



October 30, 2024

Ms. Angela Calvillo, Clerk
Honorable Mayor Breed
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: **Transmittal of Planning Department Case Number 2024-008634PCA:**
Inclusionary Housing Ordinance
Board File No. 240873

Planning Commission Recommendation: Adopted a Recommendation for Approval with Modification

Dear Ms. Calvillo and Mayor Breed,

On October 24, 2024, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance, introduced by Mayor Breed. The proposed ordinance would allow certain affordable housing projects to the use of CDLAC tax-exempt bond financing and TCAC tax credits. Eligible projects include those that provide additional affordable units or deeper affordability levels than required by the Inclusionary Housing Ordinance. At the hearing the Planning Commission adopted a recommendation for approval with modification.

The Commission's proposed modification was as follows:

Technical clarification: amend the proposed exception to also reference Sections 415A (Pipeline Rates) and 415B (Interim Rates).

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

Mayor Breed, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron D. Starr". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Aaron D. Starr
Manager of Legislative Affairs

cc: Austin Yang, Deputy City Attorney
William Wilcox, Tax-Exempt Bond Program Manager, Mayor's Office of Housing and Community Development
John Carroll, Office of the Clerk of the Board

ATTACHMENTS :

Planning Commission Resolution
Planning Department Executive Summary



PLANNING COMMISSION RESOLUTION NO. 21634

HEARING DATE: October 24, 2024

Project Name: Inclusionary Housing Ordinance
Case Number: 2024-008634PCA [Board File No. 240873]
Initiated by: Mayor Breed / Introduced September 10, 2024
Staff Contact: Veronica Flores Legislative Affairs
veronica.flores@sfgov.org, 628-652-7525
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533

RESOLUTION ADOPTING A RECOMMENDATION FOR APPROVAL WITH MODIFICATION OF A PROPOSED ORDINANCE THAT WOULD THE PLANNING CODE TO PERMIT THE USE OF CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE TAX-EXEMPT BOND FINANCING AND TAX CREDITS UNDER THE TAX CREDIT ALLOCATION COMMITTEE FOR CERTAIN AFFORDABLE HOUSING PROJECTS THAT PROVIDE ADDITIONAL AFFORDABLE UNITS OR DEEPER AFFORDABILITY LEVELS THAN REQUIRED BY THE INCLUSIONARY HOUSING ORDINANCE; AFFIRMING THE PLANNING DEPARTMENT’S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; MAKING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND GENERAL WELFARE FINDINGS UNDER PLANNING CODE, SECTION 302; AND MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1.

WHEREAS, on September 10, 2024 Mayor Breed introduced a proposed Ordinance under Board of Supervisors (hereinafter “Board”) File Number 240873, which would allow certain affordable housing projects to the use of California Debt Limit Allocation Committee (CDLAC) tax-exempt bond financing and tax credits under the Tax Credit Allocation Committee (TCAC). Eligible projects include those that provide additional affordable units or deeper affordability levels than required by the Inclusionary Housing Ordinance;

WHEREAS, the Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on October 24, 2024; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15378 and 15060(c)(2); and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the Custodian of Records, at 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby adopts a **recommendation for approval with modification** of the proposed ordinance. The Commission's proposed recommendation is as follows:

1. Technical clarification: amend the proposed exception to also reference Sections 415A (Pipeline Rates) and 415B (Interim Rates).

Findings

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

The proposed Ordinance would support inclusionary housing projects that provide additional affordable housing or deeper levels of affordability than required by the Inclusionary Housing Ordinance.

General Plan Compliance

The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 1.A

ENSURE HOUSING STABILITY AND HEALTHY HOMES

OBJECTIVE 4.A

SUBSTANTIALLY EXPAND THE AMOUNT OF PERMANENTLY AFFORDABLE HOUSING FOR EXTREMELY LOW- TO MODERATE-INCOME HOUSEHOLDS

OBJECTIVE 4.C

EXPAND AND DIVERSIFY HOUSING TYPES FOR ALL

Policy 15

Expand permanently affordable housing investments in Priority Equity Geographies to better serve American Indian, Black, and other People of color within income ranges underserved, including extremely-, very low-, and moderate-income households.

