

Chapter Four

Constraints to Housing Production

This Chapter addresses the governmental and non-governmental constraints to the maintenance, improvement or development of housing, including housing for persons with disabilities in the analysis. The analysis identifies regulatory standards and processes, and their impact on housing. Also included are local housing market conditions, social perceptions, land, and other non-governmental limitations.

Governmental and non-governmental constraints pose barriers to the maintenance, improvement, and development of housing and thus play a role in limiting the amount of units produced. Only when then these barriers are recognized can the community act to systematically take steps toward correcting such impediments.

City Policies and Programs Affecting Housing Development

The Delano General Plan Housing Element and other Elements, Zoning Code, Consolidated Plan, and other documents have been reviewed to evaluate the following potential constraints to housing production:

- Local zoning, building, occupancy, and health and safety codes
- Public policies and building approvals that add to the cost of housing development
- Moratoriums or growth management plans
- Residential development fees
- Administrative policies affecting housing activities or community development resources for areas of minority concentration
- Community representation on planning and zoning boards and commissions

Zoning, Building, Occupancy, and Health and Safety Codes

Zoning Ordinance

Higher-density housing reduces land costs on a per-unit basis and thus facilitates the development of affordable housing. Restrictive zoning that requires unusually large lots and building size can substantially increase housing costs and impede housing production.

The General Plan Land Use Element provides a range of residential development opportunities that are implemented through the City's existing R-1, R-2, and R-3 zones, as shown in Table 4-24. Housing supply and costs are affected by the amount of land designated for residential use and the density at which development is permitted. Two-thirds of the acreage in Delano is designated for residential use.

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Table 4-1
Residential Land Use Designations

General Plan Land Use Category	Corresponding Zone Districts	Typical Residential Types
Low Density Residential	R1	Single-family detached residential Development
Medium Density Residential	R2	Attached or detached units, often single-family residences, duplexes, triplexes, and four-plexus
High Density Residential (HDR)	R3	A variety of multi-family housing types, including garden style units, townhouses, apartments, and condominiums

Source: City of Delano General Plan Land Use Element 2007

The Zoning Ordinance establishes lot dimension and setback requirements for structures in each residential zoning district. The required front setback is 20 feet to the garage and 25 feet to the front of the house in R1 zoned districts. Table 4-25 shows the Zoning District Development Standards for Residential Zones in the City. Table 4-26 shows the Zoning District Development Standards for Commercial Zones in the City. Delano’s requirements for on-site improvements as expressed in the Zoning Ordinance are typical of California communities, and are not considered to be unusually restrictive as a constraint on the development of housing.

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Table 4-2
Residential Zoning District Development Standards

		R-A	R-1	R-2	R-3
1. Minimum lot area (Net area in sq ft)	a. interior b. corner	108,900 108,900	6,000 6,500	9,000 9,500	12,000 12,500
2. Minimum lot width	a. interior lot b. corner lot	200' 200"	60' 65'	75' 80'	90' 100'
3. Minimum lot depth		400'	100'	100'	100'
4. Minimum front yard set-back	a. Lot adjacent to a straight street b. Cul-de-sac lot or knuckle lot	40' 40'	25' 20'	20' 20'	20' 20'
5. Minimum interior side yard setback	a. 1 story b. Any portion of a structure exceeding 1 story c. Cul-de-sac lot or knuckle lot	25' 25' 25'	5' 5' 5'	5' 10' 5'	5' 10' 5'
6. Minimum street side yard setback:	a. corner lot b. reverse corner lot	30' 30'	10' 15'	15' 10'	15' 15'
7. Minimum rear yard setback:	a. Lot with alley b. Lot with no alley	N/A 40'	5' 10'	5' 10'	5' 10'
8. Maximum lot coverage		25%	40%	50%	60%
9. Maximum height for buildings and structures		50'	35'	35'	35'
10. Minimum distance between buildings		10'	10'	10'	10'
11. Minimum dwelling unit size (square feet) For Apts. See Notes below		1,450	1,100	650	650

Source: City of Delano Municipal Code Title 20- Chapter 20.4

The City of Delano permits multiple family residential development within its commercial zones, including Neighborhood Commercial, Downtown Commercial and General Commercial, by Conditional Use Permit approval. However, through the Conditional Use Permit review process, the City requires design conformance with the density and development standards of the R-3 (Multiple Family Residential) zone district.

Family Definition

A City's zoning ordinance can restrict access to housing for relations failing to qualify as a "family" by the definition specified in the document. Even if the ordinance provides a broad definition, deciding what constitutes a "family" should be avoided by cities to prevent

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confusion or give the impression of restrictiveness. Particularly, when the zoning ordinance uses terms such as “single family homes, defining “family” in too-detailed terms may restrict access to housing for certain segments of the population.

California court cases have ruled that an ordinance that defines a “family” as (a) an individual, (b) two or more persons related by blood, marriage or adoption, or (c) a group of not more than a certain number of unrelated persons as a single housekeeping unit, is invalid. Court rulings stated that defining a family does not serve any legitimate or useful objective or purpose recognized under the zoning and land planning powers of a jurisdiction, and therefore violates rights of privacy under the California Constitution. A zoning ordinance also cannot regulate residency by discrimination between biologically related and unrelated persons.

The City of Delano Zoning Ordinance does not restrict the definition of a “family” to those who are related by blood, marriage or adoption, nor limit the number of unrelated persons who may occupy a single dwelling. According to the Zoning Ordinance, “Household” refers to “All those persons, related and unrelated, who occupy a single housing unit”

Density Bonuses

A density bonus can be an important tool to encourage a diversity of housing types and prices, particularly affordable housing for families and seniors. The California Government Code Section 65915 requires that cities grant density bonuses of 20 to 35 percent, depending on the amount and type of affordable housing provided. The density bonus regulations allow for exceptions to applicable zoning and other development standards to further encourage development of affordable housing.

Developers may seek a waiver or modification of development standards that have the effect of precluding the construction of a housing development meeting the density bonus criteria. The developer must show that the waiver or modification is necessary to make the housing units economically feasible.

The State density bonus regulations also include incentives and concessions. A developer can receive an incentive or concession based on the proportion of affordable units for target groups. Incentives or concessions may include, but are not limited to, a reduction in setback and square footage requirements or a reduction in the ratio of vehicular parking spaces that would otherwise be required, which results in identifiable, financially sufficient, and actual cost reductions.

The City of Delano in 1990 adopted a density bonus resolution in accordance with the then-existing provisions of State law. However, the City needs to update its existing provisions to incorporate the provisions of the more recently adopted SB1818 and SB435 legislation. Adoption of such an amendment is included in the housing programs proposed in this Element.

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Parking Requirements

When parking requirements are high, housing development costs tend to increase, restricting the range of housing types available in a community. Typically, the concern for high parking requirements relates only to multi-family housing. For single-family developments, the Zoning Ordinance requires two parking spaces within an enclosed garage. Multi-family residential parking requirements vary depending on number of bedrooms. One bedroom units require 1.5 parking spaces while 2 bedroom units require 2 parking spaces. Table 4-27 provides further details regarding parking for residential development.

If a developer proposes a housing development which will reserve a specified percentage of units for occupancy by low or very low income households, the City is required by Government Code Section 65915 (described in the previous section) to grant one or more incentives or concessions from otherwise required development standards. These incentives or concessions may include a reduction in the normally required off-street parking ratio for proposed dwelling units.

