URGENCY ORDINANCE 26-02

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLOVIS FINDING THAT THE PROPOSED ORDINANCE AMENDMENT 2026-001 IS EXEMPT FROM CEQA PURSUANT TO CEQA GUIDELINES SECTION 15061, SUBDIVISION (B)(3); AND AMENDING THE CITY'S DEVELOPMENT CODE BY ADDING CHAPTER 9.27 TO THE CLOVIS MUNICIPAL CODE TO ESTABLISH A MIXED-INCOME ZONING ORDINANCE FOR RESIDENTIAL DEVELOPMENT PROJECTS

WHEREAS, in October 2019, an individual ("Petitioner") filed a lawsuit that included causes of action challenging the validity of the City of Clovis's ("City") General Plan and Housing Element (*Martinez v. City of Clovis*); and

WHEREAS, in April 2021, the Fresno County Superior Court granted Petitioner's request for a writ of mandate, ordering the City to adopt a compliant Housing Element and to implement a rezoning program to meet its Regional Housing Needs Assessment ("RHNA") for the 2008-2015 planning period; and

WHEREAS, in April 2023, the Fifth District Court of Appeal denied the City's appeal to the April 2021 order granting the writ of mandate. In July 2023, the California Supreme Court denied the City's request for review of the Court of Appeal's decision; and

WHEREAS, following a settlement agreement between the parties, the Fresno County Superior Court entered a Judgment in the *Martinez v. City of Clovis* case on March 19, 2024 ("Judgment"); and

WHEREAS, the terms of the Judgment require the City to adopt a Mixed-Income Zoning Ordinance as a program within the City's 6th Cycle Housing Element and conduct a financial feasibility analysis for such an ordinance; and

WHEREAS, in accordance with the Judgment, the City contracted with Keyser Marsten Associates, Inc. ("KMA") in May 2024 to conduct a study of the financial feasibility of a mixed income zoning ordinance on residential development projects in Clovis, and the KMA feasibility report was issued in October 2025; and

WHEREAS, on November 4, 2024, the City adopted its 6th Cycle Housing Element covering the eight (8) year period of 2024-2031, which includes adoption of a Mixed-Income Zoning Ordinance as one of the required programs the City will implement (Program H12); and

WHEREAS, California is facing a severe shortage of housing options for individuals and families at lower income levels, and many municipalities throughout the State have adopted Mixed-Income Zoning Ordinances to help address the availability of affordable housing to individuals and families at lower income levels; and

WHEREAS, the adoption of a Mixed-Income Zoning Ordinance is intended to increase the number of housing units available to lower income households; and

WHEREAS, adoption of a Mixed-Income Zoning Ordinance is a required program in the City's 6th Cycle Housing Element that will help the City meet its current and future RHNA obligations of facilitating lower-income housing availability; and

WHEREAS, increasing the availability of affordable housing is consistent with the City's General Plan; and Housing Element Program H12 "Mixed Income Zoning Ordinance" includes an objective to facilitate the construction of at least 320 low- and very low-income units, depending on overall housing production during the 6th Cycle (2024-2031); and

WHEREAS, on February 26, 2026, the City's Planning Commission considered the proposed Ordinance and adopted Planning Commission Resolution No. 26-04, recommending that the City Council approve the proposed Ordinance; and

WHEREAS, notice of the public hearing for the consideration of this Ordinance was published in the Business Journal on March 27, 2026, and the notice of the Public Hearing was also posted in accordance with applicable law; and

WHEREAS, the City Council has considered the California Environmental Quality Act ("CEQA") analysis for this proposed ordinance as described and summarized in the staff report and elsewhere in the record of proceedings for this matter, which analysis includes a determination that the Mixed-Income Zoning Ordinance will not result in any significant effect on the environment, and is therefore exempt from further environmental under CEQA pursuant to CEQA Guidelines 15061, subdivision (b)(3); and

WHEREAS, the City Council has reviewed and considered the Judgment, the KMA feasibility report, the CEQA analysis, staff report, and all written materials submitted in connection with this proposed Ordinance and public hearing, and considered all written and oral presentations presented to the City Council for this item during the public hearing ("Administrative Record").