Policy 19

Enable low and moderate-income households, particularly American Indian, Black, and other people of color, to live and prosper in Well-resourced Neighborhoods by increasing the number of permanently affordable housing units in those neighborhoods.

Policy 22

Create dedicated and consistent local funding sources and advocate for regional, State, and Federal funding to support building permanently affordable housing for very low-, low-, and moderate-income households that meets the Regional Housing Needs Allocation targets.

Policy 26

Streamline and simplify permit processes to provide more equitable access to the application process, improve certainty of outcomes, and ensure meeting State- and local-required timelines, especially for 100% affordable housing and shelter projects.

The proposed Ordinance supports the Housing Element Objectives 1.A by providing stable and healthy homes. Additionally, the proposed Ordinance supports Objective 4.A because it allows more projects to access Federal and State subsidies if the project provides extra affordable units that are also more deeply affordable (lower AMIs) than is otherwise required under Section 415. These subsidies often cover 40%-50% of the cost of construction for affordable units. This also supports Policy 22, which advocates for regional, State, and Federal funding to support building permanently affordable housing for very low-, low-, and moderate-income households. If more housing projects can access these funds, more types of housing for all can be built supporting Objective 4.C, Policy 15, and Policy 19. Lastly, the proposed Ordinance includes technical clarifications and clean-up items aligning with Policy 26's efforts to streamline and simplify the process.

Planning Code Section 101 Findings

The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of

neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would not have a negative effect on housing or neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

Planning Code Section 302 Findings.

The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby ADOPTS A RECOMMENDATION FOR APPROVAL WITH MODIFICATION of the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on October 24, 2024.



Jonas P. Ionin

Commission Secretary

Jonas P Ionin

Digitally signed by Jonas P Ionin
Date: 2024.10.28 14:22:51 -07'00'

AYES: Campbell, McGarry, Braun, Moore, So

NOES: Williams

ABSENT: Imperial

ADOPTED: October 24, 2024



EXECUTIVE SUMMARY

PLANNING CODE TEXT AMENDMENT

HEARING DATE: October 24, 2024

90-Day Deadline: December 17, 2024

Project Name: Inclusionary Housing Ordinance
Case Number: 2024-008634PCA [Board File No. 240873]
Initiated by: Mayor Breed / Introduced September 10, 2024
Staff Contact: Veronica Flores Legislative Affairs
veronica.flores@sfgov.org, 628-652-7525
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533
Environmental Review: Not a Project Under CEQA

RECOMMENDATION: Adopt of Recommendation for Approval with Modifications

Planning Code Amendment

The proposed Ordinance would allow certain affordable housing projects to the use of California Debt Limit Allocation Committee (CDLAC) tax-exempt bond financing and tax credits under the Tax Credit Allocation Committee (TCAC). Eligible projects include those that provide additional affordable units or deeper affordability levels than required by the Inclusionary Housing Ordinance.

For the purposes of this staff report, “*housing project*” refers to a project with on-site affordable units provided through the inclusionary program.

The Way It Is Now:

Affordable units constructed as part of an on-site inclusionary project are not allowed to receive development subsidies from Federal, State, or local programs established for the purposes of providing affordable housing. The only exceptions include CDLAC tax-exempt bond financing, and 4% Low Income Housing Tax Credits (LIHTC) awarded by the California Tax Credit Allocation Committee (TCAC) if the housing project meets the following affordability rates and Area Median Income (AMI) levels:

- 20% units affordable to households at 50% AMI, or
- 10% units affordable to households at 50% AMI and 30% units affordable to households at 60% AMI.

The Way It Would Be:

The proposed Ordinance introduces a new exception that would allow the use of CDLAC tax-exempt bond financing and 4% LIHTC. This exception applies to projects that provide the required number of on-site affordable housing units, plus an additional 10% of the required affordable units. These extra units must be affordable to households earning 80% or less of the area median income (AMI).

Background

Under Planning Code Section 415.6, market-rate housing projects that include below-market-rate units typically cannot use state or federal housing subsidies to meet their affordability requirements. However, Section 415.6 allows some exceptions for certain projects. These projects can receive subsidies like tax-exempt bonds (allocated by the CDLAC) and 4% Low-Income Housing Tax Credits (LIHTC) if they provide more affordable units than required and if these units are more deeply affordable (affordable to households at lower AMIs). Few projects have taken advantage of this exception because it often generates less revenue than following the standard rules, which allow for higher income levels. Additionally, using LIHTC is a complex process that most market-rate developers are unfamiliar with.

