



SAN BENITO COUNTY

Affordable Housing Ad Hoc Committee

Jaime De La Cruz

Board of Supervisors

Mark Medina

Chair
Board of Supervisors

Robert Gibson

Planning Commission

Robert Eggers

Planning Commission

San Benito County Board Chambers – 481 4th Street, Hollister, CA 95023

REGULAR MEETING

Thursday, September 26, 2019
6:30 PM

AGENDA

1. Call to Order

- a. Pledge of Allegiance
- b. Roll Call
- c. Acknowledge Certificate of Posting

2. **Public Comment:** *This is an opportunity for the public to address the commission on items of interest not appearing on the agenda or not scheduled for public hearing. No action may be taken unless provided for by GC 56954.2. Each speaker is limited to five minutes.*

3. Discussion

- a. Accessory Dwelling Impact Fee Review
- b. Review of in-lieu fee based on square footage & other in-lieu payment options
- c. Affordable Housing Inclusionary Ordinance Review
 - i. Flexibility in housing types
 - ii. Inclusionary Requirement effective with 11TH unit
 - iii. Deletion of state regarding 50% of inclusionary units must be 3 bedrooms
 - iv. Density Bonus Rules
- d. Administrative Manual
 - i. Priority List
 - ii. Review of Resale Restrictions
- e. Staff Updates
 - i. SB 2 Grant

4. Additions to Future Agendas

5. Schedule of Upcoming Meetings

6. Adjournment

Affordable Housing Ad Hoc Committee
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COUNTY OF SAN BENITO
AFFORDABLE HOUSING AD HOC COMMITTEE
CERTIFICATE OF POSTING

Pursuant to California Government Code Section 59454.2(a), the meeting agenda for the San Benito County Affordable Housing Ad Hoc Committee Meeting Thursday, September 26, 2019 was posted on the 23th day of September, 2019 at the following location freely accessible to the public:

The bulletin board outside the front entrance of the San Benito County Administration Building, 481 Fourth Street, Hollister, CA.

I, Jamila Saqqa, Housing Programs Coordinator, certify under penalty of perjury, that the foregoing is true and correct.

JAMILA SAQQA
HOUSING PROGRAMS COORDINATOR
COUNTY OF SAN BENITO, CA

BEFORE THE BOARD OF SUPERVISORS, COUNTY OF SAN BENITO

AN ORDINANCE OF THE COUNTY OF SAN BENITO) Ordinance No. 951
AMENDING CHAPTER 21.03 OF TITLE 21 OF THE SAN BENITO)
COUNTY CODE ("AFFORDABLE HOUSING REGULATIONS"))
_____)

The Board of Supervisors ordains as follows:

Section 1. Chapter 21.03 of Title 21 of the San Benito County Code shall be amended to read as follows:

CHAPTER 21.03: AFFORDABLE HOUSING REGULATIONS

- 21.03.001 Findings
- 21.03.002 Purpose
- 21.03.003 Definitions
- 21.03.004 Development requiring inclusionary contribution
- 21.03.005 Inclusionary requirements
- 21.03.006 On-site units
- 21.03.007 Off-site units
- 21.03.008 In-lieu fees
- 21.03.009 Development project approval
- 21.03.010 Occupancy and continuing availability of units
- 21.03.011 Housing Advisory Committee
- 21.03.012 Collection and use of in-lieu fees
- 21.03.013 Density bonus and incentives
- 21.03.014 Affordable By Design
- 21.03.015 Development Standards
- 21.10.016 Additional Standards
- 21.03.017 Enforcement
- 21.03.018 Monitoring

§ 21.03.001 FINDINGS.

(a) San Benito County Goals and General Plan. The Board of Supervisors finds that a decent home and suitable living environment for all is a priority of the highest order; this priority conforms to state and federal policies. A key goal of the County is to achieve a balanced community with housing available for persons of all economic levels, with priority given to those persons currently residing or working within the County.

The Board of Supervisors finds there is an inadequate supply of housing in San Benito County that is affordable to very low, low, and moderate-income households. Federal and state housing finance and subsidy programs are not sufficient in themselves to meet that need.

The Board of Supervisors finds that the cost of housing in new developments has increased and will continue to perpetuate this housing shortage. Further, land for residential development in the

County is limited, and the amount of land which can be used for development of housing for very low, low, and moderate-income households is being depleted by development of high cost housing.

The Board of Supervisors finds that the provision of housing affordable to very low, low, and moderate-income households is a County-wide responsibility, and the provision of such housing is a goal of the housing element of the County general plan.

A County-wide inclusionary housing program will assist in alleviating the use of available residential land solely for the benefit of households that are able to afford market rate housing because such market rate development will be required to contribute to the provision of affordable housing for the entire San Benito community.

(b) Provide for Workforce. The Board of Supervisors finds that the housing shortage for persons of very low, low, and moderate-income is detrimental to the public health, safety and welfare, and particularly finds that provision of very low, low, and moderate-income housing is fundamental to the maintenance of an adequate, growing workforce and market place for the local economy, as well as to provide housing for additional employees whose jobs serve the increasing population living in new market-rate housing.

The Board of Supervisors acknowledges that if very low, low, and moderate income workers cannot find housing in the County, then employers will have difficulty in securing a labor force; and employees will be forced to commute. Employee commutes use limited gasoline resources and increase air pollution.

(c) Benefit to the County. The Board of Supervisors finds that a County-wide affordable housing program will benefit the County as a whole. Each property that contributes to inclusionary housing augments the housing mix, increases the supply of housing for all economic segments of the community, and thereby provides for a balanced community, which is deemed to be in the public interest.

(d) Resale Restrictions. The Board of Supervisors finds that the effect of an affordable housing program is severely diminished if it benefits only the first occupants of very low, low, and moderate-income housing, and affordable units are resold at market prices. Therefore, the Board of Supervisors recognizes that resale control, to ensure the continuing availability of affordable units to very low, low, and moderate-income households, is a necessary consideration in order to prevent undermining of the credibility of the whole program, particularly because of the loss of the unit itself as an affordable unit.

(e) Public Purpose. The Board of Supervisors finds that public housing programs and housing subsidy programs can meet only a small portion of the need for very low, low, and moderate-income housing. The vast majority of housing units has been and will continue to be produced by the private housing industry. This industry has the knowledge and ability to produce housing affordable to very low, low, and moderate-income households given supportive government policies, including incentives and public investment as appropriate. Therefore, the Board of Supervisors finds it is a public purpose of the County to seek assistance and cooperation from the

private sector and non-profit agencies in making available an adequate supply of housing for persons of all economic segments of the community.

(f) Benefits of the Application of this Chapter. Application of this chapter may benefit the public through increased housing opportunities in all areas of the County, an increased supply of very low, low, and moderate-income housing, and an increased availability of funds for very low, low, and moderate-income housing projects.

(g) Collection of Fees. To the extent that fees will be imposed at a later date after a nexus study is performed, the Board of Supervisors finds that the fees required or permitted by this chapter will be appropriate and permissible. The fees permitted by this chapter will be fair and effective because:

(1) The fee amount will be based on the amount necessary to construct or subsidize an affordable unit or affordable units as called for by this chapter, so that when a developer elects to pay an in-lieu fee, funds will be available to reach the County's overall affordability target, without excessive payments and without setting varying fee standards on a case-by-case basis;

(2) The fee amount necessary to construct or subsidize units at the affordability levels specified by this chapter will be based on land, construction and other costs of units in the County;

(3) Payment of in-lieu fees will be within a specific period of time, thereby allowing a predictable and stable flow of in-lieu fees; and

(4) The fees collected will be used in a specific time frame for the provision of very low, low, and or moderate-income housing.

(h) Other Objectives. The Board of Supervisors finds that an objective of this chapter is to meet the housing needs of all types of very low, low, and moderate-income groups in a manner that is economically feasible and consistent with their needs.

The Board of Supervisors further finds that very low, low, and moderate income housing best achieves the broader community goal of integrating households of all economic levels into the community when such housing is provided throughout the community and that a specific objective of this chapter is to provide housing opportunities throughout the community, in all planning areas of the County for very low, low, and moderate-income households.

The Board of Supervisors further finds that an objective of this chapter is to provide housing opportunities for very low, low, and moderate-income household members currently residing or working in San Benito County, on a priority basis.

§ 21.03.002 PURPOSE.

The purposes of this chapter are to enhance the public welfare, benefit the property being developed, assure compatibility between future housing development and the housing units affordable to persons of very low, low, and moderate-income and ensure that remaining

developable land in the County is utilized in a manner consistent with state and local housing policies and needs.

§ 21.03.003 DEFINITIONS.

For the purposes of this chapter, the following definitions shall apply:

- (a) "Administrative manual" means the manual prepared pursuant to subsection 21.03.010 (g).
- (b) "Affordable" means a cost for housing, whether for an owner-occupied or rental unit, that does not exceed "affordable housing cost" as set forth in California Health and Safety Code Section 50052.5. Adjustments for household size based on the number of bedrooms in the unit and other monthly housing cost factors, including assumed mortgage interest rates, loan insurance fees, maintenance and repair allowances, utility allowances, homeowners insurance, property tax and assessment costs, and homeowners association dues, shall be as provided by the County in the administrative manual.
- (c) "Affordable housing plan" means a plan demonstrating how a specific development project will meet the requirements of this chapter.
- (d) "Affordable Housing Agreement" means an inclusionary housing agreement between the County and an applicant, governing how the applicant shall comply with this chapter.
- (d) "Applicant" means a person or entity that applies for a residential development and, if the applicant does not own the property on which development is proposed, also means the owner or owners of the property.
- (e) "Appropriate authority" means that person, official, or body designated by County regulations to hear, grant, deny, modify, condition, revoke or otherwise act on permits required by the County's regulations.
- (f) "Approval" means any approval by the appropriate authority of a discretionary permit for residential development, including, but not limited to, planned unit development or planned community development approval, subdivision approval, use permit, building permit or combined development permit, and if no discretionary approval is required, also means a building permit for residential development.
- (g) "Approved Documents" means Affordable Housing Agreement or Development Agreement.
- (h) "Building permit" means a permit issued by the San Benito County department of planning and building authorizing the construction of new dwellings.
- (i) "Director" means the Director of the Resource Management Agency (or a County officer with similar responsibilities designated by the County administrative officer), or his or her designee.

(j) " Dwelling" or "Unit" means any structure or portion thereof designed or used as the residence.

(k) "First approval" means the first approval, as the term "Approval" is defined in this chapter, to occur with respect to a residential project.

(l) "For sale inclusionary unit" means an inclusionary unit which is designated in an inclusionary housing agreement to be sold to a household eligible under this chapter.

(m) "Household" means one or more individuals who occupy one dwelling unit as a single housekeeping unit, whether or not related by blood or marriage.

(n) "HUD" means the United States Department of Housing and Urban Development.

(o) "Inclusionary unit" means a housing unit, which is required by an approval to meet affordability and occupancy limits under this chapter.

(p) "Low-income inclusionary unit" means an inclusionary unit reserved for occupancy by low-income households at an affordable rent or sales price.

(q) "Low-income household" or "Lower-income household" means a household, including a very low-income household, with an annual income, which does not exceed State of California Department of Finance annual determination for low-income households with incomes of eighty percent of the median income, adjusted for household size.

(r) "Median income" means the median household income as determined by the State of California Department of Finance and updated on an annual basis.

(s) "Moderate-income inclusionary unit" means an inclusionary unit reserved for occupancy by moderate-income households at an affordable rent or sales price.

(t) "Moderate-income household" means a household, including a low-income household and a very low-income household, with an annual income which does not exceed one hundred twenty percent of the median income, adjusted for household size.

(u) "Owner occupied development" means a residential development in which the same person or persons are sole or majority owner(s) of the property at the time of first approval of the development and at the time the development receives its building permit, and those persons make and record a legally binding agreement, acceptable to the director and approved as to form by County Counsel, to reside in the residential development for not less than one year from the recordation of the notice of completion, and where the proposed owner-occupant has not previously been an owner-occupant under this chapter during a period of ten years prior to application for a first approval.

(v) "Pending development" means a residential development for which an application has been approved by the County on or before the effective date of this chapter, so long as the number of dwellings does not increase after the first approval.

(w) "Planning area" means the unincorporated area of the County of San Benito.

(x) "Rental inclusionary unit" means an inclusionary unit which is designated in an inclusionary housing agreement to be rented to a household eligible under this chapter.

(y) "Residential development" means any project requiring any approval, for which an application or applications are submitted to the County and which would by construction or alteration of structures create five or more new or additional dwelling units and/or lots.

(z) "Subdivision" means a "Subdivision" as that term is defined by the California Subdivision Map Act.

(aa) "Very low-income inclusionary unit" means an inclusionary unit designated in an reserved for occupancy by very low-income households at an affordable rent or housing cost.

(bb) "Very low-income household" means a household with an annual income which does not exceed the state of California Department of Finance annual determination for very low-income households earning fifty percent of median income, adjusted for household size

§ 21.03.004 DEVELOPMENT REQUIRING INCLUSIONARY CONTRIBUTION.

(a) The requirements of this chapter are minimum requirements and shall not preclude a residential development from providing additional affordable units and/or affordable units with lower rents or sales prices. Except as expressly provided in paragraphs (b) and (c) of this section, all residential developments shall contribute to the provision of housing for very low, low, and moderate-income households in the County of San Benito as provided in this chapter.

(b) Residential developments which meet one of the following criteria shall not be required to comply with this chapter:

(1) Residential developments that form part of a larger residential development as to which the requirements of this chapter have previously been fully satisfied and as to which there is no default in continuing obligations under this chapter, where the new residential development results in no increase in the number of previously approved lots or units;

(2) Development as to which the applicant demonstrates that there is no reasonable relationship between the development and the requirements imposed by this chapter, that the requirements of this chapter would take property in violation of the United States or California Constitutions, or that as a result of unusual or unforeseen circumstances, it would not be appropriate to apply, or would be appropriate to modify, the requirements of this chapter, provided that the Board of Supervisors makes the determination to approve or disapprove an exemption or modification, and makes written findings, based on substantial evidence, supporting that determination;

(3) Development for farm workers;

(4) Mobile-home park development.

(5) Notwithstanding any other provision of this chapter, an applicant may propose an alternative means of compliance with this chapter by submitting an Affordable Housing Plan that achieves the purpose and intent of this chapter. The Board of Supervisors may approve such alternative method of meeting the County's inclusionary housing requirement by means of a Development Agreement or an Affordable Housing Agreement or other appropriate means if the Board of Supervisors finds and determine that, based on substantial evidence in the record, the proposed new residential development is consistent with the general plan, will assist in the attainment of the County's identified housing needs and regional fair share responsibilities for very low, low, and moderate income households, and the number of affordable housing units will provide an acceptable level of affordable housing while providing public benefits consistent with compliance with the express requirements of this chapter.

(a) Developers may reserve or set-aside land to be transferred to an affordable housing developer to satisfy an affordable housing requirement. Land may be part of the market-rate development being constructed, or may be provided off-site in a high-density residential zone. Priority will be given to development projects that satisfy affordable requirements through land set-aside and dedicated to high-density affordable housing.

