

**DRAFT**

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE  
AMENDING CHAPTER 14.25 OF TITLE 14 AND  
CHAPTER 19.38 OF TITLE 19 OF THE SAN JOSE  
MUNICIPAL CODE TO AMEND AND ADD DEFINITIONS  
RELATED TO AFFORDABLE HOUSING**

**WHEREAS**, the City of San José (“City”) is addressing its housing crisis by enacting strategies and taking policy actions to enable the production of new housing units that include market-rate units and affordable units; and

**WHEREAS**, the Parkland Dedication Ordinance (“PDO”) and Park Impact Ordinance (“PIO”) help meet the need for providing or improving recreational facilities (i.e. parks, trails, community centers) through certain requirements on new residential projects; and

**WHEREAS**, staff recommends the City Council adopt certain amendments and add new definitions to the PDO and PIO to support the development of policies and programs that encourage affordable housing development; and

**WHEREAS**, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, “CEQA”), the Director of Planning, Building and Code Enforcement has determined that the provisions of this Ordinance do not constitute a project, under File No. PP17-005 (Adjustment to Fees, Rates & Fares without changes to or expansion of services); and

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

**WHEREAS**, this Council has reviewed and considered the "not a project" determination under CEQA prior to taking any approval actions on this Ordinance;

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

SECTION 1. Section 14.25.010 of Chapter 14.25 of Title 14 of the San José Municipal Code is amended to read as follows:

**14.25.010 Affordability Restrictions**

"Affordability Restrictions" shall mean covenants, conditions and restrictions running with the land and recorded in the Office of the Santa Clara County Recorder in connection with a residential unit to be utilized by Lower or Moderate Income Households within the City. The Affordability Restrictions shall require that the residential unit be utilized by Low or Moderate ~~Lower~~-Income Households for a minimum period ~~of thirty ninety nine (9930) years or for such other period~~ as may be required by local, state or federal law.

SECTION 2. Chapter 14.25 of Title 14 of the San José Municipal Code is amended by adding a section to be numbered and entitled and to read as follows:

**14.25.012 Affordable Housing Unit**

"Affordable Housing Unit" is defined as residential units that have an Affordability Restriction set to restrict monthly gross housing costs to not exceed not more than thirty percent (30%) of gross household income.

SECTION 3. Chapter 14.25 of Title 14 of the San José Municipal Code is amended by adding a section to be numbered and entitled and to read as follows:

**14.25.032 Gross Household Income**

“Gross Household Income” means the sum of income available to a family at the time of application. Gross Family Income shall be based on all income or compensation earned or received in the last four consecutive weeks. Gross Household Income shall not include: Supplemental Security Income (SSI), income from trusts fully funded by SSI payments, Temporary Assistance to Needy Families (TANF), or any other governmental assistance. Generally, Gross Family Income shall include, but not be limited to, the following: (a) Wages and salary; (b) Child support; (c) Alimony; (d) Unemployment compensation; (e) Worker's compensation; (f) Retirement Income; (g) Veteran's pension; (h) Social Security; (i) Pensions and annuities; (j) Dividends and interest on savings, stocks, and bonds; (k) Income from estates and trusts; (l) Net rental income or royalties; (m) Net income from self employment; and (n) Other forms of compensation or financial contributions.

SECTION 4. Section 14.25.040 of Chapter 14.25 of Title 14 of the San José Municipal Code is amended to read as follows:

**14.25.040 Low Income Unit**

"Low Income Unit" shall mean a residential unit subject to an Affordability Restriction that limits occupancy to households that earn between 0% - 80% of the Area Median Income or as established and amended from time to time pursuant to Health and Safety Code Section 50079.5 as amended. In the event such standards are discontinued, the Council shall, by resolution, establish eligibility standards for Lower Income Households.

SECTION 5. Chapter 14.25 of Title 14 of the San José Municipal Code is amended by adding a section to be numbered and entitled and to read as follows:

**14.25.048 Moderate Income Unit**

"Moderate Income Unit" shall mean a residential unit subject to an Affordability Restriction in compliance with and pursuant to a recorded Affordable Housing Agreement required by Chapter 5.08 of the San José Municipal Code that limits occupancy to households that earn between 80% - 120% of the Area Median Income or as established and amended from time to time pursuant to Health and Safety Code Section 50079.5 as amended. In the event such standards are discontinued, the Council shall, by resolution, establish eligibility standards for Lower Income Households.