The proposed Ordinance aims to expand these exceptions to account for changes in tax credit and bond programs, as well as Section 415, to better align financial incentives. This would make it easier for developers to use these subsidies and create more affordable housing without any cost to the City. The Ordinance also makes sure this section adapts to future changes, making it easier for projects to qualify for CDLAC tax-exempt bond financing and TCAC tax credits.

Issues and Considerations

Temporary Reduction in Inclusionary Rates

The Inclusionary Housing Technical Advisory Committee (TAC) conducts a feasibility study of the City's inclusionary housing requirement every three years. The Controller and the TAC met several times between October 2022 and April 2023. They found that none of the development prototypes studied were financially feasible at the required inclusionary housing rates, and recommended the rates be lowered. The inclusionary

requirements for pipeline projects¹ and interim projects² were temporarily reduced³ based on this feedback. However, the subsection related to the CDLAC and TCAC was not. The result is that a project has a lower inclusionary rate than the rates described above, but those projects are still not eligible for the subsidies because they do not provide the deeply affordable units (i.e. lower AMIs). Further, developers would opt to stick with the interim rates because it is more financially feasible than providing more inclusionary units. The proposed Ordinance allows projects complying with the interim rates and providing a little extra to also be eligible for CDLAC/TCAC benefits. Additionally, instead of using fixed percentage requirements and affordability rates, the proposed Ordinance creates a new exception that requires a project to exceed their Section 415 requirement. This makes this exemption nimbler. Projects would still be eligible for the exemption even if Section 415 is amended in the future.

CDLAC Tax-Exempt Bond Financing Tax Credits Awarded by TCAC

The CDLAC tax-exempt bond financing and TCAC tax credits are not direct loans or funds. Instead, they are programs that help secure funds for housing projects. CDLAC oversees the tax-exempt bond program in California. If a housing project applies to CDLAC and is approved, the City receives a tax-exempt bond allocation allowing it to issue tax-exempt private activity bonds or mortgage credit certificates. These bonds lower the interest rate for developers, which helps produce market-rate and affordable rental housing.

TCAC helps attract private investment for affordable rental housing for low-income Californians. If a project, which can be a condo parcel of only the affordable units for this purpose, is funded 50% or more with tax-exempt bonds, TCAC automatically allocates federal 4% LIHTC to the developers. While TCAC also awards State Credits, these are less common in San Francisco projects. Developers can sell tax credits to banks or other investors to get cash for funding their housing projects. These programs can fund approximately 40-50% of the cost of construction for the inclusionary units. The proposed Ordinance expands the realm of housing projects eligible to use these programs.

Subsidies Exceptions and Why the Exceptions Should be Expanded

Only those housing projects that provide more affordable units and at lower AMIs can qualify for CDLAC/TCAC benefits.

As discussed under *The Way It Is* above, only certain inclusionary housing projects are eligible for CDLAC tax-exempt bond financing and TCAC tax credits. These affordability rates are in lieu of the standard inclusionary requirements per 415. The intent is to allow projects that provide more affordable units and deeper levels of affordability to have access to these subsidies. Due to current economic conditions and rising costs in construction, the City has not recently received projects that fully comply with the affordability rate

¹ Projects approved prior to November 1, 2023. Pipeline rates under Section 415A require projects to pull the first construction document by May 1, 2029 to lock in the reduced rates.

² Projects approved on or after November 1, 2023 but before November 1, 2026. Interims rates under Section 415B require projects to have final approval by November 1, 2026, and pull a first construction document within 30 months of final approval.

³ Ordinance Nos. [187-23](#) and [201-23](#).

requirements stated above. Construction costs are so high that the volume of projects submitted to Planning has significantly declined. This is especially true for projects that provide more affordable housing and more deeply affordable housing.

Additionally, the Board of Supervisors recently amended the Inclusionary Housing Ordinance to require affordable units at three AMI levels or “tiers,” which range from 55% AMI to 110% AMI for rental projects. Projects with these AMI tiers do not have enough deeply affordable housing (i.e. lower AMIs) to be eligible for CDLAC tax-exempt bond financing and TCAC tax credits. Further, these tiers cannot be modified or consolidated at a lower income level. For a project to qualify for CDLAC/TCAC benefits, the project would need to 1) retain the three tiers of affordable units as required by Section 415.6, then 2) add the balance of affordable units required under Section 415.6 to use tax credits.

