



CITY OF BIGGS Planning Staff Report

TO: City of Biggs City Council
FROM: Mark Sorensen, City Administrator
Scott Friend, AICP – City Planner
MEETING DATE: January 14, 2014; 6:30 p.m.
Biggs City Hall, 465 C Street, Biggs, CA 95917

SUBJECT: **Zoning Text Amendment ZCA#2013-03:**

Implementing Housing Element Programs which includes making amendments to Title 14, *Zoning*, of the Biggs Municipal Code addressing density bonuses, emergency shelters, farmworker housing, single room occupancy, and supportive and transitional housing. The Zoning Text Amendment would add definitions and modify a definition in Chapter 14.10; add Chapter 14.170, *Affordable Housing Incentives/Residential Density Bonuses*; amend Section 14.100.030, *Residential Use Table*; and amend Section 14.140.030, *Industrial Use Table*, of the Biggs Municipal Code.

Environmental Review: Staff is recommending that the City Council determine that the project is *Categorically Exempt* from further environmental review pursuant to the California Environmental Quality Act (CEQA) Section 15305, *Minor Alterations in Land Use Limitation*, a Class 5 exemption.

Summary:

As presented as an informational item at the City Council meeting on December 10, 2013, the City's current Housing Element includes a number of Programs which require amendments to the City's Zoning Ordinance. The Housing Element stated that these amendments were to be completed by the end of 2011. In order for the City's 2014-2019 Housing Element to be found in-compliance with State Housing Law, the zoning amendments identified in the current Housing Element must be adopted prior to the Department of Housing and Community Development's (HCD) review of the 2014-2019 Housing Element.

Discussion:

The 2009-2014 Housing Element included five (5) Programs which require amendments to the City's Zoning Ordinance in order to comply with State Law. The Housing Element Programs are listed in **Attachment A**.

Staff has prepared a draft Ordinance for City Council consideration that would revise Title 14, *Zoning*, in order to implement a number of programs contained in the 2009-2014 City of Biggs Housing Element. These amendments are identified in **Attachment B – Proposed Draft Text** and would result in a revision of the Zoning Ordinance in several areas as well as the adoption of an entirely new chapter entitled, Chapter 14.170, *Affordable Housing Incentives/Residential Density Bonuses*.

In particular the draft Ordinance would add definitions for *agricultural worker housing*, *density bonus*, *emergency shelter*, *residential care home – small*, *single room occupancy housing*, *supportive housing*, and *transitional housing* to Chapter 14.010, *Definitions*. Additionally, the draft ordinance would modify the current definition of *residential care home* to be retitled *residential care home – large*. The new definitions for *emergency shelter*, *supportive housing*, and *transitional housing* are the exact definitions as in the California Health and Safety Code. The definition for *density bonus* is from Government Code Section 65915. *Single room occupancy housing* is interpreted from the Code of Federal Regulations (24 CFR 92.2) and *agricultural worker housing* and *residential care home – small* is interpreted from the California Health and Safety Code (CHSC 17021.5, CHSC 1566.3).

The draft ordinance would also amend Section 14.100.030 *Residential Use Table* to include *agricultural worker housing*, *residential care home – large*, *residential care home – small*, and *single-room occupancy housing*. As required by State Housing Law, *agricultural worker housing* and *residential care home – small* would be allowed by-right in the R-1, R-2, and R-3 zoning districts in the City. *Single-room occupancy housing* would be allowed by right in the R-3 zone and not allowed in any other zoning district. *Residential care home – large* would be allowed in the R-3 zone with a conditional use permit.

State Law requires all jurisdictions in the state to permit by-right emergency shelters in at least one zoning district. The draft ordinance would also amend Section 14.140.030 *Industrial Use Table* to include *emergency shelters*, *transitional housing*, and *supportive housing* as permitted by right in the M-1 zone.

