

**DRAFT**

**ORDINANCE NO.**

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTION 4.46.036 OF CHAPTER 4.46 AND SECTION 4.47.089 OF CHAPTER 4.47 OF TITLE 4 OF THE SAN JOSE MUNICIPAL CODE TO PROVIDE FOR CONVERSION PROJECTS ELIGIBLE UNDER THE DOWNTOWN RESIDENTIAL INCENTIVE PROGRAM THAT WAIVE: (1) 100% OF THE BUILDING AND STRUCTURE CONSTRUCTION TAX AND THE COMMERCIAL-RESIDENTIAL-MOBILEHOME PARK BUILDING TAX FOR UP TO 500 UNITS IN PROJECTS THAT OBTAIN BUILDING PERMITS BY DECEMBER 31, 2026, AND PASS FIRST INSPECTION WITHIN 12 MONTHS OF OBTAINING A BUILDING PERMIT; AND (2) 50% OF THE TAXES FOR THE NEXT 1,000 UNITS IN PROJECTS THAT OBTAIN BUILDING PERMITS BY DECEMBER 31, 2027, AND PASS FIRST INSPECTION WITHIN 12 MONTHS OF OBTAINING A BUILDING PERMIT**

**WHEREAS**, on January 27, 2026, this Ordinance was found to be statutorily exempt from environmental review per the provisions of Section 15273, adjustment to fees, rates and fares without changes to or expansion of services, of the California Environmental Quality Act of 1970, as amended, under File No. PP17-005;

**WHEREAS**, the City Council of the City of San José is the decision-making body for this Ordinance;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:**

**SECTION 1. Section 4.46.036 of Chapter 4.46 of Title 4 of the San José Municipal Code is amended to read as follows:**

#### **4.46.036 Suspension - Qualified Residential High Rise and Qualified Commercial to Residential Conversion High Rise Projects**

- A. The suspension of the tax imposed under this Chapter, to the extent not already suspended, shall be suspended during the period set out below, and the tax shall not be collected with respect to construction of residential uses within a Qualified Residential High Rise Project and a Qualified Commercial to Residential Conversion Project as provided in this Section. For a Qualified Residential High Rise Project and a Qualified Commercial to Residential Conversion Project that includes both residential uses and non-residential uses, the tax suspension shall only apply to the residential uses therein.
- B. The collection ~~of fifty percent (50%)~~ of the tax imposed under this Chapter, to the extent not already suspended, shall be suspended during the periods set out below, and the tax shall not be collected with respect to construction of residential units within a Qualified Residential High Rise Project and a Qualified Commercial to Residential Conversion Project as provided in this Section. For a Qualified Residential High Rise Project and Qualified Commercial to Residential Conversion Project that includes both residential uses and non-residential uses the tax suspension shall only apply to the residential uses therein.
- C. "Qualified Residential High Rise Project" means any new residential structure located in the Downtown Planned Growth Area, as designated in the San José 2040 General Plan, where the highest occupied floor has a floor level elevation that is at least one hundred fifty (150) feet above street level and the development has ten (10) or more floors or stories in height not including any non-residential uses.

D. "Qualified Commercial to Residential Conversion Project" means an existing commercial building erected prior to 2021 located within the Downtown Planned Growth Area, as designated in the San Jose 2040 General Plan, excluding Class A office space; with Building characteristics supporting conversion as determined by the Planning, Building and Code Enforcement Department and the Fire Department.

E. The one hundred percent (100%) reduction will apply to residential rental uses located within a Qualified Commercial to Residential Conversion Project of up to five hundred (500) units that obtain a building permit by December 31, 2026 and pass first inspection within twelve (12) months of obtaining the building permit, provided that the Qualified Commercial to Residential Conversion Project meets each of the following:

1. Creation of a minimum of 20 residential rental units located on-site above the ground floor with 5% of units deed-restricted with rents no more than 110% AMI; and
2. The developer of the Qualified Commercial to Residential Conversion Project shall retain contractors licensed by the State of California for the construction of the Qualified Commercial to Residential Conversion Project; and
3. The developer of the Qualified Commercial to Residential Conversation Project shall employ only construction workers who possess necessary licenses and certifications required by the State of California; and
4. The developer of the Qualified Commercial to Residential Conversion Project enters into a Project Completion Agreement with the City in a form

approved by the City Attorney that sets forth the requirements of this Section related to either the suspension or the reduction of one hundred percent (100%) of the amount of the tax specified in this Chapter and payment of the unsuspended portion of the tax, if applicable. Any applicable tax will be due at City's issuance of the Certificate of Occupancy or scheduling of the building final inspection, whichever comes first.