The following tables demonstrate how a 200 rental unit project can qualify for the CDLAC/TCAC benefits. Table 1 illustrates that for an interim project to qualify for these benefits, the project would need to provide 20% of the units (or 40 units) affordable to households at 50% AMI. However, the interim rate is 15% inclusionary rate (or 30 units). In this scenario, the developer would opt for the interim rates, rather than providing an additional 10 inclusionary units. Further, the project is more financially feasible using the interim rates because the units are distributed between the 55%, 80%, and 110% AMI levels.

	Per Section 415 (Interim Rates)		To Qualify for CDLAD/TCAC Benefits using existing subsidies exception	
	Inclusionary %	Inclusionary Units	Inclusionary %	Inclusionary Units
			20%	40
55% AMI	10%	20		
80% AMI	2.5%	5		
110% AMI	2.5%	5		
Total	15%	30	20%	40

Table 1: Example Inclusionary Rates for 200 Rental Unit Project – Existing Subsidies Exception Using Interim Rates

The interim rate used in Table 1 expires on November 1, 2026. Table 2 demonstrates how this project could qualify once the interim rates lapse. In 2026, this 200 rental unit project would have a 24% inclusionary rate. To qualify for an existing subsidies exception, this project still needs to provide 20% of the units (or 40 units) affordable to households at 50% AMI. The project would also need to provide an additional 4% of inclusionary units (or 8 units) to comply with the 24% inclusionary unit requirement. This example yields the same number of inclusionary units (48 units), but more deeply affordable units at 50% AMI. This yields an even more expensive project for the developer that is not financially feasible. In this instance, the developer would just use the standard inclusionary rate for this project, and the City misses out on affordable rental housing with these lower AMI rates that we need.

	Per Section 415 (2026)		To Qualify for CDLAD/TCAC Benefits using existing subsidies exception	
	Inclusionary %	Inclusionary Units	Inclusionary %	Inclusionary Units
50% AMI			20%	40
55% AMI	12%	24	1%	2
80% AMI	5.75%	12	1.5%	3
110% AMI	5.75%	12	1.5%	3
Total	24%	48	24%	48

Table 2: Example Inclusionary Rates for 200 Rental Unit Project – Existing Subsidies Exception Using Standard Inclusionary Rate in 2026

Note: this project still needs to comply with the required 24% inclusionary rate and the remaining 4% of inclusionary units (8 units) is distributed between the 55%, 80%, and 110% AMI levels.

The proposed Ordinance hopes to rectify this by broadening the exceptions. Table 3 includes an example of how the same 200 rental unit project can qualify for the CDLAD/TCAC benefits under the proposed Ordinance. This example uses the Interim Rates applicable today. This project has an inclusionary rate of 15% inclusionary units (or 30 units). To qualify for the CDLAD/TCAC benefits, the project would need to provide an additional 10% of the required inclusionary units (or 3 units) affordable to households at 80% AMI or lower. Therefore, the project would need to provide 33 total inclusionary units to qualify for a CDLAC/TCAC benefit. Thus, this proposed exception is more financially feasible than the existing subsidies exception. In this example, the total number of inclusionary units also increases, which further supports our housing goals.

	Per Section 415 (Interim Rates)		To Qualify for CDLAD/TCAC Benefits under the Proposed Ordinance	
	Inclusionary %	Inclusionary Units	Inclusionary %	Inclusionary Units
55% AMI	10%	20	10%	20
80% AMI	2.5%	5	4%	8
110% AMI	2.5%	5	2.5%	5
Total	15%	30	16.5%	33

Table 3: Example Inclusionary Rates for 200 Rental Unit Project – Proposed Subsidies Exception Using Interim Rate

General Plan Compliance

The proposed Ordinance supports the Housing Element Objectives 1.A by providing stable and healthy homes. Additionally, the proposed Ordinance supports Objective 4.A because it allows more projects to access Federal and State subsidies if the project provides extra affordable units that are also more deeply affordable (lower AMIs) than is otherwise required under Section 415. These subsidies often cover 40%-50% of the cost of construction for affordable units. This also supports Policy 22, which advocates for regional, State, and Federal funding to support building permanently affordable housing for very low-, low-, and moderate-income households. If more housing projects can access these funds, more types of housing for all can be built supporting Objective 4.C, Policy 15, and Policy 19. Lastly, the proposed Ordinance includes

technical clarifications and clean-up items aligning with Policy 26's efforts to streamline and simplify the process.