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Table 4-3
Residential Off-Street Parking Standards

Use	Minimum Off-Street Parking Requirements	Maximum % Compact Uses	Notes
A. RESIDENTIAL USES			
1. Single Family Dwelling	2 spaces per unit ^{1,2}	None	¹ Must be provided within an enclosed garage. ² Units which meet State requirements for 2nd units shall provide an additional parking space.
2. Multi-Family Dwelling			
a. Resident Parking ^{3,4,5,6}	Studio: 1 space per unit 1 bedroom: 1.5 spaces per unit 2 or more bedrooms: 2 spaces per unit	None None None	³ All parking spaces shall be assigned to a specific unit. ⁴ Enclosed garage may be required if project qualifies as a discretionary permit.
b. Guest Parking	0.25 spaces per unit for 11 or more units; no guest parking for 10 or less units	50%	⁵ All spaces shall be located within 150 feet of the unit being served. ⁶ The parking requirement shall be reduced to 1 space per unit pursuant to a Density Bonus granted for a Qualifying Residents Project in accordance with the provisions of section 20.10.80.
3. Senior Housing: Independent Living			
a. Resident Parking	1 space per unit ⁷	None	⁷ Spaces shall be covered, and may be either a carport or garage.
b. Guest Parking	0.25 spaces per unit ⁸	50%	⁸ Guest spaces may be uncovered.
4. Senior Housing: Congregate Care			
a. Resident Parking	0.5 spaces per unit or as determined by the Planning Agency. ^{9,10}	50%	⁹ Applicant shall submit a parking study pursuant to the requirements of section 20.13.20. ¹⁰ For multiple family units, the parking shall be within 150 feet of the dwelling it is serving.
b. Guest Parking	0.25 spaces per unit.	50%	

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Table 4-3 continued

Use	Minimum Off-Street Parking Requirements	Maximum % Compact Uses	Notes
5. Mobilehome Parks and Subdivisions			
a. Resident Parking	2 spaces per unit ¹¹	None	¹¹ Tandem spaces may be permitted to meet parking requirements for a mobilehome park.
b. Guest Parking	1 space per five (5) units.	None	
6. Model Home Complexes	3 spaces per model home plus 1 space per salesperson ^{12, 13}	None	¹² On-street parking adjacent to the model homes may be counted toward the parking requirement if it is found that such parking will not impact other residential parking and will not obstruct traffic flow. ¹³ Spaces for salespersons may be provided in vacant garages of model homes.

The City of Delano’s residential zoning density and development standards are not seen as unduly restricting developers’ ability to achieve reasonable density yields or to adversely impact the cost of and supply of housing. The standards are comparable to those of similar jurisdictions throughout the State and the San Joaquin Valley, and are deemed appropriate to ensure adequate livability standards and to protect the public health, safety and welfare. As discussed above, increases in density and concessions from normally required development standards are available for project proposals that meet the intent and standards of the State’s density bonus law, and the City may approve variances from zoning standards on a case-by-case basis to address extenuating circumstances.

Development Impact Fees/ School Mitigation Fees

The City of Delano imposes a schedule of public facilities impact fees upon all new residential, commercial and industrial development within the City. The fees have been based on specific studies of facility development costs, and are necessary to defray the costs of new or expanded infrastructure facilities that are occasioned by new development. This ensures that an undue burden is not placed on existing City residents, and to assure that public facility capacity can be expanded in an orderly and logical fashion. State law requires that locally imposed fees not exceed the estimated reasonable costs of providing the service. The fees and exactions required of a development to pay for the public facilities associated with the residential development pose a potential constraint to housing production. The City imposes Quimby Act dedication or in-lieu fees upon residential subdivisions for the provision of parks facilities, based on a standard of 3 acres for each 1,000 new residents. The City is considering increasing

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the standard to 5 acres per 1,000 population, to include 3 acres of neighborhood park land and two acres of city-wide park area for each 1,000 person increment.

The following tables detail the typical facilities impact fees applied to a typical single family residence and to each multiple family unit constructed within the City (effective for the year 2010).

Table 4-4
DEVELOPMENT IMPACT FEES FOR TYPICAL SINGLE FAMILY DWELLING

FEE TYPE	AMOUNT
Water Facilities	\$1,628
Sewer Facilities	\$4,391
Park Development	\$1,726
Police Services	\$297
Fire Protection	\$654
General Government	\$1,017
Traffic Circulation	\$4,337
TOTAL	\$14,050

Table 4-5
DEVELOPMENT IMPACT FEES FOR
A 70 UNIT APARTMENT PROJECT

FEE TYPE	AMOUNT
Water Facilities	\$59,302
Sewer Facilities	\$239,497
Drainage Facilities	\$39,970
Park Development	\$90,650
In-Lieu Park Land Dedication	\$26,390
Police Services	\$15,540
Fire Protection	\$34,300
General Government	\$53,410
Traffic Circulation	\$212,590
TOTAL	\$771,649 (\$11,024 per unit)

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School facilities impact fees assessed by the Delano Union Elementary School District and the Delano Joint Union High School District are \$4.95 and \$1.55, respectively, for each residential square foot constructed. This adds \$9,750 to the cost of occupancy approval for a typical 1,500 square foot single family dwelling.

Housing development projects are also subject to Indirect Source Review fees imposed by the San Joaquin Valley Air Pollution Control District. The purpose of this fee is to provide mitigation for the impacts of housing development upon regional air quality in terms of vehicle emissions related to residential trip generation, project construction impacts in terms of dust and other particulate matter, and from energy use related to heating and cooling of dwellings. Developers may reduce the fee level by incorporating energy-saving and trip reduction measures into project design, such as providing sidewalks and bicycle paths, interconnected streets and mixed use development plans that place commercial and public uses within walking distance of residential areas. The City has not had a recent major residential project, such as a subdivision, undergo the Indirect Source Review process; however, a recent contact with the staff of the San Joaquin Valley Air Pollution Control District has found that the Indirect Source Review fee has averaged about \$417 per residential unit since the process was enacted in 2006. The Indirect Source Review requirement, however, is imposed throughout the San Joaquin Valley, so the financial impact of the fees assessed would not vary among jurisdictions throughout the region, and would not place a disproportionate effect upon proposed residential development within the City of Delano.

Cumulative Impact of All Development Impact Fees

The following table shows the total amount of all building plan check fees, permit fees, development impact fees, school fees and indirect source fees applicable to a typical single family dwelling and a recently-constructed 70 unit low income tax credit financed multiple family project. The percentage of total building valuation of the permit costs is then shown.

Table 4-6
CUMULATIVE FEE TOTALS
FOR RESIDENTIAL DEVELOPMENT

FEE CATEGORY	SINGLE FAMILY	MULTIPLE FAMILY (Per Unit)
Plan Check/Permit	\$1,500	\$630
Development Impact	\$14,050	\$11,024
School Impact	\$9,645*	\$5,525*
Indirect Source	\$417	\$417
TOTAL FEES	\$25,612	\$17,596
PERCENTAGE OF TOTAL CONSTRUCTION COST	29 %	20 %

*Based on a typical 1,500 sq. ft. single family dwelling and an 850 sq. ft. multiple dwelling

