planning shall grant up to two of the waivers listed below that help increase the feasibility of the construction of affordable units. The applicant will receive an additional two waivers from the list below for every additional 5 percent of affordable units provided above the 20 percent.
  - Priority processing.
  - Reduced setback requirements not to exceed 50 percent of the minimum required setback.
  - Greater floor area ratio (FAR) not to exceed 50 percent of the maximum FAR for commercial space in mixed use zoning.
  - Reduced landscaping requirements.
  - Reduced interior or exterior amenities.
  - A maximum 20 percent reduction in parking requirements.
  - Height restriction waivers not to exceed 20 percent of the maximum zoning height limitations and in no event to exceed the general plan height limitations.
2. **Fee deferral:**
  - **Development Processing Fees.** The City Manager may approve deferred payment of City processing fees applicable to the review and processing of the project. The terms and payment schedule of the deferred fees shall be subject to the approval of the City Manager.
  - **Development Impact Fees.** The City Manager may authorize the deferred payment of development impact fees applicable to affordable units. Approval of this incentive requires demonstration by the Applicant that the deferral increases the project's feasibility. The applicant must provide appropriate security to ensure future payment of such fees.

## SENATE BILL 35

California Senate Bill 35 (SB 35) is a state law (California Government Code Section 65400 and 65582.1) that streamlines the development review process for affordable housing projects in local jurisdictions that have not made adequate progress toward meeting their Very-Low- and Low-income Regional Housing Needs Allocations (RHNA). Projects in Milpitas with 50% affordable housing (as defined in the California Government Code) are eligible for SB 35 streamlining.

SB 35 requires jurisdictions to review applications within 60 days for developments with 150 or fewer units and within 90 days for developments with over 150 units to determine if the project qualifies for streamlined review. If the application is deemed eligible for streamlined review, the City must then review and approve the project within 90 days after application submittal.

Exemption from CEQA is one of the major benefits for projects using SB 35. However, if HOZ eligible projects are allowed to be approved by-right with no discretionary actions, this may eliminate the CEQA requirement for these regardless of SB 35 eligibility.

Thus far, the City has successfully only processed one project (112 below-market-rate at 1300 South Main Street, 100% affordable) in the pipeline that qualifies for SB 35 streamlined approval. Other project details are discussed in the sections below.

- **Description and Density Bonus.** The project site, located within the Transit Area Specific Plan (Milpitas Metro Plan) planning area and within one-half mile of high-quality public transit (Great Mall VTA light rail station), takes advantage of the State Density Bonus Law where there is no maximum density limit if the project is in close proximity to transit. The project is proposed at a density of 117 units per acre where the base density under the General Plan allows 41-60 units per acre. The project site is located in the R4-TOD Multi-family Very High-Density Residential Zoning District with a Transit-Oriented Development Overlay which allows 41-60 dwelling units per acre.
- **Parking.** The proposed project includes no vehicular parking. Pursuant to Government Code Section 65913.4(e)(1)(A), the City is prohibited from imposing automobile parking standards on a project deemed eligible for streamlined review under SB 35 when it is located within ½-mile of public transit.
- **Concessions and Waivers.** Per Density Bonus Law, the applicant requested the maximum four concessions allowed (modifications to Front Yard Setback, Side Yard Setback, Rear Yard Setback, and Residential Open Space) -- resulting in 'actual and identifiable cost reductions.' The applicant also requested two waivers (Private Open Space and On-Street Bicycle Parking) to enable the project to be built at the proposed density.
- **Development Fees.** The project is required to pay the Transit Area Specific Plan Development Impact Fee (TADIF) set at \$44,009 per residential unit. Projects with more than 20 units are required to devote at least one half of one percent of the Building Development Cost towards the purchase and installation of public art at the project site. The project was not exempt from TADIF or the public art requirement.

The City of Milpitas has not adopted any specific procedural guidance regarding SB 35 projects. For 1300 South Main Street, the City used the procedures for a Site Development Permit, calculating a reduced fee to reflect that there were no formal hearings with Planning Commission or City Council. As allowed under SB 35, the City may require a public design review meeting with the City Council to provide an opportunity for public discussion. This meeting would not be a public hearing and no vote would be taken. Housing Program 21 includes an action to formalize this process.

## Code Enforcement

State law prohibits the imposition of 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 charges to the Department of Housing and Community Development and file an expressed finding that the change is needed. The City's Building Code currently incorporates the 2019 California Building Codes (CBC) as mandated by the State. The City adopted the 2022 California Building Standards Code in December 2022, with local amendments. Newly constructed and renovated buildings must conform to the standards of the CBC.

The City adopted local amendments to the 2022 Building Codes to better address local conditions because of climatic, geological, and topographic conditions. In accordance with the California Health and Safety Code, City adopted building and residential code amendments related to:

- Automatic sprinkler systems
- Roofing cover requirement for hillside areas
- Special inspection exception
- Foundations and foundation reinforcement
- Restrict use of bracing methods

Likewise, the City adopted the 2022 California Green Building Standards Code with amendments. Amendments included definitions for the Green Building Code (Section 202), electric vehicle charging (Section 4.106.4), and all electric buildings (Section 4.106.5). The purpose of these amendments is to reduce the use of natural resources, create healthier living environments and minimize the negative impacts of development, including greenhouse gas emissions. The City's amendments are in addition to all current Title 24 Energy Code requirements. The extent of additional improvements required is based upon the type and size of the project.

These codes and regulations are reasonable and necessary to ensure health and safety, as well as encourage energy conservation and reduce greenhouse gas emissions. In fact, California Energy Commission studies cited in the staff report show that the cost-benefit of all electric construction is cost effective. No additional regulations have been imposed by the city that would unnecessarily add to housing costs.

The City's Building Code and amendments are implemented by the Building Safety and Housing Department during the permitting process. The Building Safety and Housing Department:

- Reviews applications in compliance with the City's building code requirements.
- Ensures all Building Permits are compliant with City codes.
- Assists applicants in the Building Permit process.

Additionally, Neighborhood Services (Code Enforcement) staff is responsible for monitoring compliance with the Building Code, Neighborhood Beautification, and other programs. The goal of the program is to obtain voluntary compliance with the regulatory provisions of codes. It is Neighborhood Service's policy to investigate and attempt to resolve, all code violations either brought to the City's attention or through proactive code enforcement efforts. Cases referred to Code Enforcement that are more appropriately addressed by another city department are forwarded to that department for investigation and resolution. The City has adopted detailed Standard Operating Procedures (SOP) to guide the program. The SOP specifies code enforcement priorities, response times, case management protocols, and enforcement procedures. Generally, the City allow 15 days to respond to neighborhood beautification requests and 30 days to respond to zoning violations.

