

DRAFT PROPOSED MODIFICATION TO PIL REGS - 5/17/21

**Town of Ipswich
Planning Board Regulation
Inclusionary Housing Payment-in-Lieu-of Fee ~~Option~~**

On ~~Thursday, April 12, 2018~~, following a public hearing held pursuant to Section I.3.a.i of the Ipswich Protective Zoning Bylaw (“Zoning Bylaw”), the Planning Board (“Board”) amended its regulations governing inclusionary housing payment-in-lieu-of fees, promulgated on March 9, 2006, and previously amended on June 19, 2008 *and April 12, 2018*. The Board’s regulation is as follows.

1. Purpose: The purpose of this regulation is to revise the fee schedule for the payment-in-lieu-of fee option described in “Section IX.I Inclusionary Housing Requirements” of the Zoning Bylaw.
2. Applicability: The regulation applies to *certain* dwelling units created in developments requiring a special permit from the Board and described in Section IX.I.3.a and b of the Zoning Bylaw; specifically:
 - a. multi-family *dwelling, residential multi-family developments*, or residential mixed use developments ~~of fewer than ten units~~;
 - ~~b. multi-family or residential mixed use developments of more than ten units, for those units where the application of the ten percent (10%) affordability requirement results in a fractional housing unit of less than one half (1/2) of a dwelling unit;~~
 - b. Multi-family dwellings, multi-family residential developments or multi-family mixed residential developments that utilize Footnote 11 to the Table of Dimensional and Density Regulations in Section VI of the Zoning Bylaw; and*
 - c. Open Space Preservation Zoning subdivisions *that satisfy the requirements of Section IX.I.3.b* ~~of five or more single family detached or attached dwellings.~~
3. Authorization: Sections *VI. Footnote 11 to the Table of Dimensional and Density Regulations, and IX.I.3.a.ii* of the Zoning Bylaw establishes a fee ~~of \$10,000~~ per unit for developments *described above in 2. Applicability* ~~up to nine units~~, to be calculated on a pro rata basis. ~~A fee is also imposed on certain other developments, per Section IX.I.3.a.i and b of the Zoning Bylaw. The provision states that the fee “may be adjusted by the Planning Board from time to time through the issuance of guidelines or regulations.”~~
4. Fee Schedule: ~~The payment in lieu of fee option for rental dwelling units remains at \$10,000 per dwelling unit. The revised payment in lieu of fee option for for sale dwelling units is revised so that it is established on a sliding scale, based on the number of newly created units, and calculated as a~~

percentage of the gross sales price of the units in the development. In no event, however, shall the fee be more than \$25,000 per unit, nor less than \$10,000 per unit, except as provided below. The percentage to be applied to the gross sales price of each unit shall be as follows:

One Unit: 2.5%	Six Units: 3.8%
Two Units: 2.5%	Seven Units: 4.2%
Three Units: 2.5%	Eight Units: 4.6%
Four Units: 2.9%	Nine Units: 5.0%
Five Units: 3.3%	

(Example: A six-unit multi-family development is proposed and the developer opts to make a payment instead of providing an affordable housing unit. The gross sales price of each unit in the development is \$400,000. The developer would multiply \$400,000 by 3.8%, resulting in a payment-in-lieu-of-fee requirement of \$15,200 per unit, or a total of \$91,200.)

The required payment-in-lieu-of ~~payment-in-lieu~~ fees for multifamily dwellings, residential multi-family developments, residential mixed-use developments, and those developments that utilize Footnote 11 to the Dimensional and Density Regulations are provided below.

