

Fw: Protect the Inclusionary Housing Ordinance

From City Clerk <city.clerk@sanjoseca.gov>

Date Tue 1/20/2026 9:33 AM

To Agendadesk <Agendadesk@sanjoseca.gov>

 5 attachments (3 MB)

Emily-Ferry.pdf; jonathan-luu.pdf; Elizabeth-Olmos.pdf; Gingrer-Guerra.pdf; Diana-Iniguez.pdf;

Office of the City Clerk | City of San José

200 E. Santa Clara St., Tower 14th Floor

San Jose, CA 95113

Main: 408-535-1260

Fax: 408-292-6207

How is our service? Your [feedback](#) is appreciated!

From: E A <

Sent: Tuesday, January 20, 2026 9:31 AM

To: District3 <district3@sanjoseca.gov>; The Office of Mayor Matt Mahan <mayor@sanjoseca.gov>; The Office of Mayor Matt Mahan <mayor@sanjoseca.gov>; Kamei, Rosemary <Rosemary.Kamei@sanjoseca.gov>; Campos, Pamela <Pamela.Campos@sanjoseca.gov>; Cohen, David <David.Cohen@sanjoseca.gov>; Ortiz, Peter <Peter.Ortiz@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; Doan, Bien <Bien.Doan@sanjoseca.gov>; Candelas, Domingo <Domingo.Candelas@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>; City Clerk <city.clerk@sanjoseca.gov>; City Clerk <city.clerk@sanjoseca.gov>

Subject: Protect the Inclusionary Housing Ordinance

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Mayor and Council,

See below attachments.

Thanks!

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Sign Petitions:

Protect Inclusionary Housing Ordinance <https://form.jotform.com/260031040852038>

Symbols of Identity and Belonging at City Hall: <https://form.jotform.com/253548517960062>

Enhance Civic Participation: <https://form.jotform.com/253544303745153>

Here4You Homeless Shelter Hotline: (408)-385-2400

Elizabeth Agramont-Justiniano
she/her/ella/GIRLLL!

My personal brand:

- Creativity**
- Compassion**
- Commitment**
- Consistency**
- Courage**
- Community Centeredness**

Artist/Creative

Expand TRUST in SJ! Mental Health Matters!

Political Ambassador, Afro UPRIS/Black Democratic Club of SCC: Black Lives and Black Permanency Matters!

Chair Ad-Hoc Committee on Housing and Homelessness, SCCDP

Choir+ Member of Urban Sanctuary

Build the Bench 2025 Cohort, Member of SVYD

Civic Leadership 2026 Cohort, Silicon Valley at Home

Housing Justice Advocate

Downtown Resident of District 3: St. James/Julian Neighborhood

Values: Honesty, Kindness, Compassion, Courage, Justice

"Democracy only works when we work for it. When we fight for it, when we demand it." ~Stacey Abrams

Thank you!

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Friday, January 16, 2026

Protect Inclusionary Housing Ordinance

Sign if you support: It is of the utmost importance that the City of San Jose not eliminate affordable housing at the 30% AMI from the Inclusionary Housing Ordinance. Meaning that folks who make 30% of the Average Median Income of \$141K can find apartments at their income level. Eliminating Very Low and Extremely Low income affordable housing construction requirements within the Inclusionary Housing Ordinance would disproportionately negatively impact the Black community specifically in San Jose. Whereas, Black residents average median wealth is \$24K and White residents it is \$188K. Whereas, the Black population represents 2.2% of the city residents yet 19% of those who are unhoused. Furthermore, segregation and redlining still persist in San Jose. Race exists still as a determining factor and predictor of life outcomes. On 11/8/2022, voters approved Measure I amending the City Charter in order to uplift the values and practices of racial and social equity, inclusion, and racial and social justice. Effective 5/14/2024 the City of San Jose enacted the Equity Values and Standards Policy RES2024-140. Under the section titled Application it states: d. "Analyze how the program, polity, ordinance, or budget item might improve or worsen racial and social equity." Consequences, of removing the ELI affordable housing requirement from the IHO include: increase in homelessness for the poorest residents, poorer education outcomes, lack of opportunities and resources that would be provided in mixed income and higher resource areas. Due to persistent systemic racism in our society it is necessary for our government to provide protection and not be perpetrators of these injustices. The City of San Jose has a responsibility and needs to be held accountable to promote the wellbeing, safety, stability of its residents particularly those most oppressed. Let's not forget the purpose of the Inclusionary Housing in direct response to Exclusionary Zoning practices. Due to wealthy White homeowners not wanting People of Color or Poor people to live in their neighborhood. Racial and Class diversity is important in fostering a community that learns, grows, supports, strengthens, appreciates, and celebrates each member so that everyone can feel a sense of safety and belonging. With the current federal administration's active siphoning of our rights and resources and attempts to devalue Black, Latin(e/x), Asian, and Indigenous people, immigrants, poor people, people with disabilities, neurodivergence, and LGBTQIA+ people it is critically important that at the local City level you help protect our resources and rights so we can have equity and continue to advance. Thank You!

Name

Diana Iniguez

Email

[REDACTED]

Address

[REDACTED]
San Jose, CA, 95111-2410



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Name

Elizabeth Olmos

Email

[REDACTED]

Address

[REDACTED]
San Jose, CA, 95123



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Name

Emily Ferry

Email

[REDACTED]

Address

[REDACTED]
San Jose, CA, 95136



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Name

Gingrer Guerra

Email

[REDACTED]

Address



Santa Clara, CA, 95050



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Name

jonathan luu

Email



Address



san jose, ca, 95121

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Date Tue 1/20/2026 9:33 AM
To Agendadesk <Agendadesk@sanjoseca.gov>

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Adrienne-Lawton.pdf; Camille-Claudio.pdf; debra-hartman.pdf; Angeliqne-Gonzalez.pdf; Alondra-Orozco.pdf;

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Subject: Protect the Inclusionary Housing Ordinance

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Hello Mayor and City Councilmembers

Please see the below attachments of residents and workers in San Jose who support maintaining 30% AMI affordable housing as a requirement in the Inclusionary Housing Ordinance.

Thank you!

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Symbols of Identity and Belonging at City Hall: <https://form.jotform.com/253548517960062>

Enhance Civic Participation: <https://form.jotform.com/253544303745153>

Here4You Homeless Shelter Hotline: (408)-385-2400

Elizabeth Agramont-Justiniano
she/her/ella/GIRRL!

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- Creativity**
- Compassion**
- Commitment**
- Consistency**
- Courage**
- Community Centeredness**

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Choir+ Member of Urban Sanctuary

Build the Bench 2025 Cohort, Member of SVYD

Civic Leadership 2026 Cohort, Silicon Valley at Home

Housing Justice Advocate

Downtown Resident of District 3: St. James/Julian Neighborhood

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Tuesday, January 13, 2026

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Name

Adrienne Lawton

Email



Address



San Jose, CA, 95116



Monday, January 19, 2026

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Name

Alondra Orozco

Email



Address



San Jose, CA, 95116



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Name

Angelique Gonzalez

Email



Address



San Jose, California, 95111



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Name

Camille Claudio

Email



Address



San Jose, CA, 95116



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Name

debra hartman

Email



Address



san jose, ca, 95125

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Sign Petitions:

Protect Inclusionary Housing Ordinance <https://form.jotform.com/260031040852038>

Symbols of Identity and Belonging at City Hall: <https://form.jotform.com/253548517960062>

Enhance Civic Participation: <https://form.jotform.com/253544303745153>

Here4You Homeless Shelter Hotline: (408)-385-2400

Elizabeth Agramont-Justiniano
she/her/ella/GIRLLL!