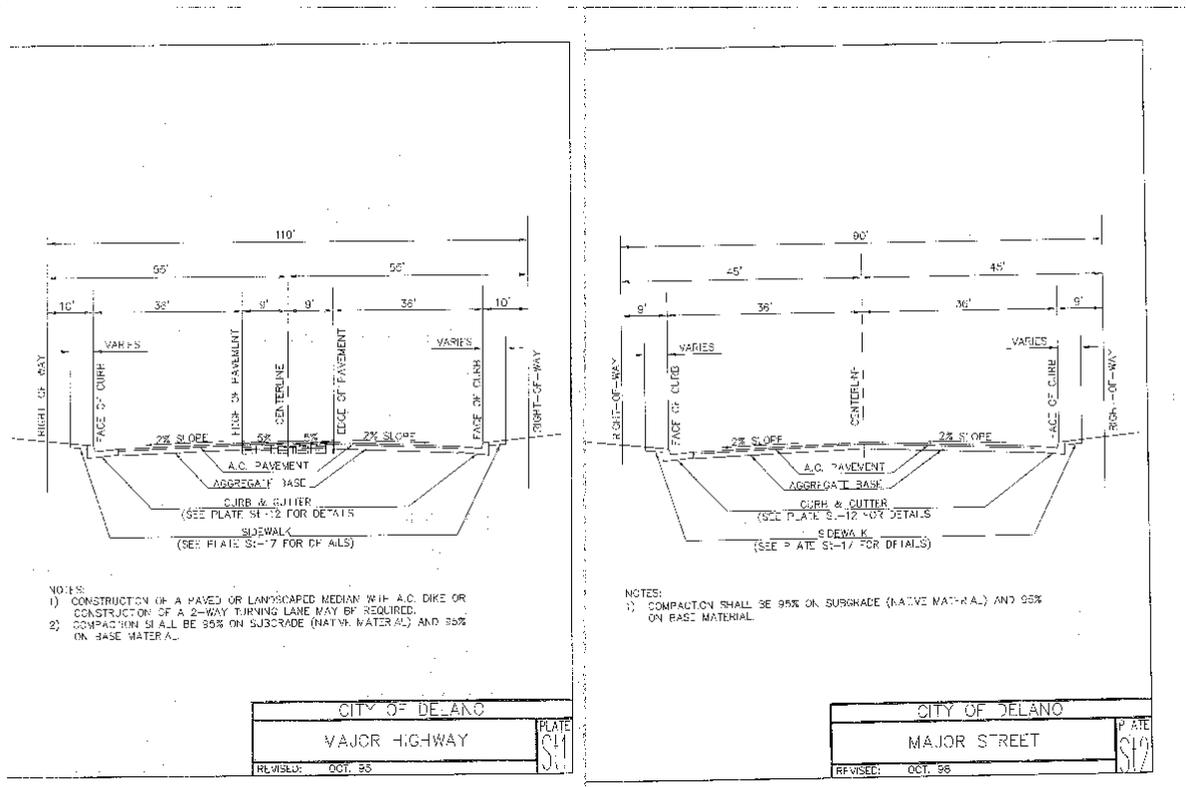
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While the percentage figures for both single family and multiple units appear high, they are not excessive compared with nearby jurisdictions and reflect the high costs of providing infrastructure facilities in an urbanizing area.

Public Improvement Standards

The City of Delano's General Plan and Engineering Standards specify right-of-way widths and improvement cross-sections for a variety of street types depending upon their functions. Right-of-way widths range from 50 feet for local residential and cul-de-sac streets through 80 feet for secondary (collector streets) through a maximum of 110 feet for major highways (arterial streets). Number of lanes vary from two lanes for local residential streets through four lanes for secondary streets to four to six lanes for major highways. The street standards are depicted in the cross-section diagrams shown below. The street improvement standards are based upon their intended function and the projected traffic generation resulting from adjoining land uses.



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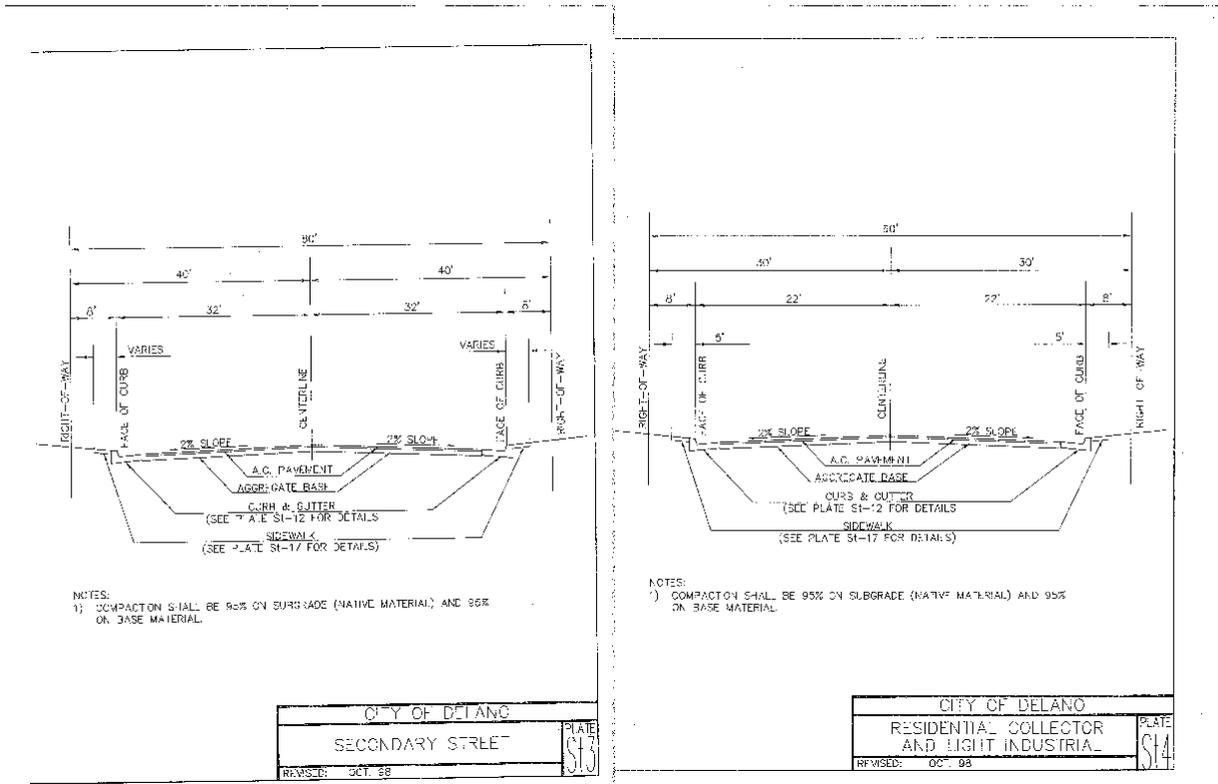


Figure 4-1(c)

Figure 4-1(d)

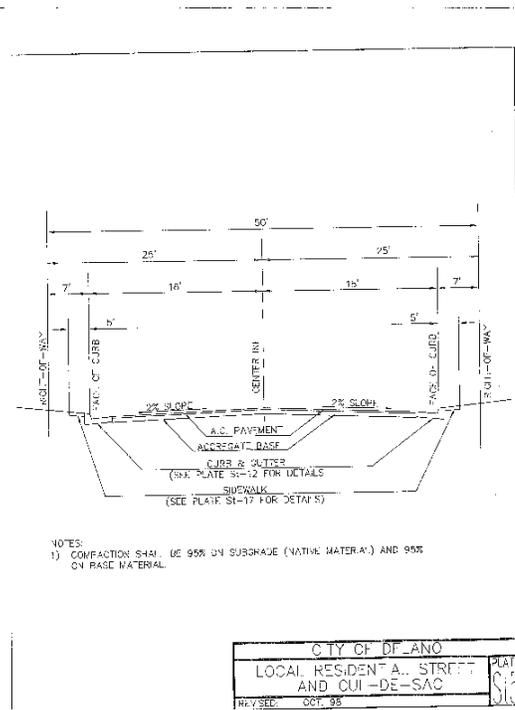


Figure 4-1(e)

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The City also requires the installation of a full range of public utilities infrastructure including domestic water mains, sewer mains and underground electric and communication lines along the entire street frontage of developed residential subdivisions and parcels. The size of public utility facilities is based on anticipated demand, and developers may be required to complete capacity upgrades such as installation of water wells and pump stations or oversize sewer trunk lines where a residential project is deemed to exceed existing capacity. Reimbursement arrangements for oversizing facilities are available to developers to compensate for future infill development that may benefit from such capacity upgrades.

