

From: [Estanislau, Robin](#)
To: [Kalmick, Dan](#)
Cc: [Moore, Tania](#)
Subject: FW: Include in the agenda
Date: Monday, July 1, 2024 5:27:25 PM
Attachments: [SPUR Planning by Ballot 0.pdf](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)

Yes ... Supplemental Communication for Agenda Item #13

Robin Estanislau, CMC, City Clerk
City of Huntington Beach
714-536-5405



Please consider the HB City Clerk's office for your passport needs!

From: Kalmick, Dan <Dan.Kalmick@surfcity-hb.org>
Sent: Monday, July 1, 2024 5:10 PM
To: Estanislau, Robin <Robin.Estanislau@surfcity-hb.org>
Subject: Include in the agenda

Hi Robin,

Would you please include this item with Agenda Item #13

Thanks,



Dan Kalmick
City Councilmember
City Council

Office: (714) 536 – 5553
Cell: (657) 360 – 4796
dan.kalmick@huntingtonbeachca.gov



CITY OF HUNTINGTON BEACH
2000 Main Street, Huntington Beach, CA 92648

**SUPPLEMENTAL
COMMUNICATION**

7/2/2024

Meeting Date: _____

Agenda Item No.: **13 (24-479)** _____



RESEARCH PAPER MARCH 2024

Planning by Ballot

Local land use ballot measures and
their impact on housing production
in California

Acknowledgments

Primary Author

Emma Jordan

Senior Advisor

Sarah Karlinsky

Special thanks to Marjan Kris Ramos Abubo, Livesey Pack, and Amanda Ryan for their research assistance.

Thanks to Amanda Brown-Stevens, Paul Campos, Chris Elmendorf, William Fulton, Ned Levine, Paul McDougall, and Mai T. Nguyen for their input, review, or both of this report.

The findings and analysis in this report are SPUR's and do not necessarily reflect the views of anyone who provided input to or reviewed the report. Any errors are the author's alone.

This report was generously funded by the Chan Zuckerberg Initiative.

Edited by Melissa Edeburn

SPUR

San Francisco | San José | Oakland
654 Mission Street
San Francisco, CA 94105
tel. 415.781.8726

info@spur.org

Contents

Executive Summary	3
Introduction: What Are Land Use Ballot Measures?	5
History of Land Use Ballot Measures in California	7
Types of Land Use Ballot Measures in California	8
Understanding California’s Local Land Use Initiatives	12
Policy Evaluation	14
Conclusion	16
Appendix A: Additional Analysis of Ballot Measures	17
Appendix B: Court Cases on the Legality of Growth Management Techniques	21
Appendix C: Key Research on Land Use Ballot Measures in California	23

Our database of local land use measures in California may be found at spur.org/planningbyballot

Executive Summary

Californians have shown up at the ballot box to shape the patterns and nature of growth in their communities since the 1970s. Citizen initiatives adopted have included urban growth boundaries, hillside protection ordinances, and general open space or agricultural land preservation.

These measures curb urban sprawl and protect open space by limiting new development to infill locations. But without concurrent incentives to promote infill development — that is, development of vacant or underutilized land in already-developed areas — many of the measures have the potential to limit the supply of housing overall. Moreover, other growth management ballot measures that have passed within city boundaries, such as zoning restrictions, voter approval requirements, height and bulk limits, and infrastructure provisions or parking requirements, have had a direct negative impact on infill housing production.

To understand the impacts of local land use ballot measures on California, SPUR has cataloged 208 ratified housing-related local land-use ballot measures that restrict housing production during the period 1973–2023. SPUR's online database (see spur.org/planningbyballot) represents our best effort to capture all citizen- and city-sponsored initiatives in California. We were able to access many sources to compile the database, but some sources may not be reflected. We categorized the measures on the basis of their growth management technique:

- **Population/housing unit caps** — Measures that place caps on the number of housing permits that a jurisdiction can issue. These caps were based on population projections or a housing unit ceiling.
- **Zoning** — Measures that downzone or otherwise discourage density through zoning amendments.
- **Height/bulk limitations** — Measures that place limits on heights and densities for development.
- **Infrastructure inadequacy/traffic limits** — Measures that tie future growth to the provision of infrastructure or levels of service for traffic.
- **Urban growth boundaries** — Measures that establish urban growth limit lines. Housing is not permitted outside of the lines.
- **Voter approval requirement** — Measures that require voter approval to modify general plans or any other planning documents to construct new developments.
- **Supermajority requirement** — Measures that require supermajority (two-thirds or more) approvals by city councils to amend zoning ordinances or general plans.
- **Hillside development** — Measures that decrease density on hillsides or prohibit development there.
- **Open space preservation** — Measures that restrict development of land on open or agricultural spaces.
- **Other discretionary** — Miscellaneous approaches to growth management that emphasize local discretionary power.

We then analyzed the number and percentage of each type of measure. Because some measures straddled more than one category, the total measure count adds up to more than 208 measures.

Of the citizen initiatives we cataloged, 22% were urban growth boundaries, 17% were population or housing unit caps, 15% were voter approval requirements, 11% were height and bulk limitations, and 11% were open space, park, or agricultural preservation measures. The remaining measures were infrastructure inadequacy (7%), downzoning (to a less intensive use or less dense residential category) or zoning restrictions (7%), hillside development (5%), other discretionary (5%), and supermajority requirements (1%).

Our analysis of California's measures yields four findings:

1. Many local land use ballot measures have led to the protection of open space and agricultural lands.
2. Some local land use ballot measures have undermined infill production.
3. Land use ballot measures can contain provisions that conflict with the implementation of the Regional Housing Needs Allocation process and also with the adoption of compliant housing elements.
4. Measures that restrict infill housing can undermine housing affordability and have the potential to exacerbate racial segregation.

Introduction: What Are Land Use Ballot Measures?

Over the last several decades, Californians have increasingly used the initiative process to make local land use decisions. Local land use ballot measures may only be changed through another vote of the people.¹ This makes them extremely difficult to amend or overturn. In the land use context, ballot measures effectively freeze the land use changes described in the initiative until and unless they are repealed through another popular vote.

Over time, land use ballot measures have proliferated in California, taking a variety of forms. Land use ballot initiatives range from population or housing unit caps that put ceilings on the amount of permits a jurisdiction can approve over a period of time, to urban growth boundaries, to height and bulk restrictions on new developments, to covenants that require voter approval to upzone or rezone areas of the city. Others still have focused on preserving hillsides and agricultural lands, designating open space that cannot be developed, and establishing “greenbelts” of open land around a jurisdiction where building is restricted.

Although some of these measures protect open space and agricultural land vulnerable to sprawling development, other measures have made it harder to pursue infill development — that is, development of vacant or underutilized land in already-developed areas, such as those zoned commercial, residential, or industrial. These measures may make it difficult for local governments to adopt compliant housing elements and for regions to focus on growth within already urbanized areas.

Three Types of Land Use Ballot Initiatives

There are three types of land use ballot initiatives: citizen initiatives, city- or agency-sponsored initiatives, and referendums. Citizen initiatives are those where citizens collect signatures to place a measure on the ballot, city-sponsored initiatives are those where the local elected body places a measure on the ballot, and referendums are those where citizens collect signatures to place a measure on the ballot to overturn a legislative decision by the local elected body. For the purposes of this report, we refer to the first two types under the umbrella term “land use ballot measures.” We were unable to catalog most referendums for this project.

Land use ballot measures can apply only to legislative actions, not quasi-judicial actions. They cannot be used to change law in areas that have been preempted by the California State Legislature, such as exclusive delegation of authority to carry out state policy to the local elected body.² For more information on court cases that have shaped the viability of land use ballot measures, please see Appendix B.

¹ According to the [California Elections Code Sec.9217](#) for cities: “If a majority of the voters voting on a proposed ordinance vote in its favor, the ordinance shall become a valid and binding ordinance of the city.... No ordinance that is either proposed by initiative petition and adopted by the vote of the legislative body of the city without submission to the voters, or adopted by the voters, shall be repealed or amended except by a vote of the people, unless provision is otherwise made in the original ordinance.” Sec. 9125 applies the same language for counties, and in some charter cities or counties, charters provide for this limitation.

² Extensive case law supports this perspective. The courts have asserted: “The state may if it chooses preempt the entire field to the exclusion of all local control. If the state chooses instead to grant some measure of local control and autonomy, it has authority to impose procedural restrictions on the exercise of the power granted, including the authority to bar the exercise of the initiative and referendum. (See *Riedman v. Brison*, supra, 217 Cal. 383, 387, 18 P.2d 947; *Ferrini v. City of San Luis Obispo* (1983) 150 Cal.App.3d 239, 246–248, 197 Cal.Rptr. 694; *Mervynne v. Acker*, supra, 189 Cal.App.2d 558, 562, 11 Cal.Rptr. 340.)” *Committee of Seven Thousand v. Superior Court* (1988) 45 Cal.3d 491, 511 [247 Cal.Rptr. 362, 374, 754 P.2d 708, 720].

