

**ATTACHMENT B-3.1
INCLUSIONARY HOUSING ORDINANCE (IHO) COMPLIANCE OPTIONS:
ILLUSTRATIVE CALCULATION OF THE RENTAL IN-LIEU FEE
COMPLIANCE OPTION FOR FY2020-2021
(RENTAL)**

This attachment to the Guidelines provides more information on how calculating the Rental In-Lieu Fee compliance option and illustrates the calculations involved in that process. The figures below reflect the In-Lieu Fee effective July 1, 2020 to June 30, 2021. Definitions for capitalized terms may be found in the Guidelines and the Ordinance.

I. Calculation of the Rental In-Lieu Fee (SJMC Section 5.08.520)

The In-Lieu Fee for each Rental Inclusionary Unit is based upon the average City subsidy required for new construction of a rental residential unit at an Affordable Housing Cost for a Lower Income Household.

In the event that there are fewer than three (3) city-subsidized rental affordable housing new construction projects within any twelve (12) month reporting period, the ordinance requires the rental In-Lieu Fee to be updated annually using the change in the Northern California Real Estate Construction Report published by the Real Estate Research Council of Southern California at California State Polytechnic University, Pomona. The In-Lieu Fee shall be adjusted based upon the percentage difference in the current completed year new home prices in Santa Clara County from the immediately preceding year as published in the Northern California Real Estate Construction Report.

II. Calculation of the Rental In-Lieu Fee (SJMC Section 5.08.520)

Although there were financial commitments made by the City of San Jose to subsidize affordable housing developments during the 2019 calendar year, none of those developments closed on their financing. Therefore, no projects could be used to calculate the IHO rental in-lieu fee.

III. Alternative In-Lieu Fee Calculation

Due to this limited number of City-subsidized rental projects, the alternative method for calculating the Rental In-Lieu fee for FY20-21 will be used. Note: The City of San José received a copy of the Northern California Real Estate Construction Report – 2019 Fourth Quarter on March 10, 2020. The calculation functions as follows:

New Home Prices for Santa Clara County 2019:	\$1,037,225
	-
New Home Prices for Santa Clara County 2018:	\$1,014,571
	=
Difference:	\$22,654

	÷
Then divide this difference by the 2018 figure:	<u>\$1,014,571</u>
	=
To determine the % difference of the current year and preceding year:	2%
Then multiply the FY19-20 In-Lieu Fee by 100% + this percentage:	\$180,511 ¹
	X
	102%
	=
In-lieu fee per unit:	\$184,121

IV. In-Lieu Fee Additional Charges

The Ordinance also allows the Housing Department to collect an administrative fee to account for the estimated costs of administration. This administrative fee may be levied as part of the In-Lieu Fee or as a separate charge. In addition, the in-lieu fee can account for the estimated cost of increases in the price of housing and construction between payment and the acquisition of land and construction of units.

For FY 2020-21, the Housing Department will collect an administrative fee in the form of an application fee of \$3,024. Therefore, the In-Lieu Fee described in this document does not currently include an administrative fee in the calculation.

V. Proposed In-Lieu Fee for FY20-21

Last fiscal year (FY19-20), the Rental In-Lieu Fee was \$125,000 per inclusionary unit. The figure of \$125,000 reflects the average City subsidy per the Housing Department’s most recent funding commitments for uncompleted projects. **Per the staff recommendation**, the Rental In-Lieu Fee will continue to be at \$125,000 per inclusionary unit (20% of the total number of residential units) to provide some certainty to rental residential developments in the pipeline.

¹ The FY19-20 In-Lieu Fee was originally calculated to be \$180,511, but was adjusted to \$125,000 to provide some certainty to rental residential developments in the pipeline.

IHO Guidelines – Attachment B-3.1: Rental In-Lieu Fee Calculation

Please see the calculation below using an example 100-unit Residential Development project:

Total Number of Residential Units:	100
	x
Multiplied by 20%:	<u>20%</u>
	=
Units required to pay In-Lieu fee:	20
	x
In-Lieu fee per unit:	<u>\$ 125,000</u>
In-Lieu fee for a 100-unit Residential Development:	\$ 2,500,000

VI. Proposed Revisions to the Inclusionary Housing Ordinance

On November 5, 2019, the Housing Department presented a staff report and set of recommendations to update the IHO and encourage the construction of moderate-income affordable apartments and payment of in-lieu fees for the construction of low-income apartments. The goal is to provide a broader range of housing options for City residents. Two potential revisions include changes to the in-lieu fee compliance option including restructuring the fee to apply the fee on a square foot basis and to develop geographic market areas to phase in the in-lieu fee adjustments over time.

Please download the following [memorandum](#) that summarizes the proposed changes. The proposed changes to the IHO will be considered by the City Council in 2020. To view the minutes from the November 5th meeting, [please go to this link](#) and a [briefing sheet](#) that explains the proposed changes. When City Council considers these proposed changes, the in-lieu fee will be updated. The current staff recommendation is to restructure the in-lieu fee option to apply the fee on a square foot basis and to vary by geographic market areas. As a result, this Rental In-Lieu Fee Calculation will likely be updated in late 2020.