



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Councilmember Mulcahy

SUBJECT: SEE BELOW

DATE: January 26, 2026

Approved:

Date: January 26, 2026

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

RECOMMENDATION:

1. Approve staff recommendations, and the Memorandum from Mayor Mahan, and Councilmembers Kamei, Campos, Tordillos, and Cohen, with the following clarification to section (a) (iii):
 - a. Amend the Inclusionary Housing Ordinance (IHO) to raise the minimum project size for applicability to developments of 20 units or more, regardless of achieved density.

BACKGROUND:

The proposed updates to the City's Inclusionary Housing Ordinance (IHO) includes important updates to support housing production while also maintaining the City's commitment to affordability. Both the staff and the Mayor, as well as Councilmembers Kamei, Campos, Tordillos, and Cohen, have proposed targeted adjustments intended to improve project feasibility and encourage new housing development, particularly in areas that have traditionally been left vacant and blighted due to financing and restrictions not penciling out.

Under the current project ordinance, projects with fewer than 20 units may be exempt from IHO requirements only if the project exceeds 30 units per acre. While well-intended, this exemption structure has created practical challenges for small and mid-scale infill development. Many smaller infill sites are constrained by factors such as setbacks, irregular parcel shapes, easements, public infrastructure improvements, and historic structure or neighborhood compatibility considerations. As a result, projects under 20 units rarely, if ever, achieve densities above 30 units per acre.

This structure has the unintended effect of placing disproportionate requirements on smaller infill developments, many of which are located on vacant, blighted, or underutilized sites. These projects are often the most sensitive to additional regulatory costs and feasibility constraints, which can delay or prevent redevelopment altogether.

Raising the IHO applicability threshold to 20 units or more, without a density condition, would better align policy with real-world development conditions. In addition, as identified in the Cost of Residential

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Development Study in December 2025, given that all market rate rents are currently below 110% AMI, the production of more small and mid-scale infill units will create more naturally occurring affordable housing units. This change would improve feasibility for small-scale infill housing, encourage reinvestment in challenging parcels, and increase the efficiency of housing delivery while also targeting inclusionary requirements for larger projects where they are most workable. The data shows that 30% of all IHO applications are below 20 units and, as the staff memo indicates, only 10% of IHO applications proceed to construction. Therefore, unlocking small and mid-scale infill projects from the IHO may produce more units near term, and given the current market conditions, the majority of the units will be affordable to middle-income households, meeting the objectives of the City Council adopted Middle-Income Housing Strategy as adopted on May 19, 2025.