NOW, THEREFORE, BASED UPON THE ENTIRE RECORD OF THE PROCEEDINGS, THE CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

<u>Section 1</u>. Based on the Administrative Record, the City Council finds that the Mixed-Income Zoning Ordinance is exempt from further environmental review under CEQA pursuant to CEQA Guidelines section 15601, subdivision (b)(3).

<u>Section 2</u>. The City Council makes the following findings in accordance with Clovis Municipal Code section 9.86.060:

(A) The proposed ordinance amendment is consistent with the goals, policies, and actions of the General Plan.

(B) The proposed ordinance amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the City.

(C) The proposed ordinance amendment is internally consistent with other applicable provisions of the City's Development Code.

Section 3. The bases for these findings are detailed in the April 13, 2026, staff report, which is hereby incorporated by reference, the entire Administrative Record, as well as the evidence and comments presented during the public hearing.

Section 4. The City Council finds that the State of California and the City of Clovis is experiencing a housing shortage, especially for affordable housing. A goal of the City is to achieve a balanced community with housing available for households at different income levels. Increasingly, affordable housing opportunities in the City are diminishing for households with lower incomes who may work or desire to work in and/or live within the City. The City further finds that the housing shortage for affordable housing is detrimental to the public health, safety, and welfare, and it is a public purpose of the City, and a public policy of the State of California, as mandated by the requirements for adoption of the Housing Element of the City's General Plan, to implement policies and programs intended to help provide opportunities so that an adequate supply of housing is available for persons of all economic segments of the community. Accordingly, the City Council further finds that there is an urgent need to adopt this Ordinance on an interim basis as an urgency measure to comply with the Judgment and to protect the public safety, health, and welfare, to be effective immediately and without delay. (Gov. Code § 65858.)

Section 5. The City Council hereby approves Ordinance Amendment 2026-001, which amends Title 9 of the Clovis Municipal Code to add Chapter 9.27 (Mixed-Income Zoning Ordinance) as outlined in Attachment A, attached hereto and incorporated by this reference herein.

Section 6. This Ordinance is an urgency Ordinance and shall be effective immediately upon its final passage and adoption. It shall have no further force and effect forty-five (45) days from the date of its adoption, unless extended by the City Council.

APPROVED: April 13, 2026

Mayor

City Clerk

* * * * * * * * * *

The foregoing Ordinance was passed and adopted at a regular meeting of said Council held on April 13, 2026, by the following vote, to wit:

AYES:	Councilmembers Ashbeck, Basgall, Bessinger, Mayor Pro Tem Pearce
NOES:	Mayor Mouanoutoua
ABSENT:	None
ABSTAIN	None

DATED: April 13, 2026

City Clerk

CITY OF CLOVIS INCORPORATED FEBRUARY 27 1912

ATTACHMENT A

Chapter 9.27
MIXED-INCOME ZONING ORDINANCE

Sections:

Section 9.27.010 – Purpose

The purpose of this Chapter is to enhance the public welfare by facilitating mixed-income housing opportunities and contributing toward the City's share of the region's housing needs, assisting in the implementation of the City's Housing Element goals, policies, and programs, and ensuring compatibility of future housing development by requiring that land in the City developed for future residential housing is utilized in a manner consistent with State and local land use and housing policies.

Section 9.27.020 – Definitions

For the purposes of this Chapter, unless otherwise apparent from the context, certain words and terms used herein are defined as follows:

Administrator shall mean the housing program administrator, which shall either be the City itself or a third-party administrator acting as an agent for the City pursuant to an agreement entered into between the City and the administrator, as such agreement may be amended or replaced from time to time.

Affordable shall mean that the cost of a housing unit (rent or sale price) does not exceed thirty percent (30%) of the state maximum household income adjusted for family size appropriate for the unit. The term "adjusted for family size appropriate for the unit" shall have the same meaning as provided in Health and Safety Code section 50052.5, subdivision (c) as it may be amended, or in any successor statute.

Affordable Housing Plan shall mean a plan submitted as part of a residential development project application that contains information specifying the manner in which the applicant proposes to comply with the requirements of this Chapter.

Applicant shall mean any person, firm, partnership, association, joint venture, corporation, or any other entity or combination of entities, who either (i) submits an application to the City for approval of a residential development project subject to this Chapter, or (ii) submits an application for a building permit for construction in any approved residential development project subject to this Chapter.

