| City | Inclusionary | Treshold | Affordability | In-lieu Fee | Study to Consider Increased Requirements? | Notes |
|---|---|---|---|---|---|---|
| Sunnyvale | 12.50% | >8 Units | Mod | 7% of the final sales price for each unit | | |
| Cupertino | 15% | >6 Units | 50% Med, 50% Mod | Ownership: $18.45-$24.60 per sq ft depending on building type. | data as of 7/1/20 | Projects with 1-6 units can choose to pay Housing Mitigation Fee. For larger projects, City Council must approve the alternative, and developer must demonstrate equivalency to the applicable BMR requirements (ownership 20% and rental 15%). The City may retain a consultant at the developer's expense to review the reasonableness of the proposal and the submitted pro-forma. The intent of the ordinance is to build units. |
| San Jose | On-site 15%, Off-site 20% | >19 Units | Mod | $157,858 per unit (Ownership) | San Jose is currently updating the Inclusionary Housing Ordinance and expects to bring the new ordinance to City Countil for approval in early 2020. Proposed changes will include changing the in-lieu fee to a per square foot fee (rather than a per unit fee), changing the methodology for determining the fee to be based on the gap between market and affordable rents, introducing a clustering option for a portion of large development sites where stand alone afforable is possible, and additional changes. | Developer can choose to pay in-lieu from a menu of compliance options. The City is considering a change that would incentivize some moderate income units be built on-site in combination with paying a lower in-lieu fee for the lower income units. |
| Mountain View | 10% | >2 Units | 50% Med, 50% Mod | Ownership (excluding rowhomes/townhomes): $56.24/ net new habitable square feet Ownership rowhomes/townhomes: $129/ net new habitable square feet | Consumer Price Index and review every 5 years - Last update 1/25/2019 | Partial units are allowed. Projects with less than seven units are eligible to pay fee for full mitigation. For full mitigation with fees, developer must demonstrate why it is in the City's interest to receive fees instead of on-site units and must consider the following: 1. The ability for the in-lieu fees to create more affordable units and/or deeper affordability levels than could be provided on-site. ii. The ability to create affordable housing for special-needs populations. iii. Helping 100 percent affordable housing projects in the City's pipeline move forward that would not have otherwise been able to move forward or to move forward sooner than otherwise possible. iv. If an applicant proposes an early or prepayment of in-lieu fees, the time value of such payment. Mountain View requires that in-lieu fees are greater than the value of developing affordable units on-site. |

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| **Los Gatos** | <21 -> 10% <100 -> 22.5% >100 -> 20% | >4 Units | Mod | 6% BL permit | Equal to the amount of six (6) percent of the building permit valuation for the entire project. The total building permit valuation shall be determined by the Town Building Official. | PUD and developments with 5-9 units can request approval for in-lieu. Applicant must demonstrate to the satisfaction of the Town why a BMP unit cannot be: (1) developed on the same site as the market rate units, and if it cannot be provided on the same site then, (2) develop at an appropriate off-site location within the Town limits. If the developer provides sufficient justification that both of these alternatives are not viable, then a fee in-lieu option may be considered. |
| **Santa Clara** | 12.5% | >9 Units | ELI, VLI, Li and Mod: the avg 100% AMI | $30 sq ft/single-family, $25 sq ft/TH, $20/Condo | Data as of 1/18/2019. Draft Ordinance pending City is in the process of updating the ordinance. Check with staff. | Partial units and projects with less than 10 units can pay fees. Developer can build less that 15% on-site if those units are ELI, VLI, or LI and represent an equal or greater amount of value in subsidy. Such an arrangement must be memorialized through a Develpoment Agreement. Automatically adjusted for inflation annually, using the Engineering New Record McGraw-Hill Construction Weekly Building Cost Index for San Francisco |
| **Campbell** | 15% | >6 Units | Mod | $34.50 /sq ft | last updated 7/8/20 | In lieu fee only for project with 6 or fewer units. The City Council may annually review the fees authorized by this subsection D of this section by resolution, and may, based on that review, adjust the fee amount. For any annual period during which the City Council does not review the fee authorized by this subsection, fee amounts shall be adjusted once by the community development director or his or her designee based on the construction cost index. |
| **Milpitas** | 15.0% | >10 Units | VLI, LI, Mod | $35.13/ net new square foot | As of 7/1/20 Adjusted annually by Engineering News Record Building Cost Index for San Francisco. 1/5/2021: City Council direction to remove in-lieu fee option for ownership projects. | Partial units can pay fee, otherwise Council must approve in-lieu if affirmative findings are made to the following: 1.The exception requested exceeds the minimum affordable requirements; and 2.The project is better served with the exception; or 3.The community benefits exceed the project benefits. |

