



# Memorandum

**TO:** CITY COUNCIL**FROM:** Mayor Matt Mahan  
Councilmember Kamei  
Councilmember Campos  
Councilmember Tordillos  
Councilmember Cohen**SUBJECT:** SEE BELOW**DATE:** January 23, 2026

Approved:

---

**SUBJECT: Amendments to Chapter 5.08 of Title 5 of the San José Municipal Code and Regulations for the Inclusionary Housing Ordinance.****RECOMMENDATIONS**

1. Approve the staff recommendation with the following modifications:
  - a. If a project is at least 30 dwelling units to the acre:
    - i. In rental developments, remove the requirement that 5% of the units be built at an AMI of 110%; and
      1. Add an alternative compliance of seven percent (7%) inclusionary onsite at 50% AMI.
    - ii. In for-sale developments, ten percent (10%) of the units built within their Residential Development shall be sold to income-qualified buyers at or below 120% of Area Median Income.
    - iii. For projects up to 30 units, the first 20 units of any residential for sale or rental development shall not count toward the inclusionary requirement.
  - b. Do not accept the changes to the percentage of units for off-site compliance with the Inclusionary Housing Ordinance.
  - c. Retain the existing 99-year affordability restriction.
  2. Revise the Affordable Housing Regulations to implement the recommendations in this memorandum.

## BACKGROUND

Over the past four years, the cost of construction in San Jose rose 34.4%, nearly double the consumer price index for California of about 18.9% over that same period. Over the past four years, the cost of construction in San José rose 34.4%, nearly double the consumer price index for California of about 18.9% over that same period. These cost pressures are not anecdotal. A recent RAND<sup>1</sup> study helps explain why building in California is uniquely difficult and expensive, finding that it costs more than twice as much per square foot to construct the same home in California as it does in states like Colorado or Texas.

In response to the rising cost of construction, San José has taken meaningful steps to accelerate project approval timelines and reduce fees. We adopted local ministerial ordinance that could cut approval timelines by more than half. We reduced fees that helped unlock over 2,000 multifamily units that broke ground in 2025. And, just last fall, Council decided to address the costs inherent in our local building code that could reduce the cost of building 4 – 6 story buildings by up to 13%.

However, cost and feasibility barriers continue to stall development in San José. As the staff memo illustrates, over the past four years our planning department received 404 housing applications, yet only 43 projects moved forward to construction – just over a 10% conversion rate. This is consistent with research from the Terner Center and UCLA Lewis Center, which found “beyond a certain level, higher inclusionary zoning requirements produce less BMR and less market-rate housing<sup>2</sup>.” In other words, inclusionary housing requirements can stop housing developments from ever rising out of the ground.

Amending our IHO will help make projects pencil and advance our General Plan and Regional Housing Needs Assessment (RHNA) goals. Further, by exempting small infill projects from the IHO, the city will incentivize single-stair buildings and small-scall multifamily buildings that efficiently add density within our existing footprint. These are precisely the types of projects that help undo the legacy of exclusionary zoning, support walkable neighborhoods, and deliver housing where infrastructure already exists.

The need for recalibration is urgent in the 6<sup>th</sup> RHNA cycle. San José is falling behind in production of low-income units serving households earning 60-80% AMI, with only 431 completed toward a goal of 8,687. Streamlining the IHO improves feasibility in this income band, while maintaining a 50% AMI option through alternative compliance to continue addressing deeper affordability.

Finally, we must confront the data on what is feasible for market rate projects in San José. Rents in San José are currently one to two dollars per square foot lower than in neighboring cities such as Santa Clara and Mountain View. Lower rents mean less revenue, and less revenue means less capacity for market-rate projects to subsidize broad inclusionary requirements. Ignoring this reality does not produce more affordability – it produces fewer projects.

---

<sup>1</sup> Jason M. Ward and Luke Schlake, “The High Cost of Producing Multifamily Housing in California” [https://www.rand.org/pubs/research\\_reports/RRA3743-1.html](https://www.rand.org/pubs/research_reports/RRA3743-1.html)

<sup>2</sup> Shane Phillips, “Modeling Inclusionary Zoning’s Impact on Housing Production in Los Angeles: Tradeoffs and Policy Implications” <https://ternercenter.berkeley.edu/wp-content/uploads/2024/04/Inclusionary-Zoning-Paper-April-2024-Final.pdf>

Taken together, these changes right-size the IHO to today's economic conditions. By aligning requirements with what is financially feasible, San José can unlock stalled development, accelerate small infill housing, and ultimately deliver more market-rate and affordable homes than the status quo allows.

*The signers of this memorandum have not had, and will not have, any private conversation with any other member of the City Council, or that member's staff, concerning any action discussed in the memorandum, and that each signer's staff members have not had, and have been instructed not to have, any such conversation with any other member of the City Council or that member's staff.*