



Folsom City Council Staff Report

MEETING DATE:	12/9/2025
AGENDA SECTION:	Public Hearing
SUBJECT:	Ordinance No. 1359 – An Ordinance of the City of Folsom Amending Certain Sections of Chapter 17.104 (Inclusionary Housing) of the Folsom Municipal Code to Update the Methodology for Calculating In-lieu Fees Applicable to Residential Development, and to Incorporate Non-Substantive Cleanup Revisions for Clarity and Consistency, and Determine that the Project is Exempt from CEQA (Introduction and First Reading)
FROM:	Community Development Department

RECOMMENDATION / CITY COUNCIL ACTION

Staff recommends that the City Council move to adopt Ordinance No. 1359 – An Ordinance of the City of Folsom Amending Certain Sections of Chapter 17.104 (Inclusionary Housing) of the Folsom Municipal Code to Update the Methodology for Calculating In-lieu Fees Applicable to Residential Development, and to Incorporate Non-Substantive Cleanup Revisions for Clarity and Consistency, and Determine that the Project is Exempt from CEQA.

BACKGROUND / ISSUE

The City of Folsom's Inclusionary Housing Ordinance, Chapter 17.104 of the Folsom Municipal Code, plays a key role in promoting the development of affordable housing. Adopted in 2002 and amended in 2013, the ordinance is a significant component of the City's overall affordable housing strategy.

Under the City's Inclusionary Housing Ordinance, developers of new for-sale detached single-family homes within subdivisions of ten housing units, or more are required to provide at least 10 percent of their homes to lower-income households (3 percent very low and 7 percent low). However, a developer may opt to pay an in-lieu fee instead of constructing affordable units on-site. Other seldom-used options also exist. Given the complexities and challenges associated with building deed-restricted affordable for-sale homes, almost all developers in Folsom choose to pay the in-lieu fee. This fee is paid instead of or in-lieu of building the affordable,

deed-restricted housing units. It is calculated as 1 percent (1%) of the sales price of the lowest-priced unit in the subdivision, multiplied by the total number of units in the project. To determine the fee amount, developers are required to submit architectural plans and anticipated homes sales pricing prior to the issuance of building permits. Additionally, developers must enter into an inclusionary housing agreement to formalize the fee calculation and related requirements. To date, the Inclusionary Housing Fee program has generated approximately \$30.5 million, which has been instrumental in providing gap financing for affordable rental housing projects. However, administration of the in-lieu fee program is unnecessarily complex and burdensome as described in more detail in this report. As a result, staff is recommending changes to the in-lieu fee methodology to improve predictability and the process for staff and applicants.

Housing Element Program H-9

The City's 2021–2029 Housing Element included Program H-9, which required the City to conduct an inclusionary housing fee study. The purpose of the program was to evaluate fee levels and funding gaps, as well as to improve the existing methodology for calculating the in-lieu fee. To implement Program H-9, the City retained **Economic & Planning Systems, Inc. (EPS)** to conduct a comprehensive review of the existing fee program, with a particular focus on exploring alternative fee calculation methods that better align with regional practices.

In addition to policy considerations, City staff identified administrative challenges within the current fee structure. The system has resulted in more than 75 subdivision-specific fees, each requiring manual input into the City's permit processing system. This lack of integration with the City's automated review and permitting systems increases the risk of clerical errors and creates inefficiencies in fee administration.

Inclusionary Housing Program Feasibility Analysis

The Inclusionary Housing Program Study, conducted by EPS, explored potential updates to the City's Inclusionary Housing Ordinance (IHO), with a focus on the in-lieu fee applied to residential developments that did not meet their affordable housing obligations through on-site construction. Although such in-lieu fees are not legally required to meet nexus standards under California's Mitigation Fee Act and related legislation, EPS applied a nexus-based methodology to reassess the affordability gap and calculate the maximum justifiable fee. Given recent challenges in California to in-lieu fees, the use of nexus studies is recommended, which is why EPS performed such as study. The study also examined the impact of Assembly Bill 1505, enacted in 2017, which gave cities the authority to apply inclusionary housing requirements—including in-lieu fees—to rental developments. Based on this legislation, the study evaluated the potential expansion of the ordinance to cover rental projects as previously recommended by the Planning Commission.