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| Morgan Hill | Downtown 10% Other 15% | >2 Untis | Mod | $13.2/SF in DT, $19.7 in Other | As of 10/17/18, Set by council so that fee is not greater than the difference between: a.The amount of a conventional permanent loan that an inclusionary unit would support based on the affordable rent or affordable sales price for the inclusionary unit; and b.The estimated total development cost of a prototypical inclusionary unit. | Allows in-lieu fees when the ordinance results in fractional units Entire inclusionary obligation can be met with in-lieu fees with Council approval if it will fulfill a housing need, if the RHNA goal has been met already, if there is a specific affordable project that can use the fees, and whether affordable units are appropriate in the specific project. |
| Palo Alto | lots > 5 acre 20%- others 15% | | 75% @ 80%-100% - 25% Mod | $20-$75 per sq ft | As of 4/5/17, Council review as needed. | |
| Fremont | 20% | >9 Units | Mod ((1/3 @90%, 1/3 @100% 1/3 @110%) | $22.41-$27 per sq ft | As of July1, 2020 For-Sale Housing in projects deemed complete on or after June 6, 2015 Fee per SF 1,2 • Attached units $27.00 • Detached units $26.00 For-Sale Housing in projects deemed complete before June 6, 2015 Fee per SF 3, 4 • Single-Family Homes on lots >6,000 SF $25.87 • All other Market-Rate, For-Sale Units $22.41 | Fee per habitable square foot of market-rate housing in for-sale residential projects to mitigate the cost of construction for lower income units, as required by Fremont Municipal Code Section 18.155.030(a). "Lower income" includes extremely low-, very lowand low-income units. 2. If a project applicant chooses to provide on-site moderate-income housing units, the affordable housing fee will be reduced by $8.50 per habitable square foot, pursuant to Resolution 2015-09. 3. Fee per habitable square foot of market-rate housing in for-sale residential projects in lieu of construction of moderate-income units on-site, as permitted by Fremont Municipal Code Section 18.155.080(f). 4. Fees adjusted annually on January 1 of each year for non-residential affordable housing fees and July 1 of each year for residential affordable housing fees to reflect annual changes in construction costs as measured by the Engineering News Record McGraw-Hill Construction Weekly Building Cost Index for San Francisco but in no case higher than justified by the applicable Nexus Study. |
| Redwood City | 15% | > 19 Units | Mod | $20-$25 per sq ft | As of July 2019, Condos and Apartments $20, Single Family $25 Townhome/Duplex/Triplex Developments $25 | Projects must meet a minimum size before they are subject to the fee. 5 or More Net New Units for Residential Projects. No in-lieu fees |
| Daly City | 20% | >14 Units | Moderate Income | $45 | As of Nov 26, 2018. | Residential developments of five or more units for which a Planning Permit has been approved by the City after July 1, 2018 are subject to new Inclusionary Housing Ordinance presented for adoption to the City Council on Nov. 26, 2018. The fees shall be applied to the total square feet of the livable space in the residential development. |

Data as of: 1/13/2021