The Town prefers to have affordable units created rather than to accept payments in lieu. When the size of a development triggers a requirement for one full affordable unit, the unit must be created. Payments may only be made when less than one full unit is required (i.e., development less than seven total units) or for fractions of units beyond one or more full units. Because the Town uses these payments to create affordable housing elsewhere in the community, the payments are calculated to approximate a subsidy amount needed to reduce the cost of market rate housing to affordable levels; in other words, the payment is intended to approximate to the cost of creating affordable units. The Planning Board has estimated these subsidy amounts or deemed costs based on market rate home price and rent data, and on current affordable home prices and rents as dictated by the State's 40B statute and regulations. The established figures are currently \$182,500 for sales units and \$70,000 for rental units. Payments for projects of 10 or more units include a 10% premium on this base cost both because the larger developments are strongly encouraged to provide affordability rather than pay the fee, and because larger scale developments should be able to absorb the fee, if that is what they choose to do, more easily than smaller ones.

a. multi-family dwellings, residential multi-family developments, or residential mixed use developments.

i. Ownership units

Fraction of new units that must be affordable: 15%

Deemed cost of creating affordable unit: \$182,500

Premium applied for projects of 10 or more units: 10% (\$200,750 affordable unit cost)

<i>Number of units</i>	<i>Payment in Lieu fraction required</i>	<i>Number of mandatory affordable units</i>	<i>Payment in lieu amount required</i>
<i>1</i>	<i>0.15</i>	<i>-</i>	<i>\$27,375</i>
<i>2</i>	<i>0.30</i>	<i>-</i>	<i>\$54,750</i>
<i>3</i>	<i>0.45</i>	<i>-</i>	<i>\$82,125</i>
<i>4</i>	<i>0.60</i>	<i>-</i>	<i>\$109,500</i>
<i>5</i>	<i>0.75</i>	<i>-</i>	<i>\$136,875</i>
<i>6</i>	<i>0.90</i>	<i>-</i>	<i>\$164,250</i>
<i>7</i>	<i>0.05</i>	<i>1</i>	<i>\$9,125</i>
<i>8</i>	<i>0.20</i>	<i>1</i>	<i>\$36,500</i>
<i>9</i>	<i>0.35</i>	<i>1</i>	<i>\$63,875</i>
<i>10</i>	<i>0.50</i>	<i>1</i>	<i>\$100,375</i>
<i>15</i>	<i>0.05</i>	<i>2</i>	<i>\$1,037.50</i>
<i>20</i>	<i>0</i>	<i>3</i>	<i>\$0</i>
<i>50</i>	<i>0.50</i>	<i>7</i>	<i>\$100,375</i>

ii. Rental units

Fraction of new units that must be affordable: 15%

Deemed cost of creating affordable unit: \$70,000

Premium applied for projects of 10 or more units: 10% (\$77,000 affordable unit cost)

<i>Number of units</i>	<i>Payment in Lieu fraction required</i>	<i>Number of mandatory affordable units</i>	<i>Payment in lieu amount required</i>
<i>1</i>	<i>0.15</i>	<i>-</i>	<i>\$10,500</i>
<i>2</i>	<i>0.30</i>	<i>-</i>	<i>\$21,000</i>
<i>3</i>	<i>0.45</i>	<i>-</i>	<i>\$31,500</i>
<i>4</i>	<i>0.60</i>	<i>-</i>	<i>\$42,000</i>
<i>5</i>	<i>0.75</i>	<i>-</i>	<i>\$52,500</i>
<i>6</i>	<i>0.90</i>	<i>-</i>	<i>\$63,000</i>
<i>7</i>	<i>0.05</i>	<i>1</i>	<i>\$3,500</i>
<i>8</i>	<i>0.20</i>	<i>1</i>	<i>\$14,000</i>
<i>9</i>	<i>0.35</i>	<i>1</i>	<i>\$24,500</i>
<i>10</i>	<i>0.50</i>	<i>1</i>	<i>\$38,500</i>
<i>15</i>	<i>0.05</i>	<i>2</i>	<i>\$3,850</i>
<i>20</i>	<i>0</i>	<i>3</i>	<i>\$0</i>
<i>50</i>	<i>0.50</i>	<i>7</i>	<i>\$38,500</i>

b. multi-family dwellings, residential multi-family developments, or residential mixed use developments that utilize Footnote 11 to the Table of Dimensional and Density Regulations in Section VI of the Zoning Bylaw

For Footnote 11 units, the number of mandatory units and payment in lieu of fee is based on the 20% affordability requirement in Section VI., Footnote 11 to the Table of Dimensional and Density Regulations.