EPS reviewed the City's current in-lieu fee using updated socioeconomic and real estate market data. Since the last analysis, several major shifts occurred—most notably the economic impacts of the COVID-19 pandemic, rising construction costs, and higher interest rates. These factors have affected both home values and rental prices and have increased the cost of housing

production. As a result, the financial investment required to produce affordable units has grown, as has the funding gaps faced by developers of affordable housing projects. The updated analysis aims to determine a revised fee that reflects these conditions while maintaining feasibility for new market-rate development.

In addition, the study incorporates input from stakeholders, including market-rate and affordable housing developers, as well as City staff, compares our current in-lieu fee methodology amount and proposed fee amount to other jurisdictions, and considers State legislative changes adopted since the previous analysis. EPS also reviewed affordable housing policies and funding strategies in selected peer jurisdictions to provide context for potential updates to the in-lieu fee.

Summary of Key Study Findings and Recommendations

Fee Structure and Developer Impact

- The Study recommends adopting a per-square-foot fee structure to streamline administration and offer developers greater clarity regarding project costs. Specifically, it proposes:
 - An In-lieu fee of \$3.00 per square foot for single-family for sale units, consistent with average current fee levels (\$2.97 per square foot).
 - A lower \$2.50 per square foot fee for multifamily for-sale units (1,500 square feet or less), structured to support the financial viability of higher density missing middle housing alternatives.
- In the Folsom Plan Area—where most new housing development is concentrated—the Study found that developers currently face significant fee burdens:
 - Single-family for-sale units incur average impact fees of nearly \$95,000 per unit, including inclusionary in-lieu fees typically ranging from \$5,000 to \$11,000 per unit.
 - Rental multifamily units, although exempt from inclusionary fees, still face impact fees of approximately \$60,000 per unit, posing feasibility challenges under current market conditions.

Developer Feedback and Historical Fee Data

- Developers expressed strong support for retaining the existing fee structure and fee levels given that it is based on the sales-price for the lowest priced home.
- Historical building permit data from 2023 to present indicates that developers have paid an average inclusionary housing in-lieu fee of approximately \$3.00 per square foot under the current framework.

Feasibility Analysis and Recommendations

- Estimated development costs, including the current in-lieu fee, are feasible for single-family residential projects.

- Multifamily for-sale housing types (e.g., condominiums, townhomes) and multifamily rental apartments are generally infeasible under current market conditions.
- To address these feasibility concerns and support the City’s Housing Element goals for higher-density housing, the Study recommends:
 - Implementing a \$2.50 per square foot in-lieu fee for multifamily for-sale units (e.g., condominiums, townhomes).
 - Establishing a clear definition of multifamily for-sale units to ensure consistent application of the reduced fee.
 - Continuing to exempt multifamily rental units (apartments) from the in-lieu fee to enhance development viability.
 - Applying an automatic construction cost inflation adjustment to the new fee(s).

Proposed FMC Title 17 Amendments

Based on the findings and recommendations of the EPS study, staff’s experience administering the Inclusionary Housing Ordinance (IHO), recent amendments to California State law regarding density bonuses, and the presence of outdated language in the current ordinance, staff recommends a series of revisions to Folsom Municipal Code Chapter 17.104. The central proposal involves amending Section 17.104.060(g) to revise the methodology for calculating the in-lieu fee. **Specifically, the proposed change would replace the current formula—1% of the lowest priced home in the subdivision—with a simplified, standardized square-footage-based fee, as recommended in the section above.** This approach is consistent with practices in many other jurisdictions and, while not legally mandated, aligns with the nexus requirements of AB 602 (2021), which standardizes development impact fees on a per-square-foot basis.

In addition to the proposed changes to the fee methodology, staff recommends several other amendments to the inclusionary housing ordinance. These include eliminating outdated references, such as those pertaining to the former Redevelopment Agency, and updating language to match current administrative practices and terminology. Furthermore, a number of revisions are intended to bring the ordinance into alignment with recent changes in California housing law. The State has enacted multiple measures to streamline housing production and reduce regulatory barriers for developers, necessitating updates to existing provisions related to density bonuses, fee deferrals, and tenant preference policies to ensure compliance with current legal requirements.