The City of Delano's public circulation facilities and infrastructure improvement standards are consistent with those of nearby jurisdictions including Kern County, and are not deemed to place an overly restrictive burden upon new residential development within the City compared to surrounding areas within the region.

Building Codes

Building codes are not a serious constraint to residential development. Building inspections in Delano are conducted by the City's building inspectors, for approval of new construction for occupancy, and to respond to specific complaints. New construction is required to meet the standards of the California Building Code, most recently revised in 2007. The City has also adopted the California Plumbing, Mechanical, Fire and Electrical Codes. The new California Green Code, which incorporates increased energy conservation standards, will also be applied by the City upon its becoming effective statewide in January, 2011.

The application and enforcement of the various codes to the construction of new residential structures in the city is not seen as an excessive constraint to development, as they apply Statewide, and are necessary to ensure the public health, safety and welfare.

Minimum Size Requirements for Dwelling Units and Rooms

The City of Delano maintains minimum size requirements for dwelling units. There are no local amendments added to the Uniform Building Code. The minimum size for dwelling units is measured on the outside of walls, and excludes basements, garages, carports, exterior courtyards, and porches. These are modest requirements and are substantially smaller than what is currently being produced in market rate housing. Minimum dwelling unit sizes are as follows:

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Table 4-7
Minimum Dwelling Unit Sizes

Single-family detached Homes:.....1150 square feet

Dwelling units within a multifamily structure:

1 Bedroom.....650 square feet

2 Bedrooms..... 800 square feet

For each additional Bedroom in excess of 2.....120 square feet

“Efficiency” apartments (450 square feet) are permitted in areas designated in the General Plan for “Medium,” “Medium High,” and “High” density residential development.

The City’s minimum room size standards are as follows:

Room Minimum Room Size

Bedroom.....100 square feet

Full bath (tub, toilet, and lavatory).....50 square feet

Three-quarter bath (stall shower toilet, and lavatory)....35 square feet

Half bath (toilet and lavatory).....25 square feet

These standards are modest, and do not unreasonably add to the cost of housing within the City.

HOUSING DEVELOPMENT REVIEW PROCESS

The City of Delano, through its Community Development Department, conducts a variety of development review procedures, based on the type and complexity of project proposed. A permit for a new single family dwelling, addition or remodeling does not require a discretionary review, and a permit can be issued in as little as two to four weeks after application submittal. Proposed residential subdivisions are reviewed by an interdepartmental committee, and then forwarded to the Planning Commission for consideration at a public hearing. The Planning Commission then makes a recommendation for action to the City Council, which is the final review body for tentative tract maps. With the exception of major subdivision proposals and those where there may be substantial environmental and design issues to resolve, the tentative map review process can generally be completed within three to four months. Proposals for multiple family dwellings require a site plan review, and if they qualify for a CEQA exemption, can be processed in about four to six weeks depending on the size and complexity of the project. The site plan review process involves transmittal of development plans to affected City departments such as Engineering & Public Works and the County Fire Department. Multiple

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family projects that are proposed within commercial zones require approval of a Conditional Use Permit, which require additional time to be noticed for a hearing before the Planning Commission, and if necessary, the City Council should an appeal of the Planning Commission decision be filed. The Conditional Use Permit process generally requires two to three months before a decision is rendered by the Planning Commission. An additional month would be required if an appeal to the City Council is filed. Per existing City Council Resolution No. 1990-22, Pprojects for which a density bonus are requested also require a specific review by the Planning Commission and City Council, however, the Resolution requires that the City make a response on the proposal within 90 days of submittal. In practice the City can complete the review process in considerably less time. A density bonus application that the City is currently processing completed Planning Commission review approximately two weeks after submittal, and will be considered by the City Council within 45 days of the application submittal date.

The following table depicts the specific review process for several types of development project reviews:

**Table 4-8
Residential Development Processing Procedures**

Project Type	Processing Procedure	Time Span
Single Family Dwelling	Building Permit Review	2 – 4 weeks
Single Family Residential Tract	Tentative Tract Map	2 – 3 months
Multiple Family Project	Site Plan Review	4 – 6 weeks
Negative Declaration	Planning Commission Hearing	2-3 months*
Environmental Impact Report (EIR)	Planning Commission and/or City Council	4-6 months* (depending on project complexity)

* (Concurrently with related permit review)

A project requiring review under CEQA would need additional time for more detailed analysis and the required review and comment period for the appropriate environmental document. Preparation of a Negative Declaration or an Environmental Impact Report (EIR) would normally only be required for a project which does not fall under the infill development category for an exemption from CEQA, or which requires concurrent processing of a General Plan Amendment and/or Zone Amendment. Completion of the Negative Declaration process will generally require four to six months, while preparation of a draft EIR and certification of a Final EIR may require up to a year from the initial filing date.

City staff makes every effort to expedite development project review by working cooperatively with applicants and other affected departments throughout the process. The Department

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policy is to process projects requiring multiple approvals concurrently to save time (such as a Site Plan Review filed with a Zone Amendment application).

While the time period required for housing development project reviews acts as a cost burden on project developers, the processing requirements within the City of Delano are not excessive compared with other jurisdictions of similar size, and in fact are generally shorter than in larger cities. The development application review process must be sufficient to comply with legal requirements such as CEQA, and to ensure the protection of the public interest.

The 2010 application processing fee schedule is shown below, which is still in effect. The fees have been established at a level not exceeding the cost of staff time required to process individual application types, including overhead costs. The fee schedule is not excessive compared with other cities of comparable size within the region, and is less than in larger jurisdictions including the County.

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Figure 4-2

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PROJECT	FEE	REMARKS
COMBINED DEVELOPMENT PROJECT		
If a project involves two or more entitlements, they shall be processed as a Combined Development Project. A Combined Development Project requires an initial deposit of \$5,000. This would allow for recovery of costs related to Planning, Engineering, Public Works, Police, Transit, Community Services, and City Attorney. Work beyond the initial deposit would be on a Time and Materials basis. Should work on a CDP not require the funds deposited, the difference shall be refunded to the applicant.		
A monthly report will be supplied to the applicant so that funds will be replenished on a timely basis. Any outside services that may be required will be charged at the City's cost.		
Examples of Combined Development Projects: Annexation with Pre-zoning with Tentative Tract Map General Plan Amendment with Zoning Amendment Williamson Act Cancellation and Tentative Tract Map.		
ADVANCED PLANNING		
Annexations	\$3,622	However, if the annexation is combined with a Williamson Act Contract cancellation, General Plan Amendment, pre-zoning, tentative map, etc. it will be treated as a Combined Development Project.
General Plan Amendment	\$1,552 + \$52 per acre	If the GPA is combined with a rezoning, it will be treated as a Combined Development Project.
General Plan Maintenance Fee	\$103 per dwelling unit for new residential construction. \$0.01 per square foot for new commercial and industrial construction	Fees collected are reserved for maintaining the General Plan and its elements. Permits for remodels, electrical, plumbing, roofing, and mechanical for existing construction are excluded from this Maintenance Fee.