# Development Processing Procedures

## PROJECT REVIEW AND PERMITTING

Standardized and transparent project review and streamlined permit processing are critical steps to assist the development of housing projects in the city. This section reviews the various steps in the project review process and analyzes estimated timelines for approvals to identify barriers or constraints to realize the housing goals stated in the General Plan and the specific plans.

## PROCESS

Project review in Milpitas is conducted in two phases, with an optional pre-application review: the first is the planning/zoning entitlement approval and second is the building permit approval. The different stages outlined for a developer in the City's Development Review handbook are as follows:<sup>4</sup>

- **Pre-Application Meeting and Review (optional).** The City offers a pre-application meeting and review session to facilitate the processing of development proposals. The pre-application process provides an opportunity for applicants to receive early feedback from City staff before project plans are finalized.

### —Planning Review Phase (Planning Permit or Entitlement).

- In the first phase, Planning Department staff and relevant City departments determine whether the project is consistent with the General Plan, specific plans, the Zoning Ordinance and other relevant regulatory requirements. Uses that are permitted by-right in a zoning district may only require administrative review by Planning staff. More complex development projects or uses that require a Conditional Use Permit are reviewed by the Planning Commission and/or the City

## CITY PROCESS IMPROVEMENTS

Improving the delivery of development services to the community has been a priority of the City. In 2019, the City completed a Service Delivery Fee Study to assess the City's development fees and to evaluate the operational efficiency and effectiveness of service delivery in the City's "Community Development Service Area." This Service Area encompasses the following City functions: Planning, Building and Housing, Engineering – Land Development, Public Works, Utilities Engineering, Fire Prevention, and Economic Development. These departments/divisions are responsible for providing essential development review and permitting services to residents, businesses, property owners, and the developers. The study involved outreach to City staff, developers, businesses, and other stakeholders. Recommendation for improvements covered organizational structure, staffing, permitting, customer service, technology tools, and required resources.

Improvements completed following the study have included: streamlining the building permit review process; simplifying and clarifying the development fee schedule for planning and building permits; expanding and improving informational handouts and online resources; enhancing customer service at the City's One-Stop Permit Center; and preparing administrative guidelines and standard operating procedures. Additional improvements are in process including a major update to the City's permitting tracking and database software program, which will enhance the development review process, increase public transparency, and improve integration with the City's GIS database. The Zoning Code Update that will begin in 2023 (HE Program 21) will explore opportunities for streamlining the approval process for planning permits, which could include increasing Zoning Administrator-level approvals and expanding incentives for residential development. Additionally, the specific plans and other advance planning efforts that are currently underway will provide direction and greater clarity on the City's development policies and streamline CEQA review for projects consistent with these policy plans.

<sup>4</sup> Milpitas Development Review Handbook. [https://www.ci.milpitas.ca.gov/wp-content/uploads/2022/01/DevReviewHandbook\\_FINAL\\_web\\_1-12.pdf](https://www.ci.milpitas.ca.gov/wp-content/uploads/2022/01/DevReviewHandbook_FINAL_web_1-12.pdf)



Council. In Milpitas, an “entitlement” is the approval or issuance of a Planning Permit from Planning to develop the property for a desired purpose.

- a. **Planning Review and Processing.** After the application is formally submitted, Planning staff and other City Department staff review the submitted materials within 30 days to make sure all necessary information is included. For large projects, meetings with the community and decision-makers may be recommended to receive feedback for public hearings.
- b. **Noticing and Decision Making.** Prior to issuing the approval, Planning staff prepares the required staff report, conditions of approval, and findings of approval. A public hearing is scheduled where the Planning staff present the project to the hearing body with a staff recommendation and answer any questions related to the project. If approved, the project receives a “Planning Permit” and can proceed to the next step for building review and permits.

**Building Review Phase (Building Permit).**

- Following the approval of the appropriate planning entitlements, the building permit applications are reviewed by different City departments to check for consistency in the design and requirements for safety and improvements. The developers are expected to pay all the associated planning fees, impact fees and other fees in advance of building permit approval.
  - a. **Permitting.** The Building Safety and Housing Department issues building permits by reviewing construction plans to make sure the project complies with applicable State and local laws. During this stage, other City Departments and Outside Agencies may need to review the project as necessary. The applicant is required to pay all the associated fees during the building permit application submission. The project receives a “Building Permit” at the end of this stage and approvals may have some “Conditions of Approval” that are relevant to the construction phase.
  - b. **Construction.** After procuring all the necessary planning and building permits, the project moves into the construction and inspection phase with the Milpitas Building Safety and Housing Department to ensure that the construction is as per approval and that the building is safe for occupancy. The Certificate of Occupancy is awarded at the end of this phase.

The main types of Planning Permits for complex projects include a use permit, site development permit, tentative map, and variance.

- **Use Permits** allow properties to be developed with land uses not otherwise permitted within the particular zoning district. Required for when you are changing use of the land.
- **Site Development Permits** allow for the physical improvement of a site. Required for new buildings and structures, grading, and other site improvements such as parking lot modifications, drainage and street improvements, and landscaping.
- **A Tentative Map** allows for the division of land to develop and potentially sell each resulting parcel individually. A Tentative Map shows the design and improvement of a proposed subdivision and the existing condition on and around it.
- **A Variance.** Sometimes sites have special physical conditions which make application of certain zoning standards overly burdensome. In situations like this, an exception from a physical standard of development can be granted to allow minor deviations from the Zoning Ordinance.

## SITE DEVELOPMENT PERMIT

The Site Development Permit (XI-10-57.03) process provides for the review of physical improvements to a site which due to their scale, proximity to environmentally sensitive resource areas, or unique design features, require consideration. The Site Development Permit process is intended to encourage site and structural development which 1) respects the physical and environmental characteristics of the site, 2) ensures safe and convenient access and circulation for pedestrians and vehicles, 3) exemplifies the best professional design practices, 4) encourages individual identity for specific uses and structures, 5) encourages a distinct community or neighborhood identity, and 6) minimizes visual impacts.