My personal brand:

- Creativity**
- Compassion**
- Commitment**
- Consistency**
- Courage**
- Community Centeredness**

Artist/Creative

Expand TRUST in SJ! Mental Health Matters!

Political Ambassador, Afro UPRIS/Black Democratic Club of SCC: Black Lives and Black Permanency Matters!

Chair Ad-Hoc Committee on Housing and Homelessness, SCCDP

Choir+ Member of Urban Sanctuary

Build the Bench 2025 Cohort, Member of SVYD

Civic Leadership 2026 Cohort, Silicon Valley at Home

Housing Justice Advocate

Downtown Resident of District 3: St. James/Julian Neighborhood

Values: Honesty, Kindness, Compassion, Courage, Justice

"Democracy only works when we work for it. When we fight for it, when we demand it."~Stacey Abrams

Thank you!

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Protect Inclusionary Housing Ordinance

Sign if you support: It is of the utmost importance that the City of San Jose not eliminate affordable housing at the 30% AMI from the Inclusionary Housing Ordinance. Meaning that folks who make 30% of the Average Median Income of \$141K can find apartments at their income level. Eliminating Very Low and Extremely Low income affordable housing construction requirements within the Inclusionary Housing Ordinance would disproportionately negatively impact the Black community specifically in San Jose. Whereas, Black residents average median wealth is \$24K and White residents it is \$188K. Whereas, the Black population represents 2.2% of the city residents yet 19% of those who are unhoused. Furthermore, segregation and redlining still persist in San Jose. Race exists still as a determining factor and predictor of life outcomes. On 11/8/2022, voters approved Measure I amending the City Charter in order to uplift the values and practices of racial and social equity, inclusion, and racial and social justice. Effective 5/14/2024 the City of San Jose enacted the Equity Values and Standards Policy RES2024-140. Under the section titled Application it states: d. "Analyze how the program, polity, ordinance, or budget item might improve or worsen racial and social equity." Consequences, of removing the ELI affordable housing requirement from the IHO include: increase in homelessness for the poorest residents, poorer education outcomes, lack of opportunities and resources that would be provided in mixed income and higher resource areas. Due to persistent systemic racism in our society it is necessary for our government to provide protection and not be perpetrators of these injustices. The City of San Jose has a responsibility and needs to be held accountable to promote the wellbeing, safety, stability of its residents particularly those most oppressed. Let's not forget the purpose of the Inclusionary Housing in direct response to Exclusionary Zoning practices. Due to wealthy White homeowners not wanting People of Color or Poor people to live in their neighborhood. Racial and Class diversity is important in fostering a community that learns, grows, supports, strengthens, appreciates, and celebrates each member so that everyone can feel a sense of safety and belonging. With the current federal administration's active siphoning of our rights and resources and attempts to devalue Black, Latin(e/x), Asian, and Indigenous people, immigrants, poor people, people with disabilities, neurodivergence, and LGBTQIA+ people it is critically important that at the local City level you help protect our resources and rights so we can have equity and continue to advance. Thank You!

Name

JOSE MATA ROMERO

Email



Address


San jose, ca, 95124



Friday, January 16, 2026

Protect Inclusionary Housing Ordinance

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Name

Kathy Tran

Email



Address



San Jose, CA, 95118



Protect Inclusionary Housing Ordinance

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Name

Micah Che

Email



Address



San Jose, CA, 95132



Saturday, January 17, 2026

Protect Inclusionary Housing Ordinance

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Name

Nona Carter

Email



Address

[REDACTED]
San Jose, CA, 95111



Saturday, January 17, 2026

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Name

Rev. Rowan Fairgrove

Email



Address

[REDACTED]
San Jose, CA, 95112

Fw: Protect the Inclusionary Housing Ordinance

From City Clerk <city.clerk@sanjoseca.gov>
Date Tue 1/20/2026 9:36 AM
To Agendadesk <Agendadesk@sanjoseca.gov>

 4 attachments (2 MB)

Ruth-Melton.pdf; Sophia-Barchard.pdf; Sindhana-Pannir-Sivajothi.pdf; Tonie-Doose.pdf;

Office of the City Clerk | City of San José

200 E. Santa Clara St., Tower 14th Floor
San Jose, CA 95113
Main: 408-535-1260
Fax: 408-292-6207

How is our service? Your [feedback](#) is appreciated!

From: E A [REDACTED]
Sent: Tuesday, January 20, 2026 9:34 AM
To: District3 <district3@sanjoseca.gov>; The Office of Mayor Matt Mahan <mayor@sanjoseca.gov>; The Office of Mayor Matt Mahan <mayor@sanjoseca.gov>; Kamei, Rosemary <Rosemary.Kamei@sanjoseca.gov>; Campos, Pamela <Pamela.Campos@sanjoseca.gov>; Cohen, David <David.Cohen@sanjoseca.gov>; Ortiz, Peter <Peter.Ortiz@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; Doan, Bien <Bien.Doan@sanjoseca.gov>; Candelas, Domingo <Domingo.Candelas@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>; City Clerk <city.clerk@sanjoseca.gov>; City Clerk <city.clerk@sanjoseca.gov>
Subject: Protect the Inclusionary Housing Ordinance

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See attachments below:

Thanks!

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Protect Inclusionary Housing Ordinance <https://form.jotform.com/260031040852038>

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Enhance Civic Participation: <https://form.jotform.com/253544303745153>

Here4You Homeless Shelter Hotline: (408)-385-2400

Elizabeth Agramont-Justiniano
she/her/ella/GIRLLL!

My personal brand:

- Creativity
- Compassion
- Commitment
- Consistency
- Courage
- Community Centeredness

Artist/Creative

Expand TRUST in SJ! Mental Health Matters!

Political Ambassador, Afro UPRIS/Black Democratic Club of SCC: Black Lives and Black Permanency Matters!

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Sunday, January 11, 2026

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Name

Ruth Melton

Email

[REDACTED]

Address



San Jose, California, 95125



Protect Inclusionary Housing Ordinance

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Name

Sindhana Pannir-Sivajothi

Email

[REDACTED]

Address



San Francisco, CA, 94107



Monday, January 12, 2026

Protect Inclusionary Housing Ordinance

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Name

Sophia Barchard

Email

[REDACTED]

Address

[REDACTED]
San Jose, CA, 95111



Friday, January 9, 2026

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Name

Tonie Doose

Email



Address



San Jose, Ca, 95125

Fw: San Jose Chamber Support Letter for Items 8.2, 8.3, & 8.4 on Housing

From City Clerk <city.clerk@sanjoseca.gov>
Date Wed 1/21/2026 3:26 PM
To Agendadesk <Agendadesk@sanjoseca.gov>

 1 attachment (203 KB)
SJ Chamber - Housing Day Support 012726.pdf;

Office of the City Clerk | City of San José

200 E. Santa Clara St., Tower 14th Floor
San Jose, CA 95113
Main: 408-535-1260
Fax: 408-292-6207

How is our service? Your [feedback](#) is appreciated!

