

Folsom City Council Staff Report

MEETING DATE:	1/13/2026
AGENDA SECTION:	Consent Calendar
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 (Second Reading and Adoption)
FROM:	Community Development Department

RECOMMENDATION / CITY COUNCIL ACTION

Staff recommends that the City Council move to conduct a second reading and 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.

BACKGROUND / ISSUE

On December 9, 2025, the City Council introduced and conducted the first reading of Ordinance No. 1359 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. No changes have been made to Ordinance No. 1359 since the first reading.

The City’s Inclusionary Housing Ordinance 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 such as land dedication, off-site construction, etc. 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.

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

EPS conducted a study to update the City's Inclusionary Housing Ordinance (IHO), focusing on in-lieu fees for projects not meeting affordable housing requirements on-site. While not legally required under California's Mitigation Fee Act, EPS used a nexus-based approach to reassess affordability gaps and calculate a justifiable fee. The study also reviewed Assembly Bill 1505 (2017), which allows cities to apply inclusionary requirements—including in-lieu fees—to rental developments, and evaluated expanding the ordinance accordingly.

Using updated socioeconomic and market data, EPS analyzed impacts of COVID-19, rising construction costs, and higher interest rates, all of which increased housing production costs and widened funding gaps for affordable projects. The goal was to recommend a revised fee that balances affordability needs with feasibility for market-rate development.

The study incorporated input from developers and City staff, compared fees across jurisdictions, and reviewed state legislative changes and peer housing policies to inform potential updates.

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) are barely feasible based on current construction costs and sale prices while 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, a series of revisions to Folsom Municipal Code Chapter 17.104 are proposed. 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, several other amendments to the inclusionary housing ordinance are included. These revisions eliminate outdated references, such as those pertaining to the former Redevelopment Agency, and update 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.

Planning Commission Workshop

On September 17, 2025, the Planning Commission held a public workshop to review and discuss the Inclusionary Housing Ordinance. City staff presented preliminary findings from the Inclusionary Housing Program Study, provided an overview of the ordinance’s history and current framework, and outlined challenges with the existing in-lieu fee calculation. Staff also introduced potential goals for updating the fee structure to improve efficiency and better align with 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 outreach through emails, consultation meetings, stakeholder sessions, and a dedicated webpage to share information on the Inclusionary Housing Ordinance Update. Building industry representatives supported retaining the current sales price-based in-lieu fee model, citing its flexibility, and the fact that it was based on home sales prices. They also raised concerns about potential cost increases and impacts on rental projects. Developers suggested process improvements such as a one-time processing fee, submission of sales data at model home permitting, and fee collection at certificate of

occupancy. Affordable housing stakeholders emphasized the need to maintain or increase fee levels and supported earlier fee collection to provide timely funding for affordable housing projects.

Planning Commission Hearing

On November 9, 2025, the Folsom Planning Commission held a public hearing to review proposed amendments to the Inclusionary Housing Ordinance, focusing on updates to the in-lieu fee for residential projects without on-site affordable units. EPS presented findings from the Inclusionary Housing Program Study, highlighting affordability gaps driven by COVID-19 impacts, rising construction costs, and higher interest rates, while also noting Assembly Bill 1505's implications for rental developments. Staff outlined three fee structure alternatives but ultimately supported a per-square-foot methodology recommended in the study. After hearing stakeholder input from the Building Industry Association and Toll Brothers, the Commission voted 5-0-0-2 to recommend City Council adoption of Ordinance No. 1359, determining the project exempt from CEQA.

City Council Hearing

On December 9, 2025, the City Council reviewed staff's proposed revisions to FMC Chapter 17.104 and considered updates to the inclusionary housing in-lieu fees. The City Council asked questions of staff and the consultant and ultimately voted (4-1-0-0) to introduce and conduct the first reading of 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. No changes have been made to Ordinance No. 1359 since the first reading.

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:** Fees are based on 1% of the lowest-priced home, but final prices are often unavailable at permit issuance. Staff must validate developer market analyses.
- **Initial Fee Determination:** Each subdivision establishes a formal in-lieu fee to ensure consistent tracking.
- **Manual Fee Entry:** Fees must be manually entered for every home permit. With over 75 subdivision-specific fees in Folsom, this non-automated process is error-prone and inefficient.
- **Deed Restrictions:** Projects require deed restrictions to enforce fee compliance and transparency. Recording and later removing these restrictions is time-consuming for staff.
- **Annual Fee Review:** Fees must be recalculated if home prices change by more than 10%. Developer reporting is inconsistent, forcing staff to follow up or research independently.

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.

The Study 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, which is the current situation with Folsom's existing in-lieu fee. However, 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 the prototypes used in the Study is presented below.

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 fee 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 typically 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 study identifies the **maximum nexus-based inclusionary housing in-lieu fee per square foot** for each prototype analyzed. Although this maximum fee is quite high, it does not account for the cumulative impact of all development-related charges. Consequently, no jurisdiction actually adopts the maximum; instead, it serves as the upper boundary of a legally defensible fee range.

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 alternatives, together with the maximum, provide a structured framework for evaluating feasible in-lieu fee levels and 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—the Study 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

To evaluate the City’s current and proposed in-lieu fee levels, the Study compared per-unit fees for single-family low-density housing across the Sacramento Region. Folsom’s fees were found to be generally consistent with regional benchmarks—about 10% lower than Sacramento and Sacramento County, but 35% higher than Rancho Cordova and 75% higher than Elk Grove. However, the City of Elk Grove is currently re-evaluating their existing fee levels. It is worth noting that Rancho Cordova’s fee reflects only a single Affordable Housing Plan tied to one 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).

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.

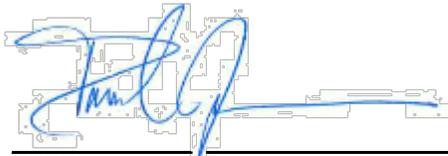
ENVIRONMENTAL REVIEW

Adoption of the Ordinance is exempt from the California Environmental Quality Act (CEQA) under Guidelines Sections 15378(b)(4) and 15061(b)(3). Pursuant to Section 15378, the action does not constitute a “project,” as it involves only administrative or procedural matters without direct physical environmental impacts. In addition, Section 15061(b)(3), the “common sense exemption,” applies because it can be determined with certainty that adoption of this update will not result in significant environmental effects.