Site development permits are required for new buildings, accessory buildings over 2,500 square feet, and additions or alterations of multifamily residential. Planning Commission or City Council may approve the project after making the following findings:

- The layout of the site and design of the proposed buildings, structures and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development.
- The project is consistent with the Milpitas Zoning Ordinance.
- The project is consistent with the Milpitas General Plan.
- In the case of a project located within a Specific Plan, the following additional finding shall be made:
  - The project is consistent with the Specific Plan.

With the adoption of the Objective Design Standards, the finding regarding the layout and design of the proposed project may need to be revised. The Objective Design Standards should be referenced as a means to address this finding. Housing Element Program 21 includes this action step.

## TIMELINES

Recognizing that delays due to permitting can lead to increased project costs which can serve as a constraint to housing production and affordability, in 2019, the City completed a study to evaluate the development review and permitting process, implementing a number of actions to improve internal processes – see above. Table B-13 below shows the average processing times for different residential development applications and building permits from 2019. In Milpitas, provided the project is consistent with the City's Zoning Ordinance, General Plan, or any applicable specific plan, **simple** projects' planning application permit reviews are estimated to take about one month. For **complex** projects, without CEQA requirements, the planning permit review process can take up to six months and with CEQA can take more than twelve months. The Planning Commission and City Council have two regularly scheduled public meetings every month.

TABLE B-13: PROCESSING TIMES FOR APPLICATIONS AND BUILDING PERMITS

Type of Development	Months (Planning Application Review Phase)	Months (Building Permit Review Phase)
<b>ADU Ministerial (by-right)</b>	0 to 1 month	1 to 3 months
<b>Ministerial (by-right)</b> Includes projects that comply with applicable building, zoning, and development regulations.	0 to 1 month	1 to 3 months
<b>Discretionary (Staff)</b> Includes coastal development permits, neighborhood development permits, neighborhood use permits	0 to 1 month	2 to 4 months
<b>Discretionary (Hearing Officer / Zoning Administrator)</b> Includes variances, certain site development permits, and certain conditional use permits. <u>Takes action on permits requiring a Zoning Administrator Hearing</u>	2 to 4 months	3 to 4 months
<b>Discretionary (Planning Commission)</b> Includes certain conditional use permits, certain site development permits, and planned development permits. <u>Takes action late in the Development Review Process and has the authority to approve, deny, or modify a project, and may request more information or studies from the applicant. Typically require one Planning Commission hearing</u>	3 to 12 months	4 to 6 months
<b>Discretionary (Planning Commission and City Council)</b> Includes tentative maps, condominium conversion maps, easement vacations, public right-of-way vacations, rezoning, and land use plan amendments. <u>For site development permits on the hillside, subdivisions, and any requests to amend a land use plan the City Council makes the final decision on a project after the Planning Commission provides them with a recommendation. Typically requires 2 hearings-</u>	3 to 12 months	6 to 12 months

Source: City of Milpitas

Milpitas's review and approval timelines are similar to average times taken by other jurisdictions in Santa Clara County. The City adopted Residential and Mixed-Use Objective Design Standards in November 2022 to streamline housing approvals and accelerate housing production by providing clarity and certainty in design decisions and to eliminate unnecessarily burdensome review in the permitting process in line with State and City goals pursuant to Senate Bill 35, Senate Bill 330, and the Milpitas General Plan. Furthermore, Nonetheless, streamlining the permitting and approval processes further can assist developers and property owners interested in developing housing in Milpitas. Through Housing Element Program 21 and other programs, the City will continue to identify way to improve the project review and permitting process, including for consistency with State laws such as AB 2234. AB 2234 (September 2022) establish timelines for local governments to determine the completeness of a permit application,

and a timeline to act on the application once it is complete when issuing post-entitlement ministerial permits.

California’s Housing Accountability Act (HAA) requires local governments to process and review, approve, or disapprove housing developments within very tight timeframes if an applicant requests this (Government Code section 65589.5). In these cases, a City must review and notify an applicant within 30 days as to whether the application is complete. After completeness, the City must determine if a project is consistent with objective standards (specifically defined) that must be identified and set at the time of Pre-application or Completeness review. The City must provide written notice of inconsistency (if applicable) to the applicant within 30 days of application for projects with 150 or fewer units (60 days for more than that). Any discretionary hearings or internal review must be completed within these timeframes. Projects always qualify under the HAA provisions for “Housing for Very Low, Low- or Moderate-Income Households” which is subject to further streamlining provisions. Based on preliminary data from other cities in Santa Clara County, these processing times do not provide any extraordinary constraint to development but can be further streamlined.

A project meeting the Very Low/Moderate standard may not be disapproved, rejected, or otherwise made infeasible unless extensive findings are made including that the project would “have a specific, adverse impact upon public health or safety and there is no feasible method to mitigate or avoid the impact...” unless the local government has met or exceeded its RHNA, or project denial or conditions are required to comply with specific state or federal law. Compared to these HAA standards, the City of Milpitas’ development review times most recently documented would likely need to be accelerated for projects that meet the criteria. The averages shown in the table above are not outside of the range of time frames reported by other cities in Santa Clara County and are not high enough to constitute a significant constraint to the typical development.

## PLANNING AND DEVELOPMENT FEES AND EXACTIONS

Local governments collect fees from new developments to cover administrative costs and to provide improved infrastructure to serve the residents of that development. These payments are required upfront during the plan review period; however, a deferral may be provided to a developer if they provide on-site affordable units as stated in the AHO.

**TABLE B-14: MILPITAS FEES ASSOCIATED WITH RESIDENTIAL DEVELOPMENTS**

Fee Type	Single Family	Multifamily Small (per unit)	Multifamily Large (per unit)
Entitlement Fees	\$17,359	\$3,671	\$367
Building Permit Fees	\$23,110	\$13,111	\$6,616
Engineering Fees	\$25,000	\$5,000	\$1,000
Fire Fees	\$1,120	\$568	\$353
Impact Fees (non TASP/Metro Plan)	\$0	\$29,064	\$29,064
Other*	\$10,600	\$3,468	\$3,264
<b>TOTAL</b>	<b>\$77,797</b>	<b>\$54,882</b>	<b>\$40,664</b>
<b>Santa Clara County Average</b>	<b>\$74,831</b>	<b>\$34,752</b>	<b>\$27,563</b>

\*Other fees include school fees

Source: Presentation from Santa Clara County Collaborative Meeting March 10, 2022

Compared to other cities in Santa Clara County, Milpitas has higher fees per unit for single and multi-family developments. Milpitas has the highest Entitlement Fees in the County for single family developments and high impact fees for multi-family developments.