(c) Pending developments, as that term is defined by this chapter, shall be subject to the requirements of the inclusionary housing ordinance in effect when the application for the development is first approved by the appropriate authority, with the exception that vesting tentative maps shall be subject to the requirements of the inclusionary housing ordinance in effect when the application for the vesting tentative map was deemed complete.

§ 21.03.005 INCLUSIONARY REQUIREMENTS.

All residential development consisting of 5 or more lots, inclusive, in San Benito County shall provide inclusionary units on-site or off-site, except that a fee may be paid in-lieu of providing fractional units and in other circumstances specified in Section 21.03.008. The size, design, and location of inclusionary units shall be consistent with a project-specific affordable housing plan, the County general plan, zoning ordinance, and other County ordinances and building standards. Compliance may be accomplished by the developer alone or in combination with others, including a non-profit housing corporation.

§ 21.03.006 ON-SITE UNITS.

(a) To satisfy its inclusionary requirement on-site, a residential development must construct inclusionary units in an amount equal to or greater than 15 percent of the total number of units approved for the residential development (except to the extent a fraction of a unit would be required, for which the applicant may elect to substitute a fractional unit fee). Initial and

subsequent affordability levels and eligible occupants of the inclusionary units shall conform to the requirements of Section 21.03.010, as applicable.

(b) On-site affordable units must:

(1) Receive building permits and certificates of occupancy concurrently with the remainder of the residential development, as set forth in and except as otherwise provided by the affordable housing agreement;

(2) Will be compatible in exterior appearance with the other units in the residential development (though interiors may differ to the extent authorized in the affordable housing agreement) and be dispersed throughout the residential development to the extent feasible or as otherwise provided by the inclusionary housing agreement;

(3) Have a similar number of bedrooms as the market rate homes in which the affordable units are located.

(4) Have the following minimum square footages:

2 Bedroom – 900 sq. ft.

3 Bedroom – 1150 sq. ft.

4 Bedroom – 1360 sq. ft.

(5) A minimum of 50% of the required affordable housing shall be 3 bedroom.

(c) The inclusionary housing requirements of this chapter are summarized in the following table. Should there be any discrepancy between this table and the text of this ordinance, the text shall control

Size of Development	Inclusionary Requirement	Moderate Income	Low Income	Very Low Income
1-4	None			
5-6	Payment of in-lieu fee			
7-13	Provide 15% inclusionary units	1 unit + payment of in-lieu fee for fractional difference		
14-19	Provide 15% inclusionary units	1 unit + payment of in-lieu fee for fractional difference	1 unit	
20	Provide 15% inclusionary units	1 unit	1 unit	1 unit
21 to 26	Provide 15% inclusionary units	1 unit + payment of in-lieu fee for fractional difference	1 unit	1 unit

27 to 33	Provide 15% inclusionary units	2 unit + payment of in-lieu fee for fractional difference	1 unit	1 unit
34-39	Provide 15% inclusionary units	2 unit + payment of in-lieu fee for fractional difference	2 unit	1 unit
40	Provide 15% inclusionary units	2 units	2 units	2 units
41 or more	Provide 15% inclusionary units	5% of all units 2 units minimum	5% of all units 2 units minimum	5% of all units 2 units minimum

§ 21.03.007 OFF-SITE AFFORDABLE UNITS.

(a) Off-site inclusionary units, in place of or combined with on-site units, may be approved upon a showing by the applicant for the residential development, approved by the appropriate authority, that off-site units will provide a greater contribution to the County's affordable housing needs. If a developer chooses off-site affordable housing, the inclusionary requirement shall be 20%.

(b) Off-site affordable units, to the greatest extent possible, should be located within the same planning area as the market rate project.

(c) Off-site units may be allowed only if their location is identified and is owned, or site control is demonstrated by the applicant, at the time of first approval.

(d) Except as otherwise provided in the affordable housing agreement for the residential development, building permits for corresponding market-rate units will not be issued until building permits have been issued for off-site units, and final inspections for occupancy will not occur for corresponding market-rate units until final inspections for occupancy have occurred for off-site units.

(e) The inclusionary housing requirements of this chapter are summarized in the following table. Should there be any discrepancy between this table and the text of this ordinance, the text shall control

Development Size	Inclusionary Requirement	Moderate Income	Low Income	Very Low Income
1-4	None			
5	Provide 20% Inclusionary Units	1 unit		
6-9		1 unit + payment of in-lieu fee for		

		fractional difference		
10		1 unit	1 unit	
11-14		1 unit + payment of in-lieu fee for fractional difference	1 unit	
15		1 unit	1 unit	1 unit
16-19		1 unit + payment of in-lieu fee for fractional difference	1 unit	1 unit
20 lots or more		8% of all units (1 unit minimum) + payment of in-lieu fee for fractional difference	6% of all units (1 unit minimum)	6% of all units (1 unit minimum)

§ 21.03.008 IN-LIEU FEES.

(a) Fractions of units. Residential developments required to construct fractions of a unit under this chapter may pay an in-lieu fee in an amount corresponding to the fractional unit, computed by multiplying the in-lieu fee amount determined under subsection (c) below by the fraction.

(b) Qualification for in-lieu fee. The developer of a residential development containing twenty-one or more units may elect to pay a fee in-lieu of providing some or all of the required inclusionary units if the developer demonstrates, based on evidence in the record, in connection with the first approval for the residential development, that specific characteristics of the development site, such as lack of access to services, zoning which requires large lot development, or potentially high site maintenance costs, make the site unsuitable for households at the required income levels.

(c) Fee amount. Inclusionary fees shall be set forth by Resolution of the Board of Supervisors and shall reflect the findings found in Section 21.03.001(g).

(d) Time of payment. Payment of in-lieu fees shall be made in full to the County prior to issuance of a certificate of occupancy and final inspection, unless an affordable housing agreement otherwise provides.

§ 21.03.009 DEVELOPMENT PROJECT APPROVAL.

(a) A residential development application will not be deemed complete until the applicant has submitted plans and proposals which demonstrate the manner in which the applicant proposes to

meet the requirements of this chapter, including any plans for the construction of on-site units, commitment of off-site units, and/or intent to pay in-lieu fees.

(b) Conditions to carry out this chapter shall be imposed on the first approval of a residential development. When granting the first approval, the appropriate authority shall determine and include as a condition of approval: (1) the method of compliance with this chapter, including whether the residential development will comply with this chapter through provision of on-site units or off-site units or payment of an in-lieu fee or combination thereof; (2) if inclusionary units are to be provided, the number of units required and fractional amount of units for which an in-lieu fee may be paid; and (3) such other matters as the appropriate authority deems proper. The condition of approval shall further provide that prior to the recordation of the parcel map or final map in the case of subdivisions and or prior to the issuance of building permits in the case of all other land use permits to which this chapter applies, the applicant shall enter into an affordable housing agreement acceptable to the director that contains specific requirements implementing the condition of approval including, but not limited to, as applicable, the number of inclusionary units, the level of affordability, location and type of inclusionary units, timing of construction of inclusionary units in relation to the construction of the market rate units contained in the development, and amount of the in-lieu fee, if any. The affordable housing agreement may be amended by the parties, provided the amendment is consistent with the condition of approval imposed as part of the first approval and the existing County approvals. If the proposed amendment is minor or technical in nature, the director shall have authority to approve or disapprove the amendment on behalf of the County. If the proposed amendment makes a substantive or material change to the affordable housing agreement, the amendment shall be effective only if, following notice and hearing and such other procedures as may be required by law, approved by the appropriate authority who gave the first approval on the project.

(c) Where a residential development receives a subdivision approval, the final subdivision map or parcel map, which is to be filed and recorded, shall include a notation, in a form acceptable under the Subdivision Map Act, describing the condition of approval to comply with this chapter.

(d) Where the party subject to a fully executed affordable housing agreement or other document regulating or limiting the operation, price or rent of an inclusionary unit, entered into under this chapter or any previous version of this chapter, believes that the document requires modification as a result of unusual circumstances which could not have been foreseen at the time the document was entered into, the affected party may apply to the County Board of Supervisors for modification of the document. Such modification shall be considered at a public hearing during a regularly scheduled meeting.

(e) Any determination made by the appropriate authority to implement this chapter in connection with granting a first approval may be appealed pursuant to the appeal provisions of San Benito County Code, Title 25, Chapter 47.

§ 21.03.010 OCCUPANCY AND CONTINUING AVAILABILITY OF UNITS.

The occupancy and continuing availability of inclusionary units shall be provided for in the following manner:

(a) For-Sale Inclusionary Units.

(1) The number and type of rental inclusionary units and for-sale inclusionary units shall be determined for each application or approval under the standards of this chapter and set forth in the Affordable Housing or Development Agreement as approved by the Board. On-site and off-site for-sale inclusionary units shall be sold only to eligible households and only to very low, low, or moderate income households, as applicable, at prices affordable to such households and pursuant to further requirements of resale restrictions, a promissory note, second deed of trust naming the County of San Benito as beneficiary, deed restrictions and/or other documents pursuant to this chapter. Where the number of required very low-income units is not a whole number, the fractional units required shall be added to the number of low-income inclusionary units required. If the resultant number of low-income units is not a whole number, the fractional units required shall be added to the number of moderate-income inclusionary units required. Where (after any addition of fractional units under the preceding sentences) the number of moderate income inclusionary units required is not a whole number, the applicant shall include the next higher whole number of moderate-income and inclusionary units, or may elect to pay a fractional unit in-lieu fee in the amount provided in Section 21.03.008. The initial maximum sale price of the inclusionary unit to the first purchaser shall be determined by the director, pursuant to a method set forth in the administrative manual. Similar restrictions shall be required of subsequent owners at the time they acquire the unit.

(2) The maximum resale price shall be determined under the approved documents, consistent with the administrative manual and the following:

(A) The maximum permitted resale price of an inclusionary unit shall not be increased above the purchase price within one year of purchase.

(B) The maximum permitted resale price shall be the initial sale price of the inclusionary unit, increased at the same rate as the median income has increased, with the following modifications.

(C) The otherwise allowable maximum resale price may be increased by a maximum of ten percent (10%) of the initial sale price of the unit as an allowance for improvements made by the selling owners during their ownership. This allowance shall not be increased or decreased based on the value of improvements actually made to a particular home, provided that the allowance shall be reduced to the extent the unit has been adversely affected in value by owner caused damage or deficient maintenance. To facilitate a determination by the director concerning maintenance prior to sale, the seller shall comply with any applicable requirements in the administrative manual.

(D) Where an owner has lawfully added a bedroom to a for sale inclusionary unit, the maximum resale price of the unit shall be calculated based on an assumed household size corresponding to the total number of bedrooms, including the added bedroom.

(E) The administrative manual and/or approved documents may provide for a ceiling which limits the resale price increases resulting from the modifications in subsections (C) and (D).

(3) Transfer of a for-sale inclusionary unit to a child or step-child upon the death of one or more of the prior owners shall be permitted without payment of any amount otherwise due to the County based on the sales price or appreciation of the unit, and without regard to any otherwise applicable preferences or waiting list priority for successor owners, if, but only if, the household of the child or step-child would be eligible to purchase the unit and will occupy the unit. A child or step-child, whether or not his or her household is income eligible or will occupy the unit and regardless of any otherwise applicable preferences or waiting list priority, shall be entitled to own and/or occupy a for-sale inclusionary unit after the death of the prior parent owner, for a period not to exceed one year, without regard to otherwise applicable resale requirements of this chapter but subject to any applicable provisions of the administrative manual or County documents regulating the project. Not later than the expiration of the one-year period, the unit shall be transferred to the child or step-child (if the household is eligible and wishes to keep the unit) or shall be offered for sale in conformance with this chapter, with appropriate restrictions recorded against the unit under this chapter for the County's benefit.

(4) For sale inclusionary units may be refinanced or used as security for additional financing, to the extent provided in the administrative manual. Inclusionary homeowners may only incur debt with respect to the restricted sales price, not the open market price. A separate notice to of that restriction shall be recorded to prevent lenders from by-passing this requirement.

(5) Restrictions on resale are required and shall be recorded against title to the affordable units and shall prohibit or limit leasing of inclusionary units.

(b) Terms of Affordability. New and Existing Inclusionary Units. For-sale inclusionary units, affordability and occupancy restrictions shall remain in effect for thirty years and shall apply to any replacement structure or structures constructed if a structure containing an inclusionary unit or units is demolished or destroyed. If demolition or destruction of a structure containing inclusionary units occurs thirty years or more after recording of the restrictions and said demolition or destruction was unintentional, restrictions on the units in the structure shall terminate on demolition or destruction. Where a for-sale inclusionary unit is transferred and the new owner is required to enter into new regulatory documents under this chapter, the new regulatory documents will provide for an affordability period of thirty years.

(c) Maintenance. Regulatory agreements and recorded restrictions on resale shall include maintenance and insurance requirements for affordable units.

(d) Approval and Recording of Documents. The director, in consultation with County counsel, shall establish the form and content of agreements and restrictions authorized under this chapter. Regulatory agreements and resale restriction documents may provide for specific affordability and/or occupancy requirements for particular affordable units, consistent with this chapter and with the terms of the project's affordable housing agreement. These documents shall be executed by the record owners of affected property, approved as to form by County Counsel and recorded in the official records of the County.

(e) Occupancy. Initial and subsequent occupancy of inclusionary units shall be in accord with conditions and requirements stated in the administrative manual.

(f) Marketing/Selection of Participants. The administrative manual shall set forth marketing and selection policies and/or procedures for inclusionary units and identify County staff responsible for supervising marketing. A housing advisory committee may be designated to review the income qualifications of potential applicants. If the County maintains a list or lists of eligible households, it may require that households newly occupying affordable units shall be selected first from one or more of those lists.

(g) Administrative Manual. The Board of Supervisors shall adopt and may from time to time amend an administrative manual, approved as to form by County counsel, to establish guidelines to interpret and implement this chapter, including without limitation income and maximum asset guidelines for inclusionary units and units assisted by in-lieu fee proceeds. All mandatory provisions of the manual, when adopted, shall bind applicants and other private parties subject to this chapter. Maximum permitted sales prices shall be governed by the administrative manual. The Board of Supervisors shall conduct a duly noticed public hearing prior to the adoption or any amendment of the administrative manual.

§ 21.03.011 HOUSING ADVISORY COMMITTEE.

(a) Creation. The Housing Advisory Committee, comprised of two members of the Board of Supervisors, two members of the Planning Commission, and two members appointed by the Chair of the Board from the affordable housing development community, is created pursuant to this chapter for the purpose of advising the Board of Supervisors on matters relating to the housing element of the general plan and the inclusionary housing ordinance, and such other matters as the Board of Supervisors or County staff shall direct. The housing advisory committee shall also evaluate proposals for disbursement of in-lieu fees in accordance with the procedures set forth in this chapter.