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PROJECT	FEE	REMARKS
Application/Documents with Maps		
Tentative Parcel Map (not more than four parcels with a designated remainder)	\$2,069	
Final Parcel Map	\$518	
Parcel Map Waiver	\$776	
Tentative Tract	\$2,069 + \$26 per lot (up to 150 lots) \$5,173 deposit (if more than 150 lots)	
Tract Map - Final	\$1,810	
Lot Line Adjustment	\$518	
Certificate of Compliance	\$414	
Time Extensions - Tentative Maps, Final Maps	\$776	
Revisions of approved Tentative Parcel Map and Tentative Tract Map (includes design or conditions)	\$1,138	Revisions need to be taken back through the approval process.
Request for map exemption(s)	\$983	
Reversion to Acreage	\$569	
Review of Improvement Plans for Final Maps	Three (3) percent of the cost of the public improvements	For example, if the engineering estimate for the public improvements is \$500,000, the deposit would be \$15,000.
WILLIAMSON ACT		
Notice of Non-Renewal (includes partial nonrenewals)	\$285	

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PROJECT	FEE	REMARKS
Cancellation	\$3,304	However, Cancellations are frequently combined with other project entitlements making it a Combined Development Project.
Exchange Property	\$362	Exchanging land that is under a contract by placing an Agricultural Easement on other land.
ZONING/CURRENT PLANNING		
Zoning Amendment (map) (includes pre-zoning)	\$1,294 if less than 10 acres. \$1810 if more than 10 acres.	However, if the ZA is combined with another entitlement (Annexation, GPA, CUP, etc.) it becomes a CDP.
Zoning Amendment (text)	\$1,810	
Specific Plan (also PUD)	Cost	An initial deposit and a Reimbursement Agreement are required.
Site Plan Review - Class I (Note: at present, there is no distinction as to the size or type of project)	\$52	A Class I SPR would be for single family homes, second residence, swimming pools, and other similar uses and/or structures. Ministerial Approval is appropriate.
Site Plan Review - Class II	\$259	A Class II SPR would be for property that is already developed, but is changing to a different use class or adding a structure; or, for projects that are less than five acres in area that are consistent with the General Plan and Zoning. Typically, no public hearing would be required.
Site Plan Review - Class III	\$595	A Class III SPR would be for new projects that are greater than five acres but less than 10. A public hearing is usually required. Additional CEQA work is usually required.
Site Plan Review - Class IV	Deposit of \$2,069	A Class III SPR would be for projects greater than 10 acres in area. This fee would be applied only if there is no other entitlement such as a Conditional Use Permit.
Vacancies	\$177	Public Hearing required (as amended by City Council 12/17/07)

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PROJECT	FEE	REMARKS
Director's Minor Variance	\$129	No public hearing.
Conditional Use Permit	Class I - \$595	Class I: Within residential zones and Downtown Commercial.
	Class II - \$1,810	Class II: Within Neighborhood, General Commercial, and Community Retail Commercial zones. Industrial zone.
	Class III - City's Cost	Class III: Projects that due to scale, size, complexity or operational characteristics require additional review.
Waiver of Modification of Conditions of Approval	-of CD Director	Waiver of Modification of conditions usually will require the same approval process as the original application. However, review would be limited to the requested waiver or modification.
	-of Planning Commission	
	-of City Council	
Accessory Dwelling Unit	\$57 per annum	Applies to second dwelling units.
APPEALS		
Appeal of Community Development Director's decision	\$0	Appeals would be to the Planning Commission. (As modified by City Council 12/17/07)
Appeal of Planning Commission's decision	\$0	Appeals would be to the City Council. (As modified by City Council 12/17/07)
ENVIRONMENTAL		
Notice of Exemption	\$114	Does not include County of Kern Clerk fees, which would be in addition to the City fee.
Negative Declaration and Mitigated N.D.		Costs for necessary studies such as traffic, biology, air, noise, etc. are not included and would be covered by the applicant. Does not include Kern County Clerk's filing fee nor the Fish and Game fee.
Prepared by others	\$966	
Prepared by staff	\$2,690	

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PROJECT	FEES	REMARKS
EIR	City's Direct Costs to review and certify	Does not include Kern County of Kern Clerk's filing fee nor the Fish and Game fee.
Compliance Monitoring fee for projects that have been approved by CUP or other entitlement or had a ND or EIR prepared	\$285	Allows for monitoring of project for the first year for compliance with conditions of approval and mitigation measures. Fee to be paid at time application is filed.
MISCELLANEOUS/OTHER PERMITS		
Home Occupation	\$82	
Sign Permits	\$57	
Oil and Gas Well Drilling	Class II CUP - \$1,810	
Flood Development permit	\$155	
Change in Street Name	\$362	
Change of a Street Address	\$103	
Abandonment of Road, alley, or Public Utility Easement	\$1,552	
Development Agreement	\$0	D.A.'s are typically associated with larger, more complex projects, such as a Combined Development Project, GPA, Annexation, Tentative Tract Map, etc. City Attorney's time is now included in the project's filing fees and cost reimbursements.
Annual review of D.A.	\$310	Includes review time by the City Attorney. May require public hearing.
Request that City's real property be declared as Surplus	\$1,035	
Family Day Care	\$82	Ministerial Permit
Temporary Occupancy Permit	\$171	A Temporary Occupancy Permit is approved by the Community Development Director. No public hearing is required.
Temporary Use Permit	\$518	A Temporary Use Permit is approved by the Planning Commission. A public hearing is

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PROJECT	FEES	REMARKS
Fire Works Application		(Refer to Delano Municipal Code Section 6.48)
Special Events	\$155	For events listed in Table 2.C of Chapter 20.2 of the Zoning Ordinance on private property. For instance, does not include parades or use of public parks or public schools. Those events would be covered under a separate process.
Antennas and Wireless Telecommunication Facilities	Tier I - \$155	As defined by the Zoning Ordinance (20.11.85), a Tier I facility may be approved by the Community Development Director if certain findings can be made. No public hearing is required.
	Tier II - \$1,810	A Tier II facility requires approval by the City Council as a Conditional Use Permit. A public hearing is required. A Tier II facility would be a Class II CUP, regardless of the Zone District.
Zoning Compliance Letter	\$26	Determination whether a use or structure complies with Zoning.
All fees shall be automatically adjusted annually January 1st of 2010 and 2011 in accordance with increases and decreases in the consumer price index for all urban consumers of the west and promulgated by the Department of Labor for the month of September of the previous year (September 2008 and 2009).		
Change in fees for 2011 shall require a review of City costs for providing said planning services.		

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Variety of Housing Opportunity

A zoning ordinance should provide for a range of housing types, including single-family, multi-family, second dwelling units, mobile homes, licensed community care facilities, assisted living facilities, emergency shelters, and transitional housing.

Mobile Home and Manufactured Housing Development Standards

The City of Delano permits manufactured dwellings to be used as single-family residences outside of designated mobile home parks if the home is certified under the National Mobile Home Construction and Safety Act of 1974, and if it meets the following standards:

- Front yard. No building structure or vehicle, except a recreation building, erected on or moved onto a lot shall have a height greater than one story or which exceeds 15 feet.
- Rear yard. There shall be a rear yard depth of not less than 5 feet, or 15 feet when adjacent to any residential zone.
- Roofed area. The total roofed area including mobile home and accessory buildings or structures shall not exceed 60 percent of the net area of the lot.
- Side yard. There shall be a side yard of at least five feet on either sides, or 15 feet when adjacent to any residential zone.
- Access. The subdivision shall have at least two means of ingress or egress leading to a public street.