Additionally, the City website includes a full Fee Schedule and also assists homeowners or developers to determine the fees applicable to their project and when to pay the fees. A detailed schedule of fees for single- and multi-family units is described below. Impact Fees is explored in greater details in the following section.

**TABLE B-15: MILPITAS PLANNING ENTITLEMENT, BUILDING PERMIT, ENGINEERING, FIRE, AND SCHOOLS FEES PER DEVELOPMENT**

	Single Family	Multifamily Small (10 units)	Multifamily Large (100 units)
<b>Planning Entitlement Fees</b>			
Subdivision Tract Map	0.00	19,396.00	19,396.00
Site Development Permit	16,174.00	8,087.00	8,087.00
Conditional Use Permit	0.00	7,316.00	7,316.00
Noticing Fee	571.00	571.00	571.00
Permit Automation Fee (3.8% x Permit Fees)	614.61	1,344.06	1,344.06
<b>Building Permit Fees</b>			
Addressing permit fee	624.00	624.00	624.00
Addressing Permit Automation Fee	23.71	23.71	23.71
Building Plan Review fee	5,330.37	21,933.12	85,941.47
Inspection fee	8,282.43	44,182.64	185,390.24
Building Permit Automation Fee (3.8% x permit fees)	517.29	2512.40	10,310.61
Community Planning Fee (5% x permit fees)	680.64	3305.79	13,566.59
State Fee	20.00	68.00	640.00
State SMIP Fee	65.00	476.00	4,480.00
Fire Fees	851.00	2,269.00	7,200.00
Fire Permit Automation Fee	32.34	86.22	273.60
Planning Plan Check (Min.)	242.00	484.00	484.00
Planning Permit Automation Fee	9.20	9.20	9.20
Engineering Plan Check (Min.)	611		
Engineering Permit Automation Fee	23.22		
Water Connection Fee	1,910.00	11,640.00	116,400.00
Sewer Connection Fee	1,908.00	14,060.00	140,600.00
Storm Drain Connection Fee	1,100.00	16,771.00	33,542.00
Wastewater Treatment Plant	880.00	0.00	0.00
<b>Engineering Fees</b>			
PJ Account- plan Review and Inspection	25,000.00	50,000.00	100,000.00
<b>Fire Fees</b>			

Fire Service Underground	0.00	1,417.00	1,417.00
Sprinklers for 3,100 s. f.	1,055.00	2,186.00	17,204.00
Fire Alarm N/A for single family	0.00	1,799.00	15,384.00
Fire Dept. Automation Fee - row 1 (3.8% x fee)	40.95	205.28	1,292.19
Archive Fee (sprinkler plans)	25.00	75.00	75.00
<b>School Fees</b>	10,608.00	34,680.00	326,400

Source: City of Milpitas

## IMPACT FEES

Milpitas has impact fees associated with transportation, public art, and parks. The Calaveras Widening Traffic Impact Fee is collected to widen Calaveras Boulevard to mitigate the traffic impacts caused by new development in the area outside the TASP / Metro Plan. Additionally, the Transit Area Development Impact fee (TADIF) is collected to fund the planning and development of the transit area outlined in the TASP / Metro Plan near the Great Mall to support the community with appropriate utilities, parks, services, and roadways. This fee compensates the City for costs of roads and a significant amount of infrastructure that normally would have been paid by developers for off-site improvements required in this area. The different impact fees applicable for residential projects shown in Table B-16.

**TABLE B-16: DIFFERENT IMPACT FEES FOR RESIDENTIAL DEVELOPMENTS**

Impact Fees	Amount (as of June 2021)	
	In TASP / Metro Plan	Not in TASP / Metro Plan
Transit Area Development Impact fee (TADIF)	\$44,090 per unit	\$0
Calaveras Widening Traffic Impact Fee (5 or more units)	\$0	\$314 per unit
Public Art Fee	0.5% of project construction cost	0.5% of project construction cost
Park-in Lieu Fee	\$4,500 per unit	\$28,750 per unit
<b>Total (without Public Art Fee)</b>	<b>~\$48,590 per unit</b>	<b>~\$29,064 per unit</b>

Source: City of Milpitas submission to Santa Clara County Collaborative

The average impact fee per unit for a multi-family project in Milpitas in the Metro Plan area is \$48,590 which includes the TADIF which applies to a limited area for very specific required infrastructure. The typical impact fee per unit in other parts of the city would be \$29,064 for traffic impacts and parks. The Park-in Lieu Fee makes up 99% of impact fees outside of the Metro Plan area. A comparison of impact across different jurisdictions is shown in Table B-17.



**TABLE B-17: COMPARISON OF IMPACT FEES FOR MULTI-FAMILY AND SINGLE-FAMILY DEVELOPMENTS**

Unit Type	Milpitas	Santa Clara*	Mountain View*	Fremont**
Multi-family	\$29,064	\$10,750	\$34,000	\$22,331
Single family	\$0	\$54	\$71,347	\$35,334

\* Source: Presentation from Santa Clara County Collaborative Meeting March 10, 2022

\*\* Source: Terner Center for Housing Innovation, Residential Impact Fees in California, 2019.

<https://www.hcd.ca.gov/policy-research/plans-reports/docs/impact-fee-study.pdf>

## TRANSPARENCY IN DEVELOPMENT PROCESS

To ensure transparency and certainty in the development application process as required by law, the City posts planning and development regulations and resources online. The Municipal Code (including Zoning Ordinance), application forms, fee schedules, and other information are all readily available for viewing on the City's website.

- General Plan and other planning documents:  
<https://www.ci.milpitas.ca.gov/planningdepartment/community-and-citywide-plans/general-plan/>
- Development application forms and materials:  
<https://www.milpitas.gov/milpitas/departments/applications-forms-checklists/>
- Zoning Ordinance:  
[https://library.municode.com/ca/milpitas/codes/code\\_of\\_ordinances?nodeId=TITXIZOPLAN\\_CH10ZO](https://library.municode.com/ca/milpitas/codes/code_of_ordinances?nodeId=TITXIZOPLAN_CH10ZO)
- Fee Schedules: <https://www.milpitas.gov/milpitas/departments/fees/>
- Accessory Dwelling Units:
- Other Adopted Plans: <https://www.milpitas.gov/planningdepartment/community-and-citywide-plans/>

# Non-Governmental Constraints

## Market Constraints

### COST AND AVAILABILITY OF LAND

The cost of land is a significant contributor to the overall cost of housing. Land values fluctuate with market conditions and have generally been increasing since the Great Recession. Santa Clara County averages \$508 per sqft for a small single-family unit and \$264 per square ft for a large single-family unit. As for multi-family developments, the average for Santa Clara County is about \$60,000 per unit.