The amendment would add a new chapter entitled, Chapter 14.170, *Affordable Housing Incentives/Residential Density Bonuses*. As stated in Government Code Section 65915 (see **Attachment C**), the law requires a city to grant density bonuses and incentives to developers who agree to construct housing affordable to lower-income households. A density bonus is an increase over the maximum allowable density under Biggs Municipal Code and Biggs General Plan. The calculation for the density bonus is based on the percentage of designated low-income units (or very low or moderate-income units). For example, an apartment complex with 10 percent of the units designated for low-income households could receive a density bonus of 20 percent (a proposed 100 unit complex

could actually build 120 units). In addition to the density bonus, three possible incentives are listed in the law: reduction of site development standards or zoning code requirements, approval of mixed-use zoning, and any other incentive or concession that will result in actual cost reductions. Per the State Law, granting of a concession or incentive shall not be interpreted to require a general plan amendment, zoning change, or other discretionary approval.

Environmental determination:

This action (proposed amendments) has been determined to be *exempt* from further CEQA review pursuant to Public Resources Code Section 15305, *Minor Alterations in Land Use Limitations* (Class 5). The Zoning Text Amendments would occur within the City of Biggs. The city-wide amendments would not affect areas with an average slope of greater than 20 percent, would not increase the density of any affected zoning districts, nor would the amendments result in any land use changes beyond the type of use already established for the affected zoning district.

Fiscal Impact:

Staff time for report preparation, preparation of amended text, and amendment processing. No direct fiscal impacts or supplemental funding impacts are anticipated to be necessary as a result of this project.

Public Comment:

At the publish date of this staff report, no public comment had been received.

Recommendation:

Based upon the analysis contained in this report and in an effort to modify the City's zoning code to conform to the requirements of State law, staff recommends that the City Council approve the ZCA #2013-03. Staff recommends the following process for the consideration of this matter:

1. Accept report by staff;
2. Open the public hearing and take public testimony;
3. Close the public hearing and initiate consideration of the project by the Council;
4. Motion and vote by the Council to introduce the Ordinance *No. 400* by reading of title only.

Sample Motions:

If the City Council determines that it intends to approve the proposed Zoning Text Amendment as presented, staff presents the following motions for consideration:

1. California Environmental Quality Act (CEQA):

I move that the City Council determine that the project is Categorical Exempt from further environmental review pursuant to the California Environmental Quality Act (CEQA) and meets the requirements of Section 15305, Minor Alterations in Land Use Limitations of the State CEQA Guidelines as a Class 5 exemption.

2. Zoning Text Amendment #2013-03:

I move that the City Council approve the first reading of Ordinance No. 400 approving ZCA #2013-03, an amendment to Title 14, adding definitions and eliminating a definition in Chapter 14.010, adding Chapter 14.170 Affordable Housing Incentives/Residential Density Bonuses, amending Section 14.100.030 Residential Use Table, and amending Section 14.140.030 Industrial Use Table of the Biggs Municipal Code.

Attachments:

- Attachment A – Relevant Housing Element Programs
- Attachment B – Proposed Draft Text
- Attachment C – Relevant State Codes
- Attachment D – CEQA Notice of Exemption
- Attachment E – City Council Ordinance No. 400

**Attachment A – Relevant Housing Element Programs
(excerpts from adopted 2009-2014 Housing Element)**

The 2009-2014 Housing Element included five (5) Programs which require amendments to the City's Zoning Ordinance in order to comply with existing State Law. As listed in the City's adopted Housing Element, the Programs, the relevant State Law, and the specific action that is required are listed below.

- Housing Element Program 2.2 - Farmworker Housing:

Provide for the development of suitable housing for farmworkers. Farmworkers typically have special housing needs due to their lower incomes and the seasonal nature of their work. As a result, farmworkers often have a more difficult time finding suitable housing. California Health and Safety Code Section 17021.5 states that employee housing for farmworkers accommodating six or fewer workers shall be considered a residential use and shall not require any special approvals that are not required of a family dwelling of the same type in the same zone. Currently, the City's Zoning Ordinance does not explicitly allow for agricultural employee housing within zoning districts in the City.