From: Lennies Gutierrez <[REDACTED]>
Sent: Wednesday, January 21, 2026 3:24 PM
To: The Office of Mayor Matt Mahan <mayor@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>; City Clerk <city.clerk@sanjoseca.gov>
Cc: Zarate, Sarah <Sarah.Zarate@sanjoseca.gov>; Fruen, Joseph <Joseph.Fruen@sanjoseca.gov>; Yamamoto, KiyomiH <Kiyomi.Yamamoto@sanjoseca.gov>; Gvatua, Alexander <Alexander.Gvatua@sanjoseca.gov>; Nguyen, Lam <Lam.Nguyen@sanjoseca.gov>; Moreno, Brisa <Brisa.Moreno@sanjoseca.gov>; lynn.lee@sanjoseca.gov <lynn.lee@sanjoseca.gov>; Fleming, Jonathan <Jonathan.Fleming@sanjoseca.gov>; Adera, Teddy <Teddy.Adera@sanjoseca.gov>; Hughes, Scott <scott.hughes@sanjoseca.gov>; Gomez, David <David.Gomez@sanjoseca.gov>; Leah Toeniskoetter <leaht@sjchamber.com>; Solivan, Erik <Erik.Solivan@sanjoseca.gov>; Rocha, Vincent <Vincent.Rocha@sanjoseca.gov>; Burton, Chris <Christopher.Burton@sanjoseca.gov>
Subject: RE: San Jose Chamber Support Letter for Items 8.2, 8.3, & 8.4 on Housing

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RE: Items 8.2: Downtown Residential Incentive Program Expansion, 8.3: Multifamily Housing Incentive Program Extension, & 8.4: Amendments to the Inclusionary Housing Ordinance.

Dear Mayor Mahan and Honorable Councilmembers,

On behalf of the San Jose Chamber of Commerce, I write in strong support of staff's proposed updates to the City's housing policies intended to accelerate housing production, including extensions of the Downtown Residential Incentive Program and the Multifamily Housing Incentive Program, as well as amendments to the Inclusionary Housing Ordinance.

Housing—particularly affordable and workforce housing—is the top concern of our members. To sustain San Jose's economic vitality, we must advance policies that meaningfully increase housing production. Meeting the state-mandated goal of 62,000 new homes by 2031 will require decisive action now.

San Jose's competitiveness depends on its ability to house the workforce that powers our economy. Employers consistently cite housing costs and availability as major barriers to growth, talent recruitment, and long-term investment. Streamlining policies that make it easier, faster, and more cost-effective to build housing is essential to the city's future.

For these reasons, the Chamber believes the following policy actions will make a measurable difference in supporting San Jose's short- and long-term growth, vitality, and economic success:

Downtown Residential Incentive Program

The proposed updates appropriately refine the Inclusionary Housing requirements to better support workforce housing, streamline program implementation, and expand eligibility to include commercial-to-residential conversions for mid- and high-rise buildings within the Downtown Planned Growth Area, consistent with City criteria. These changes better align the program with current market conditions and improve long-term feasibility.

Multifamily Housing Incentive Program

The Chamber advocated for the creation of this program in 2024 and remains strongly supportive of its extension. The program has already enabled several multifamily developments to move forward and continues to hold meaningful potential to unlock additional housing production.

Inclusionary Housing Ordinance

Approval of the proposed amendments will better align affordability requirements with current market realities while maintaining meaningful affordability for middle-income households. The changes simplify compliance, establish a functional Surplus Credits marketplace, align rental affordability terms with state practice, and streamline 100% affordable projects. Collectively, these updates make the ordinance clearer, more predictable, and better suited to today's financing environment—supporting more housing for San Jose's workforce.

We view these actions as an important step toward addressing San Jose's housing challenges, though they should be understood as a starting point rather than a final solution. Given that the development cycle—from site acquisition through completed construction—can take four years or more, we encourage the City Council and staff to think beyond time-limited incentives and consider unit-based production goals. If the objective is to meaningfully increase housing supply, flexibility aligned with real development timelines and a willingness to boldly test pilot approaches will be essential.

The Chamber would also welcome the opportunity to facilitate conversations between Councilmembers, City staff, and our membership—including employers, developers, and property owners—who can provide practical, on-the-ground insight into how these policies affect investment and housing delivery. We stand ready to be a constructive partner in advancing solutions that help San Jose meet its housing goals and remain competitive.

If you would like to schedule a meeting to discuss further, please do not hesitate to reach out to Lennies Gutierrez, our interim policy manager at [REDACTED]

Sincerely,
[REDACTED]



January 21, 2026

City of San Jose City Council
200 E. Santa Clara St.
San José, CA 95113

RE: Items 8.2: Downtown Residential Incentive Program Expansion, 8.3: Multifamily Housing Incentive Program Extension, & 8.4: Amendments to the Inclusionary Housing Ordinance.

Dear Mayor Mahan and Honorable Councilmembers,

On behalf of the San Jose Chamber of Commerce, I write in strong support of staff's proposed updates to the City's housing policies intended to accelerate housing production, including extensions of the Downtown Residential Incentive Program and the Multifamily Housing Incentive Program, as well as amendments to the Inclusionary Housing Ordinance.

Housing—particularly affordable and workforce housing—is the top concern of our members. To sustain San Jose's economic vitality, we must advance policies that meaningfully increase housing production. Meeting the state-mandated goal of 62,000 new homes by 2031 will require decisive action now.

San Jose's competitiveness depends on its ability to house the workforce that powers our economy. Employers consistently cite housing costs and availability as major barriers to growth, talent recruitment, and long-term investment. Streamlining policies that make it easier, faster, and more cost-effective to build housing is essential to the city's future.

For these reasons, the Chamber believes the following policy actions will make a measurable difference in supporting San Jose's short- and long-term growth, vitality, and economic success:

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We view these actions as an important step toward addressing San Jose's housing challenges, though they should be understood as a starting point rather than a final solution. Given that the development cycle—from site acquisition through completed construction—can take four years or more, we encourage the City Council and staff to think beyond time-limited incentives and consider unit-based production goals. If the objective is to meaningfully increase housing supply, flexibility aligned with real development timelines and a willingness to boldly test pilot approaches will be essential.

The Chamber would also welcome the opportunity to facilitate conversations between Councilmembers, City staff, and our membership—including employers, developers, and property owners—who can provide practical, on-the-ground insight into how these policies affect investment and housing delivery. We stand ready to be a constructive partner in advancing solutions that help San Jose meet its housing goals and remain competitive.