Legislative Versus Quasi-Judicial Actions

All major planning and zoning decisions made by local zoning boards, commissions, and elected officials fall into two major categories: legislative decisions and quasi-judicial decisions. The main distinction between these two categories is that legislative decisions impact future land use decisions in a given jurisdiction or neighborhood. Some examples include adoption of plans and adoption of zoning ordinances.

In contrast, quasi-judicial acts require local discretionary bodies to determine whether land use acts comply with the adopted policies and standards of an agency, and by extension, a community.^a Administrative actions are actions taken by local agency staff to apply rules to individual developments. Citizen initiatives apply only to legislative actions, not to quasi-judicial, judicial, or administrative actions.^b

Therefore, initiative power does not apply to variances, conditional use permits, zoning code violations, subdivision map approvals, and certificates of compliance.

^a Institute for Local Government, Ballot Box Planning: Understanding Land Use Initiatives in California, 2001, page 17, <https://www.ca-ilg.org/document/ballot-box-planning-understanding-land-use-initiatives-california>.

^b Institute for Local Government, Ballot Box Planning.

Citizen Initiatives

Through the process of citizen initiative, citizens have the right to place legislative measures on the ballot via signature collection. This right is enshrined in the state constitution.³ However, this authority is not unfettered — citizens can only enact legislative land use decisions such as general plan amendments and rezonings at the ballot. In 2014, the California Supreme Court ruled that California Environmental Quality Act (CEQA) does not apply to citizen-sponsored initiatives, including initiatives adopted by elected officials rather than voters.⁴

City- or Agency-Sponsored Initiatives

City councils or boards of supervisors may vote to place land use measures on the ballot. In contrast to citizen initiatives, city-sponsored initiatives do not require the proponents to gather signatures.

Referendums

The process of the referendum allows voters to decide to revoke an action that has been taken by a legislative body. Referendums are placed on the ballot via signature collection.

³ Since 1911, the people of California have reserved the state constitutional right to “propose statutes and amendments to the Constitution and (to) adopt or reject them.” Cal. Const. art. II, § 8(a). This initiative power was made applicable to local agencies through article II, section 11 of California’s state constitution by the California State Legislature.

⁴ Tuolumne Jobs & Small Business Alliance v. Superior Court (Wal-Mart Stores, Inc.), 59 Cal.4th 1029, 175 Cal. Rptr. 3d 601, 330 P.3d 912 (Cal. 2014).

History of Land Use Ballot Measures in California

Planning at the ballot box has held powerful appeal for local communities over the last 50 years. This appeal is rooted in the slow growth movement, which reached its peak in popularity in the late 1970s to 1990s and which is representative of a shift from top-down planning during the pro-growth, post-war period to a bottom-up, highly decentralized attempt at urban planning as homeowners began to shape local land decisions through popular vote ballot initiatives and referenda. In California, the ballot box emerged as the site of growth management first in the San Francisco Bay Area and other coastal regions, cropping up in rapidly growing jurisdictions such as Los Angeles, Orange, Riverside, and San Diego counties.

The construction of highways and freeways made suburban communities accessible to burgeoning job centers, forcing communities to confront their newfound status as desirable sites for starter-home developers. Localities responded with slow growth strategies aimed at curbing the growth rate in new development in order to mitigate urban sprawl and promote intentional development in urban areas. Sprawl — or low-density, scattered development — has been associated with a multitude of negative externalities, including air pollution, traffic problems, and poverty in urban areas. Additionally, proponents of slow growth measures believed, in many cases rightly, that the measures were necessary to protect open and agricultural spaces from the threat of development.⁵

In the 1990s, urban planners began to rethink the traditional growth management tools. Poor growth management techniques had led to traffic congestion, urban sprawl, traffic congestion, disconnected neighborhoods, and urban decay. The “smart growth” movement emerged from a desire to move away from the binary pro-growth versus anti-growth conversation and instead to promote transit-oriented, compact infill development. Environmental concerns played a large part in smart-growth management techniques — smart growth champions believed negative externalities arising from overuse of water, air, and land could reduce quality of life.

Over the past several decades, other ballot measures that make it harder to build infill housing have moved forward within city boundaries. Such measures may have had less to do with environmental concerns and more to do with neighborhood opposition to the potential for new infill housing.

⁵ Arthur C. Nelson and Susan M. Watcher, “Growth Management and Affordable Housing Policy,” *Journal of Affordable Housing and Community Development Law* 12, no. 2 (2003): 173–187, <https://www.jstor.org/stable/25782596>.

Types of Land Use Ballot Measures in California

For this report, SPUR cataloged all the successfully adopted local land use initiatives in California over the last 50 years. The roughly 200 initiatives included in the database were derived from our review of all back copies of archived newsletters from the California Planning and Development Report (CP&DR) and from our review of supplemental data sources such as Ballotpedia, League of Women Voters, SmartVoter, and The California Association of Realtors' "Matrix of Land Use Planning Measures."⁶ We analyzed the text of each measure to categorize the measure based on type:

- **Population/housing unit caps** — Measures that place caps on the number of housing permits that a jurisdiction can issue. These caps were based on population projections or a housing unit ceiling.
- **Zoning** — Measures that downzone or otherwise discourage density through zoning amendments.
- **Height/bulk limitations** — Measures that place limits on heights and densities for development.
- **Infrastructure inadequacy/traffic limits** — Measures that tie future growth to the provision of infrastructure or levels of service for traffic.
- **Urban growth boundaries** — Measures that establish urban growth limit lines. Housing is not permitted outside of the lines.
- **Voter approval requirement** — Measures that require voter approval to modify general plans or any other planning documents to construct new developments.
- **Supermajority requirement** — Measures that require supermajority (two-thirds or more) approvals by city councils to amend zoning ordinances or general plans.
- **Hillside development** — Measures that decrease density on hillsides or prohibit development there.
- **Open space preservation** — Measures that restrict development of land on open or agricultural spaces.
- **Other discretionary** — Miscellaneous approaches to growth management that emphasize local discretionary power.

Population and Housing Unit Caps

In the late 1980s, housing permits or population caps were a popular method of growth management. Population caps place limits on housing construction on the basis of population growth projections and assumptions about how many people on average will live in each unit. Housing caps were permit limitations on the total amount of residential building permits in a given time period.⁷ However, this growth management technique was rendered illegal by a 1994 court case.⁸

In placing limits on the production of new housing through growth or population caps, localities would sometimes require developers to compete for building approvals through "beauty contests" whereby communities sought everything from basic infrastructure provision (sewers, waters, and roads) to new suburban amenities, such as parks and trails.⁹

⁶ See "California Planning and Development Report (CP&DR) Reports Archive, 1986–2004," https://www.cp-dr.com/categories/report_archive; "Ballotpedia," https://ballotpedia.org/Main_Page; League of Women Voters, "Empowering Voters. Defending Democracy," <https://www.lwv.org/>; "Voter's Edge California," <https://www.maplight.org/votersedge>; and Local Governmental and Political Affairs Division of the California Association of Realtors, *Matrix of Land Use Planning Measures, 1971–1986*.

⁷ William Fulton, *A Guide to California Planning*, 6th edition, (Port Arena, California: Solano Press Books, 2022), page 215.

⁸ Fulton, *A Guide to California Planning*, page 216.

⁹ Fulton, *A Guide to California Planning*, page 216.

Zoning

Zoning is the most fundamental tool of land use regulation. Citizen initiative growth-management zoning techniques downzone developable land to prohibit multifamily or denser development. Or they change zoning uses to eliminate developable land by rezoning it for open space, agricultural, or other special purposes.

Height, Bulk, and Other Development Limitations

Height, bulk, and other development limitations amend a city's general plan or zoning ordinances to decrease or place restrictions on allowable heights or floor area ratios — the amount of usable floor area a building has in relation to the size of the lot or parcel the building is located on — for new developments. Also included in this category are development limitations, such as parking requirements. An example of a parking requirement is Albany's Measure D. Initially enacted in 1978, it requires two spaces for each constructed residential unit. SPUR found 32 ballot initiatives that placed restrictions on height and bulk or that posed other development limitations. An example of a height restriction is San Diego's City's Coastal Height Limit Overlay Zone (CHLOZ). Enacted in 1972 by a voter initiative, the CHLOZ places a 30-foot height restriction on all areas seaward of Interstate 5, unless exempted explicitly by the San Diego Municipal Code. San Diego's CHLOZ was superseded by California's Density Bonus Law, effectively allowing other density bonus-qualifying projects that exceed the height limit to be built in the zone. Measures that restrict height and bulk such as San Diego's Proposition D, which authorized the CHLOZ, are in this category.

Infrastructure Inadequacy

Sometimes known as adequate public facilities ordinances (APPOs), level of service (LOS) requirements, or concurrency requirements, infrastructure inadequacy ties the allowability of development to the provision of infrastructure or levels of service for traffic infrastructure adequacy. These measures may establish specific standards for virtually all public infrastructure, including roads (congestion levels), schools (capacity and crowding), parks (acres per person), and police and fire services (response times) before development is allowed to occur.¹⁰

An example of an infrastructure inadequacy measure is Walnut Creek's Measure H. Residents of Walnut Creek passed the measure in 1985, in the midst of growing concern about excessive traffic congestion and construction. The measure placed a ban on all construction unless peak-hour volume to capacity ratios at key intersections were kept at or below 85%. The California Supreme Court found the measure inconsistent with the city's General Plan, and it was overturned in 1990.¹¹ However, cities still use infrastructure inadequacy measures as growth management techniques, with Costa Mesa's Measure Y passing as recently as 2016.