Racial and Social Equity Analysis

The proposed Ordinance supports housing and inclusionary housing by making it easier to access the CDLAC tax-exempt bonds financing and get the TCAC tax credits. This is important because these programs can help fund approximately 40%-50% of the cost of construction for the inclusionary units and make projects financially viable. Further, the proposed Ordinance ensures that the City sees more deeply affordable units at lower AMI levels. This provides housing for our very low- and low-income households that otherwise might not be built if it were not for the CDLAC/TCAC benefits.

Implementation

The Department has determined that this ordinance will not have a major impact our current implementation procedures since MOHCD administers access to funds from CDLAC/TCAC for projects in San Francisco. The Department would review projects to see if they will meet the required affordability criteria and draft any Planning Approval Letters or Regulatory Agreements accordingly. This can be implemented without increasing permit costs or review time.

Recommendation

The Department recommends that the Commission ***adopt a recommendation for approval with modifications*** of the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendation is as follows:

1. Technical clarification: amend the proposed exception to also reference Sections 415A (Pipeline Rates) and 415B (Interim Rates).

Basis for Recommendation

The Department supports the overall goals of this Ordinance because it broadens the realm of projects eligible for CDLAC tax-exempt bond financing and TCAC tax credits. Under today's code, not many projects qualify to receive CDLAC/TCAC benefits because of the very high affordability requirements. Developers end up only providing the required inclusionary units because the costs of substantially increasing the inclusionary units are far more expensive than the potential financing from CDLAC/TCAC. The City then loses out on the more deeply affordable units. The proposed Ordinance seeks to provide a clear, objective exception for projects to be eligible for the CDLAC tax-exempt bond financing and TCAC tax credits. Instead of using fixed percentage requirements and affordability rates, the proposed Ordinance creates a new exception that requires a project to exceed their Section 415 requirement by an additional 10% affordable to households at 80% of the AMI or lower. This makes this exception nimbler. Projects would still be eligible even if Section 415 is amended in the future. The Department also has one recommended modification as described below:

Recommendation 1: Technical clarification: amend the proposed exception to also reference Sections 415A (Pipeline Rates) and 415B (Interim Rates).

The proposed Ordinance only cites Section 415 inclusionary rates. However, there was a temporary reduction in inclusionary rates per the TAC's recent feasibility study. Section 415A Pipeline Rates sunset on May 1, 2029 and Section 415B Interim Rates sunset on November 1, 2026. The exception in the proposed Ordinance should also reference these sections.

Required Commission Action

The proposed Ordinance is before the Commission so that it may adopt a recommendation of approval, disapproval, or approval with modifications.

Environmental Review

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

Public Comment

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

ATTACHMENTS:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 240873

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PLANNING COMMISSION DRAFT RESOLUTION

HEARING DATE: October 24, 2024

Project Name: Inclusionary Housing Ordinance
Case Number: 2024-008634PCA [Board File No. 240873]
Initiated by: Mayor Breed / Introduced September 10, 2024
Staff Contact: Veronica Flores Legislative Affairs
veronica.flores@sfgov.org, 628-652-7525
Reviewed by: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533

RESOLUTION ADOPTING A RECOMMENDATION FOR APPROVAL WITH MODIFICATION OF A PROPOSED ORDINANCE THAT WOULD THE PLANNING CODE TO PERMIT THE USE OF CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE TAX-EXEMPT BOND FINANCING AND TAX CREDITS UNDER THE TAX CREDIT ALLOCATION COMMITTEE FOR CERTAIN AFFORDABLE HOUSING PROJECTS THAT PROVIDE ADDITIONAL AFFORDABLE UNITS OR DEEPER AFFORDABILITY LEVELS THAN REQUIRED BY THE INCLUSIONARY HOUSING ORDINANCE; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; MAKING FINDINGS OF PUBLIC NECESSITY, CONVENIENCE, AND GENERAL WELFARE FINDINGS UNDER PLANNING CODE, SECTION 302; AND MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1.