ATTACHMENT

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

Submitted,



Pam Johns, Community Development Director

Attachment 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

The City Council of the City of Folsom does hereby ordain as follows:

SECTION 1 PURPOSE

The purpose of this ordinance is to amend certain sections of Chapter 17.104 in the Folsom Municipal Code to amend specific sections of Chapter 17.104 of the Folsom Municipal Code, which includes a revision to the calculation method for the in-lieu fee. The current formula of 1% of the lowest-priced home in the subdivision will be replaced with a simplified, standardized structure based on square footage, aligning with practices in other jurisdictions. Additional revisions include cleanup amendments to remove outdated references, ensure consistency with current state law, and enhance clarity and administrative efficiency. The City Council finds that such change is necessary to promote the public health, safety, and welfare.

SECTION 2

Sections 17.104.020 to 17.104.070 of the Folsom Municipal Code is hereby amended to read as follows:

17.104.020 Definitions

“Adjusted basis” means the adjustment to the basis of a home for purposes of determining capital gains. Adjusted basis shall be defined and determined consistently with the Internal Revenue Service publication 523 “Selling Your Home.”

“Affordable” means rented at an affordable rent or sold at an affordable housing price.

“Affordable housing price” means a sales price at which low income or very low income households as provided in this chapter can qualify for the purchase of for-sale inclusionary units. A sales price shall be considered affordable only if each owner-occupied housing monthly payment is equal to or less than one-twelfth of thirty-five percent of gross income for the specified income level of the household (i.e., very low or low). For purposes of such calculation, housing expenses shall include mortgage principal and interest, taxes, insurance, and assessments. For purposes of this section, the interest rate shall be calculated based on an average of three major California lending institutions for thirty-year fixed rate FHA PAR financing.

“Affordable rent” means (1) for a unit whose occupancy is restricted to a low income household, that the monthly rent consists of no more than one-twelfth of thirty-five percent of eighty percent of the median income applicable to Sacramento County less a reasonable allowance for utilities;

and (2) for a unit whose occupancy is restricted to a very low income household, that the monthly rent consists of no more than one-twelfth of thirty-five percent of fifty percent of the median income applicable to Sacramento County less a reasonable allowance for utilities. In each case, the median income applicable to Sacramento County is as determined annually by the United States Department of Housing and Urban Development, adjusted for household size.

“Affordable rental agreement” means legal restrictions by which the rents for rental inclusionary units will be set at such rates to ensure that rents remain affordable for a period of thirty years or longer.

“City” means the city of Folsom.

“Community development director” means the director of the community development department of the city, or his or her designee.

“Condominium” means and includes:

1. “Condominium” as defined by Section [783](#) of the Civil Code;
2. “Community apartment project” as defined by Section [11004](#) of the Business and Professions Code;
3. “Stock cooperative” as defined by Section [11003.2](#) of the Business and Professions Code; and
4. “Planned development” as defined by Section [11003](#) of the Business and Professions Code.

The term “condominium” specifically includes, but is not limited to, the conversion of any existing structure for sale pursuant to a method described in subsections (1) through (4) of this definition.

“Condominium conversion” or “conversion” means a change in the ownership of a parcel or parcels of property, together with structures thereon, whereby the parcel or parcels and structures previously used as rental units are changed to condominium ownership.

“Condominium project” or “project” includes the real property and any structures thereon, or any structures to be constructed thereon, which are to be divided into condominium ownership.

“Condominium unit” or “units” means the individual spaces within a condominium project owned as individual estates.

“Density bonus” means increases in density in a development project above the maximum density otherwise permitted for the applicable land use designation, or if elected by the developer, a lesser percentage of density increase, including but not limited to, no increase in

density, and any requested concession or incentives, waivers or reductions of development standards as provided in the Folsom Municipal Code or state law.

“Developer” means any applicant, person, developer, firm, partnership, association, joint venture, corporation, or any entity or combination of entities which seeks the city’s approvals for all or part of a development project. “Applicant” includes “owner.”

“Development agreement” means an agreement entered into between the city and developer pursuant to Section [65864](#) et seq. of the Government Code.

“Development project” means any residential real estate project or mixed residential and commercial real estate project consisting of residential units, including homes, multifamily residences or other residential structures. Projects at one location undertaken in phases, stages or otherwise developed in distinct sections shall be considered a single development project for purposes of this section. Development projects are those projects for which the developer is applying for new legislative entitlements which are not otherwise exempt under the provisions of this chapter.

“Dwelling unit” means a residential unit within a development project.

“External subsidy” means any source of funds that is not local public funding, including federal or state grants, loans, bond funds, tax credits or other tax-based subsidy.

“Final decision-making body” means the entity with final approval authority on the development project.

“First-time home buyer” means that neither the purchaser nor spouse has owned a home during the past three years, or that the purchaser meets at least one of the following criteria:

1. The purchaser is a displaced homemaker, defined as a person who has not worked full-time for at least three years, worked primarily without remuneration to care for the home and family, is unemployed or underemployed, is experiencing difficulty in obtaining or upgrading employment, and, while a homemaker, owned a home with a previous spouse;
2. The purchaser is single (unmarried or legally separated), has one or more minor children of whom purchaser has custody, and, while previously married, owned a home with a previous spouse; or
3. The purchaser owns or owned, during the past three years, a mobile home or trailer which is/was not permanently affixed to a permanent foundation as their principal residence.

“Folsom housing fund” means the fund created and administered by the city for use on affordable housing projects in the city.

“Inclusionary housing agreement” or “agreement” means the agreement described in Section [17.104.100](#) between a developer and the city setting forth the manner in which the inclusionary housing requirement will be met in the development project.