State Law: Government Code Section 65583 (c)(1)(C) *requires* cities to provide for sufficient sites that are zoned to allow farmworker housing by-right. The Code also requires that density and development standards accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low- income households. California Health and Safety Code Section 17021.5 requires that employee housing for six or fewer persons to be treated as a single-family structure and residential use. No conditional use permit, zoning variance, or other zoning clearance shall be required for this type of employee housing that is not required of a family dwelling of the same type in the same zone.

Specific Action Required: The City needs to amend its Zoning Ordinance so that it conforms to State Law regarding farmworker housing for six or fewer persons.

- Housing Element Program 2.8 - Density Bonus Program: The production of additional low and moderate income housing.

State Law: Government Code Section 65915 *requires* a city or county to grant at least one density bonus and permit an additional housing incentive for developers who agree to construct housing affordable to lower-income households, unless the city makes a written finding that the density bonus or housing incentive is not required for the units to be affordable.

Specific Action Required: California's density bonus law was amended in 2004. Under the current provisions of the law, a bonus can be given when a project provides affordable housing, senior housing (whether affordable or not), donations of land for affordable housing, and condominium conversions that include affordable housing and child care facilities. Developers may also receive various zoning concessions and reduced parking standards. Development of at least 5 units are eligible for the bonus if either 5

percent of the units are affordable to very low-income households, 10 percent are affordable to low-income households, or 10 percent are affordable to moderate-income households.

The 2004 modification provided for higher density bonuses for lower-income units and lower bonuses for moderate-income units. Housing developments can request up to a 20 percent density bonus if they provide either 5 percent to very low- or 10 percent to low-income households but only a 5 percent bonus if the development provides 10 percent moderate-income units. The amendment also initiated a sliding scale that requires an additional 2.5 percent bonus for each additional increase of 1 percent very low-income units, an additional 1.5 percent bonus for each additional 1 percent increase in lower-income units, and an additional 1 percent bonus for each 1 percent increase in moderate-income units. The total density bonus cannot exceed 35 percent. The amended statute contains specific provisions for each of the eligible types of housing.

The City's Zoning Ordinance needs to be amended to conform to the 2004 statutory modifications to the state density bonus law. The City needs to amend its Zoning Ordinance to offer a density bonus in accordance with the state density bonus law.

- Housing Element Program 2.11 - Emergency Shelters/Transitional and Supportive Housing: The provision of emergency shelters and transitional and supportive housing resources for homeless and nearly homeless persons.

State Law: Senate Bill 2 (SB 2) (Chapter 633, Statutes of 2007) clarified and strengthened housing element law to ensure zoning encourages and facilitates emergency shelters. SB 2 limits the denial of emergency shelters, and transitional and supportive housing under the Housing Accountability Act. SB 2 was codified into state law under Government Code Section 65583.

Specific Action Required: The City's Zoning Ordinance needs to be amended to adhere to State legislation regarding the allowance of emergency shelters, transitional housing, and supportive housing by right. Both transitional and supportive housing need to be allowed as a permitted use in the selected zoning district in which they are allowed.

- Housing Element Program 2.12 - Single-Room Occupancy Units (SROs): To encourage and facilitate supportive housing and single-room occupancy units.

State Law: AB 2634 (Lieber) requires the quantification and analysis of existing and projected housing needs to extremely low-income households and requires Housing Elements to identify zoning to encourage and facilitate supportive housing and single-room occupancy units.

Specific Action Required: The City's Zoning Ordinance allows for multifamily dwellings, which includes units designed for or used for residential occupancy by more than two families. Unit types could include apartment houses, dormitories, rooming houses, row

houses, townhouses and similar housing types; each with or without common or separate kitchen or dining facilities.

