



# County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING  
STEVEN E. WHITE, DIRECTOR

## Planning Commission Staff Report Agenda Item No. 4 July 15, 2021

**SUBJECT:** Amendment to Text No. 381 modifying the text of the Fresno County Zoning Ordinance to address programs identified in the 5th Cycle Housing Element (Program 10), recent litigation, and state mandated modifications related to Health and Safety Code Sections 17008, 17021.5, 17021.6 and 17021.8 for employee and farmworker housing.

**APPLICANT:** County of Fresno

**STAFF CONTACT:** Chris Motta, Principal Planner  
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### RECOMMENDATION:

- Recommend that the Board of Supervisors approve Amendment to Text No. 381 modifying the text of the Fresno County Zoning Ordinance to address programs identified in the 5th Cycle Housing Element (Program 10), recent litigation, and state mandated modifications related to Health and Safety Code Sections 17008, 17021.5, 17021.6 and 17021.8 related to employee and farmworker housing; and
- Recommend the Board of Supervisors determine that the above recommended action is exempt from the California Environmental Quality Act; and
- Direct the Secretary to prepare a resolution forwarding AT No. 381 to the Board of Supervisors with a recommendation to approval.

### EXHIBITS:

- A. Proposed Amendment to Various Sections of the Zoning Ordinance
- B. Relevant Government Codes: Health and Safety Code (HSC) 17008 (a) and (b); 17021.5; 17021.6; and 17021.8

### ENVIRONMENTAL ANALYSIS:

Approval of the recommended actions is exempt from CEQA based on the following:

1. The recommended actions are exempt from the California Environmental Quality Act (CEQA) under 14 CCR 15061(b)(3), as the recommended actions do not have the

potential for causing a significant effect on the environment as the proposed amendments are to bring the Zoning Ordinance in compliance with State Law and to address recent litigation.

2. The recommended actions do not constitute a “project” under CEQA, because (a) compliance with a court order issued in the above-referenced litigation and (b) implementation of State-mandated zoning changes are not discretionary acts.

The Department will file a notice of exemption as provided by 14 CCR 15062.

#### **PUBLIC NOTICE:**

Notice of the public hearing has been published in the Business Journal, which is a newspaper of general circulation in Fresno County.

#### **PROCEDURAL CONSIDERATIONS:**

Adoption of amendments to the text of the Zoning Ordinance is a legislative act requiring final action by the Board of Supervisors (Board). The Planning Commission’s action is advisory to the Board. This item is scheduled to be considered by the Board no later than October 19, 2021. Upon Board approval, the amendments will become effective 30 days thereafter.

#### **BACKGROUND INFORMATION:**

The 5th-Cycle Housing Element (HE) of the County’s General Plan was adopted by the Board on March 15, 2016 and includes certain programs imposed by the State Department of Housing and Community Development (HCD) which the County is required to implement. The County is amending the text of its Zoning Ordinance to improve consistency with state law regarding employee and farmworker housing and to remove restrictions on farmworker housing within those zone districts which allow commercial agricultural activities. The proposed amendments trail a prior Zoning Code text amendment considered by the Planning Commission in October of 2020 and approved by the Board of Supervisors in November of 2020. That text amendment (AT No. 380) addressed requirements for density bonus, minimum density requirements in specified zone districts, and other needed changes as required by Program No. 10 of the 5<sup>th</sup>-Cycle Housing Element and recent litigation.

#### **PROPOSED AMENDMENTS TO THE ZONING ORDINANCE:**

Exhibit “A” attached to this staff report provides details on the proposed amendments to various sections of the Zoning Ordinance. A summary of the proposed amendments is noted below.

##### Proposed amendments to Section 803.6

- Amendments to Section 803.6 - SPECIFIC DEFINITIONS GROUP F of the Zoning Ordinance rewords or deletes definitions for Employee Housing, Temporary Farmworker Housing, Farmworker Dwelling Units, and Farmworker Housing Complexes. The definition for Farmworker Dwelling Unit is deleted as there is existing redundancy with the definition of Employee Housing.

##### Proposed amendment to AE zone district

- Amendment to Section 816 - “AE”- Exclusive Agricultural District - Section 816.1 – Uses

Permitted – deletes reference to Farmworker Housing Complexes in this zone district. This is due to the broadening of allowable districts for Farmworker Housing Complexes.

#### Proposed amendments to AL zone district

- Amendment to Section 817 - “AL” - Limited Agricultural District - Section 817.1 – Uses Permitted – deletes reference to Farmworker Dwelling Units in this zone district. This is based on deletion of the definition in Section 803.6 as noted above.
- Amendment to Section 817 - “AL” - Limited Agricultural District - Section 817.1 – Uses Permitted – deletes reference to Farmworker Housing Complexes in this zone district. This is due to the broadening of allowable districts for Farmworker Housing Complexes.