(b) Adoption of Bylaws. The Board of Supervisors shall adopt bylaws containing rules and procedures for the transaction of business of the housing advisory committee. The Board of Supervisors may amend the bylaws from time to time.

§ 21.03.012 COLLECTION AND USE OF IN-LIEU FEES.

(a) Use of Fees. To the maximum extent possible, any monies received by the County pursuant to this Chapter shall be used to increase, improve and preserve the supply of affordable housing and services to provide very low, low, and/or moderate income housing. Any monies received pursuant to this Chapter may be used for appropriate monitoring, enforcement and administrative costs. Monies received may also be used to assist the County with all costs associated for construction, acquisition, unit purchase, development and rehabilitation of property for rental or homeownership purposes as long as the property is offered for very low, low, and moderate income housing. Monies received may also be used to provide subsidies for equity participation loans, low interest loans, rent subsidies, grants or down payment assistance to eligible

participants of very low, low, or moderate income housing. Monies received may also be used for related activities that promote affordable housing such as homebuyer education, grant writing workshops, credit management workshops, financial literacy workshops and foreclosure prevention education. Any monies received by the County pursuant to this Chapter shall be used to provide reasonable reimbursement to approved governmental agencies or non profit organizations for related expenses associated with preserving an affordable "At-risk" unit for very low, low, or moderate income in order to prevent foreclosure. All such monies on deposit with the County including in-lieu fees, fees, promissory note repayments, shared appreciation payments, penalties, interest generated or other funds collected shall be separately accounted for and shall not be used for purposes not authorized by Section 21.03.002.

(b) Funding Proposals. At least once a year when the County holds unappropriated in lieu fees, the County shall advertise by notice in newspapers of local circulation and other such written notice as deemed necessary by the housing advisory committee, availability of funds for the provision of very low, low, and/or moderate-income housing in the County. Included in the notice shall be an invitation to submit proposals and requests for funds to provide such housing in the County. Proposals submitted for funding shall be in accordance with the Board of Supervisors' housing priorities set for the year. Proposals shall be reviewed by the housing advisory committee to be submitted with its recommendations to the Board of Supervisors for final approval. The requests may be for grants, low interest loans and other funding mechanisms deemed appropriate to secure the purpose of this chapter. The proposals may be for pre-development projects and services, projects to promote very low, low, or moderate-income housing unit(s), rehabilitation, land acquisition, unit purchase, and development of infrastructure or other projects deemed appropriate to secure the purpose of this chapter.

(c) Director's Authority. All proposals and requests for funding shall be referred initially to the director. The director shall make recommendations for funding to the housing advisory committee, who shall make a funding recommendation to the Board of Supervisors in accordance with the procedures in this section. The Board of Supervisors, at its discretion, may elect to fund none, any, or all of proposals received and may attach conditions of approval, performance standards, or mitigation measures to any such approval. For proposals which have received final approval in accordance with the procedures set forth in this section, the director shall have the authority to execute all documents necessary to implement the approval on behalf of the County.

(d) Grant Contract. Upon authorization for funding, the director on behalf of the County shall enter into a contract to assure to the greatest extent possible that the approved proposals and requests are satisfactorily completed. No warrant shall be issued until such contract is completed and signed by the appropriate parties.

(e) Household Eligibility. The director shall establish standards for eligibility of very low, low, and/or moderate-income households in units assisted with the proceeds of in-lieu fees. Priority for occupancy shall be granted to residents of San Benito County and those employed in San Benito County.

(f) Fee Approval. Until a fee for fractional units is approved by the Board of Supervisors, the requirement for payment of a fractional fee, as stated in sections 21.03.001 - 21.03.018 is not in effect, and the inclusionary housing requirement shall be rounded down to the nearest whole unit.

(g) Impact Fees. Developments that provide 100% affordable housing shall have a pro rata reduction of Impact Fees as follows:

Moderate income units shall require payment of 50% of the Impact Fees

Low income units shall require payment of 25% of the Impact Fees.

Very low income units shall be exempt from the Impact Fees.

§ 21.03.013 DENSITY BONUS AND INCENTIVES.

(a) The County of San Benito shall provide density bonuses, incentives or concessions for the production of housing units and/or child care facilities in accordance with Cal. Govt. Code §65915 through §65916. The County may, in its discretion, grant a density bonus greater than required by Cal. Govt. Code §65915 for a development that meets the requirements of Cal. Govt. Code §65915 or grant a proportionately lower density bonus than what is required by Cal. Govt. Code §65915 for developments that do not meet the requirements of Cal. Govt. Code §65915.

(1) Twenty percent of the total units of a housing development for lower-income households, as defined in section 50079.5 of the Health and Safety Code;

(2) Ten percent of the total units of a housing development for very low-income households, as defined in section 50105 of the Health and Safety Code;

(3) Fifty percent of the total dwelling units of a housing development for qualifying residents, as defined in section 51.3 of the Civil Code; or

(4) Twenty percent of the total dwelling units in a condominium project as defined in subdivision (f) of section 1351 of the Civil Code, for persons or families of moderate income, as defined in section 50093 of the Health and Safety Code.

(b) The County shall grant the additional concession or incentive required by this section unless the County makes a written finding, based upon substantial evidence, that the additional concession or incentive is not required in order to provide for affordable housing costs, as defined in section 50052.5 of the Health and Safety Code.

(c) The applicant/developer shall agree to, and the County shall ensure, continued affordability of the moderate-income units that are directly related to the receipt of the density bonus for ten years if the housing is in a condominium project as defined in subdivision (f) of section 1351 of the Civil Code.

(d) An applicant/developer may submit to the County a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the County. The County shall grant the concession or incentive requested by the applicant developer unless the County makes a written finding, based upon substantial evidence, of either of the following:

(1) The concession or incentive is not required in order to provide for affordable housing costs, as defined in section 50052.5 of the Health and Safety Code.

(2) The concession or incentive would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of section 65589.5 of the Government Code, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low and moderate-income households.

(e) Nothing in this section shall be interpreted to require the County to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of section 65589.5 of the Government Code, upon health, safety, or the physical environmental, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this section shall be interpreted to require the County to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources.

(f) In no case shall the County apply any development standard that will have the effect of precluding the construction of a development at the densities or with the concessions or incentives permitted by this section. An applicant/developer may submit to the County a proposal for the waiver or reduction of development standards and may request a meeting with the County.

(g) It shall be the responsibility of the applicant/developer to show that the waiver or modification is necessary to make the housing units economically feasible.

(h) For the purposes of this chapter, except as provided in subsection (i), "density bonus" means a density increase of at least twenty-five percent, unless a lesser percentage is elected by the applicant/developer, over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan as of the date of application by the applicant/developer to the County. All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, zone change, or other discretionary approval. The density bonus shall not be included when determining the number of housing units which is equal to ten, twenty or fifty percent of the total. The density bonus shall apply to housing developments consisting of five or more dwelling units.

(i) For the purposes of this chapter, if a development does not meet the requirements of subsections (a)(1), (a)(2) or (a)(3) of this section, but the applicant/developer agrees or proposes

to construct a condominium project as defined in subdivision (f) of section 1351 of the Civil Code, in which at least twenty percent of the total dwelling units are reserved for persons and families of moderate income, as defined in section 50093 of the Health and Safety Code, a "density bonus" of at least ten percent shall be granted, unless a lesser percentage is elected by the applicant/developer, over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan as of the date of application by the applicant/developer to the County. All density calculations resulting in fractional units shall be rounded up to the next whole number.

(j) "Housing development," as used in this section, means one or more groups of projects for residential units constructed in the County. For the purposes of this section, "housing development" also includes either (1) a project to substantially rehabilitate and convert an existing non-residential building to residential use, or (2) the substantial rehabilitation of an existing multi-family dwelling, as defined in subdivision (d) of section 65863.4 of the Government Code, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units do not have to be based upon individual subdivision maps or parcels. Density bonus units need not be constructed in the same project area as affordable units.

(k) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in part 2.5 (commencing with section 18901) of division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of parking spaces that would otherwise be required.

(2) Approval of mixed use zoning in conjunction with the housing project if commercial, office, industrial or other land uses will reduce the cost of the housing development and if the commercial, office, industrial or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the applicant/developer or the County that result in identifiable and actual cost reductions. This section does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the County, or the waiver of fees or dedication requirements.

(m) If an applicant/developer agrees to construct both twenty percent of the total units for lower-income households and ten percent of the total units for very low-income households, the developer is entitled to only one density bonus and at least one additional concession or incentive identified in section 65913.4 of the Government Code, although the County may, at its discretion, grant more than one density bonus.

(n) For the purposes of this section, the following definitions shall apply:

(1) "Development standard" means any ordinance, general plan element, specific plan or other local condition, law, policy, resolution or regulation.

(2) "Maximum allowable residential density" means the density allowed under the zoning ordinance, excluding bonus units permitted under this section.

§ 21.03.014 AFFORDABLE BY DESIGN

RESERVED

§ 21.03.015 DEVELOPMENT STANDARDS

RESERVED

§ 21.03.016 ADDITIONAL STANDARDS

RESERVED

§ 21.03.017 ENFORCEMENT.

(a) No permit, license, subdivision approval or map, or other approval or entitlement for a residential development shall be issued, including without limitation a final inspection for occupancy or certificate of occupancy, until all applicable requirements of this chapter have been satisfied.

(b) In the event of a violation of any provision of this chapter or any requirement imposed pursuant to this chapter, the County may in its discretion, in addition to all other remedies, take such enforcement action as is authorized under the San Benito County Code and/or any other action authorized by law or by any regulatory document, restriction or agreement executed under this chapter.

§ 21.03.018 MONITORING.

Owners and occupants of property subject to restrictions pursuant to this chapter shall permit County employees or others designated by the County to inspect the property in order to ensure compliance with restrictions on the property upon two business days' advance written notice. Owners of property subject to restrictions pursuant to this chapter shall retain all records related to compliance with obligations under this chapter for a period not less than five years, and make such records available to County employees or others designated by the County for inspection and copying upon five business days' advance written notice. The County shall be further entitled to monitor compliance with this chapter as provided in the administrative manual and documents executed with respect to any residential development and/or inclusionary unit.

(a) Periodic Evaluation. Unless funding or staff is not available, the director shall at five-year intervals, or more often at the director's discretion, at Board request, and any time the County Housing Element is updated as required by State law, prepare and submit to the Board of Supervisors an evaluation of this chapter and its effects.

Section 2. General Provisions

A. Severability: If any sentence, subsection, sentence, clause, or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the ordinance. The Board of Supervisors hereby declares that it would have enacted this ordinance and each section, subsection, sentences, clauses or phrases thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

B. Captions: The titles and headings to sections of this ordinance are not part of this ordinance and shall have no effect upon the construction or interpretation of any part hereof.

C. Effective Date and Codification: This ordinance shall be effective thirty (30) days after adoption. Section 1 shall be codified, and the remaining sections shall not be codified.

D. Publication: Within ten (10) days after its adoption, this ordinance shall be published pursuant to California Government Code 6061 in its entirety in a newspaper of general circulation which is printed, published and circulated within San Benito County, or a summary or display ad may be published as allowed by the Government Code.

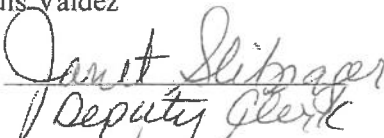
The foregoing ordinance was introduced at a regular meeting of the Board of Supervisors on September 13th, 2016, and passed and adopted by the Board of Supervisors of the County of San Benito at the regular meeting of said Board held on the 11th day of October, 2016, by the following vote:

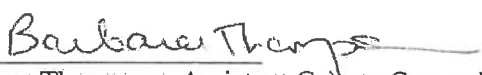
AYES:	Supervisors:	Rivas, De La Cruz, Barrios, Botelho, Muenzer
NOES:	Supervisors	None
ABSENT:	Supervisors	None
ABSTAIN:	Supervisors	None

By: 
Robert Rivas, Chair

ATTEST:
Louis Valdez

APPROVED AS TO LEGAL FORM
Matthew Granger, County Counsel

By: 
Deputy Clerk

By: 
Barbara Thompson, Assistant County Counsel

Date: 10/25/16

Date: 10/25/16

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**COUNTY OF SAN BENITO
INCLUSIONARY HOUSING PROGRAM**

**ADMINISTRATIVE
MANUAL**

County of San Benito
Resource Management Agency

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EXECUTIVE SUMMARY

This Administrative Manual describes the day-to-day procedures for the implementation of the County of San Benito Inclusionary Housing Ordinance (Chapter 21). In the event of a discrepancy between the Administrative Manual and Inclusionary Housing Ordinance (Chapter 21, County Code), the language of the Ordinance will take precedence.

As identified in the Ordinance, the goals and objectives for the Inclusionary Housing Program include:

- Achieving a balanced community with housing available for persons of all economic levels;
- Encouraging a mixture of housing supply types that provides housing opportunities throughout the County ~~for a mix of households~~, including very low, low and moderate income households;
- Providing a priority for occupancy of Inclusionary units for households with a household member(s) who live or work in San Benito County;
- Ensuring long-term affordability of the Inclusionary units by requiring affordability restrictions and resale controls; and,
- Encouraging the participation of the private and non-profit development communities to provide Inclusionary units.

The Inclusionary Housing Program provides an opportunity for very low, low and moderate income households to purchase and/or rent affordable housing units throughout San Benito County. Policies and procedures in this Manual provide for the following:

- New residential developments in the County shall include at least 15% of the units to be affordable to very low, low and/or moderate-income households. Or provide 20% of the units to be very low, low, and/or moderate off site.
- The Inclusionary units provided shall be sold at affordable costs and the units shall remain affordable for a term of 30 years.
- If it is a rental unit the unit shall remain affordable for a term of 55 years.
- Inclusionary units are considered an important and valuable resource for all County residents and, as such, shall be monitored annually to ensure that they remain decent, safe and affordable housing units.
- Creative implementation of the Inclusionary requirements shall be encouraged, including the development of mixed-use housing and employee housing.

I. OPTIONS TO COMPLY WITH INCLUSIONARY ORDINANCE

The County of San Benito has adopted an Inclusionary Housing Ordinance (San Benito County Code, Chapter 21). This Ordinance requires that 15% of the units/lots in new residential developments be affordable to very low, low and moderate-income households. The ordinance requires 20% of the units/lots be affordable to very low, low, and/or moderate of available off site units. The Ordinance is applicable to developments of five or more residential units/lots. Requirements of the Ordinance can be met through one of three options:

1. On-Site Option
2. Off-Site Option
3. Payment of In-Lieu Fees

Developments of 1-4 units have no Inclusionary obligation. Developments of 5 to 6 units/lots are expected to meet their Inclusionary obligations through the payment of In-Lieu Fees, although the developer/owner can choose to build an Inclusionary housing unit instead of payment of In-Lieu Fees, if they so desire. Developments of 7 or more units/lots are expected to meet their Inclusionary obligation through the development of Inclusionary housing units.

