

1 [Planning Code - Inclusionary Housing Ordinance]

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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, and require the Mayor's Office of Housing and Community**
8 **Development to report on such projects; affirming the Planning Department's**
9 **determination under the California Environmental Quality Act; making public necessity,**
10 **convenience, and welfare findings under Planning Code, Section 302; and making**
11 **findings of consistency with the General Plan and the eight priority policies of Planning**
12 **Code, Section 101.1.**

13 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
14 **Additions to Codes** are in *single-underline italics Times New Roman font*.
15 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
16 **Board amendment additions** are in double-underlined Arial font.
17 **Board amendment deletions** are in ~~strikethrough Arial font~~.
18 **Asterisks (* * * *)** indicate the omission of unchanged Code
19 subsections or parts of tables.

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

21

22 Section 1. Environmental and Land Use Findings.

23 (a) The Planning Department has determined that the actions contemplated in this
24 ordinance comply with the California Environmental Quality Act (California Public Resources
25 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of

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

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

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

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14 Section 2. General Findings.

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

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

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

1 households at 50% of Area Median Income, and 30% of the units are affordable to
2 households at 60% of Area Median Income for on-site housing.

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

7 (e) Pursuant to Administrative Code Chapter 43, Article IX, the Mayor's Office of
8 Housing & Community Development administers the Multifamily Securities Program and has
9 adopted the Multifamily Securities Program Manual (the "Manual") for administering the
10 issuance of tax exempt multifamily revenue bonds for affordable housing projects that have
11 received an allocation from CDLAC and TCAC. Under the Manual, MOHCD monitors the
12 regional allocation to the San Francisco Bay Area and competitiveness under TCAC and
13 CDLAC regulations. Based on the availability of TCAC and CDLAC allocations and
14 competitiveness within the Bay Area, MOHCD may request non-City funded affordable
15 housing projects to temporarily delay an application for a TCAC and CDLAC allocation if there
16 is an insufficient amount of allocation for City funded affordable housing that are ready for
17 construction.

18
19 Section 3. Article 4 of the Planning Code is hereby amended by revising Section
20 415.6, to read as follows:

21 **SEC. 415. HOUSING REQUIREMENTS FOR RESIDENTIAL AND LIVE/WORK**
22 **DEVELOPMENT PROJECTS.**

23 * * * *

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

25 * * * *

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

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

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

22 (3) **Timeline for Construction.** After the project has been approved by the
23 Planning Commission or Department, the project sponsor must submit an update to the
24 Department and MOHCD which includes an estimated timeline for the construction of the
25 project. The estimated construction timeline must assume the requirements of subsections

1 (g)(1) and (g)(2) above. Failure to finalize the NSR or initiate marketing within the time frames
2 set forth in this Section 415.6(g), or to submit an estimated construction timeline will be
3 deemed a violation of the Planning Code subject to enforcement and penalties.

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

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

13 (h) *Use of Subsidies.*

14 (1) *Generally Prohibited.* Individual affordable units constructed under Section
15 415.6 as part of an on-site project shall not have received development subsidies from any
16 Federal, State, or local program established for the purpose of providing affordable housing
17 ~~and. Units that have received such development subsidies~~ shall not be counted to satisfy any
18 affordable housing requirement. ~~Other units in the same on-site project may have received such~~
19 ~~subsidies. In addition,~~

20 (2) *Exceptions:*

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

24 (iB) *CDLAC and TCAC.* Notwithstanding the provisions of *Subsection*
25 415.6 (h)*(1) and (h)(2)(A)* above, a project may use California Debt Limit Allocation Committee

1 (CDLAC) tax-exempt bond financing, ~~and~~ 4% tax credits under the Tax Credit Allocation
2 Committee (TCAC), and tax credits allocated under the TCAC guidelines to help fund its
3 obligations under Section 415.1 et seq. as long as the project provides at least one of the
4 following: (i) 20% of the units as affordable to households at 50% of Area Median Income for
5 on-site housing; ~~or~~ (ii) 10% of the units as affordable to households at 50% of Area Median
6 Income, and 30% of the units as affordable to households at 60% of Area Median Income for
7 on-site housing; or (iii) the same number of on-site affordable units as required by the applicable on-
8 site affordable housing requirement in this Section 415 et seq. plus an additional number of on-site
9 affordable units equal to ~~25~~10% of the applicable on-site affordable units as affordable to households
10 at or below 80% of Area Median Income. The income table to be used for such projects when
11 the units are priced at 50%, ~~or~~ 60%, or 80% of Area Median Income is the income table used
12 by MOHCD for the Inclusionary Affordable Housing Program, not that used by TCAC or
13 CDLAC. Except as provided in this subsection (h)(2)(B), all units provided under this Section
14 must meet all of the requirements of Section 415.1 et seq. and the Procedures Manual for on-
15 site housing.

16 (3) Reporting. MOHCD shall monitor state and federal funding for 100% affordable
17 housing projects, awards made by TCAC and CDLAC to 100% affordable housing projects in
18 San Francisco, and any changes to the regulations of TCAC and CDLAC. MOHCD shall
19 provide to the Inclusionary Housing Technical Advisory Committee, established in
20 Administrative Code Chapter 5 Article XXIX, a written report of projects approved under
21 Section 415.6(h)(2)(B), 100% affordable housing projects applying for tax exempt bond
22 financing under CDLAC and tax credits under TCAC, and challenges for 100% affordable
23 housing projects to obtain an award from CDLAC and TCAC.

24 * * * *

25

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

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

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13 APPROVED AS TO FORM:
14 DAVID CHIU, City Attorney

15 By: DRAFT
16 AUSTIN M. YANG
 Deputy City Attorney

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