Urban Growth Boundaries

Urban growth boundaries (UGBs), place limits on new development outside designated lines to promote smart growth and limit urban sprawl. UGBs are most popular in suburban or rural cities, especially those including productive agricultural land.¹² These urban growth boundaries define which geographic areas are best positioned for urban growth, contingent on the provision of infrastructure and services, and which ones should not allow for the intensification of growth due to environmental sensitivity or preservation of rural character.

The first UGB voter initiative passed in California was in Napa County in 1973. Voters moved to establish the Napa "Residential Urban Limit Line," containing urban development within the specified boundaries. UGBs rose to

¹⁰ Fulton, *A Guide to California Planning*, page 216.

¹¹ *Lesh Communications, Inc. v. City of Walnut Creek*, 52 Cal.3d 531, 277 Cal. Rptr. 1, 802 P.2d 317 (Cal. 1990).

¹² Elisabeth R. Gerber and Justin H. Philips, *Growth Management Policy in California Communities*, Policy Report No. 2, April 2004, Center for Local, State, and Urban Policy, <https://closup.umich.edu/research/policy-reports/growth-management-policy-california-communities>.

popularity in the 1990s. A 1995 court ruling held that voters could create UGBs at the ballot box and prohibited amendments without voter approval.¹³

UGBs discourage development outside of their boundaries. They may also encourage infill development and redevelopment inside urban areas while increasing the value of land within the UGB through amenity effects.¹⁴ However, UGBs do lead to an overall reduction in the amount of developable land, potentially creating expensive barriers to development. More often than not, policies are insufficient to promote density and intensity within the urban core to offset the reduction of developable land created by UGBs. Nevertheless, UGBs play an important function in decreasing development on agricultural or undeveloped land, which has positive environmental impacts.

Some of the Most Popular Citizen Initiative Measures Are Those That Preserve Open Space and Agricultural Resources

Smart-growth save open space and agricultural resources (SOAR) measures, which emerged in the City of Ventura in 1995 and Ventura County in 1998, have enjoyed great success among Southern California voters. SOAR measures have amended cities' urban growth boundaries to encourage smart growth by requiring voter approval for rezoning agricultural or open space lands. SPUR categorized SOAR measures as urban growth boundaries and open space preservation because they amend urban growth boundaries to promote smart growth and require voter approval for rezoning designated open space lands.

Ten SOAR measures have been passed and enacted in California jurisdictions as of 2023.^a Rather than specify the type of development that can occur within a boundary, they allow agencies to consider the desired density of the interior and amount of infill.

Although SOAR measures have the effect of disallowing growth in green fields, they have not always been accompanied by upzoning — zoning codes changes that increase the amount of development allowed in the future — within growth boundaries.

^a County of Ventura Resource Management Agency, "SOAR Questions and Answers," <https://docs.vcrma.org/images/pdf/planning/brochures/SOAR.pdf>.

Voter Approval Requirements

Voter approval requirements are citizen initiatives requiring that changes to zoning codes be accomplished only through a popular vote. Some stipulate that citizen approval is necessary only for certain designated development areas, increases in density, changes of land use designations from residential to commercial, or conversion of public land to private use. The most restrictive voter approval requirements apply to any change to the zoning code. Generally, most voter approval requirements aim to enshrine zoning approval in the hands of the local citizenry and to lengthen the approval process to discourage growth. SPUR identified 44 initiatives that contained voter approval requirements.

There are two types of voter approval requirements: substantive changes and "frozen."

In the first form of initiative, voters circulate language that would make substantive changes to the existing general plan or zoning, or they formally re-adopt existing land use designations. This type of initiative precludes any future amendments to these substantive provisions without voter approval. One example of this form of initiative is Walnut Creek's Measure A: "The Building Height Freeze Initiative," which amended the zoning code to prohibit construction

¹³ *DeVita v. County of Napa*, 9 Cal.4th 763, 38 Cal. Rptr. 2d 699, 889 P.2d 1019 (Cal. 1995).

¹⁴ Karen A. Danielsen, Robert E. Lang, and William Fulton. "What Does Smart Growth Mean for Housing?" *Housing Facts and Findings* 1 no. 3 (1999): 12–15, https://digitalscholarship.unlv.edu/sea_fac_articles/353, and K. William Jaeger, Andrew J. Plantiga, and Cyrus Grout, "How Has Oregon's Land Use Planning System Affected Property Values?" *Land Use Policy* 29, no. 1 (2012): 62–72, <https://doi.org/10.1016/j.landusepol.2011.05.005>.

of buildings taller than six stories or 89 feet. The legislation also stipulated that any changes to this zoning ordinance must be approved by the electorate.¹⁵

In the other form of initiative, proponents do not adopt or re-adopt any land use or zoning decisions governing any particular property. Proponents of this type of initiative do not circulate maps showing the affected area of the city, and they do not present text from the general plan or zoning to the electorate as part of the signature-gathering process. Instead, the measure states that all future amendments to the general plan or zoning changes that increase density will require voter approval. An example of this type of voter approval requirement includes Costa Mesa's Measure Y, passed in 2016, which requires voter approval on a development project that "adds 40 or more dwelling units, adds 10,000 sq ft of non-residential use, or generates over 200 additional trips."¹⁶

Supermajority Requirements

Some citizen initiatives establish supermajorities (a two-thirds or greater majority approval) from city councils, planning commissions, or both to overturn or amend zoning designations. In the City of San Ramon, Measure G (1999) requires that any changes to the General Plan must achieve a four-fifths majority vote approval by the City Council and Planning Commission.¹⁷

Hillside Development

In more rural and agricultural jurisdictions, such as the Central Valley, concern over the encroachment of urban development into agricultural and open spaces led to ratification of slow growth measures that prohibit construction on hillsides. SPUR found 17 citizen initiatives aimed at establishing controls on the development of new housing on designated city hillsides.

Open Space Preservation

Open space preservation measures set aside land parcels for agricultural or horticultural production, recreational use, natural beauty, or conservation of natural systems.¹⁸ Open space preservation initiatives exploded in popularity following the economic boom of the 1990s. Many of these initiatives are accompanied by voter requirement stipulations that lock up land use designations until citizens amend them with a popular vote. SPUR found 38 ballot initiatives related to open space preservation.

Other Discretionary

SPUR found other citizen initiatives that placed restrictions on development but did not neatly fall into the aforementioned categories. These initiatives include advisory measures that provide more general frameworks for jurisdictions to satisfy citizen growth concerns, such as Santa Cruz's Measure E, which urged the county to take any necessary steps to slow the growth of the University of California Santa Cruz. Another miscellaneous discretionary measure is San Diego's Measure C, passed in 1988, that calls for the establishment of a regional planning review board to coordinate growth management activities throughout San Diego County.

¹⁵ Aziza Jackson, "Measure A Height Restrictions," *Walnut Creek Magazine*, <https://www.walnutcreekmagazine.com/2018/09/04/179762/measure-a-height-restrictions>.

¹⁶ "Santee, California, Measure N, Development Project Voter Approval Requirement Citizen Initiative (November 2020)," Ballotpedia, [https://ballotpedia.org/Santee,_California,_Measure_N,_Development_Project_Voter_Approval_Requirement_Citizen_Initiative_\(November_2020\)](https://ballotpedia.org/Santee,_California,_Measure_N,_Development_Project_Voter_Approval_Requirement_Citizen_Initiative_(November_2020)).

¹⁷ From San Ramon's 2023–2031 Housing Element, "Governmental Constraints" section, <https://plansanramon.com>.

¹⁸ From San Ramon's 2023–2031 Housing Element, "Governmental Constraints" section, <https://plansanramon.com>.

Understanding California's Local Land Use Initiatives

Summary statistics show that the most popular form of ballot measures are urban growth boundaries (45) followed by population/housing unit caps (36), and voter approval requirements (31) (exhibits 1 and 2). SPUR found 208 measures in total. Some measures fit multiple categories and, therefore, some categories include duplicates, adding up to a number greater than the total number of measures.

Exhibit 1. Local Land Use Ballot Measures in California by Percentage and Number, 1973–2023

Nearly a quarter of the local land use ballot measures cataloged by SPUR were to establish urban growth boundaries. The next most popular measure was to cap the number of housing permits that a jurisdiction can issue.