Note: As part of the proposed updates, the existing resident and local worker preference requirements for affordable housing are being removed to ensure consistency with current State law and federal fair housing regulations. However, staff plans to revisit this issue by developing a new local preference policy, which will be brought back to the Planning Commission and City Council for consideration. This future proposal will be shaped by the City Council’s prior direction and supported by additional research to ensure legal compliance and alignment with the City’s housing goals.

Planning Commission Workshop

On September 17, 2025, the Planning Commission held a public workshop to review and discuss the Inclusionary Housing Ordinance. During the session, City staff presented preliminary findings from the Inclusionary Housing Program Study to both the Commission and the public. The workshop included an overview of the ordinance's history, current requirements, and regulatory framework, and highlighted key operational challenges tied to the existing in-lieu fee calculation method. Staff also introduced potential goals for updating the fee structure to improve efficiency and better align with the City's affordable housing objectives. Materials from the workshop are available at the following link:

<https://www.folsom.ca.us/government/community-development/planning-services/planning-commission>

Other Outreach

In addition to the workshop, staff conducted a series of outreach efforts to engage the community and stakeholders. These efforts included distributing more than 600 emails to residents, businesses, and developers throughout Folsom; holding three consultation meetings with the North State Building Industry Association; convening two stakeholder meetings with the Sacramento Housing Alliance (SHA) and Legal Services of Northern California; and creating a dedicated Inclusionary Housing Ordinance Update webpage to provide ongoing access to materials and updates.

Builders and the BIA expressed strong support for maintaining Folsom's current sales price-based inclusionary housing in-lieu fee model, emphasizing its flexibility and ability to adapt to changing market conditions—particularly during an economic downturn. They noted that on-site construction requirements pose significant operational challenges, making the fee-based approach more manageable. Furthermore, the building representatives raised concerns that revising the fee methodology could result in higher inclusionary fees, especially given that Folsom's fees in the Plan Area are already considered high relative to other jurisdictions. They also questioned the feasibility of applying inclusionary requirements to rental projects under current economic conditions.

During consultation meetings held after release of the Public Review Draft, several building representatives reaffirmed their support for the existing fee structure, emphasizing that it reflects market realities and avoids disproportionate impacts on larger homes. While acknowledging administrative burdens, developers expressed a willingness to collaborate on streamlining the process, offering suggestions such as a one-time processing fee, submission of sales data at the time of model home permitting, and collection of fees at certificate of occupancy when funds are more readily available.

If the City were to pursue a square-foot-based fee, developers recommended incorporating a sliding scale to mitigate impacts on larger homes. Some also raised questions about whether projects with existing inclusionary housing agreements would be able transition to the new methodology if adopted. In response to developer feedback and concerns, staff prepared three alternative options for consideration, which are summarized in Attachment 5 to this report.

In parallel meetings with SHA and Legal Services of Northern California, affordable housing representatives raised concerns about any reduction in the proposed fee from existing levels and expressed the need for a higher fee given the recent reductions in affordable housing funding available from the State. They were also supportive of the alternative option (Option 2) that required the payment of all in-lieu fees at the first certificate of occupancy since this would result in funding for affordable housing projects earlier than under the current process.

Planning Commission Hearing

On November 9, 2025, the Planning Commission held a duly noticed public hearing to review and discuss proposed amendments to the Inclusionary Housing Ordinance. During the hearing, the consultant and city staff presented the key findings and recommendations of the Inclusionary Housing Program Study, which focused on evaluating potential updates to Folsom's Inclusionary Housing Ordinance with a particular emphasis on the in-lieu fee applied to residential developments that do not provide affordable units on-site.

EPS provided a high-level overview of the affordability gaps used to calculate the maximum justifiable fee. This analysis incorporated updated socioeconomic and market data reflecting the impacts of COVID-19, rising construction costs, and higher interest rates—all of which have increased housing production costs and widened funding gaps for affordable projects. EPS also reviewed the implications of Assembly Bill 1505, which authorizes cities to apply inclusionary housing requirements to rental developments.