1. ON-SITE OPTION

A. Inclusionary Percentage (15%) Requirement

For developments of 7 or more residential units/lots, at least 15% of the units must be set aside for Inclusionary housing. The Inclusionary units must be developed on the same site as the market rate units.

Exceptions: In certain unusual and infrequent situations, an exception to the mandatory on-site requirement is available. These exceptions would result in provision of units off-site (see Section 2 below, “Off-Site Option”) or payment of In-Lieu Fees (see 3 below, “Payment of In-Lieu Fees”).

B. Levels of Affordability

The intent of the Inclusionary Housing Ordinance is to provide a range of Inclusionary units affordable to different household income levels. Inclusionary units shall be affordable to very low, low and moderate-income households. For developments of 7 or more units, at least 15% of the units must be set aside for Inclusionary housing.

Inclusionary Household Affordability Requirements:

<u>Size of Development</u>	<u>Inclusionary Requirement</u>	<u>Moderate Income</u>	<u>Low Income</u>	<u>Very Low Income</u>
1-4	None			
5-6	Payment of In-Lieu Fees			
7-13	Provide 15% Inclusionary Requirement	1 unit + payment of in lieu fee for fractional difference		
14-19	Provide 15% Inclusionary Requirement	1 unit + payment of in lieu fee for fractional difference	1 unit	
20	Provide 15% Inclusionary Requirement	1 unit	1 unit	1 unit

21-26	Provide 15% Inclusionary Requirement	1 unit + payment of in lieu fee for fractional difference	1 unit	1 unit
27-33	Provide 15% Inclusionary Requirement	2 units + payment of in lieu fee for fractional difference	1 unit	1 unit
34-39	Provide 15% Inclusionary Requirement	2 units + payment of in lieu fee for fractional difference	2 units	1 unit
40	Provide 15% Inclusionary Requirement	2 units	2 units	2 units
41+	Provide 15% Inclusionary Requirement	5% of all units 2 unit minimum	5% of all units 2 unit minimum	5% of all units 2 unit minimum

The table above outlines the inclusionary obligation according to the method of “rounding up” the fractional requirement. According to the size of the proposed development, 41 or more units, the 5%/5%/5% based on all units are applied. The rounding up process for a 41+ unit development would be as follows: the 5% moderate-income requirement is 2.05, the 5% low-income requirement is 2.05, and the 5% very low-income requirement is 2.05. The minimum requirement for each income level is 2. Beginning with the very-low income figure and rounding up, the 2.05 very-low income figures is rounded down to 2 units and the 0.05 remainder is added to the next highest income category, low income. The 0.05 would be added to the 2.05 low-income with a resultant figure of 2.10. This figure is rounded down to 2 units and the remainder of 0.10 is added to the 2.05 very moderate income figure with a resultant figure of 2.15 that is rounded down to 2 unit with a remainder of 0.15. The result would be that for the 41-unit/lot project a total of 6 on-site units would be required. The same type of rounding up process would be applied to each proposed development. If a fractional amount still remains at the very low-income level, then the developer has the option of paying an in-lieu fee based on the fractional requirement or providing an additional inclusionary unit.

C. Design, Size and Location of Units

The exterior appearance of the inclusionary units must be compatible with the market rate units. Compatibility includes the architectural style and detailing, though the interior may differ to the extent authorized in the affordable housing agreement.

The inclusionary units shall be similar in number of bedrooms as the market rate units. For a 2 bedroom unit the minimum is 900 square feet. For a 3 bedroom unit the minimum is 1,150 square feet. For a 4 bedroom unit the minimum is 1,360 square feet. A minimum of 50% of the affordable units shall be 3 bedrooms.

To the extent feasible, the inclusionary units shall be scattered throughout any development that also includes market rate units. However, inclusionary units may be clustered if it is found that such an arrangement better meets the objectives of the program.

D. Timing of Inclusionary Units

The inclusionary units must be developed concurrent with the development of the market rate units. The phasing plan for the release of building permits for both the inclusionary and the market rate units shall be described in the Master Inclusionary Developer Agreement.

2. OFF-SITE OPTION

A. Inclusionary Percentage Requirement

For certain residential developments of 5 or more units/lots, the inclusionary units may be developed on a site different (off-site) than the market rate units. To qualify for this option, the developer must demonstrate to the satisfaction of the approving body that the off-site units will provide a “greater contribution” than units provided on-site.

“Greater contribution” means, at a minimum:

- More inclusionary units are created off-site than would normally be required by the 20% Inclusionary Housing mandate; and
- Units developed under the off-site option must be newly constructed units. Existing units cannot be substituted in the off-site option. Off-sites units only allowed if their location is identified and is owned, or site control is demonstrated by the applicant, at the time of the first approval. Further, to the extent feasible, the off-site units must be located within the same general area or nearest community as the market rate units.

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B. Levels of Affordability

Inclusionary Household Affordability Requirements for Off-Site Units:

<u>Size of Development</u>	<u>Inclusionary Requirement</u>	<u>Moderate Income</u>	<u>Low Income</u>	<u>Very Low Income</u>
1-4	None			
5	Provide 20% inclusionary units	1 unit		
6-9		1 unit + payment of in lieu fee for fractional difference		
10		1 unit	1 unit	1 unit
11-14		1 unit + payment of in lieu fee for fractional difference	1 unit + payment of in lieu fee for fractional difference	1 unit + payment of in lieu fee for fractional difference
15		1 unit	1 unit	1 unit
16-19		1 unit + payment	1 unit	1 unit

		of in lieu fee for fractional		
20 lots or more		8% of all units	6% of all units	6% of all units
		1 unit minimum + payment of in lieu fee for fractional	1 unit minimum	1 unit minimum

C. Design, Size and Location of Units

The exterior quality and appearance of the inclusionary units must be compatible with development in the vicinity of the off-site location and be found to result in a positive benefit to the area. The inclusionary units shall be similar in number of bedrooms as the market rate units (up to four bedrooms), but the square footage size of the inclusionary units may be less than the market rate units, but in no case shall any inclusionary unit have a total floor area (excluding the garage) less than ~~1,200~~ 900 square feet. To the extent feasible, the inclusionary units shall be scattered throughout any development that also includes market rate units. However, inclusionary units may be clustered if it is found that such an arrangement better meets the objectives of the program.

D. Timing of Inclusionary Units

The inclusionary units must be developed concurrent with the development of the market rate units. The phasing plan for the release of building permits for both the inclusionary and the market rate units shall be described in the Master Inclusionary Developer Agreement.

E. Approval Process

The provision of inclusionary units off-site will only be approved in developments that can demonstrate that they meet the “greater contribution” test specified above. The intent of the Inclusionary Housing Ordinance is to create developments that include a mix of household income ranges and housing options, which is more possible with on-site development. Therefore, off-site inclusionary housing will only be approved for developments that provide more benefit to the community in terms of number of inclusionary units and affordability levels as specified above. The “greater contribution” test must be met to the satisfaction of the approving body.

3. PAYMENT OF IN-LIEU FEES

A. Projects Eligible for Payment of In-Lieu Fees

Projects of 1-4 Units/Lots

All projects of 1-4 units/lots are not required to provide any inclusionary housing or in lieu fee.

Projects of 5-6 Units/Lots

All projects of 5-6 units/lots are eligible to pay In-Lieu Fees to meet their Inclusionary Housing requirement. However, developers also have the option of building an inclusionary unit instead of paying the In-Lieu Fees.

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Projects of 7 or More Units/Lots

1. Payment of In-Lieu Fee for Fractional Obligations:

For inclusionary obligations that result in a fractional inclusionary requirement (e.g., a 7 unit development would have an inclusionary obligation of 1.06), the developer/owner can either pay an In-Lieu Fee for the fractional difference of the inclusionary obligation or they may provide an additional inclusionary unit instead of paying the fee.

2. Payment of In-Lieu Fee for Total Inclusionary Obligation:

Projects of 7 or more units are expected to produce inclusionary units on-site. However, in very rare and limited circumstances, a project of 7 or more units may meet its inclusionary obligation by only paying In-Lieu Fees. To qualify, the developer must conclusively demonstrate, based on evidence in the record, in connection with the first approval for the residential development, that specific characteristics of the development site, such as lack of access to services, zoning which requires large lot development, or potentially high maintenance costs, make the site unsuitable for households at the required income levels.

B. In-Lieu Fee Calculation

The In-Lieu Fee applicable to a project shall be consistent with the adopted In-Lieu Fee Schedule in effect at the time that a development application is deemed complete by the County. Based upon the 15% requirement, the current In-Lieu Fees are based on a 5-unit development. A copy of the current In-Lieu Fee Schedule is contained in Appendix G of this Manual.

Developments Requiring a Fractional Amount of In-Lieu Fee:

Developments of 7+ units will provide the expected number of affordable units in addition to paying a fractional amount of an In-Lieu Fee or providing an additional affordable unit.

In-Lieu Fee Calculation:

The Resource Management Agency and Housing Office shall calculate the In-Lieu Fees on an annual basis, based on a calculation approved by the Board of Supervisors. The Board of Supervisors shall then adopt the fees annually. If new In-Lieu Fees are not adopted annually, the existing fees shall remain in place until such time that updated fees are adopted.

The In-Lieu Fee is the difference between the cost of purchasing a median price home and the cost of providing a single-family unit affordable to a four (4) person household with an income at 100% of median income. The In-Lieu Fees are based on a five (5) unit development. The In-Lieu Fee example provided in the table below is only an example. For current In-Lieu Fee calculations please see Appendix G of this Manual.

Example of In-Lieu Calculation based on County median income:

1. Median income range is \$54,351 (81%) to \$67,100 (100%):

2. Housing affordability based on income would be \$217,404 (81%) to \$268,400 (100%):

3. To determine affordability gap take the difference between County median home price and

— median housing affordability at 81% and 100%:

— $\$378,000 - \$217,404 = \$160,596$ (81%)

— $\$378,000 - \$268,400 = \$109,600$ (100%)

4. To determine average cost to subsidize the median income range, the affordability gap for 81%

— and 100% would be added together and divided by 2:

— $\$160,596$ (81%) + $\$109,600 = \$270,196 \div 2 = \$135,098$

— $\$135,098$ divided by 5 units (standard project used to determine fees) = $\$27,019.60$ per lot/
inclusionary unit

Example Calculation of Fractional In-Lieu Housing Fee:

All projects subject to the Inclusionary Housing Policy and payment for an in lieu fee for any fractional difference will follow this guideline. If the number of required affordable units required from a plan is fractional number, (rounded to the nearest tenth) the developer may either round up the required number of affordable units or make an in lieu payment just for the fractional unit. For example if the project includes 39 total units the total affordable project units are 5.85. The project is expected to provide 2 moderate income units, 2 low income units, and 1 very income unit. The payment of the fractional unit is round to the nearest tenth, so .9. The development can decide to provide 6 affordable units or pay the fraction of .9.

In-Lieu Fee Calculation:

The Director of Resource Management Agency or his/her designee shall calculate the In-Lieu Fees on an annual basis. The Board of Supervisors shall then adopt the fees annually

C. Calculation and Payment of In-Lieu Fee (Timing)

Payments of in lieu fees shall be made in full prior to the issuance of a certificate of occupancy and final inspection, unless an affordable housing agreement otherwise provides. Except as otherwise provided in the affordable housing agreement for the residential development, building permits for corresponding market rate units will not be issued until building permits have been issued for off-site units, and final inspections for occupancy will not occur for corresponding market rate units until final inspections for occupancy have occurred for off-site units.

D. Use of In-Lieu Fees

Comment [JS1]:

The In-Lieu Fees shall be used in accordance with the adopted San Benito County Affordable Housing Ordinance Ch.21.03.012. The Affordable Housing Policy instructs the Housing Advisory Committee, which is comprised of two Board of Supervisors, two Planning Commission, and ~~one~~ three members appointed by the Chair of ~~the Board from the affordable housing development community.~~ Board. Of the three community members there is preference for one members from the affordable housing development community, one from the development community and one member with a financial or accounting background. Inclusionary In-Lieu Fees shall be dedicated to the development of affordable housing projects and support of the housing programs within the County. Please refer to the Affordable Housing Ordinance Ch. 21.03.012 for specifics.

II. Marketing and Selection Procedures

The Resource Management Agency & Housing Programs Coordinator shall have overall responsibility for the marketing of inclusionary units and the selection of households to occupy those units unless an affordable housing agreement indicates otherwise. There may be instances where it is appropriate to delegate some of those responsibilities to the development and/or real estate community. This section of the Manual discusses the overall marketing and selection procedures.

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1. MARKETING RESPONSIBILITIES

A. Resource Management Agency & Housing Coordinator

Staff at the San Benito County Resource Management Agency shall be responsible for the general marketing of the Inclusionary Housing Program. This would include providing the following types of information:

- Developer fact sheets
- Homeowner fact sheets
- Tenant fact sheets
- Public Notices in newspaper, social service agencies, libraries, etc. regarding eligibility for occupancy and waiting list procedures
- Presentations at community events or organizations
- Other marketing materials as appropriate

Marketing materials should be available in both English and Spanish, as well as in formats accessible to the visually handicapped (e.g. large print format or Braille).

B. Property Owner/Developer

As part of the Master Inclusionary Developer Agreement, the owner/developer may be required to submit a Management and Marketing plan for the County's approval. The Management and Marketing Plan shall contain at least the following elements:

For rental development

- Marketing and Tenant Selection Plan, including marketing procedures, efforts to market to special needs groups, selection process and bi-lingual procedures
- Description of property management team
- Copies of rental agreements/leases
- Procedures for complying with fair housing laws
- Selection Procedures for Tenants (including priority for households who live/work within San Benito County)
- Initial rents and utility allowances (provided by staff)
- Agreement to maintain adequate property insurance
- Preferences may be given to employees in employer sponsored developments

For homeowner developments

Description of how the developer will coordinate occupancy of units with inclusionary homeowner selection procedures. (See Section 2 for description of these procedures.)

2. SELECTION OF INCLUSIONARY OCCUPANTS

A. Rental Units

The owner/developer management agency shall be responsible for selecting tenants upon initial occupancy and subsequent vacancies. The selection procedure shall follow the marketing and selection plan submitted by the developer and approved by San Benito County Resource Management Agency or designee, if determined to be required for the project (including any revisions required by the County as a condition of project approval), and updated as needed.

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B. Homeowner Units

The owner/developer shall follow the procedures as listed below.

1. Countywide Eligibility List (Inclusionary Homeowners)

The San Benito County Resource Management Agency shall be responsible for establishing and maintaining a countywide waiting list for occupancy of homeowner inclusionary units. To create the list, the San Benito County Resource Management Agency shall publish notices in newspapers circulated in the San Benito County area (in both English and Spanish), provide public notices at community gathering areas (e.g. social service agencies, libraries, etc.), and distribute information to the real estate community. Information should include:

1. Homeowner Fact Sheet (See Example in Appendix A)
2. Priorities for Eligible Applicants,
3. Income Requirements,
4. When the Application Period Opens/Closes (if applicable), Application Packet, and
5. Telephone/Contact for Questions

From the applications submitted, the San Benito County Resource Management Agency shall create a list of potential applicants. The applicants shall then be ranked by priority on the waiting list. Priority shall be given to households with members who are either:

- Residents of the San Benito County for a period of at least one year prior to application submittal; or
- Persons who have worked within the San Benito County for at least 6 months prior to application submittal.