*i. Ownership units**Fraction of new units that must be affordable: 20%**Deemed cost of creating affordable unit: \$182,500*

<i>Number of units</i>	<i>Payment in Lieu fraction required</i>	<i>Number of mandatory affordable units</i>	<i>Payment in lieu amount required</i>
<i>1</i>	<i>0.20</i>	<i>-</i>	<i>\$36,500</i>
<i>2</i>	<i>0.40</i>	<i>-</i>	<i>\$73,000</i>
<i>3</i>	<i>0.60</i>	<i>-</i>	<i>\$109,500</i>
<i>4</i>	<i>0.80</i>	<i>-</i>	<i>\$146,000</i>
<i>5</i>	<i>1</i>	<i>1</i>	<i>\$0</i>
<i>6</i>	<i>0.20</i>	<i>1</i>	<i>\$36,500</i>
<i>7</i>	<i>0.40</i>	<i>1</i>	<i>\$73,000</i>
<i>8</i>	<i>0.60</i>	<i>1</i>	<i>\$109,500</i>
<i>9</i>	<i>0.80</i>	<i>1</i>	<i>\$146,000</i>
<i>10</i>	<i>1</i>	<i>2</i>	<i>\$0</i>
<i>15</i>	<i>1</i>	<i>3</i>	<i>\$0</i>
<i>20</i>	<i>1</i>	<i>4</i>	<i>\$0</i>
<i>50</i>	<i>1</i>	<i>10</i>	<i>\$0</i>

*ii. Rental units**For rental units using Footnote 11 the PIL fee amount is \$20,000 per unit.**c. Open Space Preservation Zoning subdivisions that satisfy the requirements of IX.I.3.b.**For OSPZ developments, the payment in lieu option fee shall be \$27,375 per unit (the same cost per unit for ownership multifamily dwellings and developments).***5. Open Space Preservation Zoning (OSPZ):**

For developments of ~~ten~~ **five** or more single-family units built in accordance with Section IX.A ~~Open Space Preservation Zoning~~ (OSPZ) of the Zoning Bylaw which either: (a) exceed the open space set-aside requirement of said Section by at least thirty percent (30%); (b) place permanent pricing restrictions on at least ten percent (10%) of the total dwelling units in the development so that they are affordable to households earning no more than 120% of the Regional Household Median Income [RHMI] (as determined by the U.S. Department of Housing and Urban Development); or (c) provide a combination of additional open space set-aside and dwelling units affordable to households earning no more than 120% of the RHMI, in an amount determined satisfactory by the Board, provided that the additional open space is no less than 20% of the open space requirement and the percentage of discounted dwelling units is no less than five percent of total units, the total payment-in-lieu-of fee shall be capped at an amount established as follows: multiply the total number of housing units in the development by the median single-family house price (as listed in the most recent publication of "MA Median Sales," published by the Massachusetts Association of Realtors), multiplied by 2.85%. (Example: A 25-unit OSPZ development approved by Board special permit that provides at least 65% of its acreage as protected open space would have a total payment-in-lieu-of fee cap of

\$272,175,376,913: 25 units times \$382,000 ~~529,000~~ [Jan. 2018 **April 21, 2021** published median home price] times 2.85%.)

6. Segmentation. A developer or property owner may not phase or segment a project or transfer ownership of contiguous properties to evade, defer or curtail the affordability or payment-in-lieu-of fee requirements of this regulation. The Board shall consider all circumstances as to whether various applications or activities, taken together, comprise a single development or independent undertakings, regardless of whether there is more than one developer or property owner, including any time interval(s) between the applications or activities. The Board may impose such additional payment-in-lieu-of requirements on segmented developments as are needed to ensure that, as a whole, a development makes the full payments warranted.

This revised regulation shall take effect upon its adoption.