Additionally, residential zones allow for guesthouses which are a detached accessory building intended for occupancy by guests without compensation of any kind as a condition of occupancy and used as sleeping quarters only, without cooking facilities. The development standards for these types of uses are the same as other uses in the respective zone and do not constrain the development of SRO types. The City needs to update its Zoning Code to include a definition for SROs and to allow SROs in the same zone(s) where the same types of units are allowed.

- Housing Element Program 2.15 – Residential Care Facilities: Revise the Zoning Ordinance to establish Residential Care Facilities as a use that is principally permitted or permitted via a Use Permit in residential zone districts.

State Law: California Health and Safety Code Sections 1267.8 and 1566.3 require local governments to treat licensed group homes and residential care facilities with six or fewer residents no differently than other by-right single-family housing uses. “Six or fewer persons” does not include the operator, the operator’s family or persons employed as staff. Local agencies must allow these licensed residential care facilities in any area zoned for residential use, and may not require licensed residential care facilities for six or less to obtain conditional use permits or variances that are not required of other family dwellings.

Specific Action Required: The City needs to amend Chapter 14.100 Residential Use Table, of the Biggs Municipal Code to allow for small care facilities having 6 or fewer persons as a by-right permitted principal use and to allow large care facilities having 7 or more persons as a permitted use subject to the approval and issuance of a conditional use permit.

Attachment B – Draft Code Amendment Language

Chapter 14.010

Definitions (new definitions to be added)

14.10.075 Agricultural worker housing.

“Agricultural worker housing” means housing for agricultural employees consisting of six or fewer persons in a single family home.

14.10.275 Density bonus.

“Density bonus” means a density increase over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan.

14.10.365 Emergency shelters.

“Emergency shelters” means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay. (See also “transitional housing”)

14.10.845 Residential care home - Small.

“Residential care home - Small” means a building or structure designed, intended or used as a residence for six individuals or less who require any form of institutional care or supervision where such care or supervision is maintained on the premises during a 24-hour day. “Institutional residence” includes such uses as rest homes, foster homes, orphanages, residential facilities for the blind, handicapped and mentally ill, maternity homes and homes for juvenile court commitments.

14.10.905 Single-room occupancy (SRO) housing.

“Single-room occupancy (SRO) housing” means a compact dwelling unit with limited cooking and living facilities designed primarily for one individual and within a multiple-unit structure.

14.010.975 Supportive housing.

“Supportive housing” means housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

14.010.995 Transitional housing.

"Transitional housing" means buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months.

Chapter 14.010

Definitions (definition to be amended)

14.10.840 Residential care home - Large.

"Residential care home - Large" means a building or structure designed, intended or used as a residence for more than six individuals who require any form of institutional care or supervision where such care or supervision is maintained on the premises during a 24-hour day. "Institutional residence" includes such uses as rest homes, foster homes, orphanages, residential facilities for the blind, handicapped and mentally ill, maternity homes and homes for juvenile court commitments.

Chapter 14.100

Residential Use Table

(Note: new additions to Use Table shown in double underline)

14.100.030 Residential use table.

		R-1	R-2	R-3
Residential				
1.	Single-family dwelling	X	X	X
2.	Duplex	-	X	X
3.	Triplex/fourplex	-	-	X
4.	Apartment	-	-	X
5.	Townhouse/row house	-	-	X
6.	Residential care home - <u>Large</u>	-	-	U
7.	Accessory use or structure	X	X	X
8.	Lodge, fraternal hall, fraternity, sorority	-	-	U
9.	Condominium	-	U	X
<u>10.</u>	<u>Residential care home - Small</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>11.</u>	<u>Agriculture worker housing</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>12.</u>	<u>Single-room occupancy (SRO) housing</u>	<u>=</u>	<u>=</u>	<u>X</u>

Chapter 14.140

Industrial Use Table

14.140.030 Industrial use table.

		M-1	M-2	M-A
Residential				
26.	Data processing and computer operations	X	X	
27.	<u>Emergency shelter, transitional housing, supportive housing</u>	<u>X</u>	<u>=</u>	<u>=</u>
<u>27</u> 28.	Equipment rental agency	X	X	
<u>28</u> 29.	Feed yard; hay, seed or grain store	X	X	X

- The Use Table will be subsequently renumbered to accommodate the addition of a use.