While the cost per square foot of land varies greatly in the city, it is clear that lots located in denser areas of the city with more development potential cost significantly more. However, the per-unit land cost is directly impacted by density. Higher density allows the cost of land to be spread across more units and ultimately reduces the per unit cost. While land costs are high, the densities permitted in the City's high density residential and commercial districts allow a developer to distribute this cost amongst a greater number of units.

The densities allowed in the Metro Specific Plan areas, as well as the increased densities allowed in the Transit Oriented Development Overlay District demonstrate that Milpitas has implemented higher densities to decrease housing development costs on a per-unit basis in key areas of the city.

In addition to zoning land at densities that help to reduce housing costs, Milpitas has facilitated residential development by providing City-owned land to residential developers at no cost. In 2013, Milpitas gave 5.94 acres to the developer of a senior housing project on Main Street, which is planned for 389 units, 48 of which will be affordable to lower-income households. Phase 2 of Senior Lifestyles is slated to develop 190 senior units, with 38 affordable senior units. Depending largely on the outcome of the Redevelopment Successor Agency's disposition agreement with the State, Milpitas may be able to provide affordable housing developers with additional sites that were formerly controlled by the City's Redevelopment Agency to at low or no cost in the future.

### TIMING AND DENSITY

Many factors outside of the local jurisdiction's control can constrain the timing between project approval and when the developer requests building permits. Potential reasons for a delay between these milestones include the inability to secure financing for construction or the availability of design professionals to complete construction documents or make corrections. The average time between project entitlement and building permit issuance is about six months. Housing Element Program 21 includes an action to track and evaluate the City's permitting times and process including the post-entitlement process for compliance with AB 2234.

Most developments in the city are currently being built at 80-90% of maximum density driven by market forces. The Sites Inventory of the Housing Element adopts these density trends wherever applicable in specific zones. Thus, the densities are realistic and yield the expected number of dwelling units as outlined in the Zoning Code.

**TABLE B-18: AVERAGE UNIT YIELD FOR PIPELINE PROJECTS**

#	Project Name	Address	Status	Zone	Area (acres)	Units	Density (du/acre)	% of Max Density
1	AMG Apts - SB 35	1300 S Main St	Pipeline	R4 Metro	0.93	112	119.25	140.0
2	Main Street Palace	1316 S Main St	Approved	R4 Metro	0.37	18	48.61	57.1
3	The Mill on Main	1380 S Main St	Approved	R4 Metro	1.26	102	80.50	94.1
<b>R4 Metro Average</b>							<b>82.79</b>	<b>97.4</b>
1	The Mill on Main	S Main St	Pipeline	R5-Metro	2.14	220	102.78	85.0
<b>R5 Metro Average</b>							<b>102.78</b>	<b>85.0</b>
1	True Life - SB 330	612 S Main St	Pipeline	MXD	2.34	57	24.39	81.3
2		808 Main St	Pipeline	MXD	1.08	27	24.9	83.0
<b>MXD Average</b>							<b>24.64</b>	<b>82.1</b>
1	District Lot 1 (Turing)	1355 McCandless Dr	Built	MXD2 Metro	4.96	371	74.79	87.9
2	District Lot 2 (Graham)	1415 McCandless Dr	Built	MXD2 Metro	2.55	207	81.17	95.4
3	District Lot 4 (Gideon)		Built/Under Construction	MXD2 Metro	2.68	213	79.47761	93.34
<b>MXD2 Metro Average</b>							<b>78</b>	<b>91.7</b>
1	Aim Development	1880 N Milpitas Blvd	Pipeline	*NCMU	0.71	3	4.21	20.0
2	Pulte Homes	1355 California Circle	Application submitted	*NCMU	6.69	44	30.75	146.4
<b>NCMU Average</b>							<b>17.48</b>	<b>83.2</b>

## CONSTRUCTION COSTS

### REGIONAL TRENDS

The cost of construction, including labor and materials, has a significant impact on the overall cost of new housing units and can be a significant constraint to development. According to a report by the Turner Center for Housing Innovation, construction costs for apartment buildings in the Bay Area are the highest in the State and have increased more dramatically than costs statewide. Construction costs in the Bay Area increased 119 percent between 2008 and 2018, compared to an increase of 25 percent statewide. According to the Report, construction costs for apartment buildings in the Bay Area averaged \$380 per square foot in 2018, compared to about \$225 per square foot statewide. Higher wages for construction related jobs in the Bay Area, along with a lack of construction workers that can afford to live in the region due to the high cost of living, may contribute to higher costs in the region.<sup>5</sup>

The Turner Center Report also found that construction costs are an average of \$48 per square foot higher for affordable housing projects, when compared to mixed affordability and market rate projects, likely due to prevailing wage, local hire, and other requirements.

Labor costs impact the total cost for construction. Labor costs have risen, especially in expensive, unionized metro areas in California, since the Great Recession in 2008. Materials costs have increased faster than inflation in recent years. This has been a particular problem for higher-density residential development, which can require more costly building materials, such as concrete and steel, per the construction type standards in the California Building Code. In the past three years (2017-2020), the cost of raw materials (i.e., concrete, lumber, and steel) increased by 20 percent. Increasing labor costs—due to the shortage of qualified workers—and increasing materials costs are leading developers to build projects below permitted densities because building larger or taller buildings cannot currently offset the costs to construct such projects. Currently, typical hard costs for multi-family residential projects are around \$500 per square foot depending upon construction type in Santa Clara County.<sup>6</sup> The construction costs related to the provision of amenities in new development, such as gyms, pools, and community rooms, can also increase the costs of construction and ultimately the costs passed onto customers (i.e., in rents or home prices).

### CITY-WIDE TRENDS

Construction costs vary substantially depending on product type, building design, and the quality of finishes, and construction costs are often considerably higher for custom or luxury-quality housing units. In addition, soft costs such as financing, permit fees, and marketing add to the total development costs for a project.

On a per-square-foot basis, construction costs for multifamily residential units tend to be slightly higher than construction costs for single-family homes. According to a fiscal impacts study<sup>7</sup> conducted in 2021, average construction costs range from approximately \$260 per square foot for a midrise seven-story multifamily project to approximately \$300 for a twelve-story multifamily residential project in Milpitas. Assuming an average unit size of 1,200 square feet (including common areas), these estimates result in construction costs ranging from approximately \$312,000 to \$360,000 per unit in Milpitas. In addition to

---

<sup>5</sup> Raetz, H., Forscher, T., Kneebone, E., & Reid, C. (2020). (rep.). The Hard Costs of Construction: Recent Trends in Labor and Materials Costs for Apartment Buildings in California. Berkeley, CA: University of California.