These standards permit the placement of mobile homes that comply with federal HUD standards to be sited on single-family lots upon permanent foundations. The intent of the ordinance is to ensure that mobile home units are structurally safe and conform to (but not to exceed) the design standards of the neighborhood.

Second Dwelling Units

Within the R-1 (Single Family Residential) and R-A (Residential Agricultural) zone districts, the City permits an additional dwelling unit to be sited on a parcel as a ministerial (administrative level) approval and the following standards:

- The conversion of a portion of a single-family unit whereby cooking facilities are not shared in common.

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- The addition of a separate unit onto the existing single-family unit.
- The creation of a separate detached unit on the lot or parcel in addition to the existing single-family unit.
- A detached mobile home or manufactured housing unit may be used as a second unit provided it is placed on a permanent foundation and meets all the requirements of the Delano Zoning Ordinance.
- The second unit shall clearly be a subordinate part or accessory to the existing single-family dwelling located on the lot or parcel. The second unit shall not more than 50 percent of the floor area (excluding garage) of the main single-family dwelling.
- The second unit must maintain the scale of adjoining residences and blend into the existing setting by use of appropriate building form, height, materials, colors and landscaping appropriate to that setting.
- No more than one second unit may be created within a single-family dwelling.
- One additional paved off-street parking space shall be provided for the second unit, which is in addition to the off-street parking requirements for the principal single-family home.
- The additional dwelling is required to be metered separately from the main unit for gas, electricity, and water/sewer services.

Emergency and Transitional Housing

Emergency shelters provide short-term shelter (usually for up to six months of stay) for homeless persons or persons facing other difficulties, such as domestic violence. The Zoning Ordinance does not currently contain provisions for emergency housing. Transitional housing provides longer-term housing (at least six months), coupled with supportive services such as job training and counseling, to individuals and families who are transitioning to permanent housing.

Recent revisions to State law require jurisdictions to identify adequate sites for housing that will be made available through appropriate zoning and development standards to facilitate and encourage the development of a variety of housing types for all income levels, including emergency shelters, transitional housing and supportive housing (Section 65583(c)(1) of the Government Code). State HCD and subsequent court decisions have interpreted this as a requirement for local governments to specify which zone(s) permit such facilities, and

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implement permit processes that both facilitate and encourage the development of such housing. To facilitate the development of emergency housing and comply with State law¹, the City will amend the Zoning Ordinance to permit emergency shelters by right in a specific zones. The City will investigate permitting emergency shelters in the General Commercial (GC), Downtown Commercial (DC) and (Multiple Family Residential) R-3 zone districts. It is believed that these zones, since they are generally more centrally located, will afford residents better access to medical, counseling, commercial and transit services. There are between 10 and 15 vacant sites of one acre or less that could be developed for emergency shelters within these zones. The City will also allow the establishment of transitional and supportive housing that function as residential uses in residential zones, with processes that are no more restrictive than for those of similar residential uses.

Supportive Housing

Consistent with State law, the City facilitates the development of supportive housing in the form of residential care facilities by treating licensed facilities that serve six or fewer persons as standard residential uses. In addition, the City conditionally permits small residential care facilities (six or fewer persons) in some commercial zones. Large residential care facilities serving seven or more persons and nursing homes are conditionally permitted in the R-2 and R-3 zones, as well in the City's commercial zones. There are no minimum separation distance requirements for such residential uses.

Special Needs - Persons with Disabilities – Accommodations Ordinance

In November, 2009, the Delano City Council adopted a Reasonable Accommodations ordinance to allow for accommodations in its zoning and land use regulations, policies and practices when needed to provide an individual with a disability an equal opportunity to use and occupy a dwelling. The United States Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, familial status, and disability. One type of disability discrimination prohibited by the Act is the refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling.

A "reasonable accommodation" is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces. Since rules, policies, practices, and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny them

¹ On October 15, 2007, Governor Arnold Schwarzenegger signed into law SB 2 which amends Government Code Sections 65582, 65583, and 65589.5 of State Housing Element Law. This legislation requires local jurisdictions to strengthen provisions for addressing the housing needs of the homeless, including the identification a zone or zones where emergency shelters are allowed as a permitted use without a conditional use permit. This legislation took effect January 1, 2008 and will apply to jurisdictions with housing elements due June 30, 2008 and after.

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an equal opportunity to use and enjoy a dwelling. The Fair Housing Act makes it unlawful to refuse to make reasonable accommodations to rules, policies, practices, or services when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling. To show that a requested accommodation may be necessary, there must be an identifiable relationship, or nexus, between the requested accommodation and the individual's disability. Adoption of this amendment provides a procedure for the City to review specific requests for modifications to building or zoning standards when necessary to assure the accessibility and livability of housing units. A process for appeal of an administrative decision by City staff to the City Council is provided for. An extension of time for use of an approval of a modification for a reasonable accommodation is also provided.

As discussed above, the City of Delano does provide for alternative housing modes for disabled persons, including manufactured housing, second dwelling units, and supportive housing arrangements. The recently-adopted accommodations ordinance establishes a process whereby exceptions can be sought from building code and zoning development standards to address the needs of physically disabled persons. With this process in place, reasonable adjustments to existing codes and standards can be made as needed. However, one constraint that can be addressed is the requirement for payment of development impact fees for a new dwelling in order to construct a second dwelling unit on a single family lot. A second dwelling unit may be an affordable option for the housing of the elderly or disabled close to family or relatives residing on the same lot, which facilitates necessary caregiving. The requirement for payment of development impact fees of approximately \$14,000 can act as a severe constraint to using this kind of housing. A program for evaluating the possible reduction of these fees as feasible for accessory dwelling units is included in the list of programs in Chapter 6 of the Housing Element Update.

Homeless/Emergency Housing Needs

The needs of homeless individuals and families include emergency shelter, transitional housing, and supportive housing, as well as counseling and job training services. A recent count (January, 2011) conducted by the City in cooperation with the Kern County Homeless Collaborative in conjunction with the United Way has identified 30 unsheltered homeless persons in Delano, including two adults with a total of two children. No homeless shelter facilities are available in Delano; within the City of Bakersfield – 30 miles distant – are the Kern Linkage, Bakersfield Homeless Center, and Bakersfield Rescue Mission. Kern Linkage serves the mentally disabled homeless within Kern County, and provides information referral, case management, counseling and other services. The Bakersfield Homeless Center serves the Delano area, and provides medical and dental care, clothes and supplies, and a school program for children. The Bakersfield Rescue Mission serves single men and women. Medical, dental and nutritional services, and drug and alcohol abuse treatment, parent education, financial counseling and job

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search assistance services are also provided. A one year rehabilitative residential program is provided for clients. The City of Delano participates in the Kern County Continuum of Care program.

Farmworker Population

According to the 2000 Census, between 25 and 30 per cent of employed persons within the City of Delano work in agriculture or related industries. Agricultural employment is characterized by a high percentage of seasonal, rather than permanent, employment during harvest periods. A portion of the seasonal force are migrant workers who are unable to return to their primary residence each day. Farmworker households face particular difficulties in obtaining adequate housing due to lower incomes, the limited availability of affordable units, and overcrowding due to family size.

The City of Delano has one 35 unit farmworker residential project consisting of rentals within single family, detached dwellings. The Casa Hernandez is a 79 unit multiple family project for retired Farmworker households.