Area Median Income shall mean the area median income as periodically established by the Department of Housing and Community Development pursuant to Health and Safety Code section 50093 as it may be amended, or in any successor statute.

Attached single-family dwelling unit shall mean a single-family dwelling unit having one (1) or more walls attached to and in common with one (1) or more single-family dwellings.

Density bonus shall mean a density increase over the otherwise maximum allowable density on a site pursuant to Government Code section 65915 and Chapter 9.26 of this Title (Affordable Housing Incentives: Density Bonus).

Detached single-family dwelling unit shall mean a dwelling unit intended for use by a single household and not attached to any other building.

Director shall mean the City's Planning and Development Services Director or designee.

Dwelling unit shall mean a residential unit, either for sale or rent.

For-sale residential development project shall mean a residential development project that includes the creation of one (1) or more new dwelling units that may be sold individually. A for-sale residential development project also includes the conversion of a residential rental development to a residential ownership development.

Gap Financing means the amount of funding necessary to fill the gap between the estimated funding required to develop and make available the Mixed-Income Units and the resources commonly available to residential development applicants as described in the October 2025 Mixed Income Zoning Ordinance feasibility report on file with the City.

In-lieu fee shall mean a monetary payment made by an applicant for a residential development project subject to this Chapter to the City in lieu of constructing the number of Mixed-Income Units that would otherwise be required under this Chapter. The in-lieu fee is intended to provide funds needed to cover the Gap Financing necessary to facilitate the construction of required Mixed-Income Units as described in the October 2025 Mixed Income Zoning Ordinance feasibility report on file with the City.

Lower/Low-income household shall mean a household whose income does not exceed eighty percent (80%) of the Area Median Income, adjusted for household size, applicable to Fresno County, as set forth in Health and Safety Code section 50079.5, as it may be amended, or in any successor statute.

Market rate unit shall mean a new dwelling unit for sale or rent in a residential development project that is not a Mixed-Income Unit.

Mixed-Income Unit or Mixed-Income Zoning Ordinance (MIZO) Unit shall mean a dwelling unit available at an Affordable rent or sold at an Affordable price to very low-, or low-income households in accordance with Section 9.27.050 of this Chapter. A dwelling unit designated as a Mixed-Income Unit or MIZO Unit shall remain affordable for the longest feasible duration (but not less than fifty-five (55) years for rental units and forty-five (45) years for for-sale units) from the date of recordation of a covenant or regulatory agreement or similar document recorded with the Fresno County Recorder's office. The recording must occur prior to the issuance of the Certificate of Occupancy.

Multi-family unit shall mean a residential unit intended for the use of a single household that is part of a larger building having one (1) or more walls attached to and in common with other residential units.

Qualified buyer shall refer to the eligible member(s) of a low-income household that are qualified to purchase a for-sale Mixed-Income unit.

Rental residential development project shall mean a residential development project that creates one (1) or more dwelling units that cannot be lawfully sold individually in conformance with the Subdivision Map Act.

Residential development project shall mean a development for which a discretionary approval is required for a development that includes the creation of one (1) or more new dwelling units, conversion of nonresidential uses to dwelling units, or the conversion of a use from a rental residential development project to a for-sale residential development project, and includes any for-sale residential development project and any rental residential development project.

Unit type shall mean the type of dwelling unit, either attached single-family dwelling unit, detached single-family dwelling unit, or multi-family unit.

Very low-income household shall mean a household whose income does not exceed fifty percent (50%) of the Area Median Income, adjusted for household size, applicable to Fresno County, as set forth in Health and Safety Code section 50105, as it may be amended, or in any successor statute.

Vesting tentative map shall mean a map which confers certain vested rights to proceed with development for a specified period of time after recordation in accordance with the Subdivision Map Act. (Gov. Code § 66452, subd. (b).)

Section 9.27.030 – Applicability of Mixed-Income Unit Requirements

Applicability. Any new residential development project consisting of eleven (11) or more market rate units as approved by the City to be built anywhere within the City, and in any area within the City's sphere of influence to be annexed to the City in the future, shall comply with the requirements of this Chapter.