“Inclusionary housing plan” means the plan described in Section [17.104.040](#) setting forth the manner in which the developer proposes to implement the inclusionary housing requirement or alternatives permitted in this chapter within the development project.

“Inclusionary housing requirement” means the provision of the inclusionary housing units in a development project as specified in Section [17.104.030](#) of this chapter.

“Inclusionary housing unit or inclusionary unit” means an ownership or rental dwelling unit developed as a part of the inclusionary housing requirement of a development project as provided in this chapter.

“Inclusionary incentives” means the fee waivers or reductions, planning and building standards waivers or reductions, regulatory incentives or concessions, and density bonuses provided by the city to a development project to assist in the provision of the inclusionary housing requirement.

“Initial owner” means the first person or persons to purchase a new for-sale inclusionary unit for his, her or their primary residence.

“Land dedication fee” means a fee paid to the Folsom housing fund for purposes of affordable housing in the city as a method of meeting the inclusionary housing requirement for a development project as provided in Section [17.104.030](#).

“Legislative entitlements” means and includes general and community plan amendments, zoning and rezoning, planned development permits and conditions and amendments thereto, tentative and final maps and development agreements.

“Low income household” means a household whose income does not exceed eighty percent of median income applicable to Sacramento County, adjusted for family size as published and annually updated by the United States Department of Housing and Urban Development.

“Market rate” means not restricted to an affordable housing price or affordable rent.

“Moderate income household” means a household whose income does not exceed one hundred twenty percent of median income applicable to Sacramento County, adjusted for family size as published and annually updated by the United States Department of Housing and Urban Development.

“Multifamily residential” means residential units such as apartments, duplexes, halfplexes, townhomes, condominiums, or developments of greater intensity, that are planned, approved, or constructed on land planned or zoned for other than single-family residential.

“Off-site” means outside of the boundaries of a development project, but within the city limits of the city of Folsom.

“One location” means all adjacent land owned or controlled by the same owner or a related owner, the property lines of which are contiguous at any point, or the property lines of which are separated only by a public or private street, road, or other public or private right-of-way.

“Owner” means and includes the person, persons, partnership, joint venture, association, corporation, or public or private entity having sufficient proprietary interest in real property to commence, maintain, and operate a development project.

“Project level approval” means and includes a tentative subdivision map, a parcel map, a planned development permit, or other administrative or adjudicatory approval or determination in connection with a development project.

“Related owner” means a person or entity, including but not limited to partnerships, limited liability corporations, limited partnerships and corporations, which has any of the following relationships with an owner: (1) they share the majority of members of their governing boards; (2) they share two or more officers; (3) they are owned or controlled by the same majority shareholder(s) or general partner(s); (4) they are in a parent-subsidary relationship; or (5) the person is a sibling, offspring or parent of an individual owner. For purposes of this definition, a controlling interest means fifty percent or more of the voting power of a corporation, and a parent-subsidary relationship exists when one corporation owns, directly or indirectly, fifty percent or more of the voting power of another corporation. For purposes of this definition, a person and any general partnership in which the person is a general partner, or a person and any corporation in which the person owns a controlling interest, shall be treated as one and the same.

“Residential project” means the entirety of market rate residential development in a development project subject to the requirement to provide an inclusionary housing requirement as specified in this chapter.

“Residential space” means the total conditioned square footage of a residential dwelling unit, measured to the exterior walls, and including all areas served by heating or cooling systems. Residential space excludes unconditioned areas such as garages, carports, unfinished basements, attics, and exterior patios. For purposes of in-lieu fee calculations, residential space shall not include accessory dwelling units (ADUs) that are exempt from impact fees in accordance with state law, or other areas specifically exempted by the Folsom Municipal Code.

“Single-family residential” means planned, approved or built on land planned or zoned solely for a permitted residential density of one unit per parcel. Where such a planning or zoning single-family designation also allows duplexes, halfplexes, second units, ADUs, or similar uses, the designation is nonetheless considered single-family residential for purposes of the inclusionary housing requirement and the other provisions of this chapter.

“State density bonus law” means Sections 65915 through 65918 of the California Government Code, or successor provisions, as such laws may be amended from time to time.

“Very low income household” means a household whose income does not exceed fifty percent of the median income, adjusted for household size, applicable to Sacramento County, as published and periodically updated by the United States Department of Housing and Urban Development.

“Zoning code” means Title [17](#) of the Folsom Municipal Code as it may be amended from time to time. (Ord. 1033 § 2 (part), 2005; Ord. 958 § 2 (part), 2002)

17.104.030 Inclusionary housing requirement.

A. Number and Affordability of Inclusionary Units. All for-sale development projects consisting of ten or more units, including condominium conversion projects, as well as residential rental projects of ten or more units receiving funding assistance from the city or that are otherwise subject to a voluntary affordable housing agreement with the city, shall include inclusionary housing units equal to ten percent of the total number of units in the project, excluding density bonus units. The ten percent shall consist of three percent very low income units and seven percent low income units.

When four or fewer inclusionary units are required, the inclusionary units shall be provided in the following manner: one inclusionary unit: one low income unit; two inclusionary units: one low income unit and one very low income unit; three inclusionary units: two low income units and one very low income unit; four inclusionary units: three low income units and one very low income unit.

1. Calculation of Units Required. Where the number of units required to be constructed in the development project or condominium conversion project results in a percentage other than a whole number, the developer shall round to the nearest whole number the resulting percentage from the total inclusionary housing requirement calculated as provided in this chapter and provide only the whole units resulting from the inclusionary housing requirement calculation. If, after rounding to the nearest whole number, the total number of inclusionary units provided is less than ten percent of the total project units, any difference in units shall be provided as low income units.

2. Various Methods for Compliance. The inclusionary housing requirement may be satisfied by: including the units within the development project; providing an alternative as set forth in Section [17.104.060](#); providing the units off site; dedicating land for other affordable development projects; acquisition, rehabilitation, and conversion of existing market rate units; conversion of existing market rate units; paying an in-lieu fee as described in this chapter; other methods as approved by the city council that meet the intent of this chapter; or a combination of these methods or other alternatives set forth in this chapter.