If you would like to schedule a meeting to discuss further, please do not hesitate to reach out to Lennies Gutierrez, our interim policy manager at [REDACTED]

Sincerely,

[REDACTED]

Leah Toeniskoetter
President & CEO
San Jose Chamber of Commerce

Leah Toeniskoetter
President & CEO
San Jose Chamber of Commerce

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Lennies M. Gutierrez
Interim Policy Manager
San Jose Chamber of Commerce



www.sjchamber.com

101 W. Santa Clara Street, San Jose, CA 95113

Mailing Address: PO Box 149, San Jose, CA 95103



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FW: San Jose Chamber Support Letter for Items 8.2, 8.3, & 8.4 on Housing

From City Clerk <city.clerk@sanjoseca.gov>
Date Thu 1/22/2026 11:44 PM
To Agendadesk <Agendadesk@sanjoseca.gov>

 1 attachment (203 KB)
SJ Chamber - Housing Day Support 012726.pdf;

From: Lennies Gutierrez [REDACTED]
Sent: Thursday, January 22, 2026 11:02 AM
To: City Clerk <city.clerk@sanjoseca.gov>
Subject: Fw: San Jose Chamber Support Letter for Items 8.2, 8.3, & 8.4 on Housing

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From: Lennies Gutierrez
Sent: Wednesday, January 21, 2026 3:24 PM
To: mayor@sanjoseca.gov <mayor@sanjoseca.gov>; district1@sanjoseca.gov <district1@sanjoseca.gov>; district2@sanjoseca.gov <district2@sanjoseca.gov>; district3@sanjoseca.gov <district3@sanjoseca.gov>; district4@sanjoseca.gov <district4@sanjoseca.gov>; district5@sanjoseca.gov <district5@sanjoseca.gov>; district6@sanjoseca.gov <district6@sanjoseca.gov>; district7@sanjoseca.gov <district7@sanjoseca.gov>; district8@sanjoseca.gov <district8@sanjoseca.gov>; district9@sanjoseca.gov <district9@sanjoseca.gov>; district10@sanjoseca.gov <district10@sanjoseca.gov>; clerk@sanjoseca.gov <clerk@sanjoseca.gov>
Cc: sarah.zarate@sanjoseca.gov <sarah.zarate@sanjoseca.gov>; joseph.fruen@sanjoseca.gov <joseph.fruen@sanjoseca.gov>; kiyomi.yamamoto@sanjoseca.gov <kiyomi.yamamoto@sanjoseca.gov>; alexander.gvatua@sanjoseca.gov <alexander.gvatua@sanjoseca.gov>; Lam.Nguyen@sanjoseca.gov <Lam.Nguyen@sanjoseca.gov>; brisa.moreno@sanjoseca.gov <brisa.moreno@sanjoseca.gov>; lynn.lee@sanjoseca.gov <lynn.lee@sanjoseca.gov>; jonathan.fleming@sanjoseca.gov <jonathan.fleming@sanjoseca.gov>; Teddy.Adera@SanJoseCA.Gov <Teddy.Adera@SanJoseCA.Gov>; scott.hughes@sanjoseca.gov <scott.hughes@sanjoseca.gov>; david.gomez@sanjoseca.gov <david.gomez@sanjoseca.gov>; Leah Toeniskoetter [REDACTED]; erik.solivan@sanjoseca.gov <erik.solivan@sanjoseca.gov>; vince.rocha@sanjoseca.gov <vince.rocha@sanjoseca.gov>; christopher.burton@sanjoseca.gov <christopher.burton@sanjoseca.gov>
Subject: RE: San Jose Chamber Support Letter for Items 8.2, 8.3, & 8.4 on Housing

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President & CEO
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Lennies M. Gutierrez
Interim Policy Manager
San Jose Chamber of Commerce



www.sjchamber.com

101 W. Santa Clara Street, San Jose, CA 95113

Mailing Address: PO Box 149, San Jose, CA 95103



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January 21, 2026

City of San Jose City Council
200 E. Santa Clara St.
San José, CA 95113

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Sincerely,

[REDACTED]

Leah Toeniskoetter
President & CEO
San Jose Chamber of Commerce

Fw: Your Constituency Says NO to "Housing Day" (Agenda Item Nos. 8.2, 8.3, 8.4, and 8.6)

From City Clerk <city.clerk@sanjoseca.gov>
Date Fri 1/23/2026 9:22 AM
To Agendadesk <Agendadesk@sanjoseca.gov>

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San Jose, CA 95113
Main: 408-535-1260
Fax: 408-292-6207

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From: Jennette Holzworth [REDACTED]
Sent: Friday, January 23, 2026 9:19 AM
To: City Clerk <city.clerk@sanjoseca.gov>
Subject: Your Constituency Says NO to "Housing Day" (Agenda Item Nos. 8.2, 8.3, 8.4, and 8.6)

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City Clerk Toni Taber,

Dear City Clerk, Mayor Mahan, and Members of the San José City Council,

I am a San Jose resident and leader in my District 6 community writing to voice my public comment regarding the agenda items for consideration on the upcoming "Housing Day" (San Jose City Council agenda item nos. 8.2, 8.3, 8.4, and 8.6 respectively for the official records - please include my comments under each of the relevant agenda items.)

My specific reasons for asking for your opposition and adjustments are outlined below, and it comes from the perspective of a voter and homeowner who recognizes the exorbitant privilege and sheer luck my family has fallen into that has allowed us to exit the often inhumane and always unpredictable conditions of being low-income renters. We got lucky - the tech company employing my husband went public. That is the only reason, despite saving and scrounging, that we could gather enough money to buy ourselves a mortgage. Yes, we worked hard, but that wasn't enough to bring the relative stability of homeownership. We must do more as a community to combat the affordability crisis at hand.

On the same day that you consider a vote to extend the Local Emergency for the Homeless Shelter Crisis; at a time when San Jose residents have listed affordability as the single most important issue; when homelessness has risen 4% since 2023 despite the city's investment into emergency shelters; the measures for your consideration prioritize market-rate incentives and regulatory rollbacks while failing to require permanent, deeply affordable housing, deepening San Jose's homelessness, housing, and shelter crises. These measures undermine long-term housing stability and directly contribute to the very crises they claim to address. Please use common sense with your votes.

Ask: Alter Incentive Programs (Downtown Commercial to Residential and Multi-family Housing) So Public Investment Receives Public Benefit (Agenda Item Nos. 8.2 and 8.3)
I urge the Council to oppose the extension and expansion of San José's housing incentive programs as written, which continues to provide substantial public subsidies—fee waivers, tax reductions, and relaxed inclusionary requirements—while producing little to no permanent affordable housing. While adaptive reuse and increased housing production are the right direction, these programs overwhelmingly subsidize market-rate development at 80–100% AMI, often above current market rents; failing to serve the residents most impacted by displacement, homelessness, and housing insecurity. The outcomes of existing incentives demonstrate this flaw: projects cited as successes produced no deed-restricted affordable units, while higher-cost units continue to sit vacant and do not meaningfully reduce rents or homelessness. If the City is going to waive public revenue, it must require real public benefit—deep (30–60% AMI) and permanent affordability, community or nonprofit participation, and outcomes that reduce homelessness rather than expand reliance on emergency shelter.

Ask: Delay Vote & Direct Housing Department re: IHO. (Agenda Item No. 8.4)
I urge the Council to delay the proposed changes to the Inclusionary Housing Ordinance and require staff to provide data, modeling, and meaningful stakeholder engagement before proceeding. The proposal lacks analysis of how shifting inclusionary units to higher AMIs will affect affordability, feasibility, vacancy, or the City's ability to serve extremely low-, very low-, and low-income residents, and would likely result in units priced above market with little public benefit. These changes depart from the collaborative, evidence-based process used to create the current IHO and instead stem from limited direction in the Mayor's budget message, raising serious concerns about transparency and accountability.