WHEREAS, on September 10, 2024 Mayor Breed introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 240873, which would allow certain affordable housing projects to the use of California Debt Limit Allocation Committee (CDLAC) tax-exempt bond financing and tax credits under the Tax Credit Allocation Committee (TCAC). Eligible projects include those that provide additional affordable units or deeper affordability levels than required by the Inclusionary Housing Ordinance;

WHEREAS, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on October 24, 2024; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15378 and 15060(c)(2); and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the Custodian of Records, at 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Planning Commission hereby adopts a **recommendation for approval with modification** of the proposed ordinance. The Commission's proposed recommendation is as follows:

1. Technical clarification: amend the proposed exception to also reference Sections 415A (Pipeline Rates) and 415B (Interim Rates).

Findings

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

The proposed Ordinance would support inclusionary housing projects that provide additional affordable housing or deeper levels of affordability than required by the Inclusionary Housing Ordinance.

General Plan Compliance

The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

OBJECTIVE 1.A

ENSURE HOUSING STABILITY AND HEALTHY HOMES

OBJECTIVE 4.A

SUBSTANTIALLY EXPAND THE AMOUNT OF PERMANENTLY AFFORDABLE HOUSING FOR EXTREMELY LOW- TO MODERATE-INCOME HOUSEHOLDS

OBJECTIVE 4.C

EXPAND AND DIVERSIFY HOUSING TYPES FOR ALL

Policy 15

Expand permanently affordable housing investments in Priority Equity Geographies to better serve American Indian, Black, and other People of color within income ranges underserved, including extremely-, very low-, and moderate-income households.

Policy 19

Enable low and moderate-income households, particularly American Indian, Black, and other people of color, to live and prosper in Well-resourced Neighborhoods by increasing the number of permanently affordable housing units in those neighborhoods.

Policy 22

Create dedicated and consistent local funding sources and advocate for regional, State, and Federal funding to support building permanently affordable housing for very low-, low-, and moderate-income households that meets the Regional Housing Needs Allocation targets.

Policy 26

Streamline and simplify permit processes to provide more equitable access to the application process, improve certainty of outcomes, and ensure meeting State- and local-required timelines, especially for 100% affordable housing and shelter projects.

The proposed Ordinance supports the Housing Element Objectives 1.A by providing stable and healthy homes. Additionally, the proposed Ordinance supports Objective 4.A because it allows more projects to access Federal and State subsidies if the project provides extra affordable units that are also more deeply affordable (lower AMIs) than is otherwise required under Section 415. These subsidies often cover 40%-50% of the cost of construction for affordable units. This also supports Policy 22, which advocates for regional, State, and Federal funding to support building permanently affordable housing for very low-, low-, and moderate-income households. If more housing projects can access these funds, more types of housing for all can be built supporting Objective 4.C, Policy 15, and Policy 19. Lastly, the proposed Ordinance includes technical clarifications and clean-up items aligning with Policy 26's efforts to streamline and simplify the process.

Planning Code Section 101 Findings

The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and

will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would not have a negative effect on housing or neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

Planning Code Section 302 Findings.

The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby ADOPTS A RECOMMENDATION FOR APPROVAL WITH MODIFICATION of the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on October 24, 2024.

Jonas P. Ionin
Commission Secretary

AYES:
NOES:
ABSENT:
ADOPTED: October 24, 2024

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1 [Planning Code - Inclusionary Housing Ordinance]

2

3 **Ordinance amending the Planning Code to permit the use of California Debt Limit**

4 **Allocation Committee tax-exempt bond financing and tax credits under the Tax Credit**

5 **Allocation Committee for certain affordable housing projects that provide additional**

6 **affordable units or deeper affordability levels than required by the Inclusionary**

7 **Housing Ordinance; affirming the Planning Department’s determination under the**

8 **California Environmental Quality Act; making findings of public necessity,**

9 **convenience, and general welfare findings under Planning Code, Section 302; and**

10 **making findings of consistency with the General Plan, and the eight priority policies of**

11 **Planning Code, Section 101.1.**

12 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.

13 **Additions to Codes** are in *single-underline italics Times New Roman font*.