CATEGORY	PERCENTAGE	COUNT
Population/housing unit cap	17%	37
Downzoning/zoning restriction	7%	17
Infrastructure inadequacy/traffic limits	7%	16
Voter approval requirement	15%	44
Supermajority requirement	1%	3
Height/bulk/other development limitations	11%	32
Hillside development	5%	17
Urban growth boundary	22%	50
Open space/park/agricultural preservation	11%	38
Other discretionary	5%	11

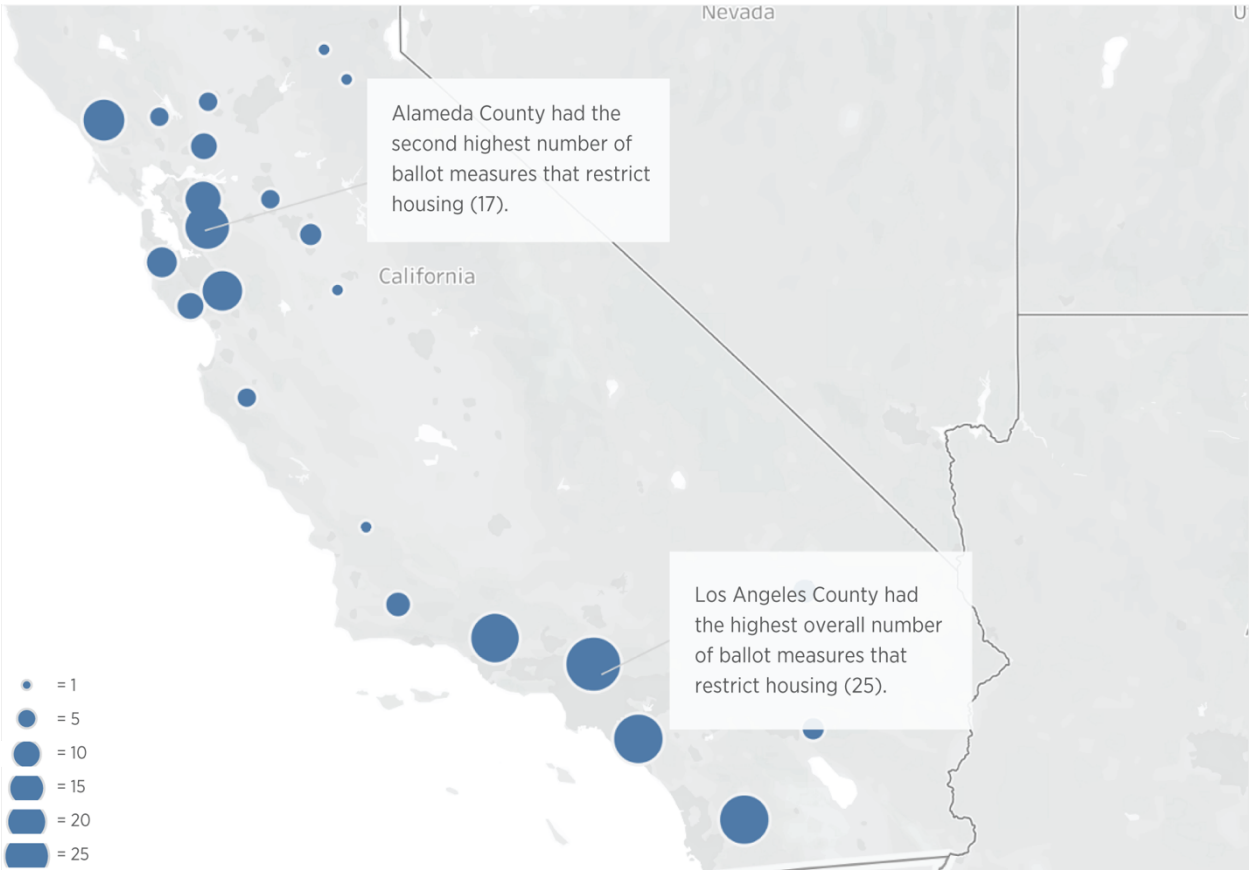
Source: SPUR analysis

SPUR identified trends in the popularity of certain types of ballot measures (see Appendix A). Housing unit caps were most popular in the period 1982–1993. Urban growth boundaries became more frequent in the 1990s and enjoyed spikes in popularity in 2016 and 2020. Height and bulk restrictions peaked in 1986 and steadily decreased in popularity until 2008, when they increased before declining again. Infrastructure inadequacy requirements declined in popularity after peaking in 1988. Trends in zoning restrictions, hillside development, other discretionary measures, and supermajority requirements were less clear.

Overall, the county that had the most measures that restrict housing was Los Angeles County, followed by Alameda County (Exhibit 3). Growth management measures were most popular along the coasts and urban areas. Alternatively, urban growth boundaries were most popular in rural or agricultural areas.

Height and bulk restrictions were most popular in Los Angeles County (10) and regionally, in Southern California and the Bay Area. Zoning restriction ballot measures were most popular in Orange County (4) and Santa Clara County (3). Regionally, they tended to dominate Southern California and the Bay Area.

Exhibit 2. Total Measures That Restrict Housing by County in California
The highest concentrations of initiatives that restrict housing are along the California coast.



Source: SPUR analysis

Policy Evaluation

Land use ballot measures take many forms. Some of these measures have protected important open spaces and agricultural lands. Others have undermined housing production in infill locations. The impact of land use ballot measures must be understood in the historic context in which the measure was adopted. SPUR's analysis of California's measures yields the following findings:

1. Many local land use ballot measures have led to the protection of open space and agricultural lands.

Urban growth boundaries (48) and open space preservation (38) are the most popular and third-most popular local land use ballot measures. Along with hillside protection measures (17), they play a critical role in protecting environmentally important spaces. According to Greenbelt Alliance, two-thirds of the more than 2 million acres of the Bay Area's vital and scenic open spaces are protected because of growth management measures.¹⁹ And as a SPUR report notes, local land use ballot measures also have helped preserve agricultural land, especially large, contiguous agricultural areas and high-quality farmland and ranchland.²⁰

Across the state these measures have led to the protection of open space through initiatives such as Napa County's Measure J, which closed specific tracts of farmland to development. Other measures, such as the SOAR measures that proliferated in Southern California following The City of Ventura's 1995 Measure I, have limited development outside of urban growth boundaries.

2. Some local land use ballot measures have undermined infill production.

Developers can revitalize vacant or underutilized land in already-developed areas, such as those zoned commercial, residential, or industrial, by "filling in" that land with new structures. Many measures cataloged by SPUR undermine production in these areas through zoning restrictions, height or bulk limits, parking requirements, or zoning code changes that can only be altered through voter approval.

Height and density limits have been found to undermine infill production. A form of entrenched constraint, these limits codify exclusionary zoning, whereby apartment buildings and smaller homes are rendered illegal.

Minimum parking requirements such drive up the costs of infill development, adding nearly \$36,000 per unit for Low-Income Housing Tax Credit (LIHTC)-funded developments.²¹ Parking requirements also restrict permitting and construction of multifamily housing overall: cities that have higher parking requirements generally produce less multifamily units.²²

Other initiatives such as Costa Mesa's Measure Y, which requires voter approval for any large-scale zoning changes or development projects that exceed 40 dwelling units, are potential blocks to infill development.

¹⁹ Greenbelt Alliance, "At Risk: The Bay Area Greenbelt 2017," <https://www.greenbelt.org/research/at-risk-the-bay-area-greenbelt-2017/>.

²⁰ Eli Zigas, *Locally Nourished: How a Stronger Regional Food System Improves the Bay Area*, SPUR Report, 2013, <https://www.spur.org/publications/spur-report/2013-05-13/locally-nourished>.

²¹ David Garcia and Julian Tucker, "How AB 1401 May Impact Residential Parking Requirements," Turner Center for Housing Innovation, UC Berkeley, April 13, 2021, <https://turnercenter.berkeley.edu/research-and-policy/ab-1401-residential-parking-requirements/>.

²² Sarah Mawhorter, *Housing Policies in California Cities*, Turner Center for Housing Innovation and Center for California Real Estate, 2019, https://siliconvalleyathome.org/wp-content/uploads/2017/03/Turner-Center-Mawhorter_Housing_Policies_in_California_Cities.pdf.

3. Land use ballot measures can contain provisions that conflict with the implementation of the Regional Housing Needs Allocation process and also with the adoption of compliant housing elements.

The state-mandated Regional Housing Needs Assessment (RHNA) process identifies the number of market-rate and below-market-rate housing units a region needs to plan for in an eight-year cycle. Once a jurisdiction receives its RHNA allocation, it must revise its local zoning codes to accommodate allocated units. Citizen initiatives pose legal and political impediments for governments attempting to meet RHNA requirements. Indeed, Costa Mesa's Measure Y recently proved to be a major impediment to finalizing the city's housing element. The city was required to zone for an extra 11,760 residential units by 2029 to meet the regional housing needs assessment of the California Department of Housing and Community Development (HCD). In 2022, Costa Mesa's City Council placed Measure K on the November ballot to loosen the grip of Measure Y's restrictions, and the electorate adopted the measure.

Jurisdictions have attempted, through various methods, to address the potential obstacle that citizen initiatives pose to achieving housing element compliance. Some jurisdictions attempt a program approach, a strategy developed with HCD to deliver on housing needs. One example of this approach is Yorba Linda's Affordable Housing Overlay, which increases densities, height limits, and floor area ratios and eases other development restrictions for developers in exchange for projects providing 20% affordable units.²³ This program addresses the Yorba Linda "Right to Vote" Measure B, which requires voter approval for any zoning changes.