In addition, staff and the consultant provided an overview of stakeholder input, comparisons with peer jurisdictions, and recent legislative changes. As part of this discussion, staff presented three alternative approaches to the recommended fee structure for consideration based on developer feedback. These alternatives, included in Attachment 5 to the staff report, were:

- **Option 1:** Retain the existing formula but shift administration to a third-party consultant.
- **Option 2:** Maintain the current formula but collect fees at the certificate of occupancy.
- **Option 3:** Transition to a square-foot-based in-lieu fee structure; however, implement a sliding scale to reduce the cost burden on larger homes.

Staff noted that the merits of each option were carefully considered. However, based on experience administering the current program and the findings of the EPS Study, staff expressed support for the proposed residential per-square-foot fee methodology and proposed fee amount recommended in the Study.

At the meeting, two stakeholders provided comments on behalf of the Building Industry Association (BIA) and Toll Brothers. The BIA representative reaffirmed support for maintaining the current fee structure and expressed concern that a solution related to reducing the administrative burden on staff had been determined prior to consultation with the BIA. The representative from Toll Brothers indicated that their organization was comfortable either

retaining the existing methodology or transitioning to a square-foot-based approach. Neither representative recommended that the commission consider any of the alternatives presented by staff; however, Toll Brothers stated they did not support Option 2, noting that requiring payment of all in-lieu fees at the first certificate of occupancy would impose a financial burden on developers.

Following public comment, the public hearing was closed. The Commission then deliberated and asked staff and the consultant questions regarding the recommendation and the alternatives presented. At the conclusion of its discussion, the Planning Commission adopted a motion (5-0-0-2, with two members absent) recommending that the City Council adopt Ordinance No. 1359 and determine that the project is exempt from CEQA.

POLICY / RULE

Folsom Municipal Code (FMC) Chapter 17.68 (Amendments) governs the process for the City to amend FMC Title 17 – Zoning. The Planning Commission must hold a public hearing on any proposed amendment and make a recommendation to the City Council. The City Council then may consider the amendment at a public hearing. The City Council must find that the public necessity and convenience and the general welfare require such an amendment.

ANALYSIS

The City's 2021–2029 Housing Element includes Program H-9, which directs staff to conduct a study of the inclusionary housing in-lieu fee. The goal of this program is to evaluate fee levels and funding gaps, and to improve the methodology for calculating the in-lieu fee. The existing calculation method—based on 1% of the lowest-priced home in a subdivision—has proven to be administratively inefficient and incompatible with the City's current fee processing system. Despite these challenges, the inclusionary fee program has been highly successful, generating approximately \$30.5 million in funding that has supported gap financing for several affordable housing developments. This funding has resulted in the creation of over 320 new affordable apartments in Folsom, demonstrating the effectiveness of the fee amount.

Overview of Current Process and Challenges

- **Sales Price Estimation:** Since the IHO in-lieu fee is set as 1% of the lowest priced home in the subdivision, sales price information is required. However, developers typically do not have final home prices available at the time of initial building permit issuance, especially for model homes. Consequently, City staff must rely on developer-provided market analyses to estimate sales prices. This step requires staff review and validation.
- **Initial Fee Determination:** Each subdivision must prepare an in-lieu fee determination to formally establish its initial fee. This step creates a fixed reference point for consistent tracking and administration.
- **Manual Fee Entry:** Once the fee is set, it must be manually entered into the City's development permit and processing system for every single production home permit in the subdivision. Because the fee is subdivision-specific and not standardized, it remains

one of the few non-automated building permit fees. This manual process increases the risk of clerical errors and inefficiencies. In the Folsom Plan Area alone, over 75 separate inclusionary housing fees have been established for individual subdivisions as shown in Attachment 4.

- **Deed Restriction Requirements:** Current practice requires an inclusionary housing deed restriction to be placed on applicable projects. This restriction serves multiple purposes: it ensures the project is subject to the required fee, outlines all provisions related to fee calculation, monitoring, and future updates, and helps maintain consistency and transparency in how the requirements are applied across developments. However, the process of recording the deed restriction against the property and then removing it once the requirements of the IHO have been satisfied is time consuming for City staff.
- **Annual Fee Review:** The ordinance requires an annual review of the lowest-priced unit in each subdivision to determine if the sales price has changed by more than 10%. If so, the inclusionary housing fee must be recalculated and applied to remaining lots. To support this review, inclusionary housing agreements require developers to submit home sales reports. However, compliance is inconsistent, often requiring staff to follow up directly with developers or independently review builder websites for current pricing data.