F. After the first 500 units that obtain a building permit by December 31, 2026, a fifty percent (50%) reduction will apply to residential rental uses located within a Qualified Commercial to Residential Conversion Project for the next thousand (1,000) units that obtain a building permit by December 31, 2027 and pass first inspection within twelve (12) months of obtaining the building permit, provided that the Qualified Commercial to Residential Conversion Project meets each of the following:

1. Creation of a minimum of 20 residential rental units located on-site above the ground floor with 5% of units deed-restricted with rents no more than 110% AMI; and
2. The developer of the Qualified Commercial to Residential Conversion Project shall retain contractors licensed by the State of California for the construction of the Qualified Commercial to Residential Conversion Project; and
3. The developer of the Qualified Commercial to Residential Conversation Project shall employ only construction workers who possess necessary licenses and certifications required by the State of California; and

4. The developer of the Qualified Commercial to Residential Conversion Project enters into a Project Completion Agreement with the City in a form approved by the City Attorney that sets forth the requirements of this Section related to either the suspension or the reduction of fifty percent (50%) of the amount of the tax specified in this Chapter and payment of the unsuspended portion of the tax, if applicable. Any applicable tax will be due at City's issuance of the Certificate of Occupancy or scheduling of the building final inspection, whichever comes first.

G. D. The suspension will apply to residential uses located within a Qualified Residential High Rise Project of up to two thousand (2,000) units that obtain a building permit by June 30 2029, and pass first inspection within twelve (12) months of obtain a building permit; the fifty percent (50%) reduction will apply to residential uses located within a Qualified Residential High Rise Project of up to an additional two thousand (2,000) units that obtain a building permit between July 1, 2029, and June 30, 2031 and pass first inspection within twelve (12) months of obtaining the building permit; the fifty percent (50%) reduction will apply to residential uses located within a Qualified Residential High Rise Project of up to an additional six thousand (6,000) units that obtain a building permit thereafter and pass first inspection within twelve (12) months of obtaining the building permit, provided that the Qualified Residential High Rise Project meets each of the following:

1. The developer of the Qualified Residential High Rise Project shall retain contractors licensed by the State of California for the construction of the Qualified Residential High Rise Project; and

2. The developer of the Qualified Residential High Rise Project shall employ only construction workers who possess necessary licenses and certifications required by the State of California; and
3. The developer of the Qualified Residential High Rise Project enters into a Project Completion Agreement with the City in a form approved by the City Attorney that sets forth the requirements of this Section related to either the suspension or the reduction of fifty percent (50%) of the amount of the tax specified in this Chapter and payment of the unsuspended portion of the tax, if applicable. Any applicable tax will be due at City's issuance of the Certificate of Occupancy or scheduling of the building final inspection, whichever comes first.

EH. If a Qualified Residential High Rise Project or a Qualified Commercial to Residential Conversion Project that was eligible for either the suspension or reduction as provided for in this Section has not met the applicable deadlines as set out in subsections E., F., D and G. above, then the full amount of the tax shall be paid to the Building Official prior to the issuance of a certificate of occupancy, including a temporary certificate of occupancy or scheduling of the building final inspection whichever comes first.

FI. The City Manager is authorized to execute on behalf of the City Project Completion Agreements with developers of Qualified Residential High Rise Projects and Qualified Commercial to Residential Conversion Projects that are consistent with the requirements of this Section.