Section 9.27.040 – Mixed-Income Unit Requirements

Any residential development project to which this Chapter applies shall include Mixed-Income Units as determined herein. The number of Mixed-Income Units to be included in the residential development project and constructed on the project site shall be based on the total number of units proposed in the residential development project without regard to any density bonus units provided pursuant to Chapter 9.26 of this Title (Affordable Housing Incentives: Density Bonus).

A. Mixed-Income Unit Requirement. No less than five percent (5%) of all proposed units for a residential development project to which this Chapter applies shall be Mixed-Income Units. The minimum five percent (5%) total shall be achieved using the following allowable ranges of affordability:

  1. Rental residential development projects:

     i. At least fifty percent (50%) of the required Mixed-Income Units shall be affordable to very low-income households, and the balance of the required Mixed-Income Units shall be affordable to low-income households. For purposes of this provision, the minimum fifty percent (50%) affordable to very low-income households shall be calculated as no less than one (1) very-low income unit for every one (1) low-income unit.

  2. For-sale residential development projects:

     i. One hundred percent (100%) of the required Mixed-Income Units shall be affordable to low-income households.

B. Fractional units. Notwithstanding any other provision of law or this Chapter, when the application of the percentage specified in Section 9.27.040, subdivision (A) results in a number that includes a fraction, the fraction shall be rounded to the nearest whole number to determine the Mixed-Income Unit requirement for the project.

<u>Examples</u>: For-sale residential development project proposing 11 market rate units (x.05) = 0.55 (rounded to the nearest whole number) = 1 Mixed-Income Unit.

For-sale residential development project proposing 29 market rate units (x.05) = 1.45 (rounded to the nearest whole number) = 1 Mixed-Income Unit.

Rental residential development project proposing 40 market rate units (x.05) = 2 Mixed-Income Units = 1 unit affordable to very low-income households and 1 unit affordable to low-income households.

Rental residential development project proposing 24 market rate units (x.05) = 1.2 (rounded to the nearest whole number) = 1 Mixed-Income Unit = 1 unit affordable to low-income households.

C. Density Bonus. Any Mixed-Income Units provided on site in compliance with this Chapter may be used to qualify for a density bonus in accordance with the provisions of Chapter 9.26 of this Title (Affordable Housing Incentives: Density Bonus).

D. Affordable Housing Agreement. The applicant for a residential development project subject to this Chapter shall execute a written agreement with the City at the time the project is approved, indicating the number, type, location, approximate size, and construction schedule of all dwelling units for the project as required to determine the project's compliance with this Chapter, and duly execute any applicable affordability restriction to be recorded and run with the land for the required Mixed-Income Units.

E. Construction Timing. All Mixed-Income Units constructed on the project site, or constructed off-site as authorized by Section 9.27.050, subdivision (C), shall be completed no later than the completion of all market rate units for the applicable residential development project. For phased developments, Mixed-Income Units shall be completed in reasonably approximate proportion to the number of market rate units completed in each phase. The City may approve guidelines to assist in implementing this Chapter.

Section 9.27.050 – In-Lieu Fees and Alternatives for Compliance

Notwithstanding any provision in this Chapter addressing constructing Mixed-Income Units on the project site as provided in Section 9.27.040, any applicant of a residential development project subject to this Chapter may fulfill the requirements of this Chapter by any of the following alternatives, rather than constructing Mixed-Income Units on the project site:

A. In-Lieu Fee. Payment of an in-lieu fee as provided herein. The fee amount shall be $2.80 per square foot of residential floor area for each market rate unit. The in-lieu fee shall be calculated based on the net livable residential floor area (in square feet) of all market rate units for the applicable residential development project.

   <u>Example</u>: In-Lieu Fee = [Net livable residential floor area of the market rate units] x [$2.80/sq.ft.])

   1. Payment of In-Lieu Fee. Such in-lieu fee for an applicable project shall be paid no later than upon issuance of a building permit for each market rate units in the residential development project but may be deferred to occupancy as approved by the Director.

   2. The City Council may, by resolution, adjust the in-lieu fee rate by any reasonable means, including, without limitation, for inflation in accordance with Municipal Code Section 3.10.02, as necessary to reflect changes in land costs, construction costs, and needed subsidy levels — provided that the revised fee continues to reasonably approximate the City's estimated per-square-foot cost of providing Gap Financing.