Revision to Fee Structure

While the current ordinance offers flexibility for developers and has effectively generated funding for affordable housing, as indicated above, its administration demands ongoing staff time, coordination, and effort to maintain fairness and consistency. To address these operational inefficiencies and reduce the amount of staff time dedicated to implementing the current fee structure, staff supports the Study's recommendation to revise the Inclusionary Housing Ordinance (IHO) and transition to a square footage-based fee structure. This approach, increasingly adopted by other jurisdictions, is expected to streamline administration, reduce processing burdens, and provide developers with clearer and more predictable cost expectations.

Section 4 of the Study (pages 40–48) presents a comparative survey of jurisdictions evaluating the City's inclusionary program against others in the region and other selected jurisdictions in the State with inclusionary programs. The survey highlights that no other jurisdiction uses sales price as a basis for calculating in-lieu fees. Instead, most apply either a flat fee or a per-square-foot fee. Because square footage is a standard metric used in building permits, it simplifies fee calculation and verification. Moreover, flat fees may disproportionately impact smaller projects or undercharge larger ones, whereas a square footage-based fee ensures a more equitable distribution of costs across varying project sizes.

Fee Amount Recommendation and Analysis

The Study recommends establishing an in-lieu fee of **\$3.00 per square foot** for single-family for-sale units, aligning with current fee levels, and **\$2.50 per square foot** for for-sale

multifamily units to help ensure the financial viability of this housing type. The following section offers a high-level summary of the EPS Study and the rationale behind the proposed fees.

To inform these recommendations, the Study analyzed four representative residential prototypes—two single-family and two multifamily—reflecting recent development patterns in Folsom. Although the prototypes differ in design and pricing, the analysis applied a standardized pro forma with consistent assumptions regarding unit size, base density, and housing type. A summary of these prototypes is presented below and detailed in **Table 3.1**, with further context provided in **Section 3** of the Study.

Prototype	Housing Type	Tenure	Unit Size (sq ft)	Bed-rooms	Base Density (DU/acre)
Prototype 1	Single Family Low Density	For-sale	2,600	4	5
Prototype 2	Single Family Medium Density	For-sale	2,000	3	10
Prototype 3	Multifamily Low Density	For-sale	1,500	3	18
Prototype 4	Multifamily High Density	Rental	1,000	2	30

Using a nexus-based methodology, the Study estimates the maximum supportable in-lieu fees for each residential prototype by evaluating two key factors: the affordability gap and the additional demand for affordable housing generated by new market-rate development. This demand arises from the increased need for lower-wage workers who support higher-income households—workers who are often unable to afford market-rate housing. This approach is based on the premise that higher-income households spend more on goods and services, which creates jobs—many of which pay lower wages. These workers often cannot afford market-rate housing. Charging fees on new market-rate development helps address the increased demand for affordable housing created by this dynamic.

The maximum supported nexus based inclusionary housing in-lieu fee per square foot for each prototype analyzed in this study is summarized on Page 8 of the Study in Table 3.9. While the maximum supported inclusionary housing fee is very high, it does not consider the overall fee burden of all fees on residential development. As a result, no jurisdiction uses the maximum supported fee, but it does establish the outer end of a range of legally defensible fees.

Prototype	Housing Type	Tenure	Unit Size (sq ft)	Per Square Foot Fee Level		
				Max Allowed Fee	High Scenario (20 % of maximum)	Low Scenario (matches existing fee)
Prototype 1	Single Family Low Density	For-sale	2,600	\$59.56	\$11.91	\$3.00
Prototype 2	Single Family Medium Density	For-sale	2,000	\$44.35	\$8.87	\$3.00
Prototype 3	Multifamily Low Density	For-sale	1,500	\$35.82	\$7.16	\$2.50
Prototype 4	Multifamily High Density	Rental	1,000	\$34.01	\$6.80	\$0.00

In addition to identifying the maximum nexus-based fee, the EPS Study presents two alternative in-lieu fee scenarios for City Council consideration: a low-fee option consistent with current rates, and a high-fee option set at 20% of the maximum supportable amount. These alternative fees are summarized in the Table above.

