



**SAN BENITO COUNTY
AGENDA ITEM
TRANSMITTAL FORM**

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Vice-Chair

Kollin Kosmicki
District No. 2
Chair

Mindy Sotelo
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Item Number: 3.5

MEETING DATE: 02/11/2025

DEPARTMENT: RESOURCE MANAGEMENT AGENCY

AGENDA ITEM PREPARER: Abraham Prado

DEPT HEAD/DIRECTOR: Abraham Prado

SUBJECT:

RESOURCE MANAGEMENT AGENCY - A. PRADO, DIRECTOR OF PLANNING & BUILDING SERVICES

Receive presentation and discuss the affordable housing regulations in Chapter 21.03 of the San Benito County Code and provide staff direction if desired.

SBC FILE NUMBER: 790

AGENDA SECTION:

REGULAR AGENDA

BACKGROUND/SUMMARY:

At its regular meeting of September 12, 2023, the San Benito County Board of Supervisors adopted Ordinance No. 1059 an ordinance of the San Benito County Board of Supervisors amending provisions of Section 21.03 "Affordable Housing Regulations" in Title 21 "Building and Engineering" of the San Benito County code.

The State of California Department of Housing and Community Development (HCD) issued a Regional Housing Needs Allocation (RHNA) of 5,005 residential units to the San Benito County Council of Governments (COG) for the 6th Cycle planning period of June 30, 2023, to December 15, 2031. The jurisdictions of the City of Hollister, San Juan Bautista, and the unincorporated San Benito County have the responsibility to plan for the assigned RHNA numbers provided by HCD. Of the 5,005-unit allocations, 754 units have been assigned to the unincorporated County of San Benito. Of the 754 residential units, 246 residential units are set aside for very low-income households, 198 residential units are set aside for low-income households, 103 residential units are set aside for moderate-income households, and 207 residential units are set aside for above moderate units. Per Section 21.03.003

“Definitions” of the San Benito County code, very low, low, and moderate income households are defined as follows:

Very Low-Income Household: household with an annual income which does not exceed the California Department of Finance annual determination for very low-income households earning no more than 50% of area median income, adjusted for household size.

Low-Income Household: A household with an annual income which does not exceed the California Department of Finance annual determination for lower-income households with incomes earning no more than 80% of the area median income, adjusted for household size.

Moderate-Income Household: A household, including a low-income household and a very low-income household, with an annual income which does not exceed 120% of the area median income, adjusted for household size.

Per HCD, the category “extremely low-income households” is a subset of “very low-income households,” and is defined as 30 percent (or less) of the area median income and “above moderate income” means households earning more than 120 percent of the area median income.

The annual San Benito County Housing Element progress reports, from HCD’s 5th reporting housing element cycle of 2015 through 2023 indicate that there has been a total of 1,300 issued permits for residential units in unincorporated San Benito County from 2015 through 2023 averaging 144.4 residential building permits issued per year over the 2015 – 2023 period of time. Of these, nine (9) residential units have been issued as “very low” income units, eighteen (18) residential units have been issued as “low” income units, three (3) residential units have been issued as “moderate” income units, and one thousand two hundred and seventy (1,270) residential units have been issued as above moderate units. Therefore, only 2.3% of the total number of residential building permits issued between 2015 – 2023 in unincorporated San Benito County were issued to households meeting the moderate-income household or below.

The current HCD 6th reporting housing element cycle is from the year 2024 through 2031. In 2024 there were one hundred and ninety-one (191) residential units issued in unincorporated San Benito County consisting of eleven (11) “extremely low income” residential units and one hundred and eighty (180) as “above moderate” income units.

California Assembly Bill No. 1505 was approved in 2017, and it authorizes the legislative body of any county or city to adopt ordinances to require, as a condition of development of residential rental units, that the development includes a certain percentage of residential rental units affordable to, and occupied by, moderate-income, lower income, very low income, or extremely low-income households. Per Section 65850(g) of the Government Code, “the legislative body of any county or city may, pursuant to this chapter, adopt ordinances that do any of the following: (g) require as a condition of the development of residential rental units, that the development include a certain percentage of residential rental units affordable to, and occupied by, households with incomes that do not exceed the limits for moderate-income, lower income, very low income, or extremely low income households specified in Sections

50079.5, 50093, 50105, and 50106 of the Health and Safety Code. The ordinance shall provide alternative means of compliance that may include, but are not limited to, in-lieu fees, land dedication, off-site construction, or acquisition and rehabilitation of existing units.”