(Note: New Chapter added to Title 14)

Chapter 14.170

AFFORDABLE HOUSING INCENTIVES/RESIDENTIAL DENSITY BONUSES

Sections:

14.170.010 Purpose.

14.170.020 Applicability.

14.170.030 Application and approval.

14.170.040 Planning Commission recommendation.

14.170.050 Determination of housing density bonus or incentives.

14.170.010 Purpose.

The purpose of providing a housing density bonus or incentives is to contribute to the economic feasibility of low income and moderate income housing in housing developments proposed within the City.

14.170.020 Applicability.

When a developer enters into an agreement pursuant to Government Code Section 65915 consisting of at least one of the following:

- 5 percent of units restricted to very low-income households, or
- 10 percent of the total units of a housing development restricted to low-income households,
or
- 10 percent of the total for-sale of a common interest housing development restricted to moderate-income households, or
- The project donates at least one (1) acre of land with the appropriate general plan, zoning, permitting, and approvals and access to public facilities needed for such housing to the city for very low-income units, or
- The project is restricted to seniors.

The developer shall be eligible for a housing density bonus of up to 35 percent and up to three incentives or concessions if the housing development consists of five or more units.

14.170.030 Application and approval.

Any person requesting a housing density bonus, incentives, or concessions shall apply for a development agreement. A housing density bonus, incentives, or concessions shall be granted by approval of the development agreement which shall specify the density bonus and/or incentives, and any conditions attached to the approval of such bonus, incentive and/or concession.

14.170.040 Planning Commission recommendation.

Prior to Council action on a development agreement providing a housing density bonus or incentives, the Commission, if applicable, shall consider the development agreement and make a recommendation to the Council.

14.170.050 Determination of housing density bonus or incentives.

The project developer may specify the requested housing density bonus or incentives; however, the City may agree to provide a housing density bonus or incentives other than those requested.

so long as such housing density bonus or incentives meet the requirement set forth in the California Government Code.

**ATTACHMENT C -
RELEVANT STATE CODES**

California Health and Safety Code §17021.5.

Section 17021.5. (Amended by Stats. 1993, Ch. 952, Sec. 1.)

(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.

California Government Code Section 65583.

65583. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, mobilehomes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include all of the following:

(4) (A) The identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. The identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7), except that each local government shall identify a zone or zones that can accommodate at least one year-round emergency shelter. If the local government cannot identify a zone or zones with sufficient capacity, the local government shall include a program to amend its zoning ordinance to meet the requirements of this paragraph within one year of the adoption of the housing element. The local government may identify additional zones where emergency shelters are permitted with a conditional use permit. The local government shall also demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of, or conversion to, emergency shelters. Emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone except that a local government may apply written, objective standards that include all of the following:

(i) The maximum number of beds or persons permitted to be served nightly by the facility.

(ii) Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone.

(iii) The size and location of exterior and interior onsite waiting and client intake areas.

(iv) The provision of onsite management.

(v) The proximity to other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart.

(vi) The length of stay.

(vii) Lighting.

(viii) Security during hours that the emergency shelter is in operation.

(B) The permit processing, development, and management standards applied under this paragraph shall not 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).

(C) A local government that can demonstrate to the satisfaction of the department the existence of one or more emergency shelters either within its jurisdiction or pursuant to a multijurisdictional agreement that can accommodate that jurisdiction's need for emergency shelter identified in paragraph (7) may comply with the zoning requirements of subparagraph (A) by identifying a zone or zones where new emergency shelters are allowed with a conditional use permit.

California Government Code Section 65915

65915. (a) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall provide the applicant with incentives or concessions for the production of housing units and child care facilities as prescribed in this section. All cities, counties, or cities and counties shall adopt an ordinance that specifies how compliance with this section will be implemented. Failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.