Ask: Oppose Discretionary Changes to MRO. (Agenda Item No. 8.6)
I strongly urge you to oppose the proposed discretionary changes to San José's Mobilehome Rent Ordinance, which would undermine long-term affordability and increase displacement risk for some of the city's most vulnerable residents. Allowing a 10% rent increase upon vacancy or in-place sale—along with new capital improvement pass-throughs and an expanded appeal process—would destabilize mobilehome parks, one of the region's last pathways to entry-level homeownership, while shifting landowner costs onto residents and reducing home resale values. Mobilehome park ownership is widely recognized as one of the most profitable and recession-resistant forms of housing investment, with existing fair-return mechanisms already in place, yet the proposal offers no evidence that additional rent increases or pass-throughs are necessary. These changes contradict the City's housing stabilization goals, were rejected by the Housing and Community Development Commission in a 9–4 vote, and should not move forward.

We cannot continue to pretend that the direction the city is taking on housing is working, not when the data says otherwise. Unsheltered housing might be down, but without permanent,

affordable solutions, our investment into temporary shelters becomes the last stop on the train because there is nowhere for these folks to progress to, all while the affordability crisis, unhoused crisis, and shelter crisis worsens. Please take a stand on “Housing Day” and demand we do better for our city.

Sincerely,
Jennette Holzworth

Jennette Holzworth


San Jose, California 95128

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Fw: Your Constituency Says NO to "Housing Day" (Agenda Item Nos. 8.2, 8.3, 8.4, and 8.6)

From City Clerk <city.clerk@sanjoseca.gov>
Date Fri 1/23/2026 9:42 AM
To Agendadesk <Agendadesk@sanjoseca.gov>

Office of the City Clerk | City of San José

200 E. Santa Clara St., Tower 14th Floor
San Jose, CA 95113
Main: 408-535-1260
Fax: 408-292-6207

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From: Dustin Hunt [REDACTED]
Sent: Friday, January 23, 2026 9:40 AM
To: City Clerk <city.clerk@sanjoseca.gov>
Subject: Your Constituency Says NO to "Housing Day" (Agenda Item Nos. 8.2, 8.3, 8.4, and 8.6)

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Dustin Hunt

MILPITAS, California 95035

Inclusionary Housing Ordinance Changes

From Jacky Morales-Ferrand <[REDACTED]>

Date Thu 1/22/2026 6:20 PM

To The Office of Mayor Matt Mahan <mayor@sanjoseca.gov>; Kamei, Rosemary <Rosemary.Kamei@sanjoseca.gov>; Campos, Pamela <Pamela.Campos@sanjoseca.gov>; Tordillos, Anthony <Anthony.Tordillos@sanjoseca.gov>; Ortiz, Peter <Peter.Ortiz@sanjoseca.gov>; Cohen, David <David.Cohen@sanjoseca.gov>; Mulcahy, Michael <Michael.Mulcahy@sanjoseca.gov>; Doan, Bien <Bien.Doan@sanjoseca.gov>; Candelas, Domingo <Domingo.Candelas@sanjoseca.gov>; Foley, Pam <Pam.Foley@sanjoseca.gov>; Casey, George <George.Casey@sanjoseca.gov>

Cc City Clerk <city.clerk@sanjoseca.gov>; Agendadesk <Agendadesk@sanjoseca.gov>; Rocha, Vincent <Vincent.Rocha@sanjoseca.gov>; Lester, Elise <Elise.Lester@sanjoseca.gov>; Gvatua, Alexander <Alexander.Gvatua@sanjoseca.gov>; Danino, Shawn <Shawn.Danino@sanjoseca.gov>; Nguyen, Lam <Lam.Nguyen@sanjoseca.gov>; dominc.treseler@sanjoseca.gov <dominc.treseler@sanjoseca.gov>; Lynn.lee@sanjoseca.gov <lynn.lee@sanjoseca.gov>; Fleming, Jonathan <Jonathan.Fleming@sanjoseca.gov>; Adera, Teddy <Teddy.Adera@sanjoseca.gov>; Hughes, Scott <scott.hughes@sanjoseca.gov>; Gomez, David A <David.A.Gomez@sanjoseca.gov>; Zeelig, Aaron <Aaron.Zeelig@sanjoseca.gov>

 1 attachment (562 KB)

IHO letter to Council PDF.pdf;

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Dear Mayor Mahan, Vice-Mayor Foley, and City Council members,

Attached please find my written comments on the proposed changes to the Inclusionary Housing Ordinance.

In brief, my comments focus on three primary concerns:

1. the proposed increases to income targets are not aligned with documented housing need and are inconsistent with the City's own market data. I do not support eliminating the 50% AMI and replacing it with 110% AMI nor do I support increasing the pricing of affordable for-sale homes to same level as the target AMI at 120%;
2. the proposal does not address City Council's prior direction to evaluate the fee structure as a tool to incentivize on-site affordable housing production;
3. several of the recommended changes raise implementation concerns that could make both rental and for-sale inclusionary units difficult to lease or sell under current market conditions; and
4. the proposed reduction in the length of affordability from 99 years to 55 years would permanently eliminate decades of long-term public benefit without a legal requirement or

demonstrated financing barrier, and would result in the irreversible loss of inclusionary units from the affordable housing stock.

I also note areas where I support staff recommendations, including streamlining processing for 100% affordable housing developments and clarifying the surplus credits option.

Thank you for the opportunity to comment, and for your consideration.

Sincerely,
Jacky Morales-Ferrand

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January 22, 2026

San José City Council
City of San José
200 East Santa Clara Street
San José, CA 95113
Sent via electronic mail

Re: Amendments to Chapter 5.08 of Title 5 for the Inclusionary Housing Ordinance

Dear Mayor Mahan, Vice Mayor Foley, and City Council,

I have worked on Inclusionary Housing Ordinances for over 30 years, in three different cities, and have also represented a large market-rate developer in negotiations with a city regarding inclusionary housing requirements. The purpose of affordable housing programs is to address unmet housing needs. When the market is already producing housing affordable at a given income level, there is no policy rationale for imposing an inclusionary requirement at that same income level. For these reasons, I was surprised by the proposed changes to the Ordinance, which are inconsistent with the current housing conditions in San José.

Increasing the Target AMIs Will Not Serve Households Where Need Is Greatest

Staff asserts that “centering inclusionary targets in the 60% to 120% AMI band keeps projects financeable while still delivering affordability where most working households struggle.” That framing is fundamentally flawed.

Working Households at 80%–120% AMI Are Not Struggling

According to the most recent data from the [National Low Income Housing Coalition](#) (NLIHC), Attachment A, households earning 80%–100% AMI have 100% of their housing needs met, indicating that the market is already producing sufficient housing to serve this income range. At 100% AMI, household incomes range from approximately \$136,650 for a one-person household to \$195,200 for a household of four. Staff’s proposal to increase the upper target to 110% AMI—where incomes reach \$150,260 for a one-person household and \$214,720 for a household of four—focuses on households with a greater ability to afford market-rate apartments in San José.

Working Households at 50%–60% AMI Are Struggling

The greatest housing cost burdens are concentrated at the lowest income levels, particularly below 50% and 60% AMI, where households experience severe rent burdens, overcrowding, and housing instability. According to the NLIHC, only 46% of households below 50% AMI have access to an affordable apartment, and 76% of households below 50% of the AMI are cost burdened, meaning they pay more than 30% of their income towards rent.