#### Proposed amendments to Section 855 – Property Development Standards

Amend Section 855 – Property Development Standards - Section 855-O - Property Development Standards – Special Regulations to Implement Certain Provisions that are included in the Fifth-Cycle Housing Element. Proposed amendments are listed below.

- Modifies the type of allowable units for Temporary Farmworker Housing to remove tents but continues to permit travel trailers and recreational vehicles while establishing a minimum density. Time limits would continue to be for 90 days and continue to restrict the allowable zone districts to AE and AL only. As the Employee Housing Act does not address nor require temporary farmworker housing, for this particular use the Zoning Ordinance exceeds the minimum requirements of the Act.
- Defines those districts in which permanent Farmworker Housing Complexes may occur (R-A, R-1-A, R-R, R-1-A, R-1-AH, R-1-E, R-1-EH, AE, AL and O) and clarifies that a farmworker must be employed in a commercial farming operation or part of that farmworker’s family or household.
- Ties density of Farmworker Housing Complexes to the Local Area Management Plan (LAMP), which generally limits development on individual well and septic systems to one unit per two acres.
- Ties the development standards of Farmworker Housing Complexes to the development standards (building setback, building height, and setbacks between structures) to the underlying zone district in which the complex will be located.
- Deletes removal requirements for Farmworker Housing Complexes based on cessation of on-site agricultural activity.

#### **SUMMARY**

The modifications summarized above and illustrated on Exhibit 1 represent the necessary minimum changes to farmworker and employee housing to bring the Zoning Ordinance into compliance with state law, the 5th-Cycle HE and the Writ of Mandate resultant from recent litigation. The proposed amendments to the Zoning Ordinance are to address certain programs of the Housing Element of the General plan and to bring it in compliance with the law. Staff

recommends approval of the proposed amendments to the text of the Zoning Ordinance as summarized in the staff report and shown in Exhibit A.

The State of California's Health and Safety Code contains several sections pertaining to employee and farmworker housing. For reference, attached as Exhibit B are those sections of the HSC referenced on the County's text changes to the Zoning Ordinance.

**PLANNING COMMISSION MOTIONS:**

**Recommended Motion** (Approval Action)

- Recommend that the Board of Supervisors approve Amendment to Text No. 381 modifying the text of the Fresno County Zoning Ordinance to address programs identified in the 5th Cycle Housing Element (Program 10), recent litigation, and state mandated modifications related to Health and Safety Code Sections 17008, 17021.5, 17021.6 and 17021.8 related to employee and farmworker housing; and
- Recommend the Board of Supervisors determine that the above Recommended Actions are exempt from the California Environmental Quality Act; and
- Direct the Secretary to prepare a Resolution forwarding AT 381 to the Board of Supervisors with a recommendation to approval.

**Alternative Motion** (Denial Action)

- Recommend that the Board of Supervisors not to approve Amendment to Text application No. 381 (stating reasons for recommended action); and
- Direct the Secretary to prepare a Resolution documenting the Commission's recommendation.

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# EXHIBIT A

## SECTION 803.6 - SPECIFIC DEFINITIONS GROUP F.

(Amended by Ord. 490.133 adopted 6-7-77, Amended by Ord. adopted - - 21)

EMPLOYEE HOUSING shall mean housing meeting the definition provided by California Health and Safety Code Section 17008, providing accommodations for six or fewer employees. ~~and~~ Employee Housing shall be deemed a single-family structure and a residential use of the property by a single household per the requirements of Section 17021.5 of the California Health and Safety Code. (Added by Ord. T-803-371 adopted 12-8-15; Amended by Ord. T-XXX-XXX adopted XX-XX-2021)

FARMWORKER HOUSING, TEMPORARY shall mean temporary residential accommodations (e.g., travel trailers or licensed recreational vehicles tents, travel trailers, etc.) provided for the shelter needs of individuals and families hired to meet the short-term needs (not to exceed 90 consecutive days) of an on-site bona fide commercial agricultural/farming operation (or off-site operations owned or managed by the same agricultural operation), provided for five or more temporary farm employees. Temporary Farm Labor Housing is permitted in the A-E and A-L districts. The Special Standards of Section 855-O shall apply. (Added by Ord. T-803-371 adopted 12-8-15; Amended by Ord. T-XXX-XXX adopted XX-XX-2021)