B. Land Dedication/Conveyance. Land sufficient for constructing the required number of Mixed-Income Units for a residential development project may be dedicated or conveyed to the City, as provided herein, in lieu of constructing Mixed-Income Units. The City shall evaluate any proposed land based on the following criteria and any guidelines approved as provided in Section 9.27.100:

1. The fair market value of the land proposed to be dedicated/conveyed shall be of equal or greater value than the estimated amount of the in-lieu fees that would otherwise be required under this section. A recent appraisal of the land shall be submitted as prepared by an MAI appraiser approved by the City. Costs associated with the appraisal, title insurance, property transfer, document recordation and related costs shall be borne by the applicant.

2. The Director shall review the proposed land to be dedicated/conveyed to determine if the land is economically feasible to develop or be used to facilitate development of Mixed-Income Units. The Director's review and determination may include, without limitation, determining whether adequate infrastructure exists to serve the site, whether the site is a sufficient size, physically suitable, and includes an appropriate General Plan land use designation and zoning to accommodate or facilitate the development of the required number of Mixed-Income Units. The Director shall also determine that development of the land would not be significantly restricted by environmental constraints, hazardous materials, public service constraints, or public health and safety concerns before the City accepts the dedication or conveyance. The City Manager or designee shall make the final determination as to whether the City will accept any land proposed to fulfill the requirements of this Chapter.

3. Unless otherwise approved by the City Manager, the applicant must complete the dedication/conveyance of the land to the City within ninety (90) days of the City's final determination that the land proposed for dedication/conveyance is acceptable to fulfill the requirements of this Chapter.

   Example: Residential development project proposing 100 market rate units (x.05) = 5 Mixed-Income Units. Applicant may propose land suitable to develop or facilitate development of the 5 Mixed-Income Units.

C. Off-Site Construction of Mixed-Income Units. Any applicant may build Mixed-Income Units not located within the residential development project or physically contiguous to the market rate units of the applicable residential development project, provided they are built in the city limits and equal to or more than the number of Mixed-Income Units required under Section 9.27.040 of this Chapter. Off-site construction of Mixed-Income Units shall be subject to appropriate application by the applicant and approval by the City.

D. Acquisition and Rehabilitation of Existing Dwelling Units. Any applicant may fulfill the requirements of this Chapter for any applicable residential development project by acquiring and rehabilitating existing market rate units elsewhere in the City to become Mixed-Income Units. Acquisition and rehabilitation of existing units in-lieu of constructing Mixed-Income Units shall be allowed only if the applicant's rehabilitation plan is approved by the City Manager or designee, and only if the rehabilitated units meet each of the standards provided in Section 9.27.060 below.

E. Discretion. An applicant may propose an alternative not specifically addressed above to fulfill the requirements of this Chapter. The City Manager or designee may approve, conditionally approve, or reject any alternative proposed by the applicant. The City Manager's determination shall be final, subject to appeal to the City Council.

Section 9.27.060 – Mixed-Income Unit Standards

The following standards shall apply to Mixed-Income Units constructed to fulfill the requirements of this Chapter, whether constructed on the residential development project site or elsewhere within the City.

A. Recipient Requirements. All Mixed-Income Units shall be sold or rented to low-income, or very low-income households.

   1. Qualified buyers of for-sale Mixed-Income Units shall enter into an affordable housing agreement with the City and execute appropriate implementation documents as required by the City.

   2. Renters shall be subject to the applicant's affordable housing agreement and must be selected by means of an open and public process.

B. Unit Type and Physical Quality. The unit type(s) of the Mixed-Income Units constructed to fulfill the requirements of this Chapter shall comply with the following:

   1. Except as otherwise provided in Section 9.27.050, subdivision (C), Mixed-Income Units constructed on the same site as the applicable residential development project subject to this Chapter shall be reasonably dispersed throughout the project to prevent a concentration of Mixed-Income Units.

   2. Detached single-family affordable dwelling units constructed to fulfill the Mixed-Income Unit requirements of this Chapter shall comply with comparable design requirements as market-rate units in the same residential development project as approved by the City in accordance with any applicable guidelines approved as provided in Section 9.27.100.