14 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.

15 **Board amendment additions** are in double-underlined Arial font.

16 **Board amendment deletions** are in ~~strikethrough Arial font~~.

17 **Asterisks (* * * *)** indicate the omission of unchanged Code subsections or parts of tables.

18 Be it ordained by the People of the City and County of San Francisco:

19 Section 1. Environmental and Land Use Findings.

20 (a) The Planning Department has determined that the actions contemplated in this

21 ordinance comply with the California Environmental Quality Act (California Public Resources

22 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of

23 Supervisors in File No. ____ and is incorporated herein by reference. The Board affirms this

24 determination.

25

1 (b) On _____, the Planning Commission, in Resolution No. _____,
2 adopted findings that the actions contemplated in this ordinance are consistent, on balance,
3 with the City's General Plan and eight priority policies of Planning Code Section 101.1. The
4 Board adopts these findings as its own. A copy of said Resolution is on file with the Clerk of
5 the Board of Supervisors in File No. _____, and is incorporated herein by reference.

6 (c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code
7 amendments will serve the public necessity, convenience, and welfare for the reasons set
8 forth in Planning Commission Resolution No. _____, and the Board adopts such
9 reasons as its own. A copy of said resolution is on file with the Clerk of the Board of
10 Supervisors in File No. _____ and is incorporated herein by reference.

11
12 Section 2. General Findings.

13 (a) The California Debt Limit Allocation Committee (CDLAC) administers the State's
14 tax-exempt bond financing program that helps spur affordable housing production by assisting
15 developers of multifamily rental housing units with the acquisition and construction of new
16 units, or the purchase and rehabilitation of existing units.

17 (b) The California Tax Credit Allocation Committee (TCAC) administers the State's
18 Low Income Housing Tax Credit Programs to facilitate the investment of private capital into
19 the development of affordable rental housing for low-income Californians. TCAC allocates
20 federal and state tax credits to the developers of these projects.

21 (c) Currently, the Inclusionary Housing Ordinance permits housing projects to use
22 financing awarded from CDLAC and TCAC if (1) 20% of the project's units are affordable to
23 households at 50% of Area Median Income; or (2) 10% of the project's units are affordable to
24 households at 50% of Area Median Income, and 30% of the units are affordable to
25 households at 60% of Area Median Income for on-site housing.

1 (d) Certain affordable housing projects that exceed these thresholds, but do not meet
2 the minimum affordability levels, are unable to use the CDLAC and TCAC financing. It is
3 reasonable and in the public interest to allow the use of these financing programs when the
4 project will provide additional affordable units, or units at deeper affordability levels.

5
6 Section 3. Article 4 of the Planning Code is hereby amended by revising Section
7 415.6, to read as follows:

8 **SEC. 415. HOUSING REQUIREMENTS FOR RESIDENTIAL AND LIVE/WORK**
9 **DEVELOPMENT PROJECTS.**

10 * * * *

11 **SEC. 415.6. ON-SITE AFFORDABLE HOUSING ALTERNATIVE.**

12 * * * *

13 (g) **Marketing the Units.** MOHCD shall be responsible for overseeing and monitoring
14 the marketing of Affordable Units by the Project Sponsor under this Section 415.6. In general,
15 the marketing requirements and procedures shall be contained in the Procedures Manual as
16 amended from time to time and shall apply to the Affordable Units in the project. MOHCD may
17 develop occupancy standards for units of different bedroom sizes in the Procedures Manual in
18 order to promote an efficient allocation of Affordable Units. MOHCD may require in the
19 Procedures Manual that prospective purchasers complete homebuyer education training or
20 fulfill other requirements. MOHCD shall develop a list of minimum qualifications for marketing
21 firms that market Affordable Units under Section 415.6 *et seq.*, referred to in the Procedures
22 Manual as Below Market Rate (BMR units). Developers marketing Affordable Units under
23 Section 415.6 shall market the Affordable Units through a marketing firm meeting all of the
24 minimum qualifications. The Notice of Special Restrictions or conditions of approval shall

1 specify that the marketing requirements and procedures contained in the Procedures Manual
2 as amended from time to time, shall apply to the Affordable Units in the project.