Other localities have addressed citizen initiative constraints by initiating comprehensive plan updates. The City of Escondido took this approach to address the constraint posed by Proposition S, the "Escondido Growth Management and Neighborhood Protection Act Initiative," a citizen initiative that requires voter approval of specific changes to the General Plan. In response, the city updated its General Plan in 2012 to increase housing density in certain areas, such as the South Escondido Boulevard, raising the density from 24 to 30 units per acre. HCD determined that Prop. S was not a constraint on Escondido's short-term RHNA obligations, and the city amended the growth management initiative to accommodate additional units in the East Valley area to meet its RHNA.²⁴ In the long term, Escondido was directed to monitor the initiative and its potential impacts on housing construction.

In other localities, local governments have attempted to address citizen initiative constraints by asking voters to repeal them. In the City of Alameda, voters adopted Measure A, an amendment to the City Charter approved in 1973, that enshrined single-family zoning within the city's boundaries. The measure was amended in 1991 with Section 26-3, which set the maximum residential density of one housing unit per 2,000 square feet (21.78 dwelling units per acre) throughout the city. This provision was found to be in direct violation of the State Housing Element Law because it prevented the city from meeting its allocated housing goals.²⁵ Voters were asked to repeal Measure A through Measure Z in 2020, but the amendment failed. In 2021, HCD issued a letter stating that Measure A ran afoul of state law.²⁶ The City of Alameda then set aside the provisions of Measure A in order to adopt a compliant housing element.²⁷

²³ See the "Governmental Constraints" section of the City of Yorba Linda's "2021-2029 Housing Element."

²⁴ See the "Governmental Constraints" section of the City of Escondido's "6th Cycle Housing Element 2021-2029."

²⁵ Paul McDougal, "RE: City of Alameda Measure A Provisions and Housing Element Compliance," letter to Andrew Thomas, November 29, 2021, <https://www.hcd.ca.gov/community-development/housing-element/docs/alaalamedacity-ta-112921.pdf>.

²⁶ Paul McDougal, "RE: City of Alameda Measure A Provisions and Housing Element Compliance."

²⁷ Adhiti Bandlamudi, "To Meet State Housing Goals, One Bay Area City Had to Overcome Its NIMBY Past," KQED, January 23, 2023, <https://www.kqed.org/news/11938267/to-meet-state-housing-goals-one-bay-area-city-had-to-overcome-its-nimby-past>.

4. Measures that restrict infill housing can undermine housing affordability and have the potential to exacerbate racial segregation.

Land use ballot measures can constrain not just what land is available for housing development, but also restrict growth in low-density housing development in the locations where growth should most appropriately occur. Additionally, the land use policies that arise from ballot box planning have the potential to increase the cost of development and delay the development process, ultimately decreasing housing production, especially affordable housing production.²⁸ SPUR identified 14 land use ballot initiatives in its database that directly aim to downzone areas to single-family zoning or that represent other anti-density victories. Multifamily housing tends to be more affordable than single-family low-density housing.²⁹ Black and Latinx households are disproportionately lower income.³⁰ Therefore, low-density zoning can contribute to residential segregation because higher-density dwelling units such as multifamily housing tend to be more affordable to minority populations.

Other scholars have documented how housing restriction measures have the potential to perpetuate racial exclusion. Professor Mai Nguyen's research found that cities that qualified growth management ballot measures experienced greater growth in their white population and lower growth in their Latino population.³¹ Interestingly, she also found that growth management ballot measures were not a response to high rates of population growth within a community.

Conclusion

SPUR's Local Land Use Ballot Initiatives database represents the most recent database of ratified citizen initiatives that have the potential to limit housing production to date. Other growth management databases have focused on different time periods — the California Association of Realtors' Matrix of Land Use Planning Measures covers initiatives from 1971 to 1986 — or have included both ratified and failed initiatives, such as Mai Thi Nguyen's research database in "Growth Management at the Ballot Box: What Are the Motivations and Outcomes?" Further research to explore the impact of the measures identified in our database on infill housing production could better illuminate contributing factors to the housing crisis in California.

²⁸ Lucy Acquaye, Joseli Macedo, Rhonda Phillips, and Douglas White, "Exploring the Impacts of Ballot Box Land Use Measures on Affordable Housing," *Housing and Society* 34, no. 1 (2007): 45–63.

²⁹ National Multifamily Council, *Multifamily Benefits: The Housing Affordability Toolkit*, https://housingtoolkit.nmhc.org/wp-content/uploads/2019/04/D_NMHC_PDF-Sections_Multifamily-Benefits_PG-36-TO-44.pdf.

³⁰ Sarah Karlinsky, *Losing Ground: What the Bay Area's Housing Crisis Means for Middle-Income Households and Racial Inequality*, SPUR Report, March 2023, <https://www.spur.org/publications/research/2023-03-07/losing-ground>.

³¹ Mai Thi Nguyen, "Growth Management at the Ballot Box: What Are the Motivations and Outcomes?" PhD diss., (University of California Irvine, 2004), page xv.

Appendix A: Additional Analysis of Ballot Measures

SPUR analysis of land use ballot measures in our database includes the impact population/housing caps, the number of urban growth boundaries adopted by year, and the spatial distribution of various measures.