B. Implementation. The developer shall propose an inclusionary housing plan as provided in this chapter and incorporate the agreed upon plan into conditions on the project and , if applicable, an inclusionary housing agreement as provided in this chapter.

C. Unit Size. The inclusionary housing requirement shall accommodate diverse family sizes by including a mix of studio, one-, two- and/or three-bedroom units and the mix of inclusionary unit sizes shall generally accommodate the household sizes identified in the city's general plan, unless otherwise negotiated in the inclusionary housing agreement. A developer may propose an alternative mix of the size of units as part of its inclusionary housing plan.

1. Projects of forty residential units or less are exempt from the unit size requirement.

D. Exterior Appearance. Inclusionary units shall be visually compatible with and shall have similar external building materials and finishes as the market rate units in the immediate neighborhood.

E. Access to Common Amenities. Tenants and residents of inclusionary units shall be provided the same rights and access to common amenities in the development project as tenants and residents occupying market rate units.

F. Smaller Parts of Larger Projects. The city shall not approve projects which reasonably appear to be smaller parts of a greater project and have the effect of circumventing the requirements of this chapter. (Ord. 1273 § 2, 2017; Ord. 1177 § 2, 2013; Ord. 1033 § 2 (part), 2005; Ord. 958 § 2 (part), 2002)

17.104.040 Inclusionary housing plan.

A. Submittal Requirements. The inclusionary housing plan must include:

1. The method by which the developer intends to comply with the requirements of this chapter. The developer shall describe the location of the inclusionary units within the development project, unit sizes, and any incentives requested.

2. Where the developer proposes to satisfy the inclusionary housing requirement through any method other than (i) constructing inclusionary units on-site or (ii) paying the in-lieu fee, the developer shall provide the following information:

a. Detailed information on the proposed parcel(s), site, or existing market rate units including the location, assessor's parcel number(s), size, color photographs, an appraisal of the property dated within the prior six months, known information on physical, environmental or other constraints affecting the use of the property, and known information regarding the positive aspects of the use of the property for affordable housing including proximity to schools, transit routes, shopping and other services.

b. Site Suitability. The site proposed to fulfill the inclusionary housing requirement must be suitable from the perspective of size, configuration, physical characteristics, physical and environmental constraints, access, location, adjacent use, proximity to other affordable housing units and other relevant planning criteria.

c. Current market rate rents, condition of units, and vacancy rate information for alternatives proposing to fulfill the inclusionary housing requirement through conversion of market rate units or acquisition, rehabilitation, and conversion of market rate units.

d. A written representation that the proposed parcel(s), site, or existing market rate units is/are available and capable of being dedicated to the city by the developer and that the site and/or units shall be deed restricted as affordable housing.

3. **Timing of Development.** The inclusionary housing plan and inclusionary housing agreement shall include a phasing plan that provides a schedule for the timely development of the inclusionary units as the residential project is built out. In instances where the developer demonstrates that phasing, other than concurrent with market rate units, is necessary in order to account for the different financing and funding environments, economies of scale, or infrastructure needs applicable to the development project, a phasing plan shall be provided that includes definitive dates for construction and does not inhibit the intent of this chapter to create affordable housing units. The community development director shall review the phasing plan and reasons for phasing and make recommendations to the final decision-making body on the timing of the development. The city may condition projects seeking alternative phasing to require posting of bonds, cash deposits, or other securities satisfactory to the city (i.e., deed restriction, development agreement, or withholding of building permit) in an amount sufficient to assure timely construction of the required inclusionary units and to require construction of the units within a specified period of time.

4. Where the developer proposes to satisfy the inclusionary housing requirement exclusively through the payment of an in-lieu fee, the inclusionary housing plan requirements may be satisfied through the provision of a signed letter from the developer as described in Section 17.104.060.

B. Community Development Director's Scope of Authority. The community development director shall be responsible for review of the inclusionary housing plan submitted by the developer, preparation of the inclusionary housing agreement and providing recommendations on these items and other matters as provided in this chapter to the planning commission for action by the planning commission. In any case where the final authority on a project rests with the planning commission or the city council, the community development director shall make recommendations to the planning commission or the city council.

C. Standard for Approval. The community development director shall recommend approval of the inclusionary housing plan, provided the inclusionary housing plan meets all the requirements of this chapter and, if applicable, is included in the inclusionary housing agreement, and based upon a determination by the community development director that the inclusionary housing plan would meet the intent of this chapter. Factors to be considered by the community development director in his/her determination to recommend approval, conditional approval or rejection of the proposed inclusionary housing plan include the criteria provided in this section and Sections [17.104.030](#) and [17.104.060](#), the suitability of the proposed site for single- or

multifamily affordable housing, the availability of and access to infrastructure, schools, shopping and transit, current zoning of the property, and proximity to and concentration of other affordable housing locations. If a method other than on-site development or payment of the in-lieu fee is proposed to meet the inclusionary housing requirement, the proposed method must further the goal of the ordinance codified in this chapter and provide no less units or opportunity for creation of units than if the units had been included within the development project. The recommendation of the community development director shall be included in the staff report to the final decision-making body who shall approve, reject or modify the inclusionary housing plan. (Ord. 1033 § 2 (part), 2005; Ord. 958 § 2 (part), 2002)

17.104.050 Specific plan requirement

A. Number and Affordability of Inclusionary Units. All specific plans approved pursuant to Chapter [17.37](#) on or after the effective date of the ordinance codified in this chapter and which are not otherwise exempt shall include three percent of the dwelling units restricted to and affordable to very low income households and seven percent of the dwelling units restricted to and affordable to low income households (inclusionary housing requirement).