Section 9.27.070 – Development Project Approval

A. From and after the effective date of this Chapter, a residential development application will not be deemed complete until the applicant has provided the City with an Affordable Housing Plan that demonstrates the manner in which the applicant proposes to fulfill the requirements of this Chapter, if applicable, including, without limitation, any plans indicating the location of on-site/off-site Mixed-Income Units, land dedication, or intent to pay in-lieu fees, or some other alternative as authorized by Section 9.27.050, subdivision (E).

B. Fulfillment of the requirements of this Chapter shall be a condition of approval for any residential development project subject to this Chapter. Condition(s) for fulfilling the requirements of this Chapter shall be imposed by the City on the first approval of an entitlement for an applicable residential development project.

   The imposition of any condition(s) on the first approval of an entitlement does not preclude the appropriate authority from imposing such other conditions as may be required by this Chapter when acting on a subsequent application for a subsequent approval for all or part of the same residential development project to which this Chapter applies.

C. Any determination made by the approval authority to implement this Chapter in connection with granting a first approval of an entitlement for an applicable project may be appealed in accordance with the provisions of Chapter 9.90 of this Code.

Section 9.27.080 – Occupancy and Continuing Availability of Mixed-Income Units

A. Ongoing Affordability of For-Sale Mixed-Income Units. In order to maintain the availability of for-sale Mixed-Income Units constructed pursuant to this Chapter, the following requirements apply to such Mixed-Income Units, which shall remain affordable for forty-five (45) years, and shall be documented in an affordable housing agreement and affordability restriction(s) as described in section 9.27.040, subdivision (D) and recorded against the property upon which the Mixed-Income Unit is constructed:

   1. The monthly housing costs (including principal, interest, taxes, insurance, and any mandatory association dues) of a for-sale Mixed-Income Unit shall not exceed thirty percent (30%) of the State maximum household income adjusted for household size appropriate for the unit.

   2. The qualified buyer shall occupy the Mixed-Income Unit as the buyer's principal place of residence.

   3. The qualified buyer shall not lease or rent the Mixed-Income Unit, or any portion of the Mixed-Income Unit, to another party, including listing the Mixed-Income Unit as a short-term rental. Any such lease or rental of the Mixed-Income Unit or a portion of the Mixed-Income Unit, or any use other than as the buyer's principal place of residence shall constitute a default under the requirements of this Chapter and the affordable housing agreement between the City and the qualified buyer.

B. Ongoing Affordability of Rental Mixed-Income Units. In order to maintain the availability of rental Mixed-Income Units constructed pursuant to this Chapter, such rental Mixed-Income Units shall remain affordable for fifty-five (55) years, as documented in an affordable housing agreement as described in Section 9.27.040, subdivision (D) and recorded against the property upon which the Mixed-Income Unit is constructed.

Section 9.27.090 – Collection and Use of In-Lieu Fees

Any in-lieu fees received by the City pursuant to this Chapter shall be deposited into the City's Housing Trust Fund, to be used for authorized purposes and expenditures.

Section 9.27.100 – Implementation, Monitoring, and Enforcement

A. Establishment of Guidelines. The City Council may approve Mixed-Income Zoning guidelines to assist in the implementation of this Chapter.

B. Establishment of Administrative Fees. The City Council, by resolution, may establish fees to recover the costs to the City for ongoing administration and monitoring of Mixed-Income Units in the City, which fees may be adjusted by City Council resolution.

C. Enforcement. The City may pursue and undertake enforcement action as authorized under this Code and/or any other action authorized by law or by any regulatory document, restriction, or agreement executed under this Chapter.

D. Project Approval Restrictions. No permit, license, map, or other approval or entitlement for a residential development project to which this Chapter applies shall be issued, including without limitation a final inspection or certificate of occupancy, until all applicable requirements of this Chapter have been satisfied.

E. Annual Monitoring.

  1. Homeowners may receive an annual monitoring notice from the City to confirm the owner occupancy requirement and prohibition of renting the dwelling unit. For rental units, an annual monitoring notice from the City may be sent to any management company of rental units to confirm residents are eligible to reside in the Mixed-Income Units.

  2. The City shall prepare and present at a regular City Council meeting an annual report on the status of this Mixed-Income Zoning Ordinance, including how many market-rate residential development projects are subject to this Chapter, how each of the projects has satisfied the requirements of this Chapter, and a record of funds deposited in the City's Housing Trust Fund.