Exhibit A1. Population/Housing Unit Caps per Year

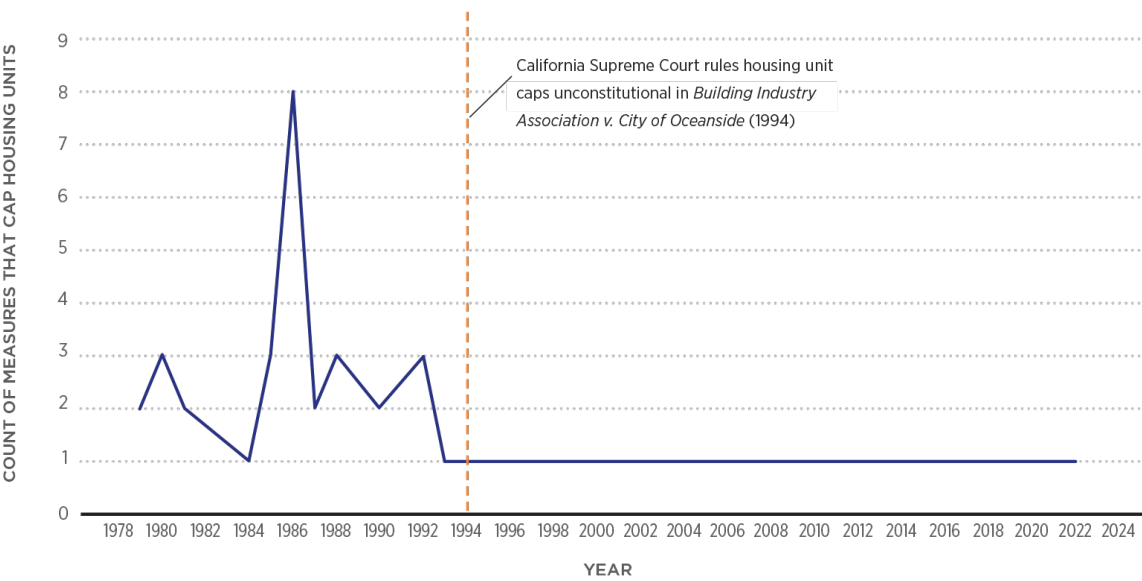


Exhibit A2. Urban Growth Boundary Measures by Year

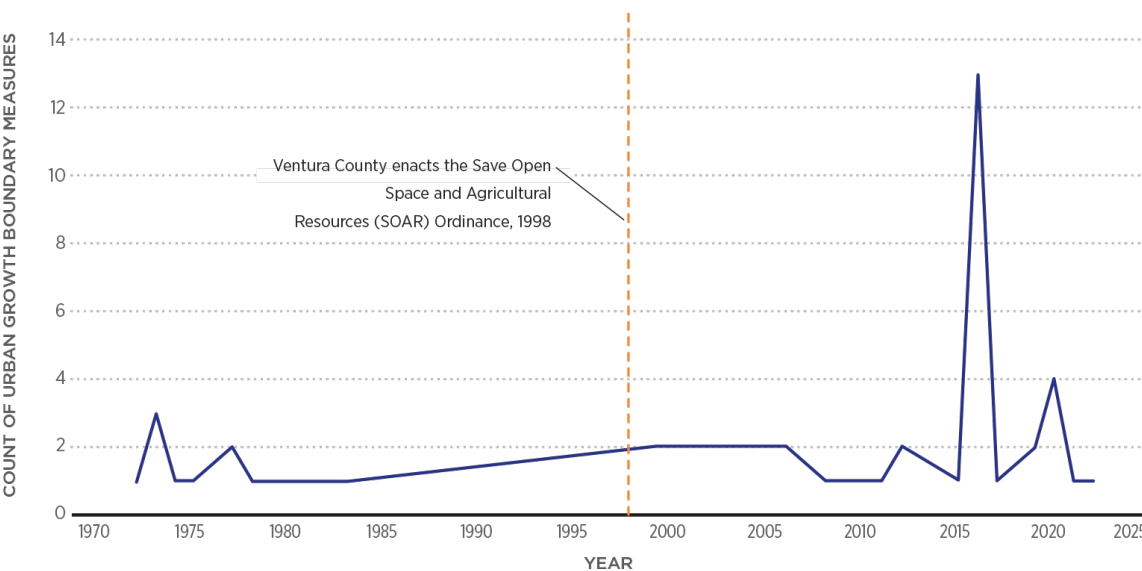


Exhibit A3. Height and Bulk Restrictions by Year

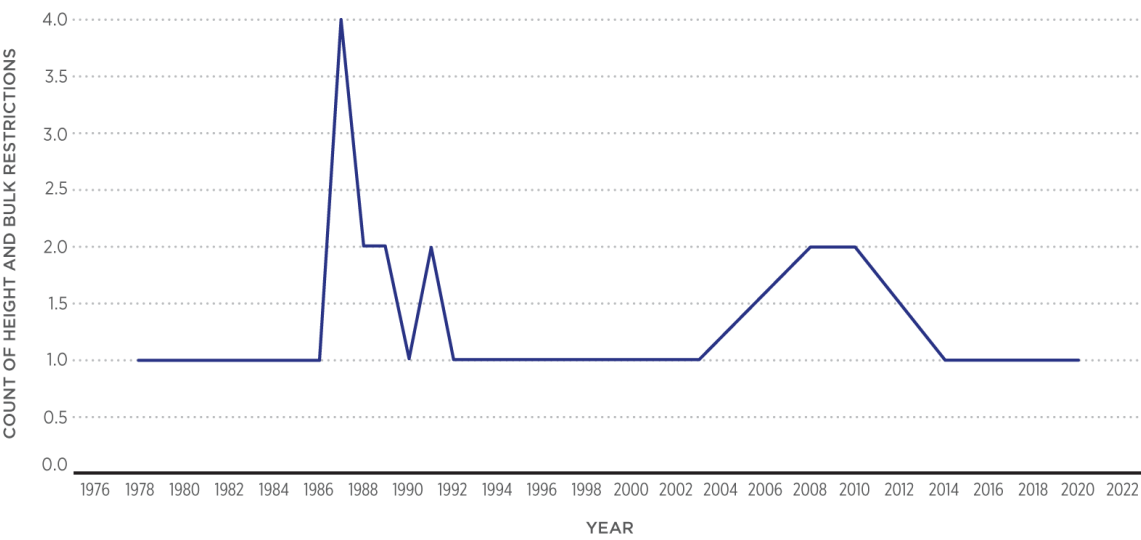


Exhibit A4. Height and Bulk Restrictions by County

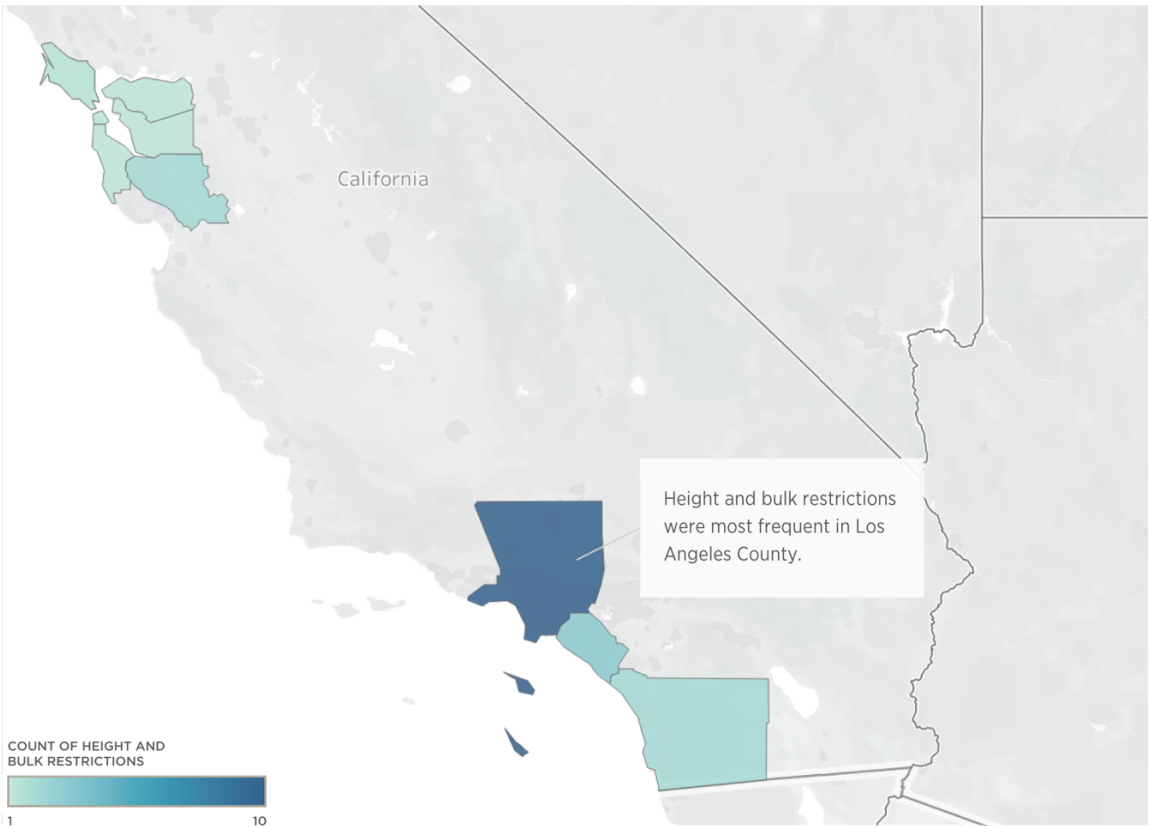


Exhibit A5. Downzoning/Zoning Restrictions by County

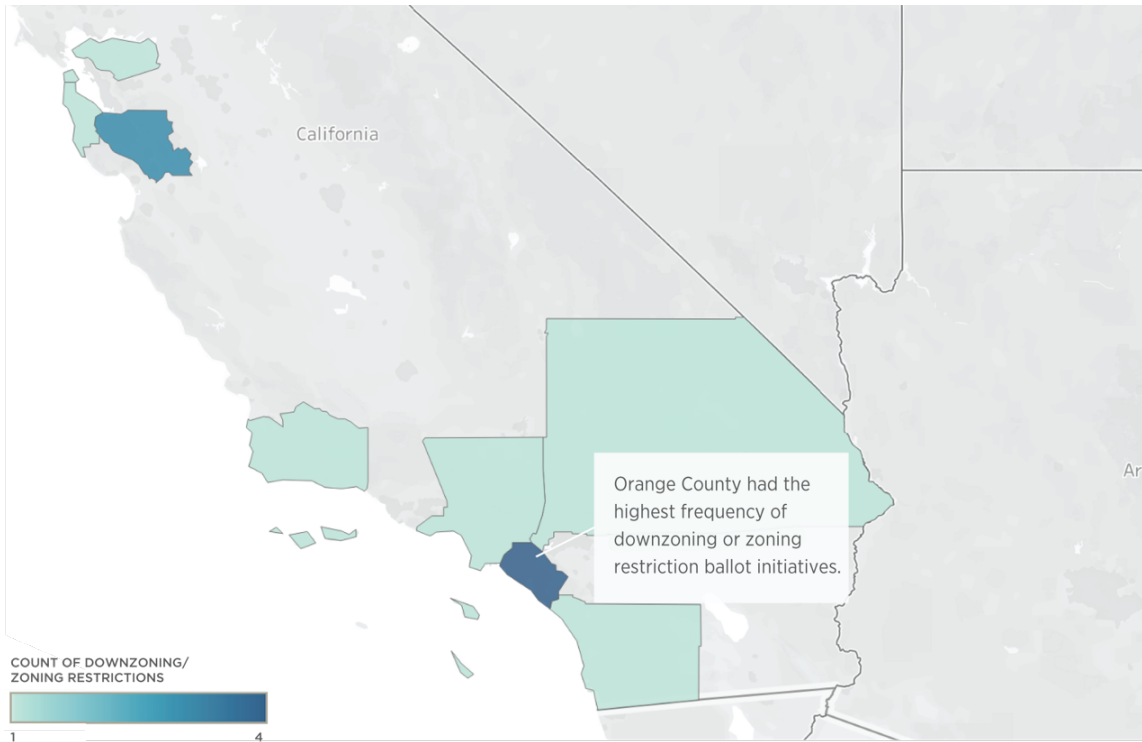


Exhibit A6. Voter Approval Requirements by County

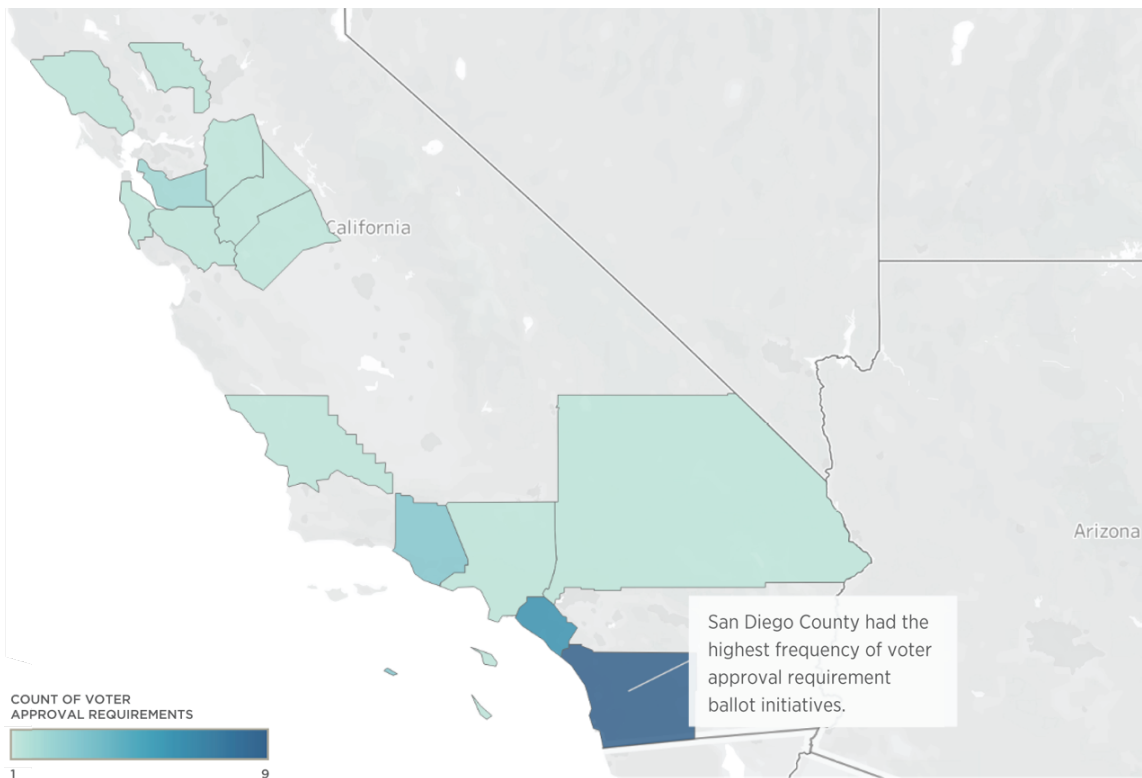


Exhibit A7. Open Space Preservation by County

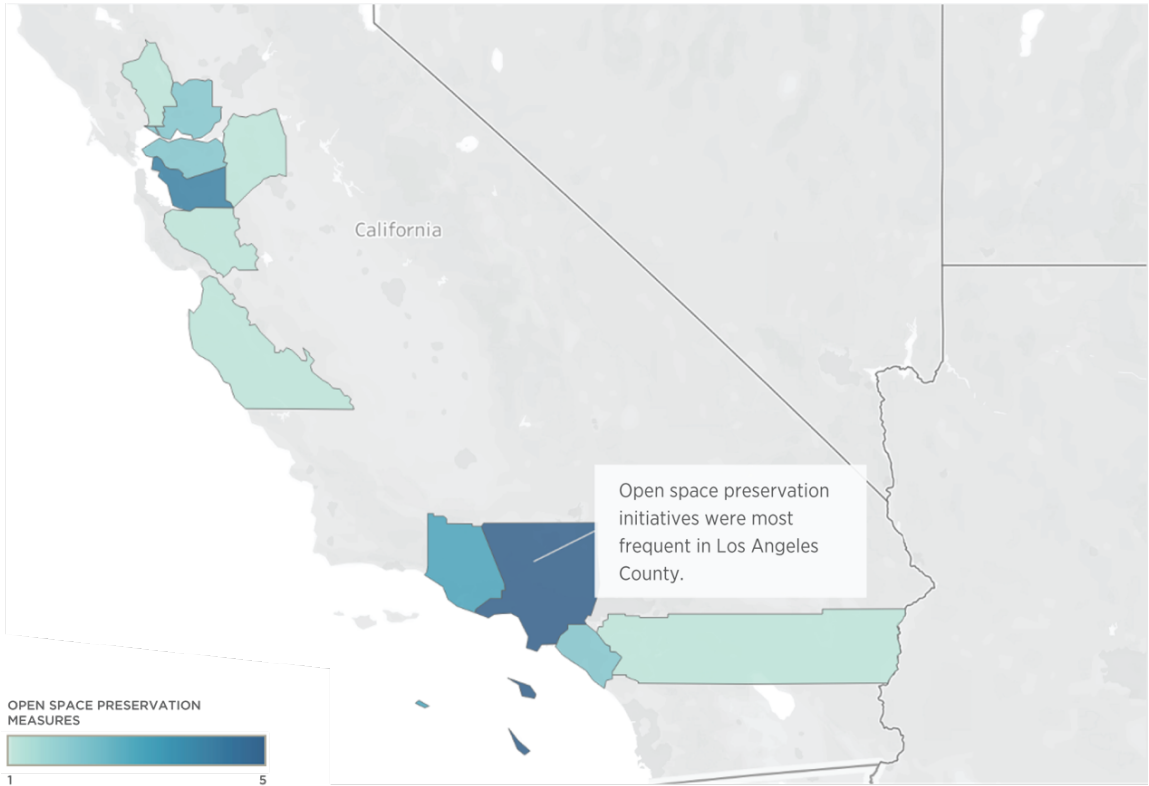
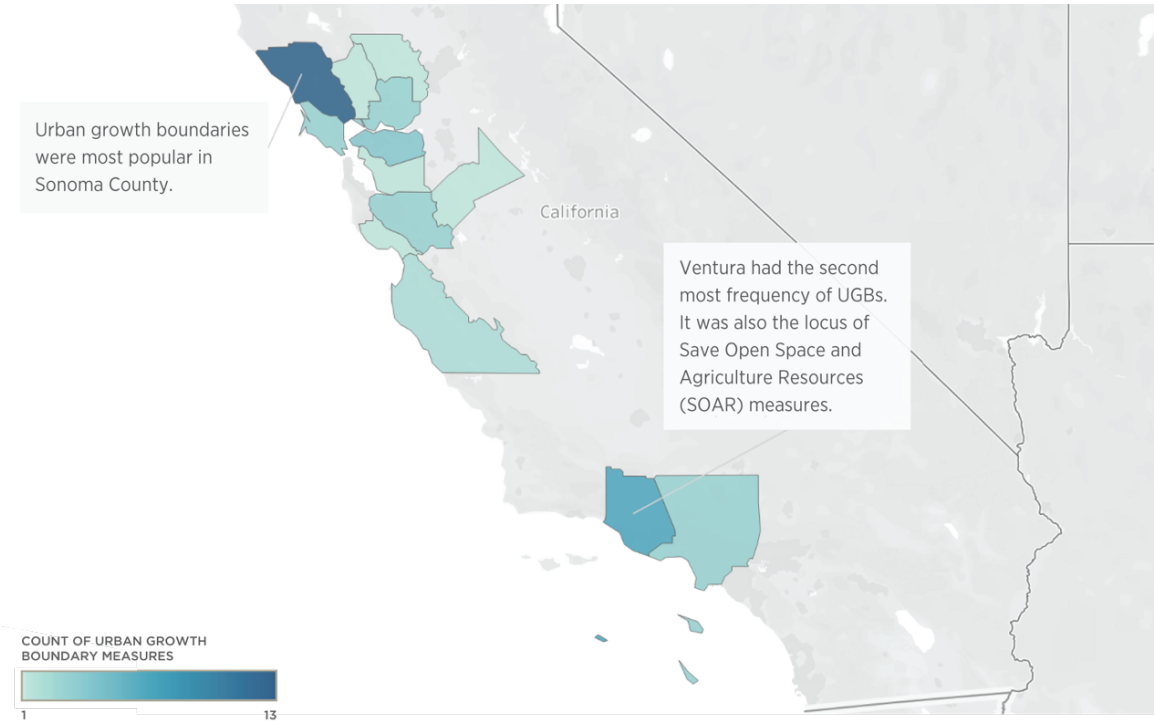


Exhibit A8. Urban Growth Boundary Measures by County



Appendix B: Court Cases on the Legality of Growth Management Techniques

A series of court cases have defined the legality of various growth management techniques and, in particular, their application in land use ballot measures.

Associated Home Builders, Inc. v. City of Livermore

Key finding: *Cities must account for the regional housing impact of growth management actions. The burden of proof is on the city to show growth management ordinances do not harm regional housing supply.*

This 1976 court case established a three-pronged test of validity for subsequent growth management plans wherein cities that restrict housing must consider the regional housing impact of their actions. In essence, to be legally sound, growth management plans must be demonstrated by cities and counties to not harm regional housing supply.

Building Industry Association v. City of Camarillo

Key finding: *The regional housing impact burden of proof does not apply to initiatives.*³²

In a 1986 case regarding Measure A, a growth control ordinance enacted in the City of Camarillo, the California Supreme Court ruled that cities do not need to show that growth management initiatives harm regional housing supply. Since Camarillo, the court has given much more deference to citizen initiatives than council- or board-approved growth ordinances.³³

Arnel Development Company v. City of Costa Mesa

Key finding: *Initiatives are valid methods of amending county general plans.*³⁴

In 1995, the California Supreme Court further affirmed the legality of voter initiatives as legislative actions by ruling that the initiatives are valid methods for amending county general plans. This ruling led to an explosion of local land use initiatives.