1. The inclusionary housing requirement required by this section shall be determined at the specific plan stage, rather than on a project by project basis. Where the inclusionary component is not included in the specific plan, it shall be included with individual projects as provided in this section.
2. The specific plan shall include an inclusionary housing plan that establishes, as a minimum but not limited to, the following:
 - a. The number of market rate units in the specific plan.
 - b. The inclusionary housing requirement for very low and low income units over the entire specific plan.
 - c. The location of multifamily parcels (if applicable), subdivisions and/or mixed-use development sites designated to receive the inclusionary units.
 - d. The requirements for an inclusionary housing plan specified in Section [17.104.040](#).
3. If the specific plan is initiated by developer(s) or property owners, the implementation of this section shall be through the inclusionary housing agreement signed and approved at the time of adoption of the specific plan.
4. A general provision requiring that an inclusionary housing agreement shall be made a condition of all future discretionary permits for development within the specific plan. The provision shall establish that all relevant terms and conditions of any inclusionary housing agreement shall be filed and recorded as a restriction on the project as a whole and those

individual lots, units, or projects which are designated as inclusionary units. The inclusionary housing agreement shall be consistent with Section [17.104.100](#).

17.104.060 Alternative methods to meet the inclusionary housing requirement.

Alternatives to the on-site construction of the inclusionary housing requirement shall be encouraged and allowed in order to meet the housing needs for low and very low income households, consistent with the criteria in subsections A through I of this section. Alternatives may include:

A. Land Dedication. The developer may dedicate sufficient land within the city of Folsom on which to construct at least the same number of units and infrastructure to support that number of units as the developer would be required to construct on site subject to the inclusionary housing requirement; provided, that the site will support the same number of units the developer is required to construct, has zoning of a minimum density necessary to accommodate the inclusionary housing requirement, that the site is acceptable to the city, and that the site is restricted for affordable housing. The developer shall dedicate the land to the city, an affordable housing developer, or special needs developer acceptable to the city at no cost to the city.

B. Off-Site Construction (“Off-Site”). The developer may develop housing to satisfy the inclusionary housing requirement at an off-site location within the city of Folsom.

C. Acquisition, Rehabilitation, and Conversion of Market Rate Units. The developer may propose to acquire and rehabilitate existing market rate units in the city of Folsom which are at or above existing affordable rents, which require repair, rehabilitation, modernization or other work, and convert those units to affordable housing units.

D. Conversion of Market Rate Units. A developer may propose to convert existing market rate units in the city of Folsom which do not require rehabilitation and are at or above existing affordable rents to affordable housing units by way of deed restrictions, recorded covenants or other legal mechanisms to assure that the units remain affordable housing units.

E. Inclusionary Housing Credits. A developer may use inclusionary housing credits, as defined in this chapter, to meet the inclusionary housing requirement.

F. In-Lieu Fee. A developer may satisfy the inclusionary housing requirement through payment of a fee to the city in-lieu of constructing the inclusionary units with the residential development project, in accordance with the following requirements:

1. The in-lieu fee shall be calculated based on square footage of residential space for each dwelling unit within the development project.
2. Procedures for the assessment, collection and adjustment of in-lieu fees shall be established by resolution of the city council.

3. If a development project is approved for payment of an in-lieu fee, the fee shall be collected prior to the issuance of a building permit for each dwelling unit included in the development project.

4. In-lieu fees collected by the city shall be deposited into a fund known as the “Folsom housing fund”. This fund shall be used to assist in the provision of housing for extremely-low-, very-low- and low-income households, as well as any special needs populations. All expenditures shall be consistent with the goals and policies outlined in the city’s housing element. Eligible uses may include, without limitation: land acquisition, predevelopment costs, rehabilitation of existing units to extend their useful life and impose affordability restrictions, construction of new residential units, administration, and compliance monitoring of the affordable housing program.

5. Notwithstanding the provisions of Sections 17.104.030, 17.104.040, and 17.104.100, a developer electing to fulfill the project’s inclusionary housing requirements solely through the payment of in-lieu fees is not required to submit a full inclusionary housing plan. Instead, a signed letter from the developer confirming this intent shall suffice to meet the requirements for both the inclusionary housing plan and inclusionary housing agreement. No separate approval from the community development director is necessary, provided the project includes a condition of approval requiring payment of the applicable in-lieu fee per unit in effect at the time building permits are issued.

G. Combination. Combination of the above alternatives.

H. Other Alternatives. Other alternatives proposed by the developer which are accepted by the city and meet the requirements and intent of this chapter. (Ord. 1243 § 2, 2015; Ord. 1177 § 4, 2013; Ord. 958 § 2 (part), 2002)

17.104.070 Incentives and assistance.

A. Request for Incentives and Assistance. The developer of a development project which is subject to the inclusionary housing provisions of this chapter may request, and the city, in its sole discretion, may grant or deny the provision of inclusionary incentives as set forth in this section and other provisions of the Folsom Municipal Code.

B. Fee Waivers or Deferrals. The city may grant to a developer a program of waivers reductions or deferrals of development fees, administrative and financing fees for inclusionary units as provided in Chapter [16.60](#) of the Folsom Municipal Code or state law.

C. Density Bonuses. A developer fulfilling its inclusionary housing requirement through either on site or off-site development may request and receive from the city a density bonus as provided in state density bonus law.

D. Inclusionary Housing Credits. A developer may submit as part of the inclusionary housing plan a proposal to provide more affordable housing units or donate additional land in connection with a development project than the 10 percent required under this chapter, and may credit the

additional amount of land or additional number of affordable housing units against future projects subject to the provisions of this chapter which are proposed in the city. Credits may be transferred or sold to any other person or entity subject to compliance with following conditions:

1. The transfer or sale of the credits shall not interfere with one of the goals of the ordinance codified in this chapter which is to provide affordable housing dispersed throughout the city of Folsom.
2. Any credits must be applied to another development project within 5 years of issuance of a certificate of occupancy for the inclusionary unit(s) or implementation of an alternative method of meeting the inclusionary housing requirement (i.e., land dedication) which gives rise to the credit. For purposes of this section, “applied” shall mean that the credits are committed for use at a development project and included in a developer’s proposed inclusionary housing plan. A developer who has not used, transferred or sold credits within the time specified in this section may apply to the city for a 1 year extension on the life of the credits. A request for extension of credits shall be reviewed by the city council who shall grant or deny the request for extension. The city council shall consider progress and efforts the developer has made to utilize the credits during the previous 5 years, the impact on affordable housing if the extension is granted, any proposals for use of the credits should the extension be granted and other relevant factors.
3. Inclusionary units receiving monetary subsidies through the city shall not receive credits unless the city has been reimbursed for its financial assistance.