(b) (1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and incentives or concessions, as described in subdivision (d), when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

(A) Ten 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.

(B) Five 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.

(C) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

(D) Ten percent of the total dwelling units in a common interest development as defined in Section 1351 of the Civil Code for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.

California Health and Safety Code Section 1566.3

1566.3. (a) Whether or not unrelated persons are living together, a residential facility that serves six or fewer persons shall be considered a residential use of property for the purposes of this article. In addition, the residents and operators of such a facility shall be considered a family for the purposes of any law or zoning ordinance which relates to the residential use of property pursuant to this article.

(b) For the purpose of all local ordinances, a residential facility that serves six or fewer persons shall not be included within the definition of a boarding house, rooming house, institution or home for the care of minors, the aged, or the mentally infirm, foster care home, guest home, rest home, sanitarium, mental hygiene home, or other similar term which implies that the residential facility is a business run for profit or differs in any other way from a family dwelling.

(c) This section shall not be construed to prohibit any city, county, or other local public entity from placing restrictions on building heights, setback, lot dimensions, or placement of signs of a residential facility which serves six or fewer persons as long as such restrictions are identical to those applied to other family dwellings of the same type in the same zone.

(d) This section shall not be construed to prohibit the application to a residential care facility of any local ordinance that deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity if the ordinance does not distinguish residential care facilities which serve six or fewer persons from other family dwellings of the same type in the same zone and if the ordinance does not distinguish residents of the residential care facilities from persons who reside in other family dwellings of the same type in the same zone. Nothing in this section shall be construed to limit the ability of a local public entity to fully enforce a local ordinance, including, but not limited to, the imposition of fines and other penalties associated with violations of local ordinances covered by this section.

(e) No conditional use permit, zoning variance, or other zoning clearance shall be required of a residential facility which serves six or fewer persons which is not required of a family dwelling of the same type in the same zone.

(f) Use of a family dwelling for purposes of a residential facility serving six or fewer persons shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 or local building codes. However, nothing in this section is intended to supersede Section 13143 or 13143.6, to the extent such sections are applicable to residential facilities providing care for six or fewer residents.

(g) For the purposes of this section, "family dwelling," includes, but is not limited to, single-family dwellings, units in multifamily dwellings, including units in duplexes and units in apartment dwellings, mobilehomes, including mobilehomes located in mobilehome parks, units in cooperatives, units in condominiums, units in townhouses, and units in planned unit developments.

NOTICE OF EXEMPTION

To: Office of Planning and Research
1400 Tenth Street
Sacramento, CA 95814

From: City of Biggs
Planning Department
P.O. Box 1134 / 3016 Sixth Street
Biggs, CA 95917

County Recorder
Butte County
25 County Center Drive
Oroville, CA 95965

Project Title: Zoning Ordinance Text Amendment ZCA#2013-03: An amendment to Biggs Municipal Code Title 14, *Zoning* to implement Housing Element Programs

Project Location: City of Biggs.

Assessor's Parcel Number(s): n/a (City-wide)

Project Description: An amendment to the Biggs Municipal Code addressing emergency shelters, farmworker housing, supportive and transitional housing, density bonuses, and single room occupancy. The proposed amendment would add definitions and modify a definition in Chapter 14.10; add Chapter 14.170, *Affordable Housing Incentives/Residential Density Bonuses*; amend Section 14.100.030, *Residential Use Table*; and amend Section 14.140.030, *Industrial Use Table*, of the Biggs Municipal Code in order to implement the Housing Element Programs for the City of Biggs.