Building Industry Association v. City of Oceanside

Key finding: *Population or housing unit caps violate state housing element law.*³⁵

Guardrails have been placed to prevent abuse of the citizen initiative in light of regional housing mandates and state housing element law. Housing and population caps lost popularity following the late 1980s. In 1994, the Court of Appeals in San Diego ruled that the City of Oceanside's growth management system was a violation of state law. Proposition A, the voter-approved initiative in San Diego that restricted the number of residential units permitted per year, violated four important sections of state housing element law.³⁶ The ruling weakened the standing of the 60 other population or housing unit caps put in place at the time, but jurisdictions can still defend the legality of such initiatives due to provisions that, unlike Proposition A, exempt affordable housing from unit caps. Communities

³² *Building Industry Assn. v. City of Oceanside*, 27 Cal.App.4th 744, 33 Cal. Rptr. 2d 137.

³³ Fulton, *A Guide to California Planning*, page 220.

³⁴ *Arnel Development Co. v. City of Costa Mesa*, 28 Cal.3d 511, 169 Cal. Rptr. 904, 620 P.2d 565 (Cal. 1980)

³⁵ *Building Industry Assn. v. City of Oceanside*, 27 Cal.App.4th 744, 33 Cal. Rptr. 2d 137.

³⁶ The court found that Prop. A was in violation of (1) section 65913.1, which prohibits land use policies that discriminate against low- and moderate-income residents in need of housing; (2) section 65913.1, which calls on municipalities to zone vacant land to accommodate low- and moderate-income housing; (3) section 65913.1, which calls on municipalities to zone vacant land to accommodate low- and moderate-income housing; and (4) section 65915, which required localities to provide density bonuses for projects that are 100% affordable.

that were known for employing them have now pivoted to the urban growth boundary as a new growth management tool.³⁷

Devita v. County of Napa

Key finding: *Local general plans can be amended by the initiative process. Initiatives are exempt from the California Environmental Quality Act.*³⁸

In this 1995 case, a property owner challenged Napa's longstanding land use policy (Measure J), which requires voter approval for changing an agricultural land use designation to an urban land use designation. Richard M. DeVita argued that Measure J contradicted the city's General Plan and should be voided. The Supreme Court upheld the legality of Measure J and ruled that state elections law enables the initiative process to be a valid form of general plan amendment.³⁹

Urban Habitat Program v. City of Pleasanton, Alameda County

Key finding: *Population and housing caps are invalid, and affordable housing development is mandated.*⁴⁰

In 2010, affordable housing advocates, with the support of then-Attorney General Jerry Brown, won a major victory when the Alameda County Superior Court struck down Pleasanton's 1998 voter-approved growth ordinance and housing caps. As of this decision, housing or population growth caps are no longer allowable.

³⁷ Fulton, *A Guide to California Planning*, page 220.

³⁸ *DeVita v. County of Napa*, 9 Cal, 4th 763 (1995).

³⁹ Fulton, *A Guide to California Planning*, 220.

⁴⁰ *Urban Habitat Program v. City of Pleasanton*, 164 Cal.App.4th 1561, 80 Cal. Rptr. 3d 300 (Cal. Ct. App. 2008).

Appendix C: Key Research on Land Use Ballot Measures in California

Numerous scholars and practitioners have conducted extensive research on land use ballot initiatives in California. Our research draws on their efforts.

The Effects of Local Growth Controls on Regional Housing Production and Population Redistribution in California

Key finding: *Growth management techniques reduce the supply of housing.*⁴¹

Urban planning researcher Ned Levine analyzed the effects of local growth controls on regional housing production and population redistribution, determining from a comprehensive survey of data from 490 Californian cities and counties and net housing construction that the policies displaced new construction, particularly rental housing. Measures that limited available land or downsized existing zoning impacted low-income households and minorities in particular.

Regional Growth, Local Reaction: The Enactments and Effects of Local Growth Control and Management Measures in California

Key finding: *Growth management techniques have evolved, their popularity coinciding with periods of economic growth.*⁴²

Madelyn Glickfeld and Ned Levine established a “sequence” of preferred growth management methods, beginning with population control measures, then infrastructure control measures, followed by zoning and political controls in the early 1980s, and floor space control and more general approaches in the late 1980s. The methods of growth management evolved and ebbed with regional growth patterns. The popularity of growth management initiatives in cities coincided with periods of economic growth. Cities confronted with the possibility of new demand brought on by economic boom grappled with how to manage fluctuating populations.

Growth Management at the Ballot Box: What Are the Motivations and Outcomes?

Key finding: *Growth management measures are not motivated by elitist or community statuses. They also are not adopted in cities that experience relatively high growth rates.*⁴³

Mai Thi Nguyen built on prior research by providing a detailed study of growth management techniques or “tools” by cataloging and analyzing a ballot measure database containing 436 growth management measures appearing on local ballots in California between 1986 and 2000. Nguyen confirmed the findings of Glickfeld and Levine, finding no significant relationship between the adoption of growth management ballots and high rates of real past growth. Rather, growth management techniques can be understood as reactions to regional patterns of growth. Localities may have enacted them as mechanisms to prevent potential spillover growth from neighboring jurisdictions.

⁴¹ Ned Levine, “The Effects of Local Growth Controls on Regional Housing Production and Population Redistribution in California,” *Urban Studies* 36, no. 12 (1999): 2047–68, <https://www.semanticscholar.org/paper/The-Effects-of-Local-Growth-Controls-on-Regional-in-Levine/ae5c38869de9f754dc8cb4614320c8d7f9576c46>.

⁴² Madelyn Glickfeld and Ned Levine, *Regional Growth...Local Reaction: The Enactment and Effects of Local Growth Control and Management Measures in California*, Lincoln Institute of Land Policy, 1992, pages 35–36.

⁴³ Mai Thi Nguyen, “Growth Management at the Ballot Box: What Are the Motivations and Outcomes?” PhD diss., (University of California Irvine, 2004), page xv.

Local Growth Control at the Ballot Box: Real Effects or Symbolic Politics?

Key finding: *Growth management measures can slow housing growth. There is also evidence that they reduce growth in Latinx and lower-income populations.*⁴⁴

Nguyen analyzed the sociospatial impacts of ballot box growth management measures. Through ordinary least squares (OLS) regression analysis, she found that the enactment of ballot box growth controls from 1986 to 1999 slowed housing unit growth overall and reduced Hispanic growth rates. Her work confirmed that ballot box growth measures are not purely “symbolic politics,” or political actions with negligible real consequences on growth trajectories. These measures have a real measurable impact on growth patterns and the potential to reduce growth in Hispanic and lower-income populations.

The Effects of Local Growth Controls on Regional Housing Production and Population Redistribution in California

Key finding: *Growth management techniques reduce the supply of overall housing.*⁴⁵

Urban planning researcher Ned Levine analyzed the effects of local growth controls on regional housing production and population redistribution, determining from a comprehensive survey of data from 490 Californian cities and counties and net housing construction that the policies displaced new construction, particularly rental housing. Measures that limited available land or downsized existing zoning impacted low-income households and minorities in particular.

Cities Under Pressure: Local Growth Controls and Residential Development Policy

Key finding: *Growth controls contribute to the affordable housing shortage.*⁴⁶

Paul G. Lewis and Max Neiman analyze the impact of local growth controls on the shortage of affordable housing. They delve into the motivations for growth restrictions, discovering that growth issues remain at the forefront of political exigencies in California municipalities, often affecting the outcomes of mayoral or city council elections. Lewis and Neiman assert that local citizen unease is highly linked with growth control policies, and cities that experience the slowest growth tend to adopt the most growth management policies.

Growth Management Policy in California Communities

Key finding: *Cities with growth boundaries experience slower rates of housing growth.*⁴⁷

Research from Elisabeth R. Gerber and Justin H. Philips has demonstrated that cities with growth boundaries experienced slower growth rates than other California communities between 1990 and 2000. Additionally, cities with urban growth boundaries saw housing prices increase as much as 14% more than housing prices in their non-UGB-adopting counterparts.

⁴⁴ Mai T. Nguyen, “Local Growth Control at the Ballot Box: Real Effects or Symbolic Politics?” *Journal of Urban Affairs* 29, no. 2 (2007), <https://doi-org.libproxy.berkeley.edu/10.1111/j.1467-9906.2007.00331>.

⁴⁵ Levine, “The Effects of Local Growth Controls on Regional Housing Production and Population Redistribution in California.”

⁴⁶ Paul Lewis and Max Neiman, *Cities Under Pressure: Local Growth Controls and Residential Development Policy*, Public Policy Institute of California, January 2002, <https://www.ppic.org/publication/cities-under-pressure-local-growth-controls-and-residential-development-policy/>.

⁴⁷ Elisabeth R. Gerber and Justin H. Philips, Growth Management Policy in California Communities, Policy Report No. 2, April 2004, Center for Local, State, and Urban Policy, <https://closup.umich.edu/research/policy-reports/growth-management-policy-california-communities>.



San Francisco | San José | Oakland

Ideas + action for a better city
spur.org