~~FARMWORKER DWELLING UNIT shall mean any single-family residential unit occupied by a maximum of six farmworkers (per California Health and Safety Code Section 17021.5) or one farmworker and his or her household, and such a unit shall be deemed a single-family structure and a residential use of the property. A unit meeting this definition is not subject to any special land use permitting requirements or restrictions beyond the permitting requirements for a single-family residential unit within the subject zone district. A Farmworker Dwelling Unit shall not be included within the definition of a boarding house, rooming house, hotel, dormitory or other similar use that implies the unit is a for-profit business or a use that differs in any way from a single-family dwelling. (Added by Ord. T-803-371 adopted 12-8-15)~~

FARMWORKER HOUSING COMPLEX shall mean any farmworker housing ~~other than a Farmworker Dwelling Unit~~ that: 1) contains a maximum of 36 beds if the housing consists of group living quarters such as barracks or bunkhouses, and is occupied exclusively by farmworkers; or 2) contains a maximum of 12 residential units occupied exclusively by farmworkers and their households if the housing does not consist of group living quarters (per California Health and Safety Code Section 17021.6). A Farmworker Housing Complex is considered an ancillary agricultural land use. A Farmworker Housing Complex is permitted in ~~the A-E and A-L districts~~ any zone district which permits agricultural land uses. The Special Standards of Section 855-O shall apply including a listing of applicable agricultural zone districts. (Added by Ord. T-803-371 adopted 12-8-15; Amended by Ord. T-XXX-XXX adopted XX-XX-2021)

## SECTION 816

### "AE" EXCLUSIVE AGRICULTURAL DISTRICT

#### SECTION 816.1 - USES PERMITTED

- H. ~~Farmworker Housing Complexes subject to the provisions of 855-O. (Amended by Ord. T-803-371 adopted 12-8-15) [Reserved] Amended by Ord. T-XXX-XXX adopted XX-XX-2021)~~

## SECTION 817

### "AL" LIMITED AGRICULTURAL DISTRICT

- P. ~~Farmworker Dwelling Units subject to the provisions of 855-O.~~  
(~~Added by Ord. T-803-371 adopted 12-8-15~~) [~~Reserved~~] Amended by Ord. T-XXX-XXX adopted XX-XX-2021)
- Q. ~~Farmworker Housing Complexes subject to the provisions of 855-O.~~  
(~~Added by Ord. T-803-371 adopted 12-8-15~~) [~~Reserved~~] Amended by Ord. T-XXX-XXX adopted XX-XX-2021)

## SECTION 855

### PROPERTY DEVELOPMENT STANDARDS

SECTION 855-O. PROPERTY DEVELOPMENT STANDARDS – SPECIAL STANDARDS OF PRACTICE AND REGULATIONS TO IMPLEMENT THE FRESNO COUNTY HOUSING ELEMENT (Added by Ord. T-803-371 adopted 12-8-15 Amended by Ord. T-094-380 adopted 11-24- 20)

#### 2. Farmworker Housing, Temporary

This Section provides use and development regulations for Temporary Farmworker Housing in compliance with State law and as defined in Section 803.7 (Specific Definitions – Group F). Temporary Farmworker Housing shall be allowed solely in the AE and AL Zone Districts and consist of temporary residential accommodations (travel trailers or licensed recreational vehicles) to provide for shelter if individuals and families for short-term periods (not to exceed 90 consecutive days). Temporary housing in this manner must be sited on a bona fide commercial agricultural/farming operation (or off-site operations owned or managed by the same agricultural operation) and limited to twelve individual units at a density that meets the requirements of the Fresno County Local Area Management Plan (LAMP) for properties served by individual septic systems.

- a. ~~Temporary Farmworker Housing shall be allowed in the AE and AL Zone Districts.~~
- b. ~~Temporary Farmworker Housing shall consist of Temporary residential accommodations (e.g., tents, travel trailers, etc.) to provide for the shelter needs of individuals and families hired to meet the short term needs (not to exceed 90 consecutive days) of an on-site bona fide commercial agricultural/farming operation (or off-site operations owned or managed by the same agricultural operation), to accommodate five or more temporary farm employees.~~
- c. ~~Temporary Farmworker Housing must meet the minimum County Standards provided for Farmworker Housing Complexes as defined in Section 855-O.3.e below.~~

### 3. Farmworker Housing Complexes

This Section provides use and development regulations for Farmworker Housing Complexes in compliance with State law and as defined in Section 803.7 (Specific Definitions – Group F). Farmworker housing for farm employees and their families consisting of up to thirty-six (36) beds in a group quarters (Farmworker Housing Complex) or up to twelve (12) units or spaces designed for use by a single family or household shall be allowed subject to the provisions of this Section. Every person, or agent or officer thereof, constructing, operating, or maintaining a Farmworker Housing Complex shall comply with the requirements of this Section and all applicable health, safety and building codes and standards.