Lead Agency: City of Biggs

Project Planner: Scott Friend, AICP

Exemption Status: Ministerial [Section 21080(b); 15268];
 General Rule [Section 15061(b)(3)];
 Categorical Exemption [Section 15305];
 Statutory Exemption;

REASONS WHY THIS PROJECT IS EXEMPT OR DOES NOT REQUIRE FURTHER ENVIRONMENTAL DOCUMENTATION:

This action has been determined to be exempt from CEQA review pursuant to Public Resources Code Section 15305, Minor Alterations in Land Use Limitations (a class 5 exemption). The proposed amendment would modify the existing text to implement Housing Element Programs. The city-wide amendment would not affect areas with an average slope of greater than 20 percent, would not increase the density of any affected zoning districts, nor would the amendments result in any land use changes beyond the type of use already established for the affected zoning district.

Z CA#2013-03
January 14, 2014

City Planner
City of Biggs

By: _____



Scott Friend, AICP
Date: January 14, 2014

**CITY OF BIGGS
ORDINANCE NO. 400**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BIGGS AMENDING
VARIOUS SECTIONS OF TITLE 14, ZONING OF THE BIGGS MUNICIPAL CODE
ACCORDING TO THE IMPLEMENTATION STRATEGIES OF THE
2009-2014 HOUSING ELEMENT OF THE BIGGS
GENERAL PLAN AND STATE LAW**

WHEREAS, the Biggs 2009-2014 Housing Element promotes the provision of a variety of housing types to serve the community's needs; and

WHEREAS, the Housing Element also provides an opportunity for the City to demonstrate how this goal will be achieved; and

WHEREAS, according to State law, the Housing Element must provide information, policies and programs to encourage the development of housing to meet the needs of all the City's residents; and

WHEREAS, on May 3, 2010 the City Council of the City of Biggs adopted the 2009-2014 Housing Element of the City's General Plan; and

WHEREAS, various Implementations Strategies of the Plan require the City to amend the Biggs Municipal Code in order to provide for a variety of housing types in order to comply with State law; and

WHEREAS, the proposed change is consistent with the policies, standards, and land uses specified in the general plan and any applicable specific plan; and

WHEREAS, the proposed is consistent and compatible with the uses authorized in, and the regulations prescribed for, the zoning district for which it is proposed; and

WHEREAS, the Council has determined that the amendments to the Biggs Municipal Code included herein were exempt from the requirements of the California Environmental Quality Act pursuant to Section 15305 of the Public Resources Code.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BIGGS DOES ORDAIN
AS FOLLOWS** (deletions are ~~everstruck~~, additions are underlined):

Section I: Chapter 14.10 of the Biggs Municipal Code shall be amended to retitle the following definition:

14.10.840 Residential care home - Large.

“Residential care home - Large” means a building or structure designed, intended or used as a residence for more than six individuals who require any form of institutional care or supervision where such care or supervision is maintained on the premises during a 24-hour day. “Institutional residence” includes such uses as rest homes, foster homes, orphanages, residential facilities for the blind, handicapped and mentally ill, maternity homes and homes for juvenile court commitments.

Section II: Chapter 14.10 of the Biggs Municipal Code shall be amended to include the following additional definitions:

14.10.075 Agricultural worker housing.

“Agricultural worker housing” means housing for agricultural employees consisting of six or fewer persons in a single family home.

14.10.275 Density bonus.

“Density bonus” means a density increase over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan.

14.10.365 Emergency shelters.

“Emergency shelters” means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay. (See also “transitional housing”)

14.10.845 Residential care home - Small.

“Residential care home - Small” means a building or structure designed, intended or used as a residence for six individuals or less who require any form of institutional care or supervision where such care or supervision is maintained on the premises during a 24-hour day. “Institutional residence” includes such uses as rest homes, foster homes, orphanages, residential facilities for the blind, handicapped and mentally ill, maternity homes and homes for juvenile court commitments.

14.10.905 Single-room occupancy (SRO) housing.

“Single-room occupancy (SRO) housing” means a compact dwelling unit with limited cooking and living facilities designed primarily for one individual and within a multiple-unit structure.

14.010.975 Supportive housing.

"Supportive housing" means housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

14.010.995 Transitional housing.

"Transitional housing" means buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months.