3 (1) Notice of Special Restrictions. The Notice of Special Restrictions (“NSR”)
4 required pursuant to this Section 415.6 shall be completed and recorded by the project
5 sponsor no later than the issuance of the architectural addendum for the site permit and at
6 least 12 months prior to the first certificate of occupancy.

7 (2) Pricing Determination. The project sponsor shall submit a request for a
8 pricing determination from MOHCD at least 8 months prior to issuance of a first certificate of
9 occupancy.

10 (3) Timeline for Construction. After the project has been approved by the
11 Planning Commission or Department, the project sponsor must submit an update to the
12 Department and MOHCD which includes an estimated timeline for the construction of the
13 project. The estimated construction timeline must assume the requirements of subsections
14 (g)(1) and (g)(2) above. Failure to finalize the NSR or initiate marketing within the time frames
15 set forth in this Section 415.6(g), or to submit an estimated construction timeline will be
16 deemed a violation of the Planning Code subject to enforcement and penalties.

17 (42) **Lottery.** At the initial offering of Affordable Units in a housing project and
18 when Affordable Units become available for re-sale or re-rent in any housing project subject to
19 this Program after the initial offering, MOHCD must require the use of a public lottery
20 approved by MOHCD to select purchasers or tenants.

21 (53) **Preferences.** MOHCD shall create a lottery system that gives preference
22 according to the provisions of Administrative Code Chapter 47. MOHCD shall propose policies
23 and procedures for implementing these preferences to the Planning Commission for inclusion
24 as an addendum to the Procedures Manual. Otherwise, it is the policy of the City to treat all
25 households equally in allocating affordable units under this Program.

1 (h) Use of Subsidies.

2 (1) Generally Prohibited. Individual affordable units constructed under Section
3 415.6 as part of an on-site project shall not have received development subsidies from any
4 Federal, State, or local program established for the purpose of providing affordable housing
5 ~~and. Units that have received such development subsidies~~ shall not be counted to satisfy any
6 affordable housing requirement. ~~Other units in the same on-site project may have received such~~
7 ~~subsidies. In addition,~~

8 (2) Exceptions:

9 (A) ~~Notwithstanding subsection (h)(1),~~ subsidies may be used, ~~only with the~~
10 ~~express written permission by MOHCD,~~ to deepen the affordability of an affordable unit beyond
11 the level of affordability required by this Program, with the express written permission of MOHCD.

12 (iB) CDLAC and TCAC. Notwithstanding the provisions of ~~S~~subection
13 415.6 (h)(1) and (h)(2)(A) above, a project may use California Debt Limit Allocation Committee
14 (CDLAC) tax-exempt bond financing, ~~and~~ 4% tax credits under the Tax Credit Allocation
15 Committee (TCAC), and tax credits allocated under the TCAC guidelines to help fund its
16 obligations under Section 415.1 et seq. as long as the project provides at least one of the
17 following: (i) 20% of the units as affordable to households at 50% of Area Median Income for
18 on-site housing; ~~or~~ (ii) 10% of the units as affordable to households at 50% of Area Median
19 Income, and 30% of the units as affordable to households at 60% of Area Median Income for
20 on-site housing; or (iii) the same number of on-site affordable units as required by the applicable on-
21 site affordable housing requirement in this Section 415 et seq. plus an additional number of on-site
22 affordable units equal to 10% of the applicable on-site affordable units as affordable to households at
23 or below 80% of Area Median Income. The income table to be used for such projects when the
24 units are priced at 50%, ~~or~~ 60%, or 80% of Area Median Income is the income table used by
25 MOHCD for the Inclusionary Affordable Housing Program, not that used by TCAC or CDLAC.

1 Except as provided in this subsection (h)(2)(iB), all units provided under this Section must
2 meet all of the requirements of Section 415.1 et seq. and the Procedures Manual for on-site
3 housing.

4 * * * *

5
6 Section 4. Effective Date. This ordinance shall become effective 30 days after
7 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
8 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
9 of Supervisors overrides the Mayor’s veto of the ordinance.

10
11 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
12 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
13 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
14 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
15 additions, and Board amendment deletions in accordance with the “Note” that appears under
16 the official title of the ordinance.

17
18 APPROVED AS TO FORM:
19 DAVID CHIU, City Attorney

20 By: _____ /s/
21 AUSTIN M. YANG
22 Deputy City Attorney

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24
25