E. **Mixed Use.** In order to provide additional opportunity for development of inclusionary units, residential development that would fully or partially fulfill the inclusionary housing requirement of a development project may be implemented in conjunction with commercial or office uses located within an area covered by a General Plan mixed-use or residential overlay designation. This applies within the central business (C-2), general commercial (C-3), and business and professional office (BP) zoning districts, as well as within areas governed by adopted specific plans, consistent with applicable provisions of the Folsom Municipal Code and the General Plan or the applicable specific plan.

F. **Local Public Funding.** The developer may apply to the city for local public funding to assist in the financing and development of the inclusionary housing requirement.

SECTION 3

Sections 17.104.090 to 17.104.110 of the Folsom Municipal Code are hereby amended to read as follows:

17.104.090 Restrictions on inclusionary units.

Each inclusionary unit created as a result of the ordinance codified in this chapter shall have limitations governing its occupancy and its sale and/or resale. The purpose of these limitations is

to preserve the long-term affordability and to ensure its continued availability for income-eligible households.

A. Duration of Affordability for Rental Inclusionary Units. Rental inclusionary units under subsections (C)(1) and (2) of this section shall remain affordable for a period of no less than thirty years from the recordation of the affordable rental agreement unless state law requires a longer period. The affordable rental agreement shall be recorded no later than the issuance of the first building permit for the rental inclusionary project under subsection (C)(1) of this section, and prior to the first day of rental of the inclusionary unit under subsection (C)(2) of this section. Rental units under subsection (C)(2) of this section shall be rented to an income-eligible person at the same income level of the original for-sale affordable housing price.

B. Affordability and Resale of For-Sale Units.

1. Sale and Resale to an Income-Eligible Person—Exception. After the initial sale of inclusionary for-sale units at a price affordable to the target income level group, inclusionary for-sale units shall remain affordable to subsequent income-eligible buyers pursuant to a resale restriction with a term of twenty years, or longer if required by state law or other provisions of this code. The initial owner shall be a first-time home buyer as defined in this chapter. Subsequent owners are not required to be a first-time home buyer. The resale restriction shall require that the unit will be sold, by the initial owner and any subsequent owner, at the same affordable housing price income level as originally sold and will remain at that income level for the duration of the resale restriction term. For example, a home that was sold to the initial owner at a very low income level shall be sold to a subsequent owner who qualifies at the very low income level.

a. If the owner is unable to sell the inclusionary unit within sixty days of offering and advertising the unit for sale, the owner may offer to sell the unit to the city at the affordable housing price at the time of offer. If the city or its assignee does not complete the purchase of the unit within ninety days of the owner's offer of sale to the city, the resale obligations of this section shall terminate; however, the provisions of this section relating to recapture upon sale shall continue to apply and remain in full force and effect.

2. Recapture upon Sale. If the inclusionary unit does not sell within sixty days of offering and advertising the unit for sale and if the city does not acquire the inclusionary unit as specified in this section, the inclusionary unit may be sold at the current market price, and the seller shall pay to the city housing fund all proceeds from the sale of the unit less a percentage of profit, if any, as provided in this section. For purposes of this section, "profit" is defined as the net proceeds from the sale after deducting loan(s), ordinary expenses attributed to the seller, including real estate commissions not to exceed six percent, and after deducting the current affordable housing price. If the owner has made improvements to the home, profit shall be determined by deducting the adjusted basis of the home, or the current affordable housing price, whichever is higher.

a. The percentage of profit retained by the owner shall vary according to the number of years an owner owns the residential unit. The percentage of profit to be allocated to the owner is provided as follows:

Years Current Owner Owned Residence	Percentage of Profit to Current Owner	Percent Profit Paid to the City's Housing Trust Fund
Less than 1	10	90
Less than 2	20	80
Less than 3	30	70
Less than 4	40	60
5 or more	50	50

3. Evaluation of Owner's Repayment Ability. On a biannual basis, owners of for-sale inclusionary units who have acquired a second mortgage or other secondary financing or loan provided by the city will be evaluated by the city housing managers to their ability to initiate repayment procedures. Where the city determines the owner's household income exceeds the affordable income level applicable to the inclusionary unit, the city may require repayment according to the terms provided in the deed of trust or other financing document(s).

4. Guidelines. The city may adopt guidelines for the administration of this program by resolution of the city council.

5. Home Ownership Incentive. The city may establish guidelines by resolution to create incentives for home ownership, including partial loan forgiveness provisions relating to loans or second trust deeds provided by the city depending on the length of time a qualified owner has occupied the residence.

C. Occupancy Requirement.

1. Rental Units. Any person(s) who occupies a rental inclusionary unit produced or acquired with funding assistance from the city or is otherwise subject to a voluntary affordable housing agreement between the city and the unit's developer shall occupy that unit as his or her principal residence and shall annually certify that he/she qualifies for the applicable affordable rent level. The city's housing manager shall annually initiate this certification process. If and when any person(s) who rents an inclusionary unit no longer qualifies at the applicable affordable rent and income levels, that person(s) shall be required to quit the unit or pay the market rate for the unit provided another rental unit is made available at the income level of the inclusionary unit.