Section III: Section 14.100.030 shall be revised to include the following:

14.100.030 Residential use table.

		R-1	R-2	R-3
Residential				
1.	Single-family dwelling	X	X	X
2.	Duplex	-	X	X
3.	Triplex/fourplex	-	-	X
4.	Apartment	-	-	X
5.	Townhouse/row house	-	-	X
6.	Residential care home - <u>Large</u>	-	-	U
7.	Accessory use or structure	X	X	X
8.	Lodge, fraternal hall, fraternity, sorority	-	-	U
9.	Condominium	-	U	X
<u>10.</u>	<u>Residential care home - Small</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>11.</u>	<u>Agriculture worker housing</u>	<u>X</u>	<u>X</u>	<u>X</u>
<u>12.</u>	<u>Single-room occupancy (SRO) housing</u>	<u>=</u>	<u>=</u>	<u>X</u>

Section IV: Section 14.140.030 shall be revised to include the following:

14.140.030 Industrial use table.

		M-1	M-2	M-A
Residential				
26.	Data processing and computer operations	X	X	
27.	<u>Emergency shelter, transitional housing, supportive housing</u>	<u>X</u>	<u>=</u>	<u>=</u>
27 28.	Equipment rental agency	X	X	
28 29.	Feed yard; hay, seed or grain store	X	X	X

(The Use Table will be subsequently renumbered to accommodate the addition of a use.)

Section V: Chapter 14.170, Affordable Housing Incentives/Residential Density Bonuses to be placed in its entirety:

Chapter 14.170

AFFORDABLE HOUSING INCENTIVES/RESIDENTIAL DENSITY BONUSSES

Sections:

14.170.010 Purpose.

14.170.020 Applicability.

14.170.030 Application and approval.

14.170.040 Planning Commission recommendation.

14.170.050 Determination of housing density bonus or incentives.

14.170.010 Purpose.

The purpose of providing a housing density bonus or incentives is to contribute to the economic feasibility of low income and moderate income housing in housing developments proposed within the City.

14.170.020 Applicability.

When a developer enters into an agreement pursuant to Government Code Section 65915 consisting of at least one of the following:

- 5 percent of units restricted to very low-income households, or
- 10 percent of the total units of a housing development restricted to low-income households,
or
- 10 percent of the total for-sale of a common interest housing development restricted to moderate-income households, or
- The project donates at least one (1) acre of land with the appropriate general plan, zoning, permitting, and approvals and access to public facilities needed for such housing to the city for very low-income units, or
- The project is restricted to seniors.

The developer shall be eligible for a housing density bonus of up to 35 percent and up to three incentives or concessions if the housing development consists of five or more units.

14.170.030 Application and approval.

Any person requesting a housing density bonus, incentives, or concessions shall apply for a development agreement. A housing density bonus, incentives, or concessions shall be granted by approval of the development agreement which shall specify the density bonus and/or incentives, and any conditions attached to the approval of such bonus, incentive and/or concession.

14.170.040 Planning Commission recommendation.

Prior to Council action on a development agreement providing a housing density bonus or incentives, the Commission, if applicable, shall consider the development agreement and make a recommendation to the Council.

14.170.050 Determination of housing density bonus or incentives.

The project developer may specify the requested housing density bonus or incentives; however, the City may agree to provide a housing density bonus or incentives other than those requested, so long as such housing density bonus or incentives meet the requirement set forth in the California Government Code.

I HEREBY CERTIFY that the above and foregoing Ordinance was introduced on the 14th day of January, 2014 and DULY AND REGULARLY ADOPTED this 11th day of February, 2014 by the following vote:

AYES: COUNCILMEMBER _____

NOES: COUNCILMEMBER _____

ABSENT: COUNCILMEMBER _____

ABSTAIN: COUNCILMEMBER _____

ATTEST:

APPROVED:

Roben Dewsnup
CITY CLERK

Roger L. Frith
MAYOR