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2. Initial Establishment of List

In order to initially establish an Eligibility Waiting List, the County shall first identify all those applicants who meet the live/work priority noted above. Through a random selection or lottery procedure, those applicants will be ranked on the waiting list. After all of the priority applicants have been ranked, the non-priority applicants shall then be ranked on the waiting list, again through a lottery procedure. The Eligibility Waiting List will thereafter contain two sets of applicants: those who meet the priority qualification and those who do not.

Following the initial establishment of the list, new applicants shall be added to the bottom of each portion of the list (either priority or non-priority) as their applications are received and according to whether they meet the priority qualifications. All applicants must ultimately be income-qualified to be eligible for an inclusionary unit.

3. Selection from Eligibility Waiting List

Each time inclusionary homeowner units become available for occupancy, the owner/developer and the Resource Management Agency Housing staff shall follow these procedures:

1. At least ~~120~~60 days prior to issuance of a Certificate of Occupancy for newly developed units, the owner/developer shall notify the County of the number and type of units available (i.e. bedroom size). Comment [JS2]: Is 60 days adequate time?
2. Within 10 business days of notice by the owner/developer, the San Benito County Resource Management Agency shall cause to be pre-qualified the top five applicants on the list. Pre-qualify means that the information submitted by the applicant regarding income, residency, place of employment and any other relevant information has been verified and found to meet current requirements. Verification shall be conducted by either the Resource Management Agency staff or a designee agency (i.e. Housing Authority of Santa Cruz County).
3. The San Benito County Resource Management Agency shall provide the developer/owner with a Referral List of at least five pre-qualified applicants.
4. Owner/developer shall directly contact and work with the persons on the Referral List provided in the order provided.
5. Owner/developer shall conduct all additional screening and selection of applicants from the Referral List. All applicable Fair Housing Laws must be observed.
6. Selected applicants will be responsible for securing their own financing for the proposed inclusionary unit. Within 6 weeks of being selected, applicants will be required to submit documentation that they have qualified for their permanent mortgage financing. If they have not obtained financing commitments within that time frame, the developer/owner has the option of rejecting them and working with the next applicant(s) from the Referral List until all persons on the Referral List have been provided with an opportunity to buy a unit. Owners who are not able to fill vacant units from the Referral List may request additional names from the Eligibility Waiting List.
7. If candidates on the Referral List do not become occupants of the inclusionary units, they will be returned to the Eligibility Waiting List with the same ranking as before (except as provided below in Section II.2.B.5., Removal from Eligibility Waiting List).

4. Procedures for Resale of Existing Homeowner Inclusionary Units

In the event that an existing inclusionary homeowner decides to sell a home during the affordability period, the owner will give the County written notice of such intent pursuant to the procedures as described in the owner's original Buyer's Occupancy and Resale Restriction Agreement. Upon receipt of the applicable service fee for obtaining a Re-Sale Value as set forth in Section VI. 4, the San Benito County Resource Management Agency staff shall provide the homeowner with the maximum sale price figure for the unit (see Section III for a further description of the calculation process for maximum sale prices).

Should the County not exercise its option to purchase the property, the County will announce the sale to all households on the County's Inclusionary Lottery List. The announcement shall include the following:

1. Address of the unit for sale;
2. Sale price and income level (Moderate, low, very low);
3. Description of the unit (i.e., 2-bedroom/2-bath, single story);
4. Directions to the unit;

5. Seller's contact information;
6. Procedures for prospective buyers to follow:
 - i. Drive by unit to determine interest. Do not disturb the occupants;
 - ii. If interested, obtain a loan pre-qualification letter from a lender;
 - iii. Make an appointment with owner to see the unit;
 - iv. If interested in purchasing the unit,
 - i. Present pre-qualification letter to seller
 - ii. Contact the Resource Management Agency to receive a copy of the list of financial information/ documentation required for qualification for the Inclusionary Program
 - iii. Request a draft of the current Inclusionary housing agreement for review.
 - v. If not interested, let the owners know as soon as possible.

In the case of several interested buyers, one buyer and one back-up buyer will be selected in order of rank based on assigned Lottery numbers.

If there are no interested buyers from the Inclusionary Lottery List, announcement letters shall be mailed to households listed on secondary lists (those households that missed the lottery process; recent Inclusionary applicants, etc.).

The homeowners/sellers shall track all responses received (yes, no and/or phone inquiries) and forward this information to the Resource Management Agency and Housing. It is the homeowner/seller's responsibility to schedule an adequate number of showings or open houses to enable buyers to view the premises and to follow-up with interested buyers to determine their interest in the unit.

Comment [JS3]: A realtor in this process?

5. Removal from Eligibility Waiting List

Applicants will be removed from the Eligibility Waiting List for any of the following reasons:

1. Fraudulent statements on Application or verification documents;
2. Purchase of a home or other property; or
3. Inability to qualify for financing to purchase a unit after two referrals to an Owner/Developer.

6. Appeal Process

The decisions by the San Benito County Resource Management Agency in establishing the Eligibility Waiting List and/or maintaining the list may be appealed. All appeals must be in writing and must be received within 10 days after the Resource Management Agency and Housing Office has notified applicants of their standing on the List. An informal hearing on the appeal shall be conducted by the Housing Advisory Committee (HAC) with the Resource Management Agency Director (or designee) responsible for the final decision, based on the HAC's recommendation. The results of the appeal decision shall be communicated to the appellant in writing within 10 days of the hearing.

7. Purging of Eligibility List

The Eligibility Waiting List shall be purged approximately every two years or as needed. A new list shall be developed based on the procedures described above.

8. Options to Marketing/Selection Plan Submitted by Owner/Developer

There may be situations where a developer has a specific target population for occupancy of the inclusionary housing units. For example, a developer of employee housing may request that potential occupants be employees of the employer/developer. The San Benito County Resource Management Agency will review such alternate marketing/selection plans and, if appropriate, will approve such plans in lieu of some or all of the procedures described above.

III. Homeowner Inclusionary Unit Requirements

1. ELIGIBILITY CRITERIA

A. Income

Households eligible for purchase of inclusionary units shall be of very low, low and moderate income. Household income limits are determined annually by HCD/HUD and are based on household size. See Appendix E of this Manual for the current income limits for very low, low and moderate-income households. The definition of income is listed in Appendix D of this Manual.

B. Assets

There is a maximum asset test for purchasers of inclusionary units. See Appendix D of this document for a description of maximum assets and definitions of assets.

C. Live/Work in San Benito County

Household members who live or work in San Benito County shall have priority in the purchase of inclusionary units. See Section II.2 above (Selection of inclusionary Occupants) of this Manual for further information about the priority process.

2. ESTABLISHMENT OF INITIAL SALE AND RESALE PRICES

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A. INITIAL SALE PRICE

The San Benito County Resource Management Agency staff shall provide the developer/owner with the initial sale price for an inclusionary unit. The sale price shall be developed using the following criteria:

Indicated definition of family size for initial sales price health and safety code 50052.5(h)

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For Inclusionary units to be occupied by a Very Low Income Household:

1. Determine appropriate household size (number of bedrooms in unit + one person = appropriate household size)
2. Identify very low median income (usually 50% of median) for the appropriate household size (use current income limits as specified in Appendix E)
3. Determine monthly household allowance for housing payment:
 - i. Multiply 30% of 50% of median income for appropriate household size
 - a. Household of 4: $30\% * \$40,550 = \$12,165$
 - ii. Divide amount by 12 for maximum monthly allowance
 - a. $\$12,165/12 = \$1,013$

4. Determine the maximum sale price that the monthly household allowance for housing payment can support using the following parameters:
 - i. 6% fixed interest rate mortgage
 - ii. 30 year mortgage term
 - iii. 5% down payment
 - iv. estimates of property taxes, assessments, loan insurance and financing fees, allowance for property maintenance and repairs, homeowners insurance, homeowner association dues, allowance for utilities and land rent (if home is on rented land).

For Inclusionary units to be occupied by a Low Income Household:

1. Determine appropriate household size (number of bedrooms in unit + one person = appropriate household size)
2. Identify 70% of median income for the appropriate household size (use current income limits as specified in Appendix E)
3. Determine monthly household allowance for housing payment:
 - i. Multiply 30% of 70% of median income for appropriate household size
 - a. Household of 4: $30\% * \$56,770 = \$17,031$
 - ii. Divide amount by 12 for maximum monthly allowance
 - a. $\$17,031/12 = \$1,419$
7. Determine the maximum sale price that the monthly household allowance for housing payment can support using the following parameters:
 - i. 6% fixed interest rate mortgage
 - ii. 30 year mortgage term
 - iii. 5% down payment
 - iv. estimates of property taxes, assessments, loan insurance and financing fees, allowance for property maintenance and repairs, homeowners insurance, homeowner association dues, allowance for utilities and land rent (if home is on rented land).

For Inclusionary units to be occupied by a Moderate Income Household:

1. Determine appropriate household size (number of bedrooms in unit + one person = appropriate household size)
2. Identify 110% of median income for the appropriate household size (use current income limits as specified in Appendix E)
3. Determine monthly household allowance for housing payment:
 - i. Multiply 35% of 110% of median income for appropriate household size
 - a. Household of 4: $35\% * \$89,210 = \$31,223$
 - ii. Divide amount by 12 for maximum monthly allowance
 - a. $\$31,223/12 = \$2,601$
4. Determine the maximum sale price that the monthly household allowance for housing payment can support using the following parameters:
 - i. 6% fixed interest rate mortgage
 - ii. 30 year mortgage term
 - iii. 5% down payment

iv. estimates of property taxes, assessments, loan insurance and financing fees, allowance for property maintenance and repairs, homeowners insurance, homeowner association dues, allowance for utilities and land rent (if home is on rented land)

B. Maximum Restricted Resale Value/Price for Inclusionary Units

Inclusionary homeowners may refinance or decide to sell their unit, terms and conditions consistent with this Manual, as set forth below and in the Resale Restriction Agreement recorded on the property. The Inclusionary homeowner must make their request in writing by certified mail to the Resource Management Agency. The San Benito County Resource Management Agency staff shall determine the appropriate resale or refinance value/price by using the following formula and use Appendix H San Benito County Affordable Housing Worksheet for Resale Price:

Resale Value/Price Without a Bedroom Addition:

1. Property Owner notifies County that they wish to sell, refinance or add a second deed of trust to their property.
2. Staff calculates new resale/refinancing value by:
 - a. Use original sale price as base figure,
 - b. Calculate percentage change in median income from original sale date to current date or most recent household income figures,
 - c. Apply the percentage change figure for median income to original sale price, which is the maximum resale value/price with the following modifications,
 - d. If unit is in decent condition based upon acceptable documentation, apply home improvement credit in the amount of 10% to original sale price,
 - e. If unit is not in decent condition based upon acceptable documentation, the 10% credit shall be reduced in an amount sufficient to correct deficiencies,
 - f. Add the additional home improvement credit amount (from steps “d” or “e”) to the maximum resale value derived in step c. This is the new resale value/price as modified by home improvement credits.
3. Check new resale value/price to ensure that loan to value (including existing and proposed new loans) does not exceed 90% of resale value/price. Also check if new resale value/price derived from steps a-f above exceeds maximum affordability standard. If so, reduce the resale value/price to a value/price that does not exceed the maximum affordability standard.
4. Staff notifies property owner and lender (if appropriate) of new resale/refinancing value and, if applicable, amount of new encumbrance allowed (for refinancing with allowed cash out).
5. The Housing Programs Coordinator will receive the appraisal and loan documents from Loan Agency
6. Staff will verify whether cash is taken out from Estimated Closing Statement from Lender/Title Company. If cash out must follow the Subordination Requirements, which are listed in Appendix J.
 - a. Homeowner must have valid reason(s) for the cash out provision such as maintaining the health and safety of the home and/ or repair to the home.
 - b. See Appendix J regarding subordination agreement and policies

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7. Resource Management Agency and Housing Programs Coordinator or designee shall execute agreement to subordinate County's interest, if eligible
8. Upon receiving signed amendment from property owner, staff arranges to have appropriate County representative sign amendment and then records amendment.
9. Staff files recorded agreement in property owner's file and ensures that the file reflects new refinancing information. Staff obtains final closing statement at close of escrow. Staff also records request for notice of default.

Resale Value/Price With a Bedroom Addition:

Use Appendix H San Benito County Affordable Housing Worksheet for Resale Price

1. Property Owner notifies County that they wish to sell, refinance or add a second deed of trust to their property.
2. Staff calculates new resale/refinancing value by:
 - a. Use original sale price as base figure
 - b. Calculate percentage change in median income from original sale date to current date or most recent household income figures
 - c. Apply the percentage change figure for median income to original sale price, which is the tentative maximum resale value/price with the following modifications.
 - d. If unit is in decent condition based upon acceptable documentation and/or a unit inspection by Resource Management Agency and Housing Staff, apply a home improvement credit in the amount of 10% to original Sale price
 - e. If unit is not in decent condition based upon acceptable documentation and/or unit inspection by Resource Management Agency and Housing Staff, the 10% credit shall be reduced in an amount sufficient to correct deficiencies
3. Calculate value of bedroom addition by calculating the change in household size estimate. For example, a bedroom addition to an existing 3-bedroom structure (4 person household size estimate) would result in a 4-bedroom unit and a 5-person household size estimate. The value of the bedroom addition depends on the dollar difference between the median income for a 5-person household as compared to the median income for a 4-person household. Using this dollar amount, estimate the amount of new loan that can be financed with this dollar amount using a 30% for low/very low income and 35% for moderate income housing cost to income ratio. An example of this calculation is included in Appendix F_ The value of the bedroom is not determined by the actual costs of the addition/improvement.
4. Add the additional home improvement credit amount (from step 2) and the bedroom credit (step 3) to the adjusted resale value derived in step 3.
5. Check the new resale value/price to ensure the unit would still affordable (maximum affordability standard) to a household size appropriate for that unit and the loan to resale value (LTV) DOES NOT EXCEED 90% OF THE NEW RESALE VALUE. If resale price derived from steps 1-6 exceeds maximum affordability standard, reduce the resale price to a price that does not exceed the maximum affordability standard.
6. Property Owner notifies County that they wish to refinance or add a second deed of trust to their property and are planning on a bedroom addition.
7. Staff calculates new resale value and amount of new encumbrance allowed by:
 - a. Use original sale price as base figure,
 - b. Calculate percentage change in median income from original sale date to current date or most recent household income figures,