2. For-Sale Units. Except as provided in this section, an initial owner who purchases a for-sale inclusionary unit shall occupy that unit as his or her principal residence. The inclusionary housing agreement shall provide that a for-sale inclusionary unit may be rented or leased only after the owner, initial or subsequent, has resided in the inclusionary unit for a period of not less than two years. If the owner rents or leases the inclusionary unit, the renter or lessee shall be an income-eligible person at the same income level of the original for-sale affordable housing price. For example, if the initial owner bought the unit at the very low income housing price, the unit shall be rented to tenants of a very low income household.

a. Any person offering a for-sale inclusionary unit for rent or lease shall notify the city housing manager in writing, prior to the renting of the unit, that the unit is offered for rent or lease. Any person offering a for-sale inclusionary unit for rent or lease shall notify prospective tenants of the income eligibility requirements.

b. If the city has provided loans, incentives or other deeds of trust on a for-sale inclusionary unit, the city may include provisions, based on the ability of the owner to repay the loan or other financing instrument, in the deeds of trust to require repayment of the note secured by that deed of trust if the property is not owner occupied.

c. If the city has provided loans, financial assistance or other incentives to purchaser of a for-sale inclusionary unit, the city shall require, in a recorded affordability covenant, that the unit, if rented or leased by the owner, initial or subsequent, pursuant to subsection (C)(2) of this section, shall be rented at an affordable rent level no greater than the affordable rent level currently in effect. Any person(s) who occupies a rental inclusionary unit shall occupy that unit as his or her principal residence and shall annually certify that he/she qualifies for the applicable affordable rent level. The city's housing manager shall annually initiate this certification process. If and when any person(s) who rents an inclusionary unit no longer qualifies at the applicable affordable rent and income levels, that person(s) shall be required to quit the unit or pay the market rate for the unit provided another rental unit is made available at the income level of the inclusionary unit.

3. Converted Units. Units which are converted from market rate units shall follow the requirements of subsections A, B, and C of this section based on the type of converted residential unit applicable.

17.104.100 Administration of the inclusionary housing requirement.

A. Proposed Inclusionary Housing Plan. At the time of and as part of the application for the first entitlement, the developer of a development project shall submit a draft inclusionary housing plan consistent with the requirements of Section [17.104.040](#).

B. Action on Inclusionary Housing Plan. The inclusionary housing plan shall be subject to the same review and approval as the entitlements. No entitlement shall be granted without an approved inclusionary housing plan, except as described in Section 17.104.060(F)(4). The

elements of the inclusionary housing plan shall be incorporated into the terms and conditions of the applicable entitlements and project-level approvals.

1. Amendment of Inclusionary Housing Plan. The community development director shall have the authority to approve amendments of the inclusionary housing plan to reflect changes in the underlying development project. Where the proposed amendment(s) will result in a change in the phasing or timing of development of the inclusionary units, the amendment must be reviewed under the criteria in Section [17.104.040\(A\)\(3\)](#).

2. Amendment Process. Amendments which will result in the modification of conditions shall be subject to notice, review, approval and appeal in the same manner as the original approval.

C. Inclusionary Housing Agreement.

1. Requirement. Except as provided in this chapter, no project-level approval may be issued by the city without an inclusionary housing agreement executed by the owner and recorded against the property, the developer (if not owner) and the community development director, and approved by the city attorney; provided, that a tentative subdivision map or tentative parcel map may be approved prior to execution or recordation of an inclusionary housing agreement if (a) an inclusionary housing plan including a phasing plan has been approved; (b) any tentative map or parcel map contains conditions that enforce the applicable phasing and other requirements of the housing plan; and (c) the entitlements contain provisions that condition approval of planned development permits, plan review, or building permits on execution and recordation of, and compliance with, an inclusionary housing agreement.

2. Contents. The agreement shall be consistent with the inclusionary housing plan, and shall indicate ownership information, the number and size of very low and low income units, the developer of the inclusionary units, the phasing and construction scheduling of the inclusionary units, commitments for inclusionary incentives and any other information required by the city relative to the inclusionary housing requirement. In the case of alternatives to the inclusionary housing requirement, the agreement shall also contain the information required in this chapter pertaining to the alternative.

3. Information Required from Developer. The developer of the development project shall present to the city: (a) plans, schematics, and details of phasing of the residential project as a whole, including the inclusionary housing requirement; (b) the name and address of the entity which will develop the inclusionary housing requirement if not the developer; (c) in the case of land dedication, an executed irrevocable offer of dedication at no cost to the city; (d) in the case of off-site location, the evidence of control or ownership of the site required in this chapter; and (e) any other information reasonably required by the city in connection with the agreement.

4. Incentives. The community development director shall recommend to the final decision-making body which inclusionary incentives, if any have been requested by the

developer, the city will make available in connection with the development project as provided in this chapter. The inclusionary housing agreement shall specify the nature of the incentives provided.

5. Incorporation into Project-Level Approvals and Recordation. The developer obligations and the inclusionary incentives in the agreement shall be incorporated into the applicable project-level approvals. The executed agreement shall be recorded as a covenant running with the land against the real property of the residential project and, in the case of off-site inclusionary units, against the real property on which such inclusionary units are to be located.

D. Affordable Rental and Affordable Housing Agreements. Upon approval of the entitlements for a for-sale development project which shall include inclusionary units, or a residential rental development project to be produced with funding assistance from the city or otherwise subject to a voluntary affordable housing agreement with the city, the developer shall record with the county recorder's office an affordable rent agreement or affordable housing agreement against the parcels identified in the inclusionary housing plan for the inclusionary units. Where the inclusionary unit is a for-sale unit within a development project, the developer shall record the affordable housing agreement relating to the lot(s) within the development project which are to be inclusionary units prior to the issuance of a building permit on any lot(s) within the development project.

E. Administration of Affordability for Rental Inclusionary Housing. The owner of rental inclusionary units or for-sale inclusionary units offered for rent pursuant to Section [17.104.090\(C\)\(2\)](#) shall be responsible for certifying the income of tenant to the city at the time of initial rental and annually thereafter. The owner of a for-sale inclusionary unit shall certify to the city the income of the initial purchaser and shall certify to the city that the initial purchaser is a first-time home buyer. The owner of rental inclusionary units shall apply the same rental terms and conditions (except rent levels, deposits and income requirements) to tenants of inclusionary units as are applied to all other tenants, except as otherwise required to comply with government subsidy programs. Discrimination based on subsidies received by the prospective tenant is prohibited. The city shall keep confidential the personal identifying information of the household members occupying an inclusionary unit.