Per government code 65850.01(a) "The Department of Housing and Community Development, hereafter referred to as “the department” in this section, shall have the authority to review an ordinance adopted or amended by a county or city after September 15, 2017, that requires as a condition of the development of residential rental units that more than 15 percent of the total number of units rented in a development be affordable to, and occupied by, households at 80 percent or less of the area median income if either of the following apply:

(1) The county or city has failed to meet at least 75 percent of its share of the regional housing need allocated pursuant to Sections 65584.04, 65584.05, and 65584.06, as applicable for the above-moderate income category specified in Section 50093 of the Health and Safety Code, prorated based on the length of time within the planning period pursuant to paragraph (1) of subdivision (f) of Section 65588, over at least a five-year period. This determination shall be made based on the annual housing element report submitted to the department pursuant to paragraph (2) of subdivision (a) of Section 65400.

(2) The department finds that the jurisdiction has not submitted the annual housing element report as required by paragraph (2) of subdivision (a) of Section 65400 for at least two consecutive years.

(b) Based on a finding pursuant to subdivision (a), the department may request, and the county or city shall provide, evidence that the ordinance does not unduly constrain the production of housing by submitting an economic feasibility study.”

Per Section 21.03.006 and Section 21.03.007 of the San Benito County Code, the County of San Benito currently requires 15% (for-sale and rental) onsite inclusionary housing requirements and 20% (for-sale and rental) off-site inclusionary housing requirements. Per Section 21.03.008(F) of the San Benito County code, “alternative compliance mechanisms should be used only when they will lead to the production of more affordable units than would otherwise be provided on-site, while still being consistent with the chapter’s other goals. Also, alternatives should be made available where on-site production of units is less feasible, rather than as a default option for all developments. Examples of alternative mechanisms include (but are not limited to) the following: land donation, construction of rental units adjacent to for-sale projects, and provision of subsidies to non-profit developers for affordable rental housing.”

The San Benito County affordable housing regulations are included in Chapter 21.03 of the San Benito County Code. Staff will be presenting an overview of the Affordable Housing Regulations in Chapter 21.03 of the San Benito County Code.

RESOLUTION OR ORDINANCE NEEDED FOR THIS ITEM:

No

CONTRACT NEEDED FOR THIS ITEM:

No

RFP AND BID HISTORY:

N/A

LAST CONTRACT AMOUNT OR N/A:

N/A

CONTRACT HISTORY (Describe all amendments and previous contracts):

N/A

STRATEGIC PLAN GOALS: 1. Operational Development & Excellence

No

STRATEGIC PLAN GOALS: 2. Planning And Sustainable Growth

Yes

STRATEGIC PLAN GOALS: 3. Technology

No

STRATEGIC PLAN GOALS: 4. Community Engagement

Yes

STRATEGIC PLAN GOALS: 5. Health & Safe Community

Yes

BUDGETED:

N/A

BUDGET ADJUSTMENT NEEDED:

N/A

SOURCE OF FUNDING:

N/A

UNFUNDED MANDATE:

N/A

SBC BUDGET LINE ITEM NUMBER:

N/A

CURRENT FY COST:

N/A

STAFF RECOMMENDATION:

1. Receive presentation;
2. Discuss the affordable housing regulations in Chapter 21.03 of the San Benito County Code; and
3. If desired, provide staff direction.

BOARD ACTION RESULTS:

Received presentation and Board gave staff direction.

ATTACHMENTS:

[Attachment 1. Ordinance No. 1059 Adopted September 12, 2023](#)

[Attachment 2. Bill Text - AB-1505 Land use Zoning Regulations](#)

[Attachment 3. Chapter 21.03 Affordable Housing Regulations of the San Benito County Code](#)

[Attachment 4. Presentation Affordable Housing Regulations Overview](#)

[Attachment 5. Additional Informational Slides](#)