While the City has the authority to adopt fees up to the maximum level, it is standard practice to set fees well below that threshold to maintain project feasibility and avoid discouraging housing production. Because the primary goal of the Inclusionary Housing Ordinance (IHO) update is to transition to a square-foot-based fee calculation method – not to increase fee levels—staff recommends adopting a fee of \$3.00 per square foot for single-family for-sale units and \$2.50 per square foot for for-sale multifamily units. These rates are financially viable and align with the City’s current affordable housing strategy. As noted earlier in this report, historical building permit data from 2023 to the present indicates that developers have paid an average in-lieu fee of approximately \$2.97 per square foot under the existing fee methodology.

The recommended fee levels would continue to provide the City with meaningful financial resources to support affordable housing development. With an estimated local subsidy of approximately \$55,000 per unit, the City can invest in housing opportunities for lower-income residents while maintaining overall project feasibility. Rental multifamily projects would remain exempt, reflecting ongoing economic challenges in the rental housing market where narrow margins mean that additional fees could jeopardize project viability and reduce the supply of much-needed rental units in the Folsom Plan Area.

This balanced approach ensures that the Inclusionary Housing Ordinance remains effective in generating resources for affordable housing while avoiding undue burdens on new residential development.

Regional In-Lieu Fee Comparison

Finally, to assess the City's current and proposed in-lieu fee levels, the Study examined per-unit fees for the single-family low-density housing prototype across jurisdictions in the Sacramento Region. As summarized in Table 4.3 of the Study, Folsom's existing and recommended fees are generally in line with regional benchmarks. Specifically, Folsom's fee is approximately 10% lower than those in the City of Sacramento and Sacramento County, yet it is 35% and 75% higher than the fees in Rancho Cordova and the City of Elk Grove, respectively, though the fee level in Rancho Cordova is just based on one Affordable Housing Plan for a specific development.

FINANCIAL IMPACT

There is no financial impact on the General Fund. The inclusionary housing in-lieu fee will continue to support the Folsom Housing Fund (Fund 238). Based on historical data, the recommended fee of \$3.00 per square foot for single-family for-sale housing units is consistent with the amounts previously collected under the current framework. The proposed \$2.50 per square foot reduced fee for multifamily for-sale housing units 1,500 square feet or less may result in minor reductions in overall collections; however, this outcome is consistent with the City's efforts to encourage more moderate "missing middle" housing options. As such, it aligns with Council direction as well as the goals and policies outlined in the Housing Element.

Consistent with existing in-lieu fee requirements, a minimum of 50% of revenue generated from the fund will be allocated for the development of lower-income housing units. Overall, revenues are expected to remain stable compared to current collections. To ensure the fee remains responsive to market conditions, it will be indexed to the Construction Cost Index (CCI), providing for regular adjustments over time.

ENVIRONMENTAL REVIEW

The proposed City Council action to adopt Ordinance No. 1359 is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15378 (b)(4) "Project" and Section 15061(b)(3) "Review for Exemption". Under Section 15378, the action does not constitute a "project" under CEQA, as it pertains solely to administrative or procedural matters that do not result in direct physical environmental changes. Furthermore, Section 15061(b)(3) - the "common sense exemption" - applies because it can be determined with certainty that the adoption of this updated document will not lead to significant effects on the environment.

ATTACHMENTS

1. Ordinance No. 1359 - An Ordinance of the City of Folsom Amending Certain Sections of Chapter 17.104 (Inclusionary Housing) of the Folsom Municipal Code to Update the Methodology for Calculating In-lieu Fees Applicable to Residential Development, and to Incorporate Non-Substantive Cleanup Revisions for Clarity and Consistency, and Determine that the Project is Exempt from CEQA
2. Folsom Municipal Code Chapter 17.104 (Inclusionary Housing) – Applicable Section Strikethrough
3. City of Folsom Inclusionary Housing Program Study – Public Review Draft

4. List of Inclusionary Housing Fees
5. Alternative Fee Structure Considerations

Submitted,

A handwritten signature in blue ink, appearing to read 'Pam Johns', with a long horizontal flourish extending to the right.

Pam Johns, Community Development Director