- c. Apply the percentage change figure for median income to original sale price, which is the maximum resale value/price with the following modifications,
 - d. If unit is in decent condition based upon acceptable documentation, apply home improvement credit in the amount of 10% to original sale price,
 - e. If unit is not in decent condition based upon acceptable documentation, the 10% credit shall be reduced in an amount sufficient to correct deficiencies,
 - f. Add the additional home improvement credit amount (from steps "d" or "e") to the maximum resale value derived in step c. This is the new resale value/price as modified by home improvement credits.
3. Calculate value of bedroom addition by calculating the change in household size estimate. For example, a bedroom addition to an existing 3-bedroom structure (4 person household size estimate) would result in a 4-bedroom unit and a 5-person household size estimate. The value of the bedroom addition depends on the dollar difference between the median income for a 5-person household as compared to the median income for a 4-person household. Using this dollar amount, estimate the amount of new loan that can be financed with this dollar amount using a 30% for low/very low income and 35% for moderate income housing cost to income ratio and the inclusionary underwriting standards.
 4. Add the value of the bedroom credit (step 3) to the maximum resale value derived in step 2 (f).
 5. Check new resale value/price from step 4 to ensure that loan to value (including existing and proposed new loans) does not exceed 90% of new resale value/price as derived in step 4. Also check if new resale value/price derived from step 4 exceeds maximum affordability standard. If so, reduce the resale value/price to a price that does not exceed the maximum affordability standard.
 6. Staff notifies property owner and lender (if appropriate) of new resale value and amount of new encumbrance allowed (including bedroom addition allowance as calculated in step 2 (e) above).
 7. If needed, Resource Management Agency or designee shall execute agreement to subordinate County's interest to the first or second loan holder. The agreement shall include provisions for notice of default and cure rights for the County.
 8. If owner wants to take cash out from the refinancing, staff prepares amendment to existing Resale Restriction Agreement, which will allow property owner to refinance existing debt or add additional second deed of trust. Staff sends amendment to property owner for their signature. Staff will verify whether cash is taken out from Estimated Closing Statement from Lender/Title Company. If no cash out, no amendment is required.
 9. Upon receiving signed amendment from property owner, staff arranges to have appropriate County representative sign amendment and then records amendment.
 10. Staff files recorded agreement in property owner's file and ensures that the file reflects new refinancing/second deed of trust information.
 11. Staff verifies that property owner has the appropriate building permit for the new bedroom addition.
 12. Staff instructs or other appropriate body to open escrow account for bedroom addition amount with joint signatures for releasing funds required of both property owner and County. If bedroom

addition is not completed within a reasonable timeframe, staff will instruct that the funds in escrow be paid back to the lender.

13. Upon notice from property owner, staff inspects property and approves release of funds for bedroom addition as appropriate during the construction process. Staff obtains final closing statement at close of escrow. Staff records request for notice of default.

Bedroom Addition Calculation

Calculate the value of bedroom addition by calculating the change in household size estimate. For example, a bedroom addition to an original 3-bedroom structure (4 person household size estimate) would result in a 4-bedroom unit and a 5-person household size estimate. The value of the bedroom addition depends on the dollar difference between the Area Median Income (AMI) for a 5-person household as compared to the AMI for a 4-person household. Using this dollar amount, estimate the amount of new loan that can be financed with this dollar amount using a 30% for low/very low income and 35% for moderate income housing cost to income ratio and the County's typical underwriting standards.

C. Determination of Maximum Affordability Standards

For Inclusionary For Sale Units to be Occupied by a Very Low Income Household:

1. Determine appropriate household size (number of bedrooms in unit + one person = appropriate household size)
2. Identify very low-income limit (usually 50% of median income) for the appropriate household size (use current income limits as specified in Appendix E).
3. Determine monthly household allowance for housing payment:
4. Multiply 30% of 50% of median income for appropriate household size
5. Divide amount by 12 for monthly allowance
6. Determine the maximum sale price that the monthly household allowance for housing payment can support using the following parameters:
 - i. 6% fixed interest rate mortgage
 - ii. 30 year mortgage term
 - iii. 5% down payment
 - iv. Estimates of property taxes, assessments, loan insurance and financing fees, allowance for property maintenance and repairs, homeowners insurance, homeowner association dues, allowance for utilities and land rent (if home is on rented land).

For Inclusionary For Sale Units to be Occupied by a Low Income Household:

1. Determine appropriate household size (number of bedrooms in unit + one person = appropriate household size)
2. Identify lower income limit (usually 780% of median income) for the appropriate household size (use current income limits as specified in Appendix E)
3. Determine monthly household allowance for housing payment:
4. Multiply 30% of 780% of median income for appropriate household size
5. Divide amount by 12 for monthly allowance

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6. Determine the maximum sale price that the monthly household allowance for housing payment can support using the following parameters:
 - i. 6% fixed interest rate mortgage
 - ii. 30 year mortgage term
 - iii. 5% down payment
 - iv. estimates of property taxes, assessments, loan insurance and financing fees, allowance for property maintenance and repairs, homeowners insurance, homeowner association dues, allowance for utilities and land rent (if home is on rented land).

For Inclusionary For Sale Units to be Occupied by a Moderate Income Household:

1. Determine appropriate household size (number of bedrooms in unit + one person = appropriate household size)
2. Identify moderate income limit (usually 1±20% of median income) for the appropriate household size (use current income limits as specified in Appendix E)
3. Determine monthly household allowance for housing payment:
4. Multiply 35% of 1±20% of median income for appropriate household size.
5. Divide amount by 12 for monthly allowance
6. Determine the maximum sale price that the monthly household allowance for housing payment can support using the following parameters:
 - i. 6% fixed interest rate mortgage
 - ii. 30 year mortgage term
 - iii. 5% down payment
 - iv. estimates of property taxes, assessments, loan insurance and financing fees, allowance for property maintenance and repairs, homeowners insurance, homeowner association dues, allowance for utilities and land rent (if home is on rented land).

3. HOMEOWNER INCLUSIONARY UNIT REQUIREMENTS

A. Occupancy Requirements

The inclusionary unit shall be the owner's principal place of residence. To be considered as a principal place of residency, the owner shall live in the unit for at least 10 months out of each calendar year. In emergency or hardship situations, the inclusionary owner can seek approval to rent or lease the inclusionary unit for a short period of time (generally a maximum of one year). All rentals or leases must be pre-approved by the County. The owner must submit a letter to the San Benito County Resource Management Agency Staff requesting permission to rent their unit, the reason for the request with appropriate documentation and length of time requested. The San Benito County Resource Management Agency Staff is authorized to review the request, receive a recommendation from the Housing Advisory Committee, and approve or deny the request based on the following:

- There are unique circumstances that justify allowing the owner to be relieved of their obligations to reside in the unit on a temporary basis, such as a necessary temporary move out of the area, the need to provide physical care for a relative, or significant financial hardship where the owner cannot pay the mortgage due to a temporary job loss, divorce, etc.

- The owner agrees that the rental will be on a short term basis and that, if the circumstances continue beyond the agreed upon time frame, the owner will sell the unit to another qualified household pursuant to the Inclusionary Agreement recorded on their property.

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The unit shall be rented to a qualified tenant household at the same affordability level as specified in the owner's Inclusionary Housing Agreement and at an "affordable rental cost". The inclusionary owner may select an income-qualified tenant. An "affordable rental cost" is defined as rent plus a utility allowance. Affordable rental costs shall not exceed 30% of 50% of the Area Median Income (AMI), adjusted by number of bedrooms in the actual unit for very low-income households; 30% of 760% of the AMI, adjusted by the number of bedrooms for low-income households; and 30% of 110% of the AMI for moderate-income households, adjusted by the number of bedrooms. The tenant shall also be income qualified as either a very low-, low-, or moderate-income household. Incomes must not exceed 50% AMI for very low income; 80% for low income; and 120% for moderate income, all adjusted for the actual household size of the qualifying tenant.

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If the request is approved, the owner will be required to execute an Inclusionary Housing Rental Agreement with the County that sets forth the terms of the short term rental, including paying applicable service fees for income qualifying the selected tenant, as described in Section VI.4.

B. Affordability Periods

According to the Affordable Housing Ordinance with the County, the inclusionary owner agrees that the resale value of the home is restricted for a period of 30 years from the original purchase date. If the home is sold or transferred prior to the end of the affordability period the new homeowner is subject to the resale restriction for 30 years. All rental units will a restricted affordability period for a minimum off 55 years.

C. Recordation

When an inclusionary unit is sold or transferred San Benito County will record the following items: Resale Restriction and Option to Purchase, Request for Notice of Default, Deed of Trust naming County of San Benito as beneficiary. The items are recorded to ensure San Benito County is notified of any changes and if the home is sold/transferred.

For a rental unit...

D. Maintenance and Insurance

The inclusionary unit owner must maintain the home, including landscaping, in decent condition. At the time of resale/refinancing, the owner can receive up to a 10% addition to the original sale price if the unit has been maintained in decent condition. The owner shall maintain a standard all risk property insurance policy equal to the replacement value of the home, naming the County as additional insured.

The otherwise allowable maximum resale price may be increased by a maximum of ten percent (10%) of the initial sale price of the unit as an allowance for improvements made by the selling owners during their ownership. This allowance shall not be increased or decreased based on the value of improvements actually made to a particular home, provided that the allowance shall be reduced to the extent the unit has been adversely affected in value by owner caused damage or deficient maintenance. To facilitate a determination by the director concerning maintenance prior to sale, the seller shall comply with any applicable requirements in the administrative manual.

E. Refinancing of First Mortgage/Securing a Second Mortgage

The inclusionary owner may refinance a first mortgage or secure a second mortgage on the property. The County's lien position shall never be less than third (3rd) position on the property. The owner must contact the Resource Management Agency & Housing Staff prior to refinancing or securing new debt in order to determine a current property value (resale value). The staff procedures for responding to refinancing/resale request are specified in Appendix F of this document.

The inclusionary owner may refinance a first mortgage. If the county provided housing assistance the County's lien position shall never be less than third (3rd) position on the property. The owner must contact the Resource Management Agency & Housing Staff prior to refinancing to determine a current property value (resale value). The loan to value of the refinance/loan cannot exceed 90% and the homeowner cannot take cash out. The staff procedures for responding to refinancing/resale request are specified in Appendix F of this document

F. Title Changes and Property Inheritance

In certain instances, the inclusionary owner may modify the title on the property. One example is adding or deleting a spouse from title due to marriage, divorce or death. However, in all cases, the owner must contact the Resource Management Agency & Housing Staff prior to the transfer. If the owner dies and there is no surviving owner and a child or stepchild of the owner inherits the property, the child/stepchild shall provide the Resource Management Agency & Housing Staff with information regarding income. If verified as income and asset eligible, he or she shall succeed to the Owner's interest and obligations under the original agreement. If the child or stepchild inheriting the property is not income eligible or has assets that exceed the maximum allowed or decides to sell the property, it must be sold to another eligible inclusionary applicant for the appropriate restricted resale price. However, the inheriting owner may own and occupy the unit until 12 months after the owner's death before offering the unit for sale and providing an Owner's Notice of Intent to Sell.

An inclusionary owner may place his/her unit in a trust, but only if the trust is a revocable living trust where the owner is the trustor. The disposition of the inclusionary unit through such a trust is subject to the same terms and conditions as stated above, including restrictions on the resale of the inclusionary unit.

A notice may be recorded indicating change of title to inheriting child/stepchild, pursuant to these provisions

G. Default and Foreclosure

If an owner violates the terms of the original "Buyers Occupancy and Resale Restrictions" agreement, the owner can be found to be in default of the agreement.

IV. Rental Inclusionary Unit Requirements

1. ELIGIBILITY CRITERIA

A. Income

Households eligible for rental of inclusionary units shall be of very low, low or moderate income. Household income limits are determined annually by HCD/HUD and are based on household size. See Appendix E of this document for the current income limits for very low, low and moderate-income households. The definition of income is listed in Appendix D of this document. The Resource

Management Agency or its designee will initially verify the household income of tenants of inclusionary rental units. Subsequent annual certifications of income of renters shall be submitted by the owner/manager of the rental units to and verified by the County as part of the Annual Monitoring Process.

B. Assets

There is a maximum asset test for initial renter eligibility of inclusionary units. The County or its designee will verify the assets. See Appendix D of this document for a description of maximum assets and definitions of assets.

C. Live/Work in San Benito County

Households who live or work in San Benito County shall have priority in the rental of inclusionary units. In selection of tenants, property owners and/or managers shall give reasonable preference to households who live or work in San Benito County.

2. RENT SCHEDULES

A. Initial Rents

The Resource Management Agency or its designee shall determine maximum initial rents. The owner/developer shall be subject to payment of applicable service fees for qualifying tenants as described in

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B. Annual Rent Changes

The Resource Management Agency and Housing Office shall notify property owners and/or property management companies of changes in the affordable rental housing cost annually upon receipt of revised income limits from HCD/HUD. At no time shall the new affordable rental housing cost be adjusted to less than the initial rent at the time the Master Inclusionary Developer Agreement was executed. Section VI.4. The inclusionary units shall be rented at affordable housing costs as specified in the Inclusionary Housing Agreement recorded on the project. An affordable rental housing cost is defined as rent plus a utility allowance as developed by the local Housing Authority. Affordable housing costs shall not exceed 30% of very low-income limits (usually 50% of median income, adjusted by bedroom size) for very low-income households, 30% of 60% of median income (adjusted by bedroom size) for low-income households and 30% of 110% of median income for moderate-income households (adjusted by bedroom size).

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Comment [JS4]: Need to confirm if 60% or 70%

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3. RENTAL INCLUSIONARY UNIT REQUIREMENTS

A. Household Size & Occupancy

Upon initial occupancy, eligible households must have a household size appropriate for the rental unit. An appropriate household size is defined as a maximum of two persons per bedroom plus one person per unit and a minimum of one person per bedroom.

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B. Lease Requirements

Except as may be provided in an agreement that allows the rental of a For Sale unit under hardship conditions, as described in Section III.3.A. above, all tenants must be provided with a lease that has a minimum period of 12 months. The lease must comply with all applicable federal and state laws. The lease shall include provisions that specify the maximum household size allowed in the unit and requirements that the unit be maintained in a decent and safe condition. Further, the lease must

include requirements that prohibit subleasing, require the tenant to report any changes in household size or income during their tenancy, and further specify that the tenant must comply with all monitoring requests of the Resource Management Agency or its designee.

C. Changes in Household Size or Income During Tenancy

If the tenant's household income increases above the maximum allowed for very low, low or moderate-income households, the tenant may choose to remain in the inclusionary unit. However, the tenant would have a revised affordable rental housing cost based on their new income category. For example, a very low-income tenant whose income increases and is now a low-income tenant would have a new maximum affordable rental cost based on affordable rents for a low-income unit. A low-income tenant whose income increases such that the household is now a moderate-income tenant would have a new maximum rental cost based on a moderate-income unit. A previous very low, low or moderate income tenant whose income increases above the maximum moderate income limit would have a rental cost that would be the lesser of: a) thirty percent (30%) of the actual household income of the tenant; or b) market rate rent. The property owners/managers must, to the extent possible, maintain the number of units at each income level required by the Inclusionary Housing Agreement recorded on the project. These provisions shall be enforced through Inclusionary Rental Housing Agreements recorded on each project.