At 50% AMI, a one-person household earns approximately \$70,350, including many workers in healthcare support, retail, janitorial, and construction jobs. These are core members of San José’s workforce. Shifting inclusionary targets upward does not address their housing needs; it moves affordability away from households with the greatest unmet need and toward income levels already served by the market.

City Market Data Does Not Support the Proposed AMI Changes

The most recent [Housing Element Report](#) presented to the City Council on March 18, 2025, stated that average Class A rents for both one- and two- bedroom apartments were well below the affordable rent limit for moderate-income residents at the end of 2024.” This trend continues as reported in the [Housing Departments Quarterly Housing Report Q3 2025](#), as rents affordable at 100%–110% AMI exceed current Class A effective rents, undermining the claim that these households are priced out of the market.

The contrast between current inclusionary requirements, the proposed rent limits, and actual effective market rents is illustrated below.

Table 1: Comparison of Inclusionary Rents and Class A Market Rents

Type	Current Ordinance (50% AMI – proposed elimination)	Proposed Ordinance (110% AMI – proposed Addition)	Class A Market Effective Rents
1-bedroom	\$2,010	\$4,295	Below \$3,500
2-bedroom	\$2,261	\$4,831	\$4,000
3-bedroom	\$2,511	\$5,368	N/A

As shown above, the proposed inclusionary rents exceed what the market is charging for new Class A apartments, while the 50% apartments, which are below the market rents, are proposed for elimination.

Market Conditions Indicate Oversupply and Lack of Demand, Not Unmet Need

As reported in the [Housing Departments Quarterly Housing Report Q3 2025](#), Class A vacancy rates of approximately 6% exceed the level associated with a healthy market. This indicates an oversupply and/or lack of demand in the very income bands staff proposes to prioritize. Many newer buildings are offering significant concessions, including multiple weeks of free rent, because projected rents cannot be achieved. Under these conditions, raising inclusionary income targets does not address a market failure or housing need.

City Council Direction on Fee Structure Was Not Addressed

The [Mayor’s March Budget](#) memo stated, “revise the fee structure to incentivize on-site, affordable units builds for residents earning 60-120% AMI.” However, the staff proposal does not address the fee structure at all, nor does it explain why this direction was not evaluated or implemented. This omission is notable given that fee policy is one of the

primary tools available to meaningfully incentivize on-site production without shifting income targets away from documented housing need.

The reality is that the current in-lieu fees are well below the cost to replace an affordable rental apartment, whether measured by the full development cost or by the subsidy gap the City must fund when apartments are produced off-site. As a result, the existing fee structure may unintentionally encourage fee payment rather than on-site construction.

Revisiting the fee structure—consistent with Council direction—could more directly incentivize on-site affordable housing production while preserving income targets that align with actual unmet housing need. Addressing fee policy would respond to Council’s stated objectives without weakening the ordinance’s core purpose.

Implementation Challenges of Staff’s Recommendations

Beyond misalignment with the documented housing need of the city, the proposed changes raise implementation concerns.

Rental Apartments May Be Difficult to Lease

If inclusionary rents are set at or above what the market will bear, the apartments may be difficult to lease. As recently as May 18, 2025, the *Mercury News* reported that “*hundreds of below-market apartments are sitting vacant across the Bay Area*,” noting that newer moderate-income apartments offer little discount relative to market-rate rents and have vacancy rates roughly twice those of apartments targeting lower-income households.

Historically, market-rate inclusionary apartments have been built as smaller apartments or located in less desirable portions of buildings—such as lower floors or apartments facing busy streets rather than interior courtyards or paseos. When moderate-income renters have a range of market options, as they do today, they are more likely to choose market-rate apartments with better locations, layouts, or amenities.

Under current market conditions, this creates a real risk that higher-AMI inclusionary apartments will experience vacancies, undermining both project operations and the policy goal of producing occupied, affordable housing.

For-Sale Homes May Be Difficult to Sell

Staff recommends setting affordable for-sale prices assuming both the home price and the qualified buyer income are set at 120% AMI. Unlike rental housing, affordable homeownership pricing is highly sensitive to variables such as interest rates, downpayment requirements, mortgage underwriting standards, and buyer debt loads.

It is generally considered a best practice to create a spread between the income level used to price the home and the income level used to qualify buyers, thereby ensuring a sufficiently deep pool of eligible purchasers. When both are set at the same income level, the pool of buyers becomes extremely narrow.

To illustrate this risk, using conservative assumptions—a 30-year fixed mortgage, current interest rates, a 5% down payment, and housing costs capped at 30% of gross income—a household earning 120% AMI (\$234,250) can afford a home priced at approximately \$927,000, while a household earning 110% AMI (\$214,720) can afford a

home priced at approximately \$849,000. This represents a \$77,000 difference in purchasing power.

When the affordable sales price is set assuming 120% AMI and buyers incomes are targeted at the same income level, even modest variations in credit, interest rates, HOA dues, insurance, or property taxes can render the home unaffordable to otherwise income-qualified buyers. In addition, households earning 110% of the AMI, would need to provide a substantial additional downpayment to close the affordability gap, undermining the goal of expanding access to homeownership.

For-sale developers operate under strict timelines to sell homes to meet financing obligations and achieve project viability. Even in prior market cycles, when a modest spread existed between pricing and buyer eligibility, developers have at times struggled to identify qualified buyers. Eliminating that spread entirely increases the risk that inclusionary for-sale homes will be slow to sell or unsellable, creating financial and administrative challenges.

The City's existing limited waiver provision for inclusionary for-sale housing implicitly acknowledges this risk. When a home is priced within 5% of market value, the City allows certain inclusionary requirements—such as shared appreciation provisions and income qualifications—to be removed, while retaining owner-occupancy requirements. This reflects the underlying principle that when a home is effectively priced at market levels, it no longer functions as “below-market” housing and inclusionary requirements lose their policy justification.

Lowering the 99-Year Affordability Term Is Unnecessary

Staff proposes reducing the rental affordability term from 99 years to 55 years, citing alignment with state standards and financing practices. The laws and programs cited do not apply to Market-rate Inclusionary Housing Ordinance units.

State and Federal Programs Cited Do Not Apply to Market-Rate IHO Apartments

- State Density Bonus Law establishes a minimum 55-year affordability period, not a maximum. Nothing in state law precludes jurisdictions from requiring longer affordability terms, and many do.
- TCAC requirements apply to subsidized affordable housing, not inclusionary apartments within market-rate developments. Apartments financed through TCAC already have a mechanism in the IHO to allow the length of affordability to be adjusted.
- LIHTC affordability periods are frequently extended through refinancing—an option not available to inclusionary apartments. To qualify for LIHTC a market-rate developer would have to provide 20% of apartments at 50% of the AMI or 40% of the apartments at 60% of the AMI so it is highly unlikely LIHTC financing would be used to finance a mixed-income development. One hundred percent affordable developments financed through LIHTC already have a mechanism in the IHO to allow the length of affordability to be adjusted.
- Assembly Bill 243 prohibits jurisdictions from charging recurring monitoring fees on projects already monitored under state regulatory agreements. As already discussed, market-rate developers are unlikely to qualify for any of these state

funded programs and therefore there is no conflict with the law. And there is nothing precluding the staff from including a provision that local monitoring fees will be imposed once the state affordability restrictions are lifted. Inclusionary housing programs, applied to market-rate housing, is monitored locally precisely because it is not subsidized through those programs.