- a. A Farmworker Housing Complex shall be allowed ~~in the AE and AL Zone Districts as provided in Section 17021.8 of the Health and Safety Code, in any of the following zone districts that permit agricultural land uses: R-A, R-1-A, R-R, R-1-A, R-1-AH, R-1-E, R-1-EH, AE, AL and O.~~
- b. A Farmworker Housing Complex does not need to be located on the site of a qualifying agricultural operation where the farmworkers are employed, however, the occupants of the complex must be employed as a Farmworker farmworker in a commercial farming operation, or part of that farmworker's family or household.
- c. A Farmworker Housing Complex provided by the employer and maintained in connection with the work or place where work is being performed must comply with all provisions of Section 17008(a) of the California Health and Safety Code.
- d. A Farmworker Housing Complex not maintained in connection with any workplace and provided by someone other than an agricultural employer must comply with all provisions of Section 17008(b) of the California Health and Safety Code.
- e. In addition to California Code, Farmworker Housing Complexes must meet the following minimum County standards:
  - (1) ~~The minimum parcel size to establish a Farmworker Housing Complex on parcels served by individual septic systems shall comply with the County-adopted LAMP shall be 20 acres as stipulated by the standard minimum parcel size for qualifying agricultural operations within Agriculturally-designated properties within the County.~~
  - (2) No more than thirty-six (36) beds in a group quarters or up to twelve (12) units or spaces designed for use by a single family or household or spaces designed for use by a single family or household are allowed on an individual parcel, but in no case shall the complex exceed the density restrictions of one farmworker dwelling unit or one group quarters unit per the underlying density of those identified urban districts served by community sewer and water (R-1-A, R-1-AH, R-1-E, and R-1-EH), or one farmworker dwelling unit or one group quarters unit in the rural or agricultural districts served by individual septic systems (R-A, R-R, AE,

~~AL and O) per the LAMP. This is permitted in addition to one single-family dwelling unit as permitted by right per parcel. Establishment of Farmworker Housing on a parcel will supersede any secondary residential units as defined in Section 855-N.~~

- (3) ~~Building Height - The provisions of the "R-2" District, Section 827 underlying zone district shall apply.~~
- (4) ~~Yards - The provisions of the "AE" District, Section 816 shall apply, except that year-round Farmworker Housing Complexes, which are those housing complexes occupied by one or more tenants of the farming operation on a year-round basis, must be set back a minimum of two hundred (200) feet from any property lines adjacent to a residential zoning underlying zone district shall apply.~~
- (5) ~~Space Between Buildings - The provisions of the "R-2" District, Section 827 underlying zone district shall apply, except that no animal or fowl pen, coop, stable, barn or corral shall be located within forty (40) feet of any dwelling or other building used for human habitation.~~
- (6) ~~Off-Street Parking for Farmworker Housing Complexes based on individual units (12 units maximum per 20-acre parcel) - There shall be at least one (1) designated parking space for every dwelling unit. Spaces must be marked and maintained in a dust-free manner with surfacing such as gravel or other material as approved by the Director of the Department of Public Works and Planning. These spaces shall be on the same lot with the main building which they are intended to serve and located to the rear of the required front yard.~~
- (7) ~~Off-Street Parking for Farmworker Housing Complexes based on dormitory beds (36 beds maximum per 20-acre parcel) – The parking standards of 855-I – Rooming Houses, Lodging Houses, Clubs and Fraternity and Sorority Houses shall apply.~~
- (8) ~~All Farmworker Housing Complexes not connected to community sewer or water shall meet the minimum on-site County separation requirements for well and septic systems and the Fresno County adopted LAMP requirements. Further, evidence must be provided to the County Health Officer that the on-site soils meet State and local standards for on-site wastewater treatment systems (septic systems). All Farmworker Housing Complexes meeting the definition of a Public Drinking Water System shall comply with State Water Resources Control Board standards (Health and Safety Code, Title 17 and 22).~~
- (9) ~~All units constructed shall meet the minimum required building and safety code requirements, including code requirements for compliance with the Americans with Disabilities Act and laundry facility requirements based on the number of units constructed.~~



