

Napa County Housing Commission Board Agenda Letter

TO: Housing Commissioners

FROM: Molly Rattigan for Minh Tran - County Executive Officer
County Executive Office

REPORT BY: Nancy Johnson, Housing and Community Development Program Manager - 707-299-1352

SUBJECT: Discussion of employee housing regulations

RECOMMENDATION

Discussion of the Employee Housing Act in the California Health & Safety Code Section 17000. Staff will discuss how the Employee Housing Act is implemented in Napa County and how the sections interact with other laws regarding housing.

This is a discussion item, no action is necessary.

EXECUTIVE SUMMARY

The Employee Housing Act and the adopted regulations govern the standards for the construction, maintenance, use, and occupancy of living quarters, called "employee housing," provided for five or more employees under specified circumstances. The Employee Housing Act is a regulatory program that includes special permitting and regular oversight of the accommodations that qualify under the program. The California Department of Housing and Community Development (HDC) administers the program, but is authorized to designate a county as the local enforcement agency. Employee housing subject to the Act is privately-operated and does not include government owned or operated migrant worker facilities.

In general, employee housing is privately-owned housing that houses five or more employees and meets the following:

- | Living quarters provided in connection with any work, whether or not rent is involved.
- | Housing in a rural area that is:
 - | Provided by someone who is not an agricultural employer, and
 - | Provided for agricultural workers employed by any agricultural employer.

Napa County is a designated Local Enforcement Agency and, through the Environmental Health Division of Planning, Building and Environmental Services, oversees a limited number of Employee Housing units in the County. The Napa County Code authorizes employee housing for agricultural employees in all zoning districts. Such housing may consist of group accommodations with up to 36 beds for farm workers, or up to 12 units designed for single family use.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? No

County Strategic Plan pillar addressed: Healthy, Safe, and Welcoming Place to Live, Work, and Visit
Livable Economy for All

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION**Employee Housing Act**

The Employee Housing Act, Health & Safety Code §17000 et seq. and 25 CCR §600, et seq., establishes a program to oversee the construction, maintenance, use, and occupancy of privately-owned and -operated employee housing facilities providing housing for five or more employees to assure their health, safety, and general welfare. The laws and regulations are enforced by the California Department of Housing and Community Development (HCD) through local enforcement agencies (LEAs) that opt into the enforcement role. Napa County is one of a handful of jurisdictions that have opted into the role of LEA. Notably, government-owned or -operated migrant worker facilities are not subject to the Act.

The Employee Housing Program establishes a permitting system, oversight and inspection by the LEA, operating responsibilities for the operators, and enforcement mechanisms.

To operate employee housing under the Program, a private property owner must apply for an annual permits, issued by the LEA. The LEA may impose conditions on the use and occupancy of the employee housing in connection with the permit. Multi-year permits, up to five years, are allowed, but may not be issued if the employee housing has not been in operation previously or if the employee housing has been in violation of the Program regulations within the prior two years.

The enforcement responsibilities of the LEA include inspection of the employee housing, completed prior to and during the occupancy to assure compliance with the Program regulations as well as the Building Code. The LEA also investigates complaints of violations, like with any other code compliance issues, and can pursue revocation of permits or other legal remedies if violations are not corrected. HCD requires annual reports from the LEAs regarding their performance and ability to enforce the Program regulations.

The word "Employee" is defined in the Act to not include persons engaged in household domestic service, persons whose wages are incidental to professional training, or persons whose employment is in furtherance of a religious vocation. "Agricultural employee" is further defined, in circular fashion, as an employee of an "agricultural employer," as defined in Labor Code §1140.4. This includes all employees engaged in agriculture, which:

- l Includes farming in all its branches, and, among other things, includes the cultivation and tillage of the soil,

dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities..., the raising of livestock, bees, furbearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market and delivery to storage or to market or to carriers for transportation to market.

The history of the Program and more details regarding the requirements and enforcement mechanisms are in the attached document, the Employee Housing Facility Inspection Booklet.

Napa County's Employee Housing Program and Zoning Regulations

Napa County is a designated Local Enforcement Agency under the Employee Housing Program. Operated through the Environmental Health Division of the Planning, Building and Environmental Services Department, the County issues permits and performs all of the required inspections and enforcement procedures. Based on the last statistical report in 2017, which is attached, the County has issued 5 permits to operate employee housing, which facilities are serving 104 employees.

In addition to the Program regulations, Employee Housing must be authorized under the local zoning regulations. In Napa County, Agricultural Employee Housing is permitted under the zoning code in all zoning districts. In the Agricultural Preserve (AP) district and the Agricultural Watershed (AW) district, farmworker housing providing accommodations for six or fewer employees, or consisting of no more than thirty-six beds in group quarters or twelve units designated for single household use, is authorized by right. In the AW district, farmworker housing that exceeds those limits may be authorized by grant of a use permit.

The Napa County Code imposes several unique requirements on farmworker housing, including a minimum parcel size. The Code requires that the operator show that the occupants qualify as farmworkers and limits the size of housing units to 1200 square feet. In addition, the applicant or operator must show there's an unmet need for farmworker housing. If that need is shown for the duration of three consecutive years, then the housing can be considered permanent for the life of the unit.

SUPPORTING DOCUMENTS

- A . Employee Housing Facility Inspection Booklet
- B . Employee Housing Statistical Report

Recommendation: Approve

Reviewed By: Mary Booher