Any person who enters into a Project Completion Agreement for the tax suspension pursuant to subsections E.4, or F.4, or DG.3 of this Section is encouraged to make good faith efforts to:

1. Comply with the State of California's apprenticeship program requirement that at least sixteen and seven tenth's percent (16.7%) of the hours worked on the Qualified Residential High Rise Project and Qualified Commercial to Residential Conversion Project must be worked by registered apprentices from approved apprenticeship training programs;
2. Ensure that twenty-five percent (25%) of the registered apprentices working on the Qualified Residential High Rise Project and Qualified Commercial to Residential Conversion Project have a barrier to employment such as being homeless, a veteran or an at-risk youth; and
3. Post or cause the posting of bids for subcontracting work on the Qualified Residential High Rise Project and Qualified Commercial to Residential Project on websites such as the Bay Area Builders Exchange for subcontractors to be able to access work for workers in the nine (9) Bay Area counties.

**SECTION 2** Section 4.47.089 of Chapter 4.47 of Title 4 of the San José Municipal Code is amended to read as follows:

**4.47.089 - Suspension - Qualified Residential High Rise and Qualified Commercial to Residential Conversion Projects.**

- A. The suspension of the tax imposed under this Chapter, to the extent not already suspended, shall be suspended during the period set out below, and the tax shall not be collected with respect to construction of residential units within a Qualified Residential High Rise and a Qualified Commercial to Residential Conversion Project as provided in this Section. For a Qualified Residential High Rise Project

and Qualified Commercial to Residential Project that includes both residential units and non-residential units, the tax suspension shall only apply to the residential uses therein.

- B. The collection of ~~fifty percent (50%) of~~ the tax imposed under this Chapter, to the extent not already suspended, shall be suspended during the periods set out below, and the tax shall not be collected with respect to construction of residential units within a Qualified Residential High Rise Project and a Qualified Commercial to Residential Conversion Project as provided in this Section. For a Qualified Residential High Rise Project and Qualified Commercial to Residential Conversion Project that includes both residential units and non-residential units the tax suspension shall only apply to the residential units therein.
- C. "Qualified Residential High Rise Project" means any new residential structure located in the Downtown Planned Growth Area, as designated in the San José 2040 General Plan, where the highest occupied floor has a floor level elevation that is at least one hundred fifty (150) feet above street level and the development has ten (10) or more floors or stories in height not including any non-residential.
- D. "Qualified Commercial to Residential Conversion Project" means an existing commercial building erected prior to 2021 located within the downtown planned growth area, as designated in the San Jose 2040 General Plan, excluding Class A office space; with Building characteristics supporting conversion as determined by the Planning, Building and Code Enforcement Department and the Fire Department.

The one hundred percent (100%) reduction will apply to residential rental uses located within a Qualified Commercial to Residential Conversion Project of up to

five hundred (500) units that obtain a building permit by December 31, 2026 and pass first inspection within twelve (12) months of obtaining the building permit, provided that the Qualified Commercial to Residential Conversion Project meets each of the following:

1. Creation of a minimum of 20 residential rental units located on-site above the ground floor with 5% of units deed-restricted with rents no more than 110% AMI; and
2. The developer of the Qualified Commercial to Residential Conversion Project shall retain contractors licensed by the State of California for the construction of the Qualified Commercial to Residential Conversion Project; and
3. The developer of the Qualified Commercial to Residential Conversation Project shall employ only construction workers who possess necessary licenses and certifications required by the State of California; and
4. The developer of the Qualified Commercial to Residential Conversion Project enters into a Project Completion Agreement with the City in a form approved by the City Attorney that sets forth the requirements of this Section related to either the suspension or the reduction of one hundred percent (100%) of the amount of the tax specified in this Chapter and payment of the unsuspended portion of the tax, if applicable. Any applicable tax will be due at City's issuance of the Certificate of Occupancy or scheduling of the building final inspection, whichever comes first.