- f. Conversion - The housing units shall not be converted to any other use unless the conversion is approved by the County of Fresno. Any conversion shall be subject to the applicable zoning ordinance standards at the time of the conversion.
- g. The Planning Commission may authorize additional beds or units or a combination of group quarters and units or spaces designed for use by a single family or household beyond the limits set in this section through the conditional use permit process, based on the Commission's ability to making specific findings as outlined in Section 873.
- h. ~~The parcel where the Farmworker Housing Complex is located shall not be subdivided.~~ [Reserved]
- i. Permanent units or spaces designed for use by a single family or household and Farmworker Housing Complexes require the completion of a Farmworker Housing verification form prior to building permit application submittal. The verification form shall include information regarding the housing type, number of dwelling units or beds, length of occupancy, number of occupants, occupants' employment information, and for Farmworker Housing for six or more workers, proof that a permit to operate from the California Department of Housing and Community Development (HDC) has been obtained and maintained.
- ~~j. Farmworker Housing is subject to removal within ninety (90) days (or converted to another approved use) if the agricultural employment upon which the need for the unit(s) is based is eliminated. This section shall not apply if a finding is made that elimination of the agricultural use for no more than twenty four (24) months is related to the long term functioning of agriculture on the site(s) used to establish the housing need (e.g., crop rotation, replanting, disease, etc.).~~

(Amended by Ord. T-XXX-XXX adopted XX-XX-2021)



## **EXHIBIT B**

### **Attached California Health and Safety Code Sections**

- Pages 2-4      §17008   Employee Housing Definitions**
- Pages 5-6      §17021.5   Employee Housing for Six or Fewer Employees**
- Pages 7-8      §17021.6   Employee Housing Complexes**
- Pages 9-13    §17021.8   Streamlined Ministerial Process**

**State of California**

**HEALTH AND SAFETY CODE**

**Section 17008**

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17008. (a) “Employee housing,” as used in this part, means any portion of any housing accommodation, or property upon which a housing accommodation is located, if all of the following factors exist:

(1) The accommodations consist of any living quarters, dwelling, boardinghouse, tent, bunkhouse, maintenance-of-way car, mobilehome, manufactured home, recreational vehicle, travel trailer, or other housing accommodations, maintained in one or more buildings or one or more sites, and the premises upon which they are situated or the area set aside and provided for parking of mobilehomes or camping of five or more employees by the employer.

(2) The accommodations are maintained in connection with any work or place where work is being performed, whether or not rent is involved.

(b) (1) Except as provided in paragraphs (2) and (3), “employee housing,” as used in this part, also includes any portion of any housing accommodation or property upon which housing accommodations are located, if all of the following factors exist:

(A) The housing accommodations or property are located in any rural area, as defined by Section 50101.

(B) The housing accommodations or property are not maintained in connection with any work or workplace.

(C) The housing accommodations or property are provided by someone other than an agricultural employer, as defined in Section 1140.4 of the Labor Code.

(D) The housing accommodations or property are used by five or more agricultural employees of any agricultural employer or employers for any of the following:

(i) Temporary or seasonal residency.

(ii) Permanent residency, if the housing accommodation is a mobilehome, manufactured home, travel trailer, or recreational vehicle.

(iii) Permanent residency, if the housing accommodation is subject to the State Housing Law and is more than 30 years old and at least 51 percent of the structures in the housing accommodation, or 51 percent of the accommodation if not separated into units, are occupied by agricultural employees.

(2) “Employee housing” does not include a hotel, motel, inn, tourist hotel, multifamily dwelling, or single-family house if all of the following factors exist:

(A) The housing is offered and rented to nonagricultural employees on the same terms that it is offered and rented to agricultural employees.

(B) None of the occupants of the housing are employed by the owner or property manager of the housing or any party with an interest in the housing.

(C) None of the occupants of the housing have rent deducted from their wages.

(D) The owner or property manager of the housing is not an agricultural employer as defined in Section 1140.4 of the Labor Code, or an agent, as it relates to the housing in question, of an agricultural employer.

(E) Negotiation of the terms of occupancy of the housing is conducted between each occupant and the owner of the housing or between each occupant and a manager of the property who is employed by the owner of the housing.

(F) The occupants are not required to live in the housing as a condition of employment or of securing employment and the occupants are not referred to live in the housing by the employer of the occupants, the agent of the employer of the occupants, or an agricultural employer as defined in Section 1140.4 of the Labor Code.

(G) The housing accommodation was not at any time before January 1, 1984, employee housing as defined in subdivision (a).

(3) "Employee housing," as defined by this subdivision, does not include a hotel, motel, inn, tourist hotel, or permanent housing as defined by subdivision (d) of Section 17010, that has not been maintained, before January 1, 1984, or is not maintained on or after that date, as employee housing, as defined in subdivision (a).