V. MONITORING AND COMPLIANCE PROCEDURES

1. PROJECT MONITORING AND COMPLIANCE

A. Monitoring Procedures: Rental Properties

General Policies:

Rental projects developed under the Inclusionary Program are monitored every two years to determine compliance with the terms of the Regulatory Agreement recorded against the property. The areas to be included in the monitoring process include tenant incomes and rents, payment of property taxes and hazard insurance and review of the terms of the leases.

An annual certification of ownership is required. The rent schedule for the Inclusionary Program will be provided to the owner with the certification request.

Procedures:

1. A Monitoring Review Form is initiated for each project. The terms of the Inclusionary Agreement are verified and the rent and occupancy limits are noted on the form.
2. Initial letters are mailed to property owners requesting completion of certifications regarding non-discrimination policies, names and incomes of tenants and the household size, rents charged, and ownership status. Copies of Income Guidelines and Rent Schedules appropriate for the development will be included in the mailing. The owner is instructed to give the tenants a form entitled Tenant Income Verification for completion. These forms are to be returned along with documentation of hazard insurance and copies of current leases.
3. Second Notices are sent by certified mail if the property owner does not respond within fourteen business days.
4. Correspondence will be sent by the sheriff's office, process server, delivery service or hand delivered to the address by a staff member if the property owner fails to respond in a timely manner to the second notice or if mail has been refused or returned as undeliverable. Owners who fail to respond within seven business days will be referred to County Counsel for further action.

5. Assessor's Office records will be reviewed to verify current ownership and mailing addresses where appropriate.
6. Failure to cooperate with the monitoring review process will be considered a breach of the Inclusionary Agreement and the Regulatory Agreement. County Counsel will be notified of any such breach in order that legal remedies may be initiated.
7. The income guidelines of the Section 8 Program are utilized by Resource Management Agency and Housing Office staff for the monitoring review.
8. Staff will review information provided by the owner and tenants to determine compliance with the Inclusionary Agreement and Regulatory Agreement as it pertains to allowable rents, number of restricted units, current income of tenants and any further restrictions on occupancy specified in the Agreement.
9. The review of rent affordability will include the standards set forth in the Inclusionary Agreement for each individual project.
10. Leases are reviewed to determine if non-discrimination policies and prohibitions against subletting are included.
11. If there are discrepancies between the statements of the owner and tenant, additional documentation will be requested.
12. Payment of hazard insurance in an amount sufficient to replace the structures shall be verified.
13. A letter will be issued to the property owner addressing any compliance issues. The letter will specify a corrective action deadline. In general, a 30-day period will be adequate.
14. When a property has changed ownership without notice to the County and this information becomes known at the time of the monitoring review, staff will schedule an appointment with the new owner to discuss the provisions of the Inclusionary Agreement. Current Rent Schedules and Income Guidelines will be provided.
15. The Monitoring Review Form will be completed. The Inclusionary Housing database will be updated to reflect compliance or non-compliance.
16. Other County offices may be alerted when the monitoring review reveals code violation or dangerous situations.
17. Every effort will be made to provide owners and tenants with the appropriate information to ensure a successful monitoring resulting in full compliance with the Inclusionary Housing Program.

However, referrals will be made to County Counsel because of failure to cooperate or non-compliance.

B. Monitoring Procedures: For Sale Units

General Policies:

It is the policy of the County of San Benito to annually monitor compliance with the terms and conditions of the Inclusionary Housing Agreement recorded against for-sale units developed under the Inclusionary Housing Program.

Annual Monitoring will include the owner occupancy requirement and prohibitions against rental of the dwelling. The review will provide owners with an opportunity to become familiar with the guidelines of the Inclusionary Housing Program and any changes in adopted policies and procedures.

Monitoring Procedures:

1. Initial letters are mailed to property owners requesting completion of a certification of owner-occupancy and documentation in the form of a utility bill (with the name and address shown), mortgage statement, home insurance, and property tax payment.
2. Second notices are sent by certified mail if the property owner does not respond within fourteen business days.
3. Correspondence may be sent by the sheriff's office, process server, delivery service or hand delivered by staff when the owner fails to respond to the second notice.
4. Assessor's Office records will be reviewed to verify current homeowner's exemption, possible change in ownership and mailing addresses where appropriate.
5. If a property has changed ownership without notice to the County and this information becomes known at the time of the monitoring review, staff will schedule an appointment with the new owner to discuss the provisions of the Inclusionary Housing Agreement. Areas of concern will include review of the buyers' ability to meet standard program eligibility requirements, purchase price and continued participation in the program. County Counsel will be notified of any non-compliance issues in order that appropriate legal remedies can be implemented.
6. Where the review raises compliance concerns, the owner will receive written notice of the compliance issue. In general, a 30-day corrective action period will be given.
7. Other County offices may be alerted when the monitoring review reveals code violates or dangerous situations
8. Every effort will be made to provide owners with the information needed to complete the monitoring review and maintain compliance with the Inclusionary Housing Agreement. However, referrals will be made to County Counsel when appropriate because of non-compliance. Legal remedies specified in the Agreement or otherwise allowed under County Code or State and Federal law will be implemented

2. PROGRAM MONITORING

A. Annual Housing Report

As part of the Annual Housing Report prepared each year by the Resource Management Agency and Housing Office, there will be a brief summary of the accomplishments and challenges of the Inclusionary Housing Program for the previous year.

B. Five Year Report

At least every five years, the Resource Management Agency and Housing will prepare a complete evaluation of the Inclusionary Housing Program. This evaluation will include a summary of housing units produced, households assisted, In-Lieu Fees collected and the use of those fees, recommendations for policy or Ordinance revisions, etc. The public will be asked to comment on the report either prior to or during its preparation and the final report will be presented to all appropriate review bodies.

VI. Other

1. EXEMPTIONS TO ORDINANCE

There are exemptions from the Ordinance for developments such as farmworker housing, mobile home park developments, and other specific development situations (Section 18.40.050).

In addition, in situations where the party subject to a fully executed inclusionary housing agreement, or other document regulating or limiting the operation, price or rent of an inclusionary unit, believes that the document requires modification as a result of unusual circumstances which could not have been foreseen at the time the document was entered into, the affected party may apply to the County Board of Supervisors for modification of the document. (Section 18.40.100 D).

2. AFFORDABILITY PERIOD REQUIREMENTS FOR EXISTING INCLUSIONARY UNITS

Sale of an Existing inclusionary unit During Affordability Period

If an inclusionary homeowner decides to sell their unit during the affordability period in effect according to the terms of their Buyers Agreement, the unit shall be sold to another qualified inclusionary buyer according to the procedures outlined in this manual, including the payment of applicable service fees. However, the new Buyers Agreement shall specify a new affordability period as defined in the Inclusionary Housing Ordinance in effect at the time the unit is sold.

VII. Appendices

Appendix A. Homeowner Fact Sheet

On the following page is a sample fact sheet that explains the Inclusionary Housing Program for a prospective homeowner. This fact sheet should be provided to potential applicants when they inquire about the program. This fact sheet should be available in both English and Spanish

**INCLUSIONARY HOUSING PROGRAM
INFORMATION FOR POTENTIAL INCLUSIONARY HOMEOWNERS**

1. What is the Inclusionary Housing Program?

The County of San Benito requires that 15% of all newly constructed units must be affordable to very low, low and moderate-income households. Developers must agree to sell 15% of their units at an affordable price to a very low, low or moderate-income household.

2. What is an Affordable Price?

The County of San Benito calculates affordable sale prices annually. The calculation is based on median household incomes for San Benito County and the assumption that no more than 30-35% of an average household's income should be spent for housing costs.

3. How Can I Buy an Inclusionary Housing Unit?

The County maintains an eligibility list for prospective inclusionary homeowners. Generally, a household can qualify if it has a household income that is below the maximum limits for low or moderate-income. Priorities are given to households who have members that live or work in San Benito County. Contact the phone number listed on the bottom of this sheet for more information about household income limits or being placed on the eligibility list.

4. What are my Responsibilities if I Buy an Inclusionary Housing Unit?

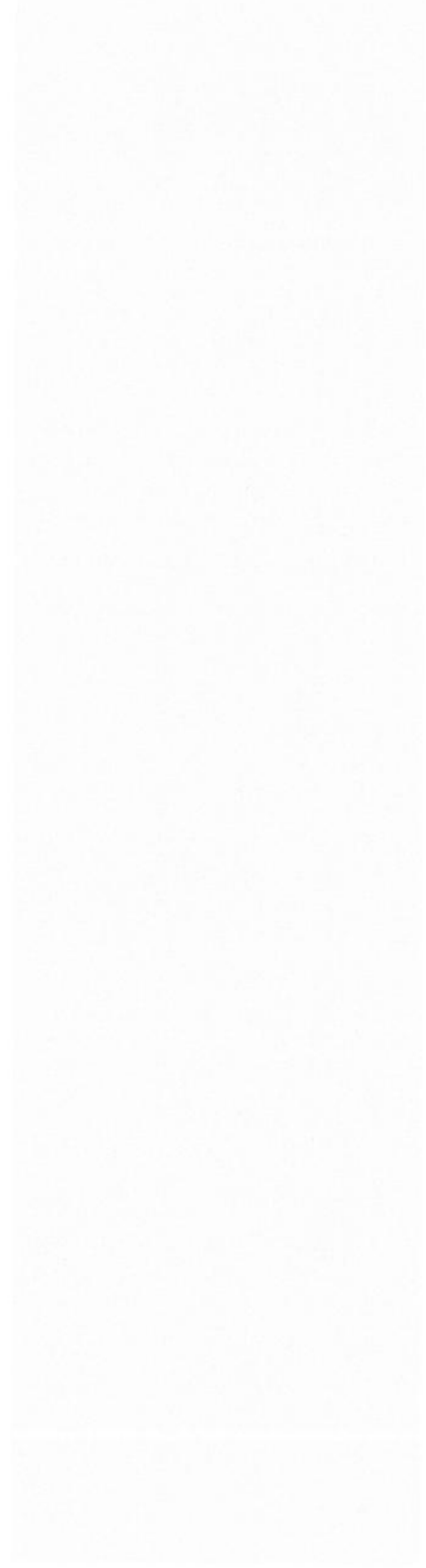
In return for the opportunity to purchase a home at an affordable price, the County requires the following while you own the home:

- Maintain property insurance on the home;
- Keep your home (including landscaping) in decent condition;
- Live in the home as your primary residence (in an emergency situation, you can rent your home to another low/moderate income household BUT you must obtain the County's permission prior to renting it);
- When you sell your home, you must sell it for the price determined by the County. You also must sell it to another eligible inclusionary homeowner. The RESALE PRICE is restricted and determined by the County – **it is likely that the resale price will be less than other similar properties that are not inclusionary housing units;** and
- You must co-operate with any monitoring requests during the time you live in the home (such as verification that you are using the home as your primary residence or verification that you are maintaining your property insurance).

**FOR FURTHER INFORMATION:
San Benito County Resource Management Agency
2301 Technology Parkway
Hollister, CA 95023
Phone: 831-673-5313
Fax: 831-637-5334**

Appendix B. Developer Fact Sheet

On the following page is a sample fact sheet that explains the Inclusionary Housing Program for a prospective developer of inclusionary housing units.



**INCLUSIONARY HOUSING PROGRAM
INFORMATION FOR POTENTIAL DEVELOPERS OF INCLUSIONARY UNITS**

1. What is the Inclusionary Housing Program?

San Benito County requires that 15% of all developments of 7 or more units must be affordable to very low, low and moderate-income households. Developments of 7 or more units are expected to construct Inclusionary housing units. Developments of 5-6 units can pay an In-Lieu Fee instead of constructing a unit.

2. How Many inclusionary Units Will I Have to Provide?

Depending on the size of the development you are proposing, you will be required to provide inclusionary units that are affordable to different household income levels. An Affordable Housing attachment will be part of the application process. Please contact the Resource Management Agency for more specific answers.

3. Who Determines the Sale Price (or Rent) for the Inclusionary units?

Staff at the San Benito County Resource Management Agency, will be able to provide you with affordable the sale price or rent for the inclusionary units. The sale price/rent is based on a formula using median household incomes for San Benito County.

4. Who Can Buy or Rent an Inclusionary Unit from Me?

Homeowner Units: The County maintains a list of prospective inclusionary homebuyers. When your inclusionary unit is ready to be sold, the County will provide you with the names of several prospective homebuyers. You must sell the unit to an eligible inclusionary household at the affordable sale price provided by the County.

Rental Units: You must rent the inclusionary rental unit to a household that is qualified by the County (or its designee) as being very low, lower or moderate income. You can select the tenant assuming you follow all fair housing laws and marketing/selection requirements specified by the County.

5. What Are My Responsibilities Once I Sell/Rent the Inclusionary Unit?

Homeowner Units: Once your unit is sold to an eligible inclusionary homeowner, you have no further responsibilities.

Rental Units: Rental units must continue to remain affordable and occupied by eligible households in perpetuity. Property owners must agree to these restrictions and must agree to cooperate with all monitoring requests by the County.

**FOR FURTHER INFORMATION:
San Benito County Resource Management Agency
2301 Technology Parkway
Hollister, CA 95023
Phone: 831-673-5313
Fax: 831-637-5334**

APPENDIX C. Developer Procedures

Inclusionary Housing Program Development Review Process

1. Planning receives an application for development of a residential project (i.e., subdivision or use permit).
2. If the project will result in new units, Planning sends a affordable housing implementation plan, which is part of the application/referral package to the Resource Management Agency Housing Programs Coordinator.
3. The Housing Programs Coordinator reviews the application to determine if the implementation plan meets the Inclusionary Housing requirements, or if the project is exempt.
4. The Housing Programs Coordinator notifies the assigned planner of the requirements and requests additional information as necessary. If the project involves on-site compliance the applicant will likely be asked to submit additional information about the proposed inclusionary units (design and location) to ensure that the CEQA review includes enough detail.
5. The Housing Programs Coordinator prepares a draft memo to the Planner that provides an analysis of the Inclusionary requirements, recommendation pertaining to compliance, and draft findings and a condition of approval for inclusion in the project packet for consideration by the Approving Body.
6. The draft staff report prepared by the project planner for the project is reviewed by the Housing Programs Coordinator prior to the hearing to ensure that the conditions and draft findings of approval pertaining to Inclusionary Housing are acceptable.
7. The Approving Body is not required to approve but may consider a draft Inclusionary Housing Agreement as part of its approval of the project and can require that the approved Inclusionary Housing Agreement be recorded prior to the recordation of the Final Map or issuance of building permits.
8. The Inclusionary Housing Agreement and supporting documents are executed by the applicant and the Housing Programs Coordinator then recorded and/or Inclusionary In-Lieu Fees are paid or secured.
9. The Housing Programs Coordinator “clears” the Inclusionary Housing conditions of approval by sending a memo to the project planner along with supporting documents.