SECTION 6. Chapter 14.25 of Title 14 of the San José Municipal Code is amended by adding a section to be numbered and entitled and to read as follows:

**14.25.510 Moderate Income Unit**

Moderate Income Units shall be subject to the requirements of this Chapter, including the payment of the Park Impact Fee established by resolution of the City Council in the Schedule of Fees and Credits.

SECTION 7. Section 19.38.010 of Chapter 19.38 of Title 19 of the San José Municipal Code is amended to read as follows:

**19.38.010 Affordability Restrictions**

"Affordability Restrictions" shall mean covenants, conditions and restrictions running with the land and recorded in the Office of the Santa Clara County Recorder in connection with a residential unit to be utilized by Lower or Moderate Income Households within the City ~~of San José~~. The Affordability Restrictions shall require that the residential unit be utilized by Low or Moderate ~~Lower~~ Income Households for a minimum period of thirty ninety nine (9930) years or for such other period as may be required by local, state or federal law.

SECTION 8. Chapter 19.38 of Title 19 of the San José Municipal Code is amended by adding a section to be numbered and entitled and to read as follows:

**19.38.015 Affordable Housing Unit**

"Affordable Housing Unit" is defined as residential units that have an Affordability Restriction.

SECTION 9. Chapter 19.38 of Title 19 of the San José Municipal Code is amended by adding a section to be numbered and entitled and to read as follows:

**19.38.028 Gross Household Income**

"Gross Household Income" means the sum of income available to a family at the time of application. Gross Family Income shall be based on all income or compensation earned or received in the last four (4) consecutive weeks. Gross Household Income shall not include: Supplemental Security Income (SSI), income from trusts fully funded by SSI payments, Temporary Assistance to Needy Families (TANF), or any other governmental assistance. Generally, Gross Family Income shall include, but not be limited to, the following: (a) Wages and salary; (b) Child support; (c) Alimony; (d) Unemployment compensation; (e) Worker's compensation; (f) Retirement Income; (g) Veteran's

pension; (h) Social Security; (i) Pensions and annuities; (j) Dividends and interest on savings, stocks, and bonds; (k) Income from estates and trusts; (l) Net rental income or royalties; (m) Net income from self employment; and (n) Other forms of compensation or financial contributions.

SECTION 10. Section 19.38.035 of Chapter 19.38 of Title 19 of the San José Municipal Code is amended to read as follows:

**19.38.035 Low Income Unit**

"Low Income Unit" shall mean a residential unit subject to an Affordability Restriction that limits occupancy to households that earn between 0% - 80% of the Area Median Income or as established and amended from time to time pursuant to Health and Safety Code Section 50079.5 as amended. In the event such standards are discontinued, the Council shall, by resolution, establish eligibility standards for Lower Income Households.

SECTION 11. Chapter 19.38 of Title 19 of the San José Municipal Code is amended by adding a section to be numbered and entitled and to read as follows:

**19.38.042 Moderate Income Unit**

"Moderate Income Unit" shall mean a residential unit subject to an Affordability Restriction in compliance with and pursuant to a recorded Affordable Housing Agreement required by Chapter 5.08 of San José Municipal Code that limits occupancy to households that earn between 80% - 120% of the Area Median Income or as established and amended from time to time pursuant to Health and Safety Code Section 50079.5 as amended. In the event such standards are discontinued, the Council shall, by resolution, establish eligibility standards for Lower Income Households.

SECTION 12. Chapter 19.38 of Title 19 of the San José Municipal Code is amended by adding a section to be numbered and entitled and to read as follows:

**19.38.510 Moderate Income Unit**

Moderate income units shall be subject to the requirements of this Chapter, including the payment of the Park Impact Fee established by resolution of the City Council in the Schedule of Fees and Credits.

SECTION 13. This Ordinance will be effective thirty (30) days after its adoption.

PASSED FOR PUBLICATION of title this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
SAM LICCARDO  
Mayor

ATTEST:

\_\_\_\_\_  
TONI J. TABER, CMC  
City Clerk