(c) If at any time before January 1, 1984, a housing accommodation was employee housing, as defined in subdivision (a), and on or after January 1, 1984, was employee housing, as defined in subdivision (b), the owner and operator shall comply with all requirements of this part. The owner and operator of any other housing accommodation which is employee housing pursuant to subdivision (b) shall be subject to the licensing and inspection provisions of this part and shall comply with all other provisions of this part, except that if any portion of the housing accommodation is held out for rent or lease to the general public, the construction and physical maintenance standards of the housing accommodation shall be consistent with the applicable provisions of the State Housing Law, Part 1.5 (commencing with Section 17910), the Manufactured Housing Act, Part 2 (commencing with Section 18000); or the Mobilehome Parks Act, Part 2.1 (commencing with Section 18200). The owner or operator of the employee housing shall designate all units or spaces which are employee housing, as defined in this subdivision, for the purpose of inspection and licensing by the enforcement agency, subject to confirmation by the enforcement agency, based on all relevant evidence.

(d) "Employee housing" does not include employee community housing, as defined by Section 17005.5, that has been granted an exemption pursuant to Section 17031.3; housing, and the premises upon which it is situated, owned by a public entity; or privately owned housing, including ownership by a nonprofit entity, and the premises upon which it is situated, financed with public funds equaling 50 percent or more of the original development or purchase cost.

(e) "Employee housing" means the same as "labor camp," as that term may be used in this or other codes and, notwithstanding any local ordinance to the contrary in a general law or charter city, county, or city and county, shall be deemed a residential

use if it exists in structures that are single-family houses or apartment houses as those terms are used in the State Housing Law (Part 1.5 (commencing with Section 17910)).

(Amended by Stats. 2019, Ch. 866, Sec. 7. (AB 1783) Effective January 1, 2020.)

## State of California

### HEALTH AND SAFETY CODE

#### Section 17021.5

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17021.5. (a) Any employee housing which has qualified, or is intended to qualify, for a permit to operate pursuant to this part may invoke the provisions of this section.

(b) Any employee housing providing accommodations for six or fewer employees shall be deemed a single-family structure with a residential land use designation for the purposes of this section. For the purpose of all local ordinances, employee housing shall not be included within the definition of a boarding house, rooming house, hotel, dormitory, or other similar term that implies that the employee housing is a business run for profit or differs in any other way from a family dwelling. No conditional use permit, zoning variance, or other zoning clearance shall be required of employee housing that serves six or fewer employees that is not required of a family dwelling of the same type in the same zone. Use of a family dwelling for purposes of employee housing serving six or fewer persons shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) or local building codes.

(c) Except as otherwise provided in this part, employee housing that serves six or fewer employees shall not be subject to any business taxes, local registration fees, use permit fees, or other fees to which other family dwellings of the same type in the same zone are not likewise subject. Nothing in this subdivision shall be construed to forbid the imposition of local property taxes, fees for water services and garbage collection, fees for normal inspections, local bond assessments, and other fees, charges, and assessments to which other family dwellings of the same type in the same zone are likewise subject. Neither the State Fire Marshal nor any local public entity shall charge any fee to the owner, operator or any resident for enforcing fire inspection regulations pursuant to state law or regulation or local ordinance, with respect to employee housing which serves six or fewer persons.

(d) For the purposes of any contract, deed, or covenant for the transfer of real property, employee housing which serves six or fewer employees shall be considered a residential use of property and a use of property by a single household, notwithstanding any disclaimers to the contrary. For purposes of this section, "employee housing" includes employee housing defined in subdivision (b) of Section 17008, even if the housing accommodations or property are not located in a rural area, as defined by Section 50101.

(e) The Legislature hereby declares that it is the policy of this state that each county and city shall permit and encourage the development and use of sufficient numbers and types of employee housing facilities as are commensurate with local

needs. This section shall apply equally to any charter city, general law city, county, city and county, district and any other local public entity.

(Amended by Stats. 1993, Ch. 952, Sec. 1. Effective January 1, 1994.)



**State of California**

**HEALTH AND SAFETY CODE**

**Section 17021.6**

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17021.6. (a) The owner of any employee housing who has qualified or intends to qualify for a permit to operate pursuant to this part may invoke this section.

(b) Any employee housing consisting of no more than 36 beds in a group quarters or 12 units or spaces designed for use by a single family or household, or that is approved pursuant to Section 17021.8, shall be deemed an agricultural land use for the purposes of this section. Except as provided in Section 17021.8, for the purpose of all local ordinances, employee housing shall not be deemed a use that implies that the employee housing is an activity that differs in any other way from an agricultural use. No conditional use permit, zoning variance, or other discretionary zoning clearance shall be required of this employee housing that is not required of any other agricultural activity in the same zone. The permitted occupancy in employee housing in a zone allowing agricultural uses shall include agricultural employees who do not work on the property where the employee housing is located.