This distinction highlights the core value of inclusionary housing. These apartments are produced without traditional affordable housing subsidies. Cities leverage land use tools—such as density bonuses, tax abatements, reduced fees, or modified requirements—to secure long-term public benefit. In exchange for those concessions, the public receives affordable housing that remains affordable for generations.

Useful Life Issue Already Addressed in 2021

The City already addressed useful-life concerns in 2021, when Council extended affordability to 99 years and removed restrictions if a building is demolished. That issue has already been resolved.

The issue before the City is not whether a 55-year affordability term is legally permissible. It is whether San José should voluntarily relinquish 44 years of affordability in a program specifically designed to create lasting public value—while simultaneously shifting inclusionary requirements toward income levels already served by the market. Once inclusionary affordability expires, the apartments are permanently lost to the affordable housing stock.

Taken together, the proposed changes weaken the ordinance, reduce long-term community benefit, and move the City further away from addressing its most pressing housing needs.

Finally, while I have significant concerns with the proposed income targets and the reduction in period of affordability, I do support staff's recommendation to streamline processing for 100% affordable housing developments, as well as the proposed changes to the surplus credits option that would create a clearer and more predictable regulatory path. These changes would help advance affordable housing production and improve program administration, and I appreciate staff's work in these areas.

Sincerely,



Jacky Morales-Ferrand

Attachment A: National Low Income Housing Coalition

All Gap Data for California							
	California	Los Angeles-Long Beach-Anaheim, CA (Metro)	Riverside-San Bernardino-Ontario, CA (Metro)	Sacramento-Roseville-Folsom, CA (Metro)	San Diego-Chula Vista-Carlsbad, CA (Metro)	San Francisco-Oakland-Fremont, CA (Metro)	San Jose-Sunnyvale-Santa Clara, CA (Metro)
Extremely Low Income Households and Available Rentals							
EXTREMELY LOW INCOME RENTER HOUSEHOLDS	1,288,946	486,936	96,073	71,781	97,883	194,396	67,425
AFFORDABLE AND AVAILABLE RENTAL HOMES	311,916	102,897	21,842	17,427	16,026	61,176	22,148
Surplus (Deficit) of Affordable and Available Rental Units							
AT OR BELOW EXTREMELY LOW INCOME	-977,030	-384,039	-74,231	-54,354	-81,857	-133,220	-45,277
AT OR BELOW 50% AMI	-1,420,730	-587,666	-119,585	-77,593	-128,157	-169,558	-59,331
Affordable and Available Rental Units per 100 Households at or below Threshold							
AT OR BELOW EXTREMELY LOW INCOME	24	21	23	24	16	31	33
AT OR BELOW 50% AMI	33	27	32	38	26	44	46
AT OR BELOW 80% AMI	66	54	61	80	61	82	88
AT OR BELOW 100% AMI	83	74	77	97	81	95	100
% of Renter Households with Cost Burden							
AT EXTREMELY LOW INCOME	90	91	92	88	94	84	91
EXTREMELY LOW INCOME TO 50% AMI	85	88	86	85	88	79	76
51% TO 80% AMI	68	72	71	67	73	56	58
81 TO 100% AMI	45	51	55	36	54	30	31
% of Renter Households with Severe Cost Burden							
AT EXTREMELY LOW INCOME	78	81	79	78	85	70	73
ELI TO 50% AMI	52	59	57	44	58	40	34
51% TO 80% AMI	20	24	25	16	22	10	8
81 TO 100% AMI	6	9	5	1	7	2	0

AMI = Area Median Income.

FW: 1/27/2026 City Council Meeting, Item 8.4 (Inclusionary Housing Ordinance)

From City Clerk <city.clerk@sanjoseca.gov>
Date Thu 1/22/2026 11:48 PM
To Agendadesk <Agendadesk@sanjoseca.gov>

 1 attachment (218 KB)
2026_01.22_LFSV and PILP Letter re IHO.pdf;

From: Melissa A. Morris <[REDACTED]>
Sent: Thursday, January 22, 2026 9:48 PM
To: City Clerk <city.clerk@sanjoseca.gov>; The Office of Mayor Matt Mahan <mayor@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>
Cc: Tristia Bauman <[REDACTED]>
Subject: 1/27/2026 City Council Meeting, Item 8.4 (Inclusionary Housing Ordinance)

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Dear Mayor and City Councilmembers,

Please find attached a letter from the Law Foundation of Silicon Valley and the Public Interest Law Project regarding proposed changes to the City's Inclusionary Housing Ordinance.

Thank you,

Melissa A. Morris, Staff Attorney (she/her/hers)
The Public Interest Law Project
449 15th Street, Suite 301
Oakland, CA 94612
[REDACTED]

www.pilpca.org

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January 19, 2026

SENT VIA E-MAIL ONLY.

San José Mayor and City Council
City of San José
200 East Santa Clara Street, 18th Floor
San José, CA 95113

**Re: January 27, 2026, City Council Meeting
Item No. 8.4 (Amendments to the Inclusionary Housing Ordinance and
Regulations)—OPPOSE**

Dear Mayor Mahan, Vice Mayor Foley, and members of the City Council:

The Law Foundation of Silicon Valley and the Public Interest Law Project write to express our strong opposition to the proposed amendments to the City’s Inclusionary Housing Ordinance (IHO) and its regulations. Among other changes, the proposed ordinance and regulations would: (1) reduce the affordability requirements for rental inclusionary units, (2) eliminate the option for a developer to meet the rental inclusionary requirement through the production of a smaller number of extremely low-income units, and (3) decrease the term of affordability restrictions for affordable units. The proposed changes would weaken one of the City’s most powerful policy tools to promote housing affordability and combat residential segregation, and adopting the proposed changes would be inconsistent with the City’s commitments in both the City’s Housing Element and City Council’s equity policy. We urge Council to vote no on the proposed changes.

The **Law Foundation of Silicon Valley** is the largest provider of free legal services within Santa Clara County. Established 50 years ago, we use legal services, strategic advocacy, and educational outreach to advance the rights of low-income and marginalized individuals and families. The **Public Interest Law Project** is a statewide legal services support center whose mission is to advance justice for low-income people and communities by building the capacity of legal services organizations through impact litigation, trainings, and publications, and by advocating for low-income community groups and individuals. Both of our organizations were involved in the campaign to adopt the IHO. We also represented Intervenors—affordable housing advocacy organizations, nonprofit developers, and a low-income San José resident—in *California Building Industry Association v. City of San Jose*, the case in which the California Supreme Court upheld the IHO.