F. Guidelines. The community development director may develop and adopt additional guidelines as necessary for the implementation of this chapter consistent with the terms contained herein and consistent with any guidelines adopted by the city council as provided in this chapter.

G. Appeal. Where the provisions of this chapter vest the community development director with final decision-making authority, any applicant aggrieved by the decision of the community development director may appeal that decision to the planning commission. Any appeal of a decision of the community development director must be filed with the community development department within ten calendar days of the date the decision is rendered by the community development director. The community development department shall set the appeal before the planning commission at the next regularly scheduled planning commission meeting, but in no

case less than ten calendar days after the community development director's decision. (Ord. 1273 § 3, 2017; Ord. 1177 § 7, 2013; Ord. 1033 § 2 (part), 2005; Ord. 958 § 2 (part), 2002)

17.104.110 Monitoring of inclusionary housing.

A. Developers. Developers that have an inclusionary housing agreement requiring the provision of inclusionary housing units will be monitored by the city annually to assure compliance with the inclusionary housing agreement.

B. Inclusionary Units. Units will be monitored by the city to verify that the units are and will remain affordable.

1. Rental Inclusionary Unit. Owners of the rental inclusionary units produced with funding assistance from the city or that are otherwise subject to a voluntary affordable housing agreement with the city will be monitored by the city annually to certify that tenant(s) occupying the unit(s) are income qualified to remain in the unit and that the rent is at or below the affordable rent as stipulated in Section [17.104.090](#). Owners of the for-sale inclusionary units offered for rent will be monitored by the city annually to certify that tenant(s) occupying the unit(s) are income qualified to remain in the unit. The city shall further monitor approximately ten percent of tenants annually by: (a) requiring the owner submit a copy of the signed rental or lease agreement to verify the rental rate, and (b) independently verifying that the tenant is income-eligible to reside in the inclusionary unit.

2. For-Sale Inclusionary Unit. Owners of for-sale inclusionary units will be monitored by the city to certify that the unit: (a) if sold during the monitoring period, was sold at an affordable for-sale price and to an income qualifying person, (b) is being occupied by the original income-qualifying buyer, and (c) if the unit is being rented or leased it is to an income-eligible household for a rental rate that is at or below the affordable rent as stipulated in Section [17.104.090](#).

C. Reporting. A reporting mechanism shall be created by the city to identify the number of inclusionary units, by very low or low income, that have been required by inclusionary housing agreements during the reporting period, the number of inclusionary units, by very low or low income, planned for creation in inclusionary housing agreements during the reporting period, the number of inclusionary units, by very low or low income, created during the reporting period, and the number of inclusionary housing credits, by very low and low income, both made available and used during the reporting period. The report shall also include the results of the monitoring of developers and inclusionary units in subsections A and B of this section and any corrective actions taken if the units were not being rented, sold, or occupied as stipulated in Section [17.104.090](#). The report shall identify the shortfall between the number of inclusionary units planned for creation and the number of units actually created. This information may be used for future change and amendments to the ordinance codified in this chapter. (Ord. 1177 § 8, 2013; Ord. 958 § 2 (part), 2002)

SECTION 4

Section 17.104.140 of the Folsom Municipal Code is hereby amended to read as follows:

17.104.140 Enforcement and penalties

It shall be unlawful to sell any inclusionary unit without compliance with each and every provision of this chapter. It shall be unlawful to offer for lease or rent, or to enter into a lease or rental agreement, or to collect lease or rental payments without compliance with each and every provision of this chapter. Any person who violates any provision of this chapter shall be guilty of a misdemeanor and/or an administrative violation punishable as follows:

- A. A violation of this chapter shall be an administrative violation as defined in Section [1.08.020](#). In addition to enforcement as set forth in Chapters [1.08](#) through [1.10](#), inclusive, any violation of this chapter shall be punishable as a misdemeanor, which shall be punishable by a fine not to exceed one thousand dollars or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.
- B. Notwithstanding the procedure for administrative violations provided in Chapters [1.08](#) through [1.10](#), no notice to correct as provided in Section [1.09.023](#) shall be required prior to issuance of a notice of administrative violation.
- C. Each of the sanctions for administrative violations identified in Section [1.09.013](#) shall be available for enforcement of this chapter.
- D. Based on the criteria for the imposition of administrative violations set forth in Section [1.09.014](#), a violation of this chapter shall be deemed a Level C violation, as that term is described in Section [1.09.012](#). The range of monetary sanctions available for a violation of this chapter shall be as set forth in Section [1.09.012](#)(A).
- E. Any person who violates any provision of this chapter shall be guilty of a separate offense for each and every day which any such person commits, continues, permits, or causes a violation thereof and, shall be punished accordingly. (Ord. 958 § 2 (part), 2002)

SECTION 5 SCOPE

Except as set forth in this ordinance, all other provisions of the Folsom Municipal Code shall remain in full force and effect.

SECTION 6 SEVERABILITY

If any section, subsection, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council declares that it would have passed each section irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared unconstitutional, invalid, or ineffective.

SECTION 7 NO MANDATORY DUTY

This Ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 8 EFFECTIVE DATE

This ordinance shall become effective thirty (30) days from and after its passage and adoption, provided it is published in full or in summary within twenty (20) days after its adoption in a newspaper of general circulation in the City.

This ordinance was introduced and the title thereof read at the regular meeting of the City Council on December 9, 2025, and the second reading occurred at the regular meeting of the City Council on January 13, 2026.

On a motion by Councilmember _____ seconded by Councilmember _____, the foregoing ordinance was passed and adopted by the City Council of the City of Folsom, State of California, this 13th day of January, 2026, by the following roll-call vote:

- AYES:** Councilmember(s):
- NOES:** Councilmember(s):
- ABSENT:** Councilmember(s):
- ABSTAIN:** Councilmember(s):

Justin Raithel, MAYOR

ATTEST:

Christa Freemantle, CITY CLERK