(c) Except as otherwise provided in this part, employee housing consisting of no more than 36 beds in a group quarters or 12 units or spaces designed for use by a single family or household shall not be subject to any business taxes, local registration fees, use permit fees, or other fees to which other agricultural activities in the same zone are not likewise subject. This subdivision does not forbid the imposition of local property taxes, fees for water services and garbage collection, fees for normal inspections, local bond assessments, and other fees, charges, and assessments to which other agricultural activities in the same zone are likewise subject. Neither the State Fire Marshal nor any local public entity shall charge any fee to the owner, operator, or any resident for enforcing fire inspection regulation pursuant to state law or regulations or local ordinance, with respect to employee housing consisting of no more than 36 beds in a group quarters or 12 units or spaces designed for use by a single family or household.

(d) For the purposes of any contract, deed, or covenant for the transfer of real property, employee housing consisting of no more than 36 beds in a group quarters or 12 units or spaces designed for use by a single family or household, or that is approved pursuant to Section 17021.8, shall be considered an agricultural use of property, notwithstanding any disclaimers to the contrary. For purposes of this section, “employee housing” includes employee housing defined in subdivisions (b) and (c) of Section 17008, even if the housing accommodations or property are not located in a rural area, as defined by Section 50101.

(e) The Legislature hereby declares that it is the policy of this state that each county and city shall permit and encourage the development and use of sufficient numbers

and types of employee housing facilities as are commensurate with local need. This section shall apply equally to any charter city, general law city, county, city and county, district, and any other local public entity.

(f) If any owner who invokes the provisions of this section or Section 17021.8 fails to maintain a permit to operate pursuant to this part throughout the first 10 consecutive years following the issuance of the original certificate of occupancy, both of the following shall occur:

(1) The enforcement agency shall notify the appropriate local government entity.

(2) The public agency that has waived any taxes, fees, assessments, or charges for employee housing pursuant to this section may recover the amount of those taxes, fees, assessments, or charges from the landowner, less 10 percent of that amount for each year that a valid permit has been maintained.

(g) Subdivision (f) shall not apply to an owner of any prospective, planned, or unfinished employee housing facility who has applied to the appropriate state and local public entities for a permit to construct or operate pursuant to this part prior to January 1, 1996.

(Amended by Stats. 2019, Ch. 866, Sec. 10. (AB 1783) Effective January 1, 2020.)

**State of California**

**HEALTH AND SAFETY CODE**

**Section 17021.8**

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17021.8. (a) A development proponent may submit an application for a development that is subject to a streamlined, ministerial approval process, provided in subdivision (b), and is not subject to a conditional use permit if all of the following requirements are met:

(1) The development is located on land designated as agricultural in the applicable city or county general plan.

(2) The development is not located on a site that is any of the following:

(A) Within the coastal zone, as defined in Division 20 (commencing with Section 30000) of the Public Resources Code.

(B) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(C) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178 of the Government Code, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code.

(D) A hazardous waste site that is listed pursuant to Section 65962.5 of the Government Code or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356, unless the Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.

(E) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901)), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2 of the Government Code.

(F) Within a flood plain as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has been issued a flood plain development permit pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

(G) Within a floodway as determined by maps promulgated by the Federal Emergency Management Agency.

(H) Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10

(commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.

(I) Lands under conservation easement. For purposes of this section, “conservation easement” shall not include a contract executed pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1 of Title 5 of the Government Code).

(J) Lands with groundwater levels within five feet of the soil surface and for which the development would be served by an onsite wastewater disposal system serving more than six family housing units.

(3) The development is an eligible agricultural employee housing development that satisfies the requirements specified in subdivision (i).

(b) (1) If a local government determines that a development submitted pursuant to this section does not meet the requirements specified in subdivision (a), the local government shall provide the development proponent written documentation of which requirement or requirements the development does not satisfy and an explanation for the reason or reasons the development does not satisfy the requirement or requirements, as follows:

(A) Within 30 days of submission of the development to the local government pursuant to this section if the development contains 50 or fewer housing units.

(B) Within 60 days of submission of the development to the local government pursuant to this section if the development contains more than 50 housing units.

(2) If the local government fails to provide the required documentation pursuant to paragraph (1), the development shall be deemed to satisfy the requirements specified in paragraph (2) of subdivision (a).

(c) The local government’s planning commission or an equivalent board or commission responsible for review and approval of development projects, or the city council or board of supervisors, as appropriate, may conduct a development review or public oversight of the development. The development review or public oversight shall be objective and be strictly focused on assessing compliance with criteria required for streamlined projects, as well as any reasonable objective development standards described in this section. For purposes of this subdivision, “objective development standards” mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submission. The development review or public oversight shall be completed as follows and shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section or its effect, as applicable:

(1) Within 90 days of submission of the development to the local government pursuant to this section if the development contains 50 or fewer housing units.