The Goals and Policies section (Chapter 4) has a program (2.1.8) for the city to partner with and encourage non-profit organizations to develop farmworker housing projects to increase the supply for this needs group. Another program (2.1.18) to amend the Zoning Ordinance to bring it into compliance with State standards to encourage and facilitate the development of a variety of housing types for Farmworker housing. The zone amendment is to be completed within one year of adoption of the Housing Element Update.

Non-Governmental Constraints

Cost of Land

Due to the downturn in the housing market which has occurred since 2007, the cost of land in the Delano area has substantially decreased, thereby lessening this factor as a constraint to the construction of affordable housing. Current information on the cost of undeveloped land is sparse, but it appears that \$40,000 per acre of unimproved residentially designated land is a representative figure.

Cost of Construction

According to a construction cost index² for Southern California provided by the City of Delano Building Division in late 2010, construction costs for a typical one story single family dwelling range from \$93.10 per square foot for an economy level 1,000 square foot house to \$157.80 per square foot for an estate type dwelling of 3,000 square feet. Standard construction in the middle of this range is \$120.60 per square foot for a 1,600 square foot home, or a total of

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\$193,000, excluding land costs, financing and other related costs. All figures assume wood siding on a wood stud frame. Construction costs vary upward for brick or stone veneer or concrete block construction. According to this cost index, a 1,500 square foot economy level home can be constructed for about \$140,000 using stucco on a wood stud frame.

Availability of Financing³

A key aspect of fair housing choice is equal access to credit for the purchase or improvement of a home. Lending policies and requirements related to credit history, current credit rating, employment history, and general character of applicants permit lenders to use a great deal of discretion and in the process deny loans even though the prospective borrower would have been an acceptable risk. This section reviews the lending practices of financial institutions and the access to home loans for minorities and all income groups.

2. www.saylor.com accessed 11/19/10

3. Section on Availability of Financing is taken from City of Delano Analysis of Impediments to Fair Housing Choice, June 2009, prepared by The Ramsey Group consulting firm, Fresno, California

Discriminatory practices in home mortgage lending have evolved in the last five to six decades. In the 1940s and 1950s, racial discrimination in mortgage lending was easy to spot. From government sponsored racial covenants to the redlining practices of private mortgage lenders and financial institutions, minorities were denied access to home mortgages in ways that severely limited their ability to purchase a home. Today, discriminatory lending practices are more subtle. While mortgage loans are readily available in low income minority communities, by employing high pressure sales practices and deceptive tactics, some mortgage brokers push minority borrowers into higher-cost subprime mortgages that are not well suited to their needs and can lead to financial problems. Consequently, minority consumers continue to have less-than-equal access to loans at the best price and on the best terms that their credit history, income, and other individual financial considerations merit.

In the past, fair lending practices were not always employed by financial institutions. Credit market distortions and other activities such as redlining prevented some groups from equal access to credit. The passage of the Community Reinvestment Act (CRA) in 1977 was designed to improve access to credit for all members of the community. The CRA is intended to encourage regulated financial institutions to help meet the credit needs of entire communities, including low- and moderate-income neighborhoods. The CRA requires that each insured depository institution's record in helping meet the credit needs of its entire community be evaluated periodically. That lending record is taken into account in considering an institution's application for deposit facilities, including mergers and acquisitions. In tandem with the CRA, the Home Mortgage Disclosure Act (HMDA), initially enacted in 1975 and substantially expanded in 1989, required banks to disclose detailed information about their mortgage

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lending. The law aimed to curb discrimination in such lending to create more equal opportunity to access credit. The disclosure requirement compelled banks, savings and loan associations, and other lending institutions to report annually the amounts and geographical distribution of their mortgage applications, origins, and purchases disaggregated by race, gender, annual income, and other characteristics. The data, collected and disclosed by the Federal Financial Institutions Examination Council, were made available to the public and to financial regulators to determine if lenders were serving the housing needs of the communities where they were located.

Detailed HMDA data for conventional and government-backed home purchase and home improvement loans in Delano are presented in Tables 4-8 through 4-9. HMDA data provides some insights regarding the lending patterns that exist in a community. However, the data are only an indicator of potential problems; the data lack the financial details of the loan terms to conclude definite redlining or discrimination exists.

Conventional versus Government-Backed Financing

Conventional financing involves market-rate loans provided by private lending institutions such as banks, mortgage companies, savings and loans, and thrift institutions. To assist lower- and moderate-income households that may have difficulty in obtaining home mortgage financing in the private market due to income and equity issues, several government agencies offer loan products that have below market rate interests and are insured (“backed”) by the agencies. Sources of government backed financing include loans insured by the Federal Housing Administration (FHA), the Department of Veterans Affairs (VA), and the Rural Housing Services/Farm Service Agency (RHA/FSA). Often government-backed loans are offered to the consumers through private lending institutions. Local programs such as first-time homebuyer and rehabilitation programs are not subject to HMDA reporting requirements.

Conventional Home Loans

Home Purchase Loans

According to the 2007 HMDA data, 3032 households (Table 4-7) applied for conventional or government backed home loans in the City of Delano that year. Of this number, 2399 loans were approved, an approval rate of nearly 80 percent. This rate was higher than the 75percent rate of approval in the Bakersfield Metropolitan Statistical area at large, of which Delano is a part.

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Table 4-9
Disposition of Home Purchase Loan Applications by Race of Applicant:
2007

Race/ Ethnicity	Total Applications	Approved	Amount*	Denied	Amount
American Indian or Alaska Native	67	53	\$ 8,608	14	\$ 2,286
Asian	372	278	\$ 49,310	94	\$ 16,472
Black or African American	19	15	\$ 2,776	4	\$ 977
Hispanic	1,736	1356	\$ 217,508	378	\$ 61,567
Native Hawaiian or Other Pacific Islander	118	93	\$ 16,759	25	\$ 4,780
White	220	186	\$ 31,919	34	\$ 6,604
Not Applicable/ Not Provided	500	418	\$ 74,988	82	\$14,592
Totals	3032	399	\$401,868	585	\$113,873

Source: 2007 Data- Home Mortgage Disposition Act (HMDA)

*Amounts are in millions

Among ethnic groups, Hispanics had the highest proportion of loan applications, with more than 57 percent, followed by Asians with 12 percent, and Whites with 7 percent. The high proportion of applications from Hispanics is consistent with the large Hispanic population in the community. Similarly, the percentage of applications from Asian households is proportional to the City's population of Asian households. However, White households comprised nearly 26 percent of the City's population in 2000 but only 7 percent of loan applications in 2007. The majority (88 percent) of loan applications were received from households earning 120 percent or more than the median income. However, approval rates were actually higher for households earning incomes between 50 and 120 percent of the median income. Households earning less than 50 percent of the median income had the lowest approval rates and the highest rates of denial.

The HMDA data reveals a drastic shift since 1999, when nearly half of the applications for conventional home purchase loans were received from low income and moderate-income applicants. The sharply increasing housing prices that occurred in the first part of the decade priced many lower-income applicants out of the housing market.