<sup>6</sup> Urban Century, LLC (2022). San Mateo and Santa Clara Counties Development Cost & San Mateo County Unit Mix Research. <https://citiesassociation.org/documents/development-cost-data/>

<sup>7</sup> Economic & Planning Systems, Inc. (2021). Fiscal Benefits of Employments Lands Study Phase, Milpitas

the cost of unit construction, parking adds substantial additional costs to multifamily construction, which vary considerably based on the type of parking provided. Structured parking can average \$30,000 or more per space, while underground parking can cost \$40,000 per space or substantially more.

The high land and development costs in Milpitas mean that, without subsidies, new rental units affordable to very low and low-income households are difficult to provide at a feasible rate of return to a developer or investor. This also tends to hold true for for-sale housing at the moderate-income level.

MORTGAGE AND REHABILITATION FINANCING

The City of Milpitas does not vary greatly from other communities with regard to the availability of home financing. The Great Recession and impacts to the housing and mortgage industry had the effect of limiting the availability for real estate loans and increasing the rate of foreclosure for some time. However, at present, mortgages are generally available for qualified buyers. **Error! Reference source not found.** provides information on home mortgage applications for Milpitas. In 2020, 69 percent of convention purchase loan applications were approved, and 10 percent were denied. The denial rate was highest for home improvement loans at 33 percent.

In a housing market such as Milpitas’, the down payment requirement may be a greater obstacle to homeownership for many households. As of March 2022, average home price in Milpitas on Redfin was \$1,450,000 in Milpitas, a household would need to save \$145,000 to provide a 10 percent down payment.

Current home mortgage interest rates for home loans are steadily increasing for a 30-year fixed-rate mortgage. This means that prospective homebuyers will be less likely to qualify for home loans under the more stringent current lending standards.

TABLE B-19: MORTGAGE FINANCING IN MILPITAS

Loan Type	Loan Originated	Application Approved but not Accepted	Application Denied	Application Withdrawn	Incomplete
Total Mortgage Applications	2,482	136	692	686	184

# Environmental Constraints

Sites identified in the Housing Element have been screened for environmental and other constraints and do not face significant risk. Sites located in the Metro Specific plan and Gateway-Main Street Specific Plan areas have been analyzed for environmental and other constraints in their respective Specific Plans. There are no known environmental constraints or other conditions that would preclude development on identified sites or cannot be mitigated to allow for development in the planning period.

## Geologic and Seismic Hazards

Milpitas is located in the Southern eastern portion of the Bay Area and extends from the south end of the San Francisco Bay and the Low Buellis Hills of the Mount Diablo Range.

Like much of the Bay Area, Milpitas is located in a seismically active area, with the Hayward Fault Zone crosses the central portion of the City of Milpitas and is located two miles to the east of the TASP / Metro Plan area. The Calaveras Fault is located approximately 1.3 miles east of the Milpitas Sphere of influence and is projected to produce earthquakes of high magnitudes. In Milpitas and throughout the Bay Area, housing must meet building code standards which reflect the area's earthquake and liquefaction hazards.

Both commercial and residential development in Milpitas are constrained by hillsides to the east, wetlands to the west, and City boundaries on the north and south. Although some development on the hillsides is possible, the area has significant seismic and landslide risks, and residents in the area are subject to ongoing geologic and wildfire risks. Because of the City's various environmental constraints, future housing development in the city will consist largely of infill projects and redevelopment of existing uses. In most cases, properties that are redeveloped are expected to consist of underutilized commercial or industrial buildings that will be redeveloped to accommodate high-density residential uses in the two specific plan areas.

## Fire Hazards

Milpitas is not categorized as a "Very High" FHSZ by CalFire. The City of Milpitas lies outside just the fire hazard zones with areas in the eastern portion of **the (east of Interstate 680)** include a prevalence of "high" and "very high" fire threat and fall under State Responsibility Areas. The instances of wildfires, however, have risen significantly with climate change. With multifold increase in wildfire risk to residential properties across Santa Clara County, Milpitas may experience local impacts from increased wildfires in hillside areas and other impacts from surrounding areas, including impacts to local air quality.

## Flood Hazards

The potential for flooding constitutes an additional environmental constraint that could limit housing production in Milpitas. Milpitas is subject to flooding from both 100- and 500-year storm events. Approximately 50 percent of the city, including some of the city's housing sites, is located within the 100-year floodplain, including almost all the land west of the Southern Pacific Railroad (and associated levee) which lies within the 100- year Flood Zone, and roughly all land west of Highway 680 is part of the 500-year Flood Zone as delineated by FEMA.

Although flood depths would be very shallow, a combination of on-site and off-site improvements may still be required before building in areas that could experience flooding. Milpitas is in the process of implementing the City's Storm Drain Master Plan, which was updated in 2013 to reduce the impacts of flooding in Milpitas.

The General Plan's Safety Element highlights policies and actions to address current flooding hazards. The General Plan requires all development projects to demonstrate how storm water runoff will be detained or retained on-site, treated, and/or conveyed to the nearest drainage facility as part of the development review process, and to ensure that construction activities and new development will not result in the creation of adverse, flood-related impacts to existing properties and/or flood control and drainage structures to name a few.

Since the Santa Clara Valley Water District (SCVWD) manages the major creeks and channels that flow through the city, the General Plan also seeks to collaborate and cooperate with the Santa Clara Valley Water District and Army Corps of Engineers in their efforts to develop and maintain additional flood protection retention facilities in areas where they are needed or where the design capacity of existing retention facilities cannot be restored. All projects in flood hazard areas are required to ensure compliance with Milpitas Municipal Code Title XI, Chapter 15 – (Floodplain Management Regulations). The Ordinance also helps meet the requirement for the national Flood Insurance Program (NFIP) that provides property owners and renters with federally backed flood insurance, reduces flood damage through a mandatory local floodplain management ordinance and identifies and maps flood hazards.

## Sea Level Rise

Global climate models indicate that California will see substantial sea level rise during this century with changes in global atmospheric and oceanic temperatures. Local impacts of SLR include temporary flooding (especially in combination with storm surge) and permanent inundation.