1. The City has not adequately studied or analyzed the proposed IHO changes.

When the City adopted the IHO in 2010, it did so through an extensive process of study and community engagement, including a detailed feasibility study.¹ Here, in contrast, the City is proposing reductions to the IHO without analysis of the current IHO's impact on the feasibility of new development. Nor has the City analyzed the potential impacts of the proposed changes on development, the supply of deed-restricted affordable housing, or the geographic distribution of affordable housing throughout the City. For example, the staff memo states that "feasibility in today's environment is fragile: only about 28% of initial applications filed since 2021 are still active, reflecting the impact of high land costs, construction costs that are roughly double national averages, and interest rates near 7%. . . ." But amending the IHO will not decrease land costs, construction costs, or interest rates. Additionally, the memo does not indicate whether the 28% of initial applications that are still active are IHO projects, non-IHO projects, or both. It does not specify whether developers of IHO projects are abandoning projects at a higher rate, a lower rate, or the same rate as developers of non-IHO projects, and it does not include any information or analysis about the reasons why projects are not moving forward. There is no information or analysis to suggest that the proposed amendments will actually "keep more projects financially feasible so they do not drop out of the pipeline."³

Further, feasibility is not the only metric the City should consider when contemplating changes to the IHO. The purpose of the IHO is "to enhance the public welfare by establishing policies which require the development of housing affordable to households of Very Low, Lower, and Moderate Incomes, meet the City's regional share of housing needs, and implement the goals and objectives of the General Plan and Housing Element."⁴ It exists, in large part, to "assist in alleviating the use of available residential land solely for the benefit of households that are able to afford market rate housing."⁵ The City should analyze the potential impacts of any changes to the IHO on its ability to meet these goals, as well as on the City's broader goals around affordability, equity, and racial integration. If Council would like to consider changes to the IHO, it should direct staff to conduct a robust analysis of the IHO and any potential changes, and to make the results of that analysis available to Council and the public, before moving forward with any amendments.

¹ See *California Building Indus. Assoc. v. City of San Jose* (2015) 61 Cal.4th 435, 448, *cert den.* ("Out of concern for the potential economic impact of such a citywide requirement on developers, however, the city retained a private consulting firm to conduct an economic feasibility study of a citywide inclusionary housing policy. The very extensive 300-page study, prepared by the consulting firm with input from developers, affordable housing advocates, community organizations and others, concluded that inclusionary housing could be economically feasible with certain developer incentives and under improved economic conditions.")

² Staff Memo, at 4.

³ Staff Memo, at 5.

⁴ San Jose Mun. Code, § 5.08.020.

⁵ *Ibid.*

2. Amending the IHO without further study is inconsistent with the City’s Housing Element.

In its Sixth Cycle Housing Element, the City committed to a variety of studies that would be valuable in understanding the effectiveness of the IHO, as well as any potential changes to the IHO the City might consider.

- **P-25 Updated Inclusionary Housing Program Fees.** The City committed to a fees study “to ensure the Inclusionary Housing program remains feasible and does not present a barrier to housing construction” by January 2028.⁶ The City has not yet completed this study, and it should wait until the study is done before it amends the IHO.
- **S-10 Study on Rent Increases and Burden in Affordable Housing.** The City committed to a study of rent increases in deed-restricted affordable housing and “rent burden and demographics for residents of affordable homes.”⁷ The City committed to present the findings of this study, which is intended to “inform proposed state legislation and/or City policy,” by June 2025 but has not yet done so.⁸ This study could provide critical data on the impacts of the proposed changes to the IHO on *tenants* in inclusionary units. Moving forward with IHO changes without the benefit of this study would compound the effects of the City’s failure to implement this Housing Element program.

Amending the IHO without further study would undermine each of these programs and could potentially jeopardize the City’s compliance with Housing Element Law.⁹

3. Weakening the IHO’s inclusionary requirements is materially inconsistent with the City’s duty to affirmatively further fair housing.

The IHO is one of the City’s most important policy tools for fostering racial and economic integration, and the proposed amendments are “materially inconsistent with [the City’s] obligation to affirmatively further fair housing.”¹⁰ In its Housing Element’s Assessment of Fair Housing, the City identified the need for affordable housing in growth areas and the inequitable geographic distribution of affordable housing as contributing factors to racial segregation in San José.¹¹ The IHO directly addresses these barriers to fair

⁶ Housing Element, at 3-16.

⁷ Housing Element, 3-41.

⁸ See *ibid.*

⁹ See, e.g., Gov. Code, § 65583 (h) (“An action to enforce the program actions of the housing element shall be brought pursuant to Section 1085 of the Code of Civil Procedure.”), 65585 (i) (1) (A) (“[HCD] shall review any action or failure to act by the city, county, or city and county that it determines is inconsistent with an adopted housing element or Section 65583, including any failure to implement any program actions included in the housing element pursuant to Section 65583.”).

¹⁰ Gov. Code, § 8899.50(b)(1).

¹¹ See Housing Element, at B-91, B215.

housing choice by fostering the production of affordable units that are integrated in higher-income buildings and communities. However, the proposed amendments, without study or justification, would both reduce the affordability levels in the IHO's 15% requirement for rental housing and eliminate the option for developers to produce fewer units (10%) at deeper affordability (30% AMI). These changes would eliminate potential housing opportunities for Black and Latinx households, who have disproportionately lower household incomes than other racial groups within San José.¹² The changes would also eliminate opportunities for the siting of extremely low-income and very low-income units in high-resource areas, further entrenching the City's patterns of segregation by race and income. Accordingly, the proposed changes run contrary to the City's duty to affirmatively further fair housing.

Further, the Housing Element identifies the expiration of affordability restrictions as a barrier to housing access for the following populations: LGBTQ+, disability, veterans, and indigenous people.¹³ Changing the IHO's affordability term from 99 years to 55 years will, therefore, disproportionately burden these groups. While the staff memo states that "[r]educing the rental affordability term from 99 years to 55 years for inclusionary rental units will align local covenants with prevailing state standards. . . ,"¹⁴ nothing in state law requires the City to reduce the IHO's required affordability term, and the City has not analyzed the potential impacts of its reduction on these and other groups.

Finally, the proposed changes are inconsistent with City Council's Equity Values and Standards Policy (Res. 2024-140), which requires the Council to "Analyze how the program, policy, ordinance or budget item might improve or worsen racial and social equity[.]"¹⁵ As discussed above, the proposed changes will contribute to racial segregation by compromising the City's ability to increase the availability of deed-restricted affordable housing in growth areas and by reducing the length of deed restrictions. But the staff neither acknowledges nor analyzes the proposed changes' likely negative impacts on racial and social equity; indeed, the memo for this item does not include any equity analysis.¹⁶

4. Conclusion

We urge the Council not to adopt the proposed amendments to the IHO. If the City wishes to amend the IHO's substantive requirements, it should do so based on careful study and stakeholder input to ensure that any changes meet the needs, not only of for-profit developers, but also of lower-income tenants and the larger community. If you have

¹² See, e.g., Housing Element, at A-26 (Poverty Status by Race); Bay Area Equity Atlas, [Who is Low-Income and Very Low-Income in the Bay Area? An Updated Look](#) (Jan. 27, 2023) (42% of Black households and 43% of Latinx households in Santa Clara County at or below 50% of AMI); Silicon Valley Indicators, [Per Capita Income by Race & Ethnicity: Santa Clara & San Mateo Counties](#).

¹³ Housing Element, at 3-27.

¹⁴ Staff Memo, at 6.

¹⁵ San Jose City Council Equity Values and Standards Policy (Res. 2024-140), at 4.

¹⁶ See *id.* at 6 (requirement for equity analysis in City Council memos).

questions or would otherwise like to discuss these comments, you please contact us at the email addresses below.

Thank you,

Tristia Bauman, Directing Attorney, Housing
Law Foundation of Silicon Valley



Melissa A. Morris, Staff Attorney
Public Interest Law Project

