

REVISED LEGISLATIVE DIGEST
(Amended in Committee – February 3, 2025)

[Planning, Health Codes - Inclusionary Housing Ordinance, Non-Potable Water Exemption]

Ordinance amending 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, and require the Mayor’s Office of Housing and Community Economic Development to report on such projects; amending the Health Code to exempt such affordable housing projects from compliance with the requirement that new buildings be constructed, operated, and maintained using alternate water sources for non-potable uses; affirming the Planning Department’s determination under the California Environmental Quality Act; making public necessity, convenience, and 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

Existing Law

The Inclusionary Ordinance generally requires certain residential projects to pay a fee or provide on-site inclusionary housing units. For projects that provide on-site units, the Planning Code generally does not allow those projects to use the California Debt Limit Allocation Committee (CDLAC) tax-exempt bond financing or tax credits under the Tax Credit Allocation Committee (TCAC), unless the project provides deeper levels of affordability. The Planning Code currently considers deeper affordability to be the following: 20% of the units as affordable to households at 50% of Area Median Income for on-site housing; or 10% of the units as affordable to households at 50% of Area Median Income, and 30% of the units as affordable to households at 60% of Area Median Income for on-site housing.

Health Code Chapter 12C generally requires new buildings to construct, operate, and maintain an Alternative Water Source System using Rainwater, Graywater, and Foundation Drainage.

Amendments to Current Law

This ordinance would allow projects to use tax credits allocated under TCAC, in addition to the CDLAC tax-exempt bond financing and TCAC tax credits. The ordinance would also create a third circumstance for projects to use financing from the California Debt Limit Allocation Committee tax-exempt bond financing and tax credits under the Tax Credit Allocation Committee. This would be permissible if the project provides the same number of on-site affordable units as required by the applicable on-site affordable housing requirement in this

Section 415 et seq, plus an additional number of on-site affordable units equal to 25% of the applicable on-site affordable units at or below 80% of Area Median Income. This ordinance would also require MOHCD to report on projects approved under Section 415.6(h)(2)(B), 100% affordable housing projects applying for tax exempt bond financing under CDLAC and tax credits under TCAC, and challenges for 100% affordable housing projects to obtain an award from CDLAC and TCAC.

This ordinance would create an exception from the requirements of Health Code Chapter 12c for projects that are issued a First Construction Document prior to 7/1/25, use the exception in Planning Code 415.6(h)(2)(B), and provide at least 100 on-site affordable units.

Background

At the Land Use and Transportation Committee meeting on 2/3/25, the ordinance was amended to:

- Add an uncodified finding to section 2 re: MOHCD's responsibilities.
- Make a technical correction related to references to Section 415A and 415B.
- Raise the minimum number of affordable units required to use the exception in subsection (h)(2)(B) to 25% from 10%.
- Add a reporting requirement in new subsection (h)(3).
- Create an exception from Health Code Chapter 12C (the non-potable water ordinance) for projects that are issued a First Construction Document prior to 7/1/25, use the exception in Planning Code 415.6(h)(2)(B), and provide at least 100 on-site affordable units.

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