APPENDIX D. Income and Asset Definition

The following definitions shall be used in determining applicant eligibility for the County's Inclusionary Housing Program. To be eligible for the program, applicants must meet both the income and the asset limitations.

1. INCOME

Maximum Income Limitation

Households occupying inclusionary units shall have incomes that are very low, low and moderate-income, as specified by the contractual agreement for the residential development in which they are located. The definition of very low, low (lower) and moderate-income shall be the same as provided by HCD/HUD and the State of California annually for the San Benito County area. See Appendix E of this document for the current income limits.

2. DEFINITION OF INCOME

The definition of income shall be the same as the federal definition found in 24 CFR Part 5 (commonly known as the "Section 8" definition). As specified in 24 CFR Part 5, the income derived from any assets shall be included in the income calculation. *The only exception to this is when a homeowner applicant is using any of their assets to pay for down payment or closing costs to purchase the inclusionary unit. In that case, the potential "income" from those assets shall not be calculated.* The value of the asset itself, however, is still counted under the asset limitation test below.

3. ASSETS

Maximum Asset Limitation

Homeowners:

The maximum asset limitation is the total of the following for homeowner households:

1. 30% of the purchase price
2. 25% of current median income
3. 6 months of living expenses based on household size

Renters:

Upon initial occupancy, households who are applying for a rental inclusionary unit cannot have assets that exceed \$30,000 for non-elderly households and \$75,000 for elderly households.

Definition of Assets

<p>Assets used to determine the maximum asset limitation allowed are defined in the following table. Any assets disposed of within 12 months prior to applying for an inclusionary unit shall also be included in the calculation of maximum assets. However, exceptions to this may be made in circumstances where assets were disposed of in order to pay medical, legal or other necessary expenses. The Resource Management Agency Housing Manager shall approve all such exceptions. Assets to be Included in Maximum Asset Limitation</p>	<p>Assets to be Excluded in Maximum Asset Limitation</p>
<ol style="list-style-type: none"> 1. Cash held in savings accounts, checking accounts, safe deposit boxes, homes, etc. For savings accounts, use the current balance. For checking accounts, use the average 12 month balance 2. Cash value of trusts available to the applicant. 3. Equity in real estate or other capital investments. Equity is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and all reasonable costs that would be incurred in selling the unit. 4. Cash value of stocks, bonds, Treasury bills, certificates of deposit and money market accounts. 5. Lump sum or one-time receipts, such as inheritances, lottery winnings, insurance settlements, etc. 6. Personal property held as an investment such as gems, jewelry, coin collections, etc. 7. Mortgages or deeds of trusts held by the applicant. 	<ol style="list-style-type: none"> 1. Necessary personal property except as noted in #6 of the "included" assets. Necessary personal property includes household goods and reasonable transportation. 2. The current value of individual retirement and Keogh accounts. (Any income currently being received from such accounts however shall be considered as "income" in the income calculations.) 3. Cash value of life insurance policies available to the individual before death. 4. Assets that are part of an active business. "Business" does not include rental property that is held as an investment and not a main occupation. 5. In the case of an inheritance of an inclusionary property, the equity in the inclusionary property shall not be counted as an asset in determining whether the party who inherits the property is income/asset eligible.

APPENDIX E. Income Limits

San Benito County Income Limits

Income Limits to be updated annually. The Housing Community Development Agency (HCD) typically releases updated information April/May of each year.

San Benito County 4-Person Area 2019~~8~~ Area Median Income- \$81,100~~84,500~~

Income Category	Number of Persons							
	1	2	3	4	5	6	7	8
Extremely Low Income	<u>196002</u> <u>1450</u>	<u>224002</u> <u>4500</u>	<u>252002</u> <u>7550</u>	<u>2795030</u> <u>600</u>	<u>3020033</u> <u>050</u>	<u>3337403</u> <u>5500</u>	<u>3806039</u> <u>010</u>	<u>42380434</u> <u>30</u>
Very Low Income	<u>326003</u> <u>5700</u>	<u>372504</u> <u>0800</u>	<u>419004</u> <u>5900</u>	<u>4655051</u> <u>000</u>	<u>5030055</u> <u>100</u>	<u>5400059</u> <u>200</u>	<u>5775063</u> <u>250</u>	<u>61450673</u> <u>50</u>
Low Income	<u>522005</u> <u>7150</u>	<u>596506</u> <u>5300</u>	<u>671007</u> <u>3450</u>	<u>7455081</u> <u>600</u>	<u>8055088</u> <u>150</u>	<u>8650094</u> <u>700</u>	<u>9245010</u> <u>1200</u>	<u>98450107</u> <u>750</u>
Median Income	<u>567505</u> <u>9150</u>	<u>649006</u> <u>7600</u>	<u>730007</u> <u>6050</u>	<u>8110084</u> <u>500</u>	<u>8760091</u> <u>250</u>	<u>9410098</u> <u>000</u>	<u>1005501</u> <u>04800</u>	<u>10705011</u> <u>1550</u>
Moderate Income	<u>681007</u> <u>1000</u>	<u>778508</u> <u>1100</u>	<u>875509</u> <u>1250</u>	<u>9730010</u> <u>1400</u>	<u>1051001</u> <u>09500</u>	<u>1128501</u> <u>17600</u>	<u>1206501</u> <u>25750</u>	<u>12845013</u> <u>38503</u>

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APPENDIX F. Initial Sales Price, Refinancing, and Resale Staff Procedures

1. CRITERIA FOR DETERMINING INITIAL SALE PRICE

Very Low Income Units:

Housing Cost to Income Ratio: 30% of 50% of Area Median Income (AMI) or the maximum income for a very low income household, adjusted for bedroom and household size

Interest Rate and Term: 6% Interest, 30 Year Term

Down Payment: 5% of Sale Price

Estimates of: property taxes, assessments, loan insurance and financing fees, allowance for property maintenance and repairs, homeowners insurance, homeowner association dues, allowance for utilities and land rent (if home is on rented land)

Low/Lower Income Units

Housing Cost to Income Ratio: 30% of 70% of AMI, adjusted for bedroom and household size

Interest Rate and Term: 6% Interest, 30 Year Term

Down Payment: 5% of Sale Price

Estimates of: property taxes, assessments, loan insurance and financing fees, allowance for property maintenance and repairs, homeowners insurance, homeowner association dues, allowance for utilities and land rent (if home is on rented land).

Moderate income Units:

Housing Cost to Income Ratio: 35% of 110% of AMI, adjusted for bedroom and household size

Interest Rate and Term: 6% Interest, 30 Year Term

Down payment: 5% of Sale Price

Estimates of: property taxes, assessments, loan insurance and financing fees, allowance for property maintenance and repairs, homeowners insurance, homeowner association dues, allowance for utilities and land rent (if home is on rented land).

HOUSEHOLD INCOME	SALE PRICE OF A 1	SALE PRICE OF A 2	SALE PRICE OF A 3	SALE PRICE OF A 4	SALE PRICE OF A 5
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LEVEL	BEDROOM UNIT	BEDROOM UNIT	BEDROOM UNIT	BEDROOM UNIT	BEDROOM UNIT
Very Low Income (50%)	\$90,670	\$101,983	\$113,294	\$122,379	\$131,463
Low/Lower Income (70%)	\$127,027	\$142,925	\$158,673	\$171,419	\$184,169
Moderate Income (110%)	\$232,660	\$261,656	\$290,750	\$314,046	\$337,342

Comment [JS5]: Debating about deleting the section that discusses the current affordable price because it may change year to year

APPENDIX G. In Lieu Fee and In-Lieu Fee Payment Process

APPENDIX H. Maximum Rents and Utility Allowance Tables
2018 Maximum Rents (Includes Utility Allowances)

	STUDIO	1 BEDROOM	2 BEDROOM	3 BEDROOM	4 BEDROOM	5 BEDROOM
Very Low (50%)	\$709	\$811	\$912	\$1,013	\$1,095	\$1,176
Low/Lower (60%)	\$851	\$973	\$1,095	\$1,216	\$1,314	\$1,411
Moderate (110%)	\$1,560	\$1,784	\$2,007	\$2,230	\$2,409	\$2,587

Instructions for Calculating Rents:

1. Use household size of 1 person per bedroom plus 1 person (e.g. the rent for a 2 bedroom unit would be based on the median for a 3 person household)
2. Use 30% of household income as the maximum rent allowed
3. The maximum rent includes a utility allowance. Therefore, the rent that the tenant pays to the landlord is the maximum rent less the utility allowance.
4. Rents are based on 50%, 60%, and 110% of median income. However, eligibility for the units is based on 50%, 80%, and 120% of median income, adjusted for household size.

Utility Allowances

The Housing Authority updates utility allowance annually. You can access the 2018 allowance at the following webpage.

<https://www.hacosantacruz.org/wp-content/uploads/2017/04/050717-Util-Allows-HandSJB-10.01.18.pdf>

Appendix I: San Benito County Affordable Housing Worksheet

(Worksheet Resale Price of Affordable Housing (Sec 11. A and 11. B of Resale Restriction Agreement))

Date: _____

Coordinator: _____

Address of Affordable Unit: _____

Base Price	\$ _____	Work through Steps A, B, & C to get these numbers. The Maximum Resale Price will be the current below market rate
Adjusted Increase to Base Price	\$ _____	
Maximum Resale Value	\$ _____	

A. Calculate Base Price (Refer to recorded Resale Restriction Agreement)

Original Principle of First Lender's Loan \$ _____

Second Lender's Loan \$ _____

Original Amount of Participant's Down Payment \$ _____

Base Price = \$ _____

B. Calculate Increase from Base Price

Increased by the percentage of increase in Affordable Housing costs:
[California Health & Safety Code 50052.5 (3) & (C)]

Base Price x Appropriate Multiplier
[Appropriate Multiplier: Divide the Current HUD Median Income by the HUD Median income at time at Purchase.]

Increased Base Price
[This will be the Maximum Resale Price unless there are improvements to consider. Add Increased Base Price + Base Price]

HUD Median Income at Purchase

\$ _____

Current HUD Median Income

\$ _____ (base price)

X _____ (approp. Multiplier)

\$ _____

~~C. 10% Adjusted Increase Base Price Credit (Considering Improvements)~~

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Qualifying Improvements Must:

1. Be substantial or permanently fixed additional or fixtures that cannot be removed without substantial damage to the residence or substantial or total loss of value of the additions or fixtures;
2. Made or installed by or under the direction of the Owner/Participant
3. Approved by the County in advance of the implementation of the improvement; and
4. Have initial costs that were \$2,000.00 or more

Value of qualifying improvements: \$ _____

(Attached supporting documentation including: County approval and contributory value by appraiser)

Deduct the cost of any necessary repairs from the "Value of qualifying improvements" to have the residence be marketable. This may include cleaning painting, structural, mechanical, electrical, plumbing, and appliance repairs as determined by San Benito County.

Cost of Repairs \$ _____

Total Adjusted Increased Base Price _____

CALCULATE RESALE/REFINANCING VALUE EXAMPLE

Assumptions:

Originally, unit was a 3 bedroom, 2 bath single family unit (moderate income) Initial Sale Price was \$150,000 in 1995.

Calculation:

\$150,000 Initial Sale Price

+ 34,110 22.74% change in median income, 1995-2003

\$184,110 Maximum resale/refinancing value with following modifications:

+ 15,000 10% of Initial Sale Price "credit" for improvements and/or maintenance

= 199,110 Resale Value

\$199,100 Modified Resale/Refinancing Value

Appendix J: Home Loan Subordination Requirements

For San Benito County Resource Management Agency

The information below and on the following page outlines the process for refinancing existing City-County loans and Agreements, or subordination of any loan or deed of trust associated with an Inclusionary Unit property. Subordination of loans not issued by the County of San Benito is necessary to protect the County's interest in maintaining the affordability of the property for the duration of the restriction term (typically 30k years). In most cases, the County's interest will be subordinate to any mortgage loans on the home, as outlined in the deed of trust and/or the signed resale restriction documents.

Information San Benito County needs to review for a subordination related to a refinance.

- 1) The interest rate and balance due on the existing first mortgage
- 2) County of San Benito's Deed of Trust shall be no lower than third lien position
- 3) New mortgage must be a fixed rate only and must not be longer than a 30 year term
- 4) The interest rate for the new first mortgage is less than the interest rate on the original first mortgage
- 5) Copy of Subordination Package
 - a. Completed Form of Owner Request for City Subordination to Refinance First Mortgage Loan
 - b. Loan Application (Form 1003 & 1008-Completed in last 30 days)
 - c. Copy of Appraisal (completed in the last 60 days)
 - i. Loan to Value cannot exceed 90% of the restricted resale value
 - d. New first mortgage Deed of Trust & Promissory Note
 - e. Estimated closing statement
 - f. Escrow Officer's Contact Information
 - g. Escrow #
- 6) NO CASH OUT
 - a. Unless there is documentation it will be used for necessary home maintenance (e.g. current bid documents for a reroof, additional room to the home)
 - b. A Home Equity Line/Loan of Credit is not an available option as stated in the Resale Restriction Requirement.

Housing Programs Coordinator Responsibility:

- 1) Once the Housing Programs Coordinator receives the subordination package, the documents will be reviewed for completeness. Staff will send an e-mail to the title company/broker if any documentation is missing. The review and approval process will not proceed until all of the required subordination documents are submitted.

- 2) Housing Programs Coordinator will review the subordination package and determine if the subordination is approved or denied.
- 3) Housing Programs Coordinator will relay approval or denial of the subordination to title company/broker.
- 4) If approved, staff will request Subordination Agreement from title company/broker. Staff will complete Request for Notice of Default, and subordination escrow instructions. The County requires **at least two weeks** to process the Subordination Agreement and Request for Notice of Default for signature.
- 5) Staff will prepare and submit the County's executed documents to the Title Company.

FOR FURTHER INFORMATION:
San Benito County Resource Management Agency
2301 Technology Parkway
Hollister, CA 95023
Phone: 831-673-5313
Fax: 831-637-5334

Appendix K: Home Loan Subordination Requirements

Form of Owner Request for City Subordination to Refinance First Mortgage Loan

To: San Benito County

From: _____ ("Owner")

Property Address: _____ ("Home")

Date: _____

The Owner hereby requests the County of San Benito to approve the Owner's refinance of the existing first mortgage on the Home. The Owner provides the following information which it certifies to be true and correct:

1. Original Purchase Price of Home: \$ _____
2. Original Principal Balance of exiting First Mortgage Loan \$ _____
3. Interest Rate of Existing First Mortgage Loan: \$ _____
4. Outstanding Principal and Interest on existing First Mortgage Loan (as of date of this Request) \$ _____
5. Outstanding Principal and Interest due on all other mortgage loans on the Home. \$ _____
 - (a) \$ _____
 - (b) \$ _____
6. Principal Amount of Proposed New First Mortgage Loan: \$ _____
7. Interest Rate of Proposed New First Mortgage Loan: \$ _____

The Owner hereby certifies the above information is true and correct and this Owner Request is executed under penalty of perjury on _____ [insert date].

By: _____