

BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BENITO

RESOLUTION NO. 2022-__

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BENITO,
CALIFORNIA, ESTABLISHING INCLUSIONARY HOUSING IN-LIEU FEES AND
ADOPTING IN-LIEU FEE**

WHEREAS, the State of California has found that local governments have a responsibility to use the powers vested in them to facilitate the development of housing and to make adequate provisions for the housing needs of all economic segments of the community (Government Code Section §65580(d)); and

WHEREAS, the San Benito County Board of Supervisors adopted a housing element 2014-2023 on April 12, 2016, as is a state-mandated document that provides local strategies for addressing state and local housing needs; and

WHEREAS, the San Benito County Board of Supervisors finds that setting in-lieu fees aligns with the county's strategic and general plans. 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. The county's fundamental goal is to achieve a balanced community with housing available for persons of all economic levels, prioritizing those currently residing or working within the county.

WHEREAS, the Board of Supervisors finds 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; and

WHEREAS, 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 the development of housing for very low, low, and moderate-income households is being depleted by the development of high-cost housing; and

WHEREAS, the County of San Benito has determined that there is a critical shortage of housing opportunities available to meet the housing needs of all types of very low, low, and moderate-income groups in an economically feasible manner; and

WHEREAS, the San Benito County Code, Chapter 21.03: AFFORDABLE HOUSING REGULATIONS, states:

- a) that the county shall adopt a resolution setting forth the amount of the In-Lieu Fees;
- b) for both on-site and off-site construction unless the Board approves an exemption of Supervisors, the applicant shall be required to build the whole number of inclusionary units as determined in.
- c) the Director of Resource Management Agency or their designee shall calculate and update the in-lieu fees on an annual basis based on the yearly increase in the Residential

Construction Cost Index to adjust the in-lieu fee annually as part of the Master Fee Schedule Appendix A; and

WHEREAS, in-Lieu fees will be used for Fractions of units, residential developments required to construct fractions of a unit under chapter 21.03 may pay an in-lieu fee in an amount corresponding to the fractional unit; and

WHEREAS, to qualify to pay for an in-lieu payment, the developer of residential development must provide 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.

WHEREAS, the evidence must be reviewed by the Planning Commission for first approval, and the qualification for an in-lieu payment must be approved by the Board of Supervisors;

WHEREAS, the in-lieu-building units are based on an in-lieu fee study;

WHEREAS, the Board of Supervisors finds that the fees required or permitted by § 21.03.008 will be appropriate and permissible.

WHEREAS, Vernazza Wolfe Associates, a consulting firm commissioned by the County to study housing affordability in San Benito County, issued a study in April 2022 detailing the gap between market prices of housing in the County and prices affordable to very low-, low- and moderate-income households;

WHEREAS, the study included a proposed per square foot in-lieu fee for ownership projects based on the affordability gap;

WHEREAS, the Vernazza Wolfe Associates Inclusionary Housing Study used a widely used, appropriate methodology to determine the maximum amount needed to fully mitigate the burdens created by residential and non-residential development on the need for affordable housing; and

WHEREAS, the County of San Benito held a duly noticed public hearing on the proposed regular scheduled meeting ordinance amending Chapter 21.03.008, related to affordable housing within San Benito County; and

NOW, THEREFORE, BE IT RESOLVED the County Board of Supervisors that the Affordable Housing In-Lieu Fee described in this Resolution shall be adjusted by staff annually on January 1, 2023, and every January after that in an amount equal to the yearly increase in the Residential Construction Cost Index for the preceding 12-month period, provided that the resulting annual In Lieu Fee does not exceed the average estimated cost of otherwise providing the required Inclusionary Units; and

BE IT FURTHER RESOLVED, fees will be adjusted annually based on the Construction Cost Index;

BE IT FURTHER RESOLVED that the County Administrative Office, or its designee, shall conduct a new in-lieu study every five years; and

BE IT FURTHER RESOLVED that this Resolution is not a project under the California Environmental Quality Act (CEQA) because a project does not include the creation of a governmental funding mechanism that does not involve any commitment to any specific project (CEQA Guidelines section 15378(b)(4)); and the Resolution commits no fees to any particular project; and

BE IT FURTHER RESOLVED that the fees set forth in Attachment “A” are hereby adopted.

BE IT FURTHER RESOLVED this Resolution shall take effect immediately upon its adoption; and

PASSED AND ADOPTED by the San Benito County Board of Supervisors, State of California, at the meeting of said Board held on May 24, 2022, by the following vote:

AYES: SUPERVISORS
NOES: SUPERVISORS
ABSTAIN: SUPERVISORS
ABSENT: SUPERVISORS

BY: _____
Bea Gonzales
Chair of San Benito County Board of Supervisors

APPROVED AS TO LEGAL FORM:

ATTEST:

/s/ Barbara Thompson

Barbara Thompson, County Counsel

Jennifer Frechette, Clerk of the Board

“Attachment A”

In adopting the San Benito County master fee schedule (located in [Appendix A](#) to sections 5.01.000)

A small lot single family home is defined as any single-family house, whether freestanding or attached, including but not limited to homes, condos, townhomes, etc., (but specifically excluding an apartment building), on a lot size less than 3,000 square feet.

A large lot single family home is defined as any single-family house, whether freestanding or attached, including but not limited to homes, condos, townhomes, etc., (but specifically excluding an apartment building), on a lot size greater or equal to 3,000 square feet.

	Large Lot Single Family Homes	Small Lot Single Family Homes
In-Lieu Fee Per Square Foot Based on the 15% Inclusionary Ordinance Requirement	\$30	\$23