(2) Within 180 days of submission of the development to the local government pursuant to this section if the development contains more than 50 housing units.

(d) An agricultural employee housing development that is approved pursuant to this section shall not be subject to the density limits specified in Section 17021.6 in order to constitute an agricultural land use for purposes of that section.

(e) Notwithstanding Section 17021.6, a local government may subject an agricultural employee housing development that is approved pursuant to this section to the following written, objective development standards:

(1) (A) A requirement that the development have adequate water and wastewater facilities and dry utilities to serve the project.

(B) A requirement that the development be connected to an existing public water system that has not been identified as failing or being at risk of failing to provide an adequate supply of safe drinking water.

(C) If the development proposes to include 10 or more units, a requirement that the development connect to an existing municipal sewer system that has adequate capacity to serve the project. If the local agency has adopted an approved local agency management program for onsite wastewater treatment systems, those requirements shall apply to the development.

(2) A requirement that the property on which the development is located be either:

(A) Within one-half mile of a duly designated collector road with an Average Daily Trips (ADT) of 6,000 or greater.

(B) Adjacent to a duly designated collector road with an ADT of 2,000 or greater.

(3) A requirement that the development include off-street parking based upon demonstrated need, provided that the standards do not require more parking for eligible agricultural employee housing developments than for other residential uses of similar size within the jurisdiction.

(4) Notwithstanding Section 17020 or any other law, health, safety, and welfare standards for agricultural employee housing, including, but not limited to, density, minimum living space per occupant, minimum sanitation facilities, minimum sanitation requirements, and similar standards.

(5) Standards requiring that if a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with state and federal requirements.

(f) Neither the approval of a development pursuant to this section, including the permit processing, nor the application of development standards pursuant to this section shall be deemed to be discretionary acts within the meaning of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(g) Notwithstanding Section 17021.6, a local agency may impose fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the eligible agricultural employee housing development.

(h) This section shall not be construed to:

(1) Prohibit a local agency from requiring an eligible agricultural employee housing development to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with subdivision (e) and appropriate to,

and consistent with, meeting the jurisdiction's need for farmworker housing, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583 of the Government Code.

(2) Prohibit a local agency from disapproving an eligible agricultural employee housing development if the eligible agricultural employee housing development as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to lower income households, as defined in Section 50079.5, or rendering the development financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(3) Prohibit a local agency from disapproving an eligible agricultural employee housing development if that project would be in violation of any applicable state or federal law.

(4) Change any obligations to comply with any other existing laws, including, but not limited to, Section 116527, Section 106.4 of the Water Code, Division 7 (commencing with Section 13000) of the Water Code, and Part 12 (commencing with Section 116270) of Division 104.

(i) For the purposes of this section, "eligible agricultural employee housing development" means an agricultural employee housing development that satisfies all of the following:

(1) The agricultural employee housing does not contain dormitory-style housing.

(2) The development consists of no more than 36 units or spaces designed for use by a single family or household.

(3) (A) Except as otherwise provided in subparagraph (B), the agricultural employee housing will be maintained and operated by a qualified affordable housing organization that has been certified pursuant to Section 17030.10. The development proponent shall submit proof of issuance of the qualified affordable housing organization's certification by the enforcement agency. The qualified affordable housing organization shall provide for onsite management of the development.

(B) In the case of agricultural employee housing that is maintained and operated by a local public housing agency or a multicounty, state, or multistate agency that has been certified as a qualified affordable housing organization as required by this paragraph, that agency either directly maintains and operates the agricultural employee housing or contracts with another qualified affordable housing organization that has been certified pursuant to Section 17030.10.

(C) The local government ensures an affordability covenant is recorded on the property to ensure the affordability of the proposed agricultural employee housing for agricultural employees for not less than 55 years. For purposes of this paragraph, "affordability" means the agricultural housing is made available at an affordable rent, as defined in Section 50053, to lower income households, as defined in Section 50079.5.

(4) The agricultural employee housing is not ineligible for state funding pursuant to paragraph (1) of subdivision (b) of Section 50205.

(j) For purposes of this section, “agricultural employee housing” means employee housing for agricultural employees as both terms are defined in Sections 17008 and 17021 respectively.

(k) The Legislature hereby declares that it is the policy of this state that each county and city shall permit and encourage the development and use of sufficient numbers and types of agricultural employee housing as are commensurate with local need. The Legislature further finds and declares that this section addresses a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this section applies to all cities, including charter cities.

(Amended by Stats. 2020, Ch. 264, Sec. 11. (AB 107) Effective September 29, 2020.)