Table 4-10
Percent of Disposition of Home Purchase Loans by Race
versus Delano Population by Race

Race/Ethnicity	% of Total Applications	% of Total Population
American Indian or Alaska Native	2.2%	1.0%
Asian	12.0%	15.9%
Black or African American	0.6%	5.6%
Hispanic	57.0%	49.9%
Native Hawaiian or Other Pacific Islander	3.9%	-----
Whites	7.0 %	26.2%
Not applicable	17.84	1.4%
Total	100%	100%

Source: US Census 2000 and HMDA data, 2007

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According to Table 4-9, there is no significant under-representation amongst African – Americans, Asians and American Indians’ in the homeownership market within the City of Delano, varying not more or less than 7 percent. Conversely, Whites are significantly under-represented in the homeownership market with a percentage difference of 19.2 percent less than their total population, the highest amongst all Race/ Ethnic groups. An analysis of differences in loan approval rates by race/ethnicity and income separately does not always reveal important differences among groups. In fact, all ethnic/ race applicants within the City of Delano had a significantly high approval rate (73 percent). For this reason, an analysis of lending patterns for both race/ethnicity and income together helps reveal differences among applicants of different races/ethnicities of the same income levels. While this analysis provides a more in-depth look at lending patterns, it still cannot provide a reason for any discrepancy. Aside from income, many other factors can contribute to the availability of financing, including credit history, the availability and amount of a down payment, and knowledge of the home buying process, among others. The HMDA data does not provide insight into these and many other factors. However, the City should continue to monitor the approval rates among racial and ethnic groups, and continue to take appropriate actions to remove barriers to financing, including credit counseling, down payment assistance, and home buyer education programs.

Conventional versus Government-Backed Home Loans

Usually, low-income households have a much better chance of getting a government-assisted loan than a conventional loan. However, the recent lending market offered sub-prime loan options such as zero percent down, interest-only, and adjustable loans. As a result, government-backed loans have been a less attractive option for many households. According to 2007 HMDA data, 99 percent of all home purchase loans were conventional within the City of Delano. With the recent difficulties in the sub-prime housing market, however, this option is no longer available, and many households are facing foreclosure. In response, the federal government in September 2007 created a government-insured foreclosure avoidance initiative, FHA Secure, to assist tens of thousands of borrowers nation-wide in refinancing their subprime home loans.

According to 2007 HMDA data, less than 1 percent (18) of all home purchase applications that year within the City of Delano were government- backed loans. Of this percentage, only 61 percent were approved, which is a lower than the 80 percent approval rate of all home purchase applications that year. As government-backed loans are again publicized and subprime loans are less of an option to borrowers, the increased use of government-backed loan applications is likely. However, expanded marketing to assist potential homeowners in understanding the requirements and benefits of these loans may be necessary.

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Sub-prime Lending

According to the Federal Reserve, “prime” mortgages are offered to persons with excellent credit and employment history and income adequate to support the loan amount. “Sub-prime” loans are loans to borrowers who have less-than-perfect credit history, poor employment history, or other factors such as limited income. By providing loans to those who do not meet the credit standards for borrowers in the prime market, sub-prime lending can and does serve a critical role in increasing levels of homeownership. Households that are interested in buying a home but have blemishes in their credit record, insufficient credit history, or non-traditional credit sources, may be otherwise unable to purchase a home. The sub-prime loan market offers these borrowers opportunities to obtain loans that they would be unable to realize in the prime loan market.

Sub-prime lenders generally have interest rates that are higher than those in the prime market, and often lack the regulatory oversight required for prime lenders because they are not owned by regulated financial institutions. In the recent past, however, many large and well-known banks became involved in the sub-prime market either through acquisitions of other firms or by initiating loans that were sub-prime directly.

While sub-prime lending cannot in and of itself be equated with predatory lending, studies have shown a high incidence of predatory lending in the subprime market⁹. Unlike in the prime lending market, overly high approval rates in the sub-prime market is a potential cause for concern when the target clients are considered high risk. Many large banks have also been involved in the subprime market but are not identified as subprime lenders exclusively. The HMDA data does not provide information on which loans were sub-prime loans. As such, analysis on this topic is difficult. However, the high approval rate of any lending institution within the City of Delano may indicate a concern related to overly aggressive lending practice.

Beginning in 2006, increases in interest rates resulted in an increased number of foreclosures for households with sub-prime loans when a significant number of subprime loans with variable rates began to convert to fixed-rate loans at much higher interest rates. The number of mortgage default notices filed against homeowners reveals foreclosure rates in specific areas. In the fourth quarter of 2008, Kern County’s foreclosure activity accelerated from 2,196 to 2,566. As a result, 370 (or 16.8 percent) more homeowners received notices of loan default from their mortgage bankers. Of those receiving default notices, 1,512 (or 58.9 percent) lost their homes. Compared with four quarters ago, the foreclosure activity slowed by 2.5 percent.

According to a City of Delano Realtor participating in the Citizen Advisory Committee, the foreclosure market is the “only” market in Delano. In support of this statement, as of April 20th, 2009 there were 322 foreclosed homes advertised for sale versus only 61 resales. There were no new homes listed.

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Predatory Lending

With an active housing market, potential predatory lending practices by financial institutions may arise. Predatory lending involves abusive loan practices usually targeting minority homeowners or those with less-than perfect credit histories. The predatory practices typically include high fees, hidden costs, and unnecessary insurance and larger repayments due in later years. One of the most common predatory lending practices is placing borrowers into higher interest rate loans than called for by their credit status. Although the borrowers may be eligible for a loan in the “prime” market, they are directed into more expensive and higher fee loans in the “sub-prime” market. In other cases, fraudulent appraisal data is used to mislead homebuyers into purchasing over-valued homes, or fraudulent or misrepresented financial data is used to encourage homebuyers into assuming a larger loan than can be afforded. Both cases almost inevitably result in foreclosure. In recent years, predatory lending has also penetrated the home improvement financing market. Seniors and minority homeowners are the usual targets. In general, home improvement financing is more difficult to obtain than home purchase financing. Many homeowners have a debt-to income ratio that is too high to qualify for home improvement loans in the prime market and become targets of predatory lending in the sub-prime market. Seniors are often swindled into installing unnecessary devices or making unnecessary improvements that are bundled with unreasonable financing terms. Predatory lending is a growing fair housing issue. Predatory lenders who discriminate get some scrutiny under the Fair Housing Act of 1968, which requires equal treatment in terms and conditions of housing opportunities and credit regardless of race, religion, color, national origin, family status, or disability. This applies to loan originators as well as the secondary market. The Equal Credit Opportunity Act of 1972 requires equal treatment in loan terms and availability of credit for all of the above categories, as well as age, sex, and marital status. Lenders that engage in predatory lending would violate these Acts, if they target minority or elderly households to buy higher priced and unequal loan products; treat loans for protected classes differently than those of comparably credit- worthy White applicants; or have policies or practices that have a disproportionate effect on the protected classes. Data available to investigate the presence of predatory lending are extremely limited. At present, HMDA data are the most comprehensive data available for evaluating lending practices. However, as discussed before, HMDA data lack the financial details of the loan terms to conclude any kind of predatory lending. Efforts at the national level are pushing for increased reporting requirements in order to curb predatory lending.

The State of California has enacted additional measures designed to stem the tide of predatory lending practices. A law (Senate Bill 537) signed by Governor Gray Davis provided a new funding mechanism for local district attorneys’ offices to establish special units to investigate and prosecute real estate fraud cases. The law enabled county governments to establish real estate fraud prosecution units. Furthermore, Governor Davis signed AB 489 in October 2001, a predatory lending reform bill. The law prevents a lender from basing the loan strictly on the

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borrower's home equity as opposed to the ability to repay the loan. The law also outlaws some balloon payments and prevents refinancing unless it results in an identifiable benefit to the borrower.

Predatory lending and unsound investment practices, central to the current home foreclosure crisis, are resulting in a credit crunch that is spreading well beyond the housing market, now impacting the cost of credit for local government borrowing, as well as local property tax revenues. In response, the U.S. House passed legislation, HR3915, which would prohibit certain predatory lending practices and make it easier for consumers to renegotiate predatory mortgage loans. The Senate introduced similar legislation in late 2007 (S2452).