The two different modelling systems- Coastal Storm Modeling System (CoSMoS) and Bathtub projects the impact of 0.5m and 1.0m rise in sea levels for Milpitas as mostly affecting land near Dixon Landing west of Interstate 880. However, for 1.5m sea level rise, additional portions of land near Dixon Landing east and west of Interstate 880, areas along Berryessa Creek near the center of Milpitas, and much of the lands to the west of interstate 880 north of State Route (SR) 237, and portions of land east of 880 north of SR 237 would be considered at risk.

## Hazardous Materials

Hazardous materials are mainly present because of industries involving chemical byproducts from manufacturing, petrochemicals, and hazardous building materials. The General Plan's Safety Element highlights policies and actions to protect citizens from hazardous materials. Some of the actions include identifying and requiring mitigation measures to ensure the exposure to hazardous materials from historical uses has been mitigated to acceptable levels consistent with EPA and/or DTSC standards, supporting convenient opportunities to properly dispose of hazardous waste, and review of proposed Hazardous Waste Transportation, Storage and Disposal (TSD) facilities.



### FIGURE B-2: EARTHQUAKE FAULTS

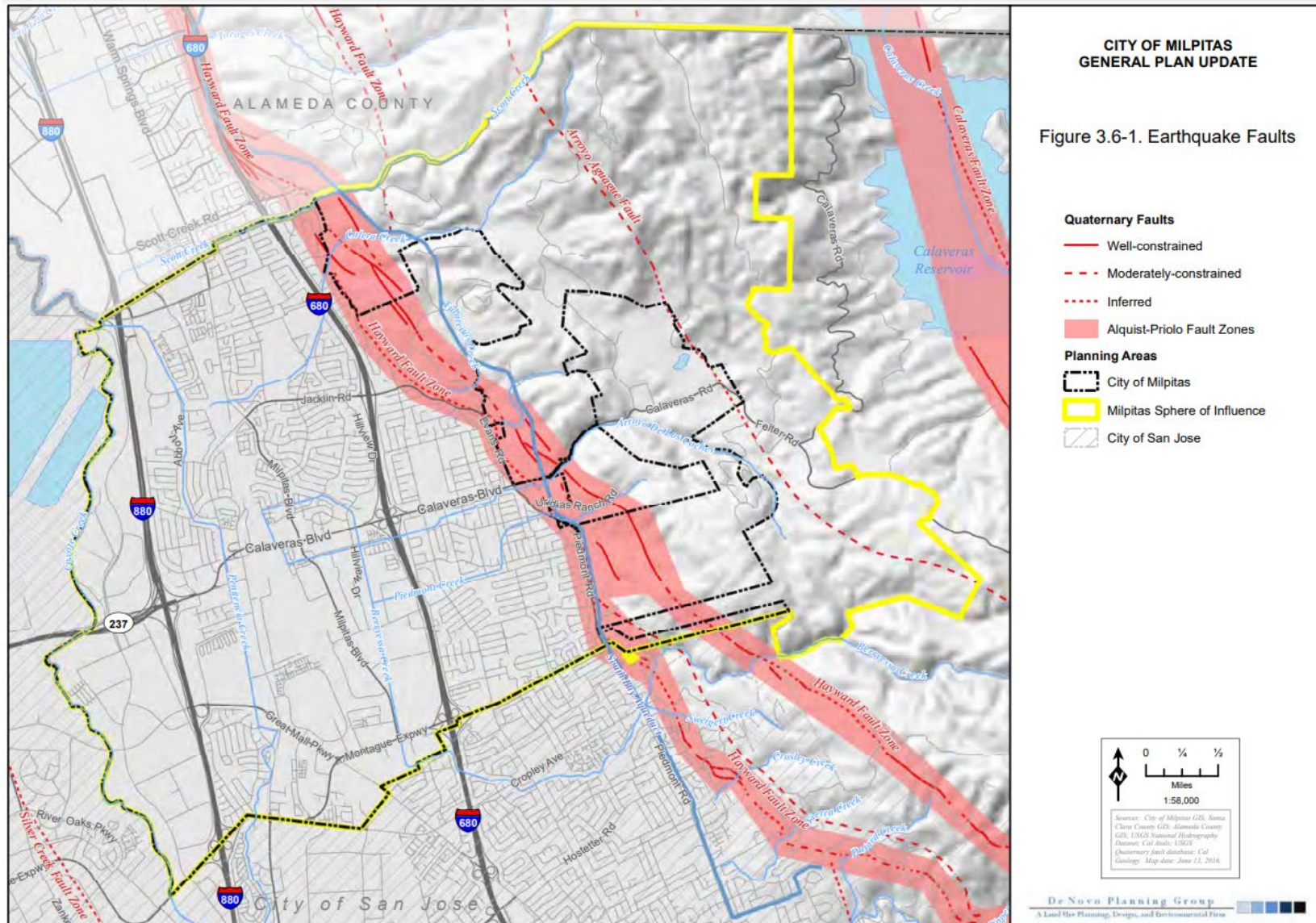




FIGURE B-3: LIQUEFACTION ZONES

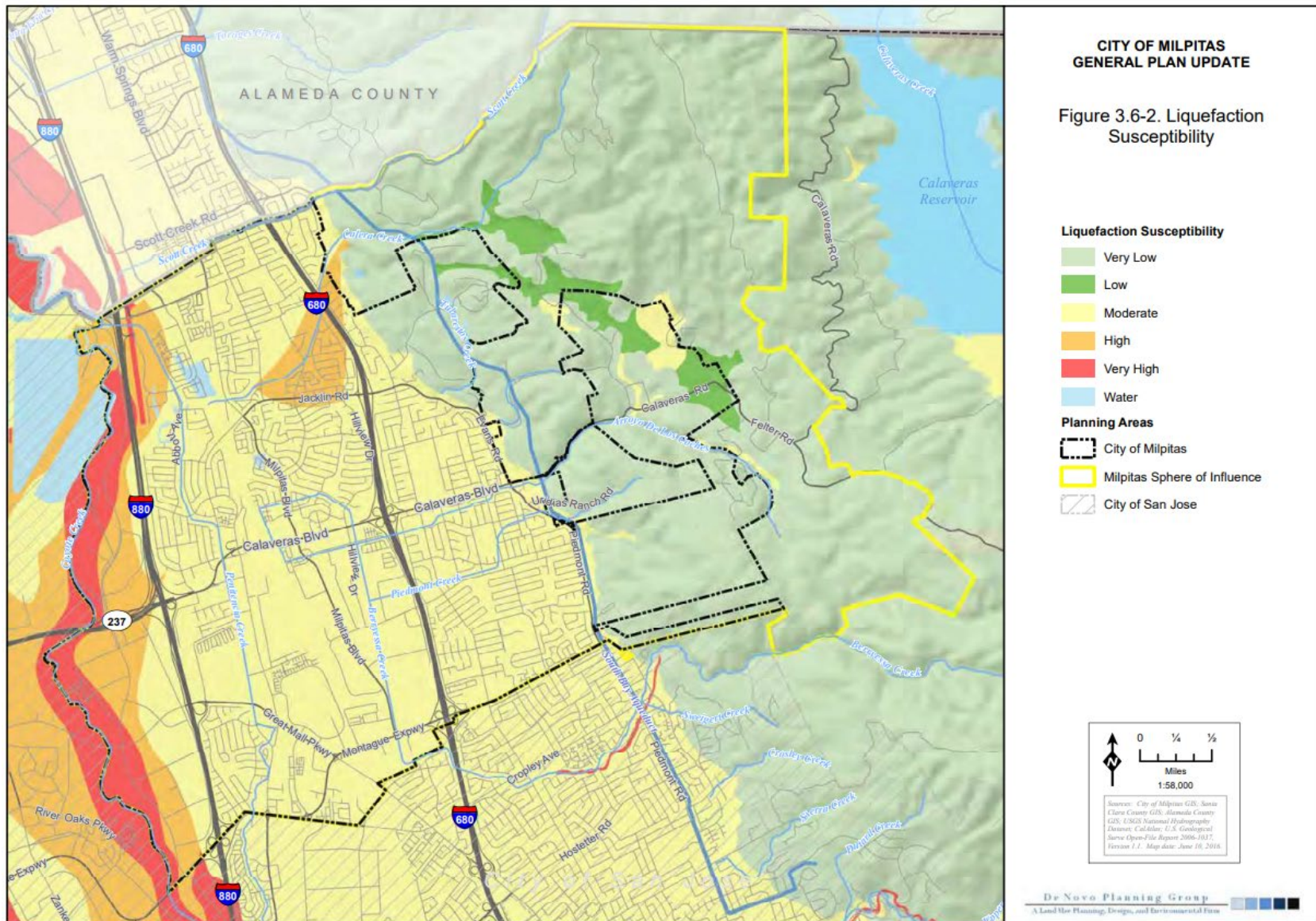




FIGURE B-4: FIRE HAZARD ZONES

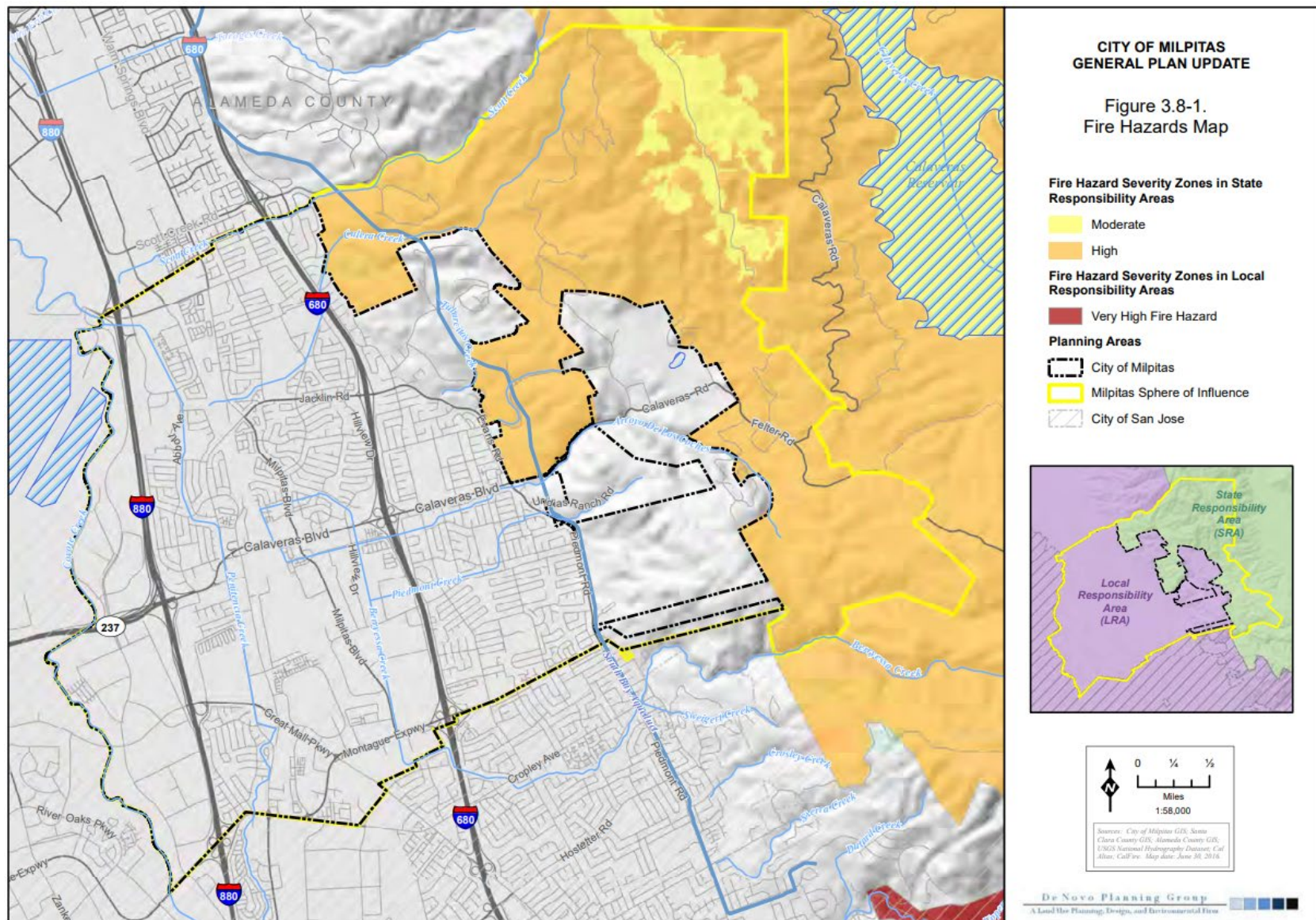




FIGURE B-5: FEMA FLOOD HAZARD ZONES