E. After the first 500 units that obtain a building permit by December 31, 2026, a fifty percent (50%) reduction will apply to residential rental uses located within a

Qualified Commercial to Residential Conversion Project for the next thousand (1,000) units that obtain a building permit by December 31, 2027

The fifty percent (50%) reduction will apply to residential uses located within a Qualified Commercial to Residential Conversion Project of up to one thousand (1000) units that obtain a building permit by December 31, 2027 and pass first inspection within twelve (12) months of obtaining the building permit, provided that the Qualified Commercial to Residential Conversion Project meets each of the following:

1. Creation of a minimum of 20 residential rental units located on-site above the ground floor with 5% of units deed-restricted with rents no more than 110% AMI; and
2. The developer of the Qualified Commercial to Residential Conversion Project shall retain contractors licensed by the State of California for the construction of the Qualified Commercial to Residential Conversion Project; and
3. The developer of the Qualified Commercial to Residential Conversation Project shall employ only construction workers who possess necessary licenses and certifications required by the State of California; and
4. The developer of the Qualified Commercial to Residential Conversion Project enters into a Project Completion Agreement with the City in a form approved by the City Attorney that sets forth the requirements of this Section related to either the suspension or the reduction of fifty percent (50%) of the amount of the tax specified in this Chapter and payment of the unsuspended portion of the tax, if applicable. Any applicable tax will be due at City's issuance of the Certificate of Occupancy or scheduling of the building final inspection, whichever comes first.

**DE.** The suspension will apply to residential uses located within a Qualified Residential High Rise Project of up to two thousand (2,000) units that obtain~~ing~~ a building permit by June 30 2029, and pass first inspection within twelve (12) months of obtain a building permit; the fifty percent (50%) reduction will apply to residential uses located within a Qualified Residential High Rise Project of up to an additional two thousand (2,000) units that obtain a building permit between July 1, 2029, and June 30, 2031 and pass first inspection within twelve (12) months of obtaining the building permit; the fifty percent (50%) reduction will apply to residential uses located within a Qualified Residential High Rise Project of up to an additional six thousand (6,000) units that obtain a building permit thereafter and pass first inspection within twelve (12) months of obtaining the building permit, provided that the Qualified Residential High Rise Project meets each of the following:

1. The developer of the Qualified Residential High Rise Project shall retain contractors licensed by the State of California for the construction of the Qualified Residential High Rise Project; and
2. The developer of the Qualified Residential High Rise Project shall employ only construction workers who possess necessary licenses and certifications required by the State of California; and
3. The developer of the Qualified Residential High Rise Project enters into a Project Completion Agreement with the City in a form approved by the City Attorney that sets forth the requirements of this Section related to either the suspension or the reduction of fifty percent (50%) of the amount of the tax specified in this Chapter and payment of the unsuspended portion of the tax, if applicable. Any applicable tax will be due at City's issuance of the Certificate of Occupancy or scheduling of the building final inspection, whichever comes first.

EG. If a Qualified Residential High Rise Project or a Qualified Commercial to Residential Conversion Project that was eligible for either the suspension or reduction as provided for in this Section has not met the applicable deadlines as set out in subsections D., E., and F., above, then the full amount of the tax shall be paid to the Building Official prior to the issuance of a certificate of occupancy, including a temporary certificate of occupancy or scheduling of the building final inspection whichever comes first.

FH. The City Manager is authorized to execute on behalf of the City Project Completion Agreements with developers of Qualified Residential High Rise Projects and Qualified Commercial to Residential Conversion Projects that are consistent with the requirements of this Section.

Any person who enters into a Project Completion Agreement for the tax suspension pursuant to subsections D.4, E.4, and F.3 of this Section is encouraged to make good faith efforts to:

1. Comply with the State of California's apprenticeship program requirement that at least sixteen and seven tenth's percent (16.7%) of the hours worked on the Qualified Residential High Rise Project and Qualified Commercial to Residential Conversion Project must be worked by registered apprentices from approved apprenticeship training programs;
2. Ensure that twenty-five percent (25%) of the registered apprentices working on the Qualified Residential High Rise Project and Qualified Commercial to Residential Conversion Project have a barrier to employment such as being homeless, a veteran or an at-risk youth; and

3. Post or cause the posting of bids for subcontracting work on the Qualified Residential High Rise Project and Qualified Commercial to Residential Conversion Project on websites such as the Bay Area Builders Exchange for subcontractors to be able to access work for workers in the nine Bay Area counties.

PASSED FOR PUBLICATION of title this \_\_\_\_\_ day of \_\_\_\_\_, 2026, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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MATT MAHAN  
Mayor

ATTEST:

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TONI J. TABER, MMC  
City Clerk