

File No. 240873

Committee Item No. 1

Board Item No. 3

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation

Date: February 10, 2025

Board of Supervisors Meeting:

Date: February 25, 2025

#### Cmte Board

<input type="checkbox"/>	<input type="checkbox"/>	Motion
<input type="checkbox"/>	<input type="checkbox"/>	Resolution
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Ordinance - VERSION 3
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Legislative Digest - VERSION 3
<input type="checkbox"/>	<input type="checkbox"/>	Budget and Legislative Analyst Report
<input type="checkbox"/>	<input type="checkbox"/>	Youth Commission Report
<input type="checkbox"/>	<input type="checkbox"/>	Introduction Form
<input type="checkbox"/>	<input type="checkbox"/>	Department/Agency Cover Letter and/or Report
<input type="checkbox"/>	<input type="checkbox"/>	MOU
<input type="checkbox"/>	<input type="checkbox"/>	Grant Information Form
<input type="checkbox"/>	<input type="checkbox"/>	Grant Budget
<input type="checkbox"/>	<input type="checkbox"/>	Subcontract Budget
<input type="checkbox"/>	<input type="checkbox"/>	Contract / DRAFT Mills Act Agreement
<input type="checkbox"/>	<input type="checkbox"/>	Form 126 – Ethics Commission
<input type="checkbox"/>	<input type="checkbox"/>	Award Letter
<input type="checkbox"/>	<input type="checkbox"/>	Application
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Public Correspondence

#### OTHER

<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>Planning Commission Transmittal – October 30, 2024</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>CEQA Determination – October 4, 2024</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>Referral BLA – February 5, 2025</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>Referrals CEQA, Planning Commission FYI – September 18, 2024</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>Committee Report Request Memo – February 6, 2025</u>
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Prepared by: John Carroll

Date: February 7, 2025

Prepared by: John Carroll

Date: February 10, 2025

Prepared by:  

Date:

[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 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.**

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

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

Section 1. Environmental and Land Use Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources

1 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of  
2 Supervisors in File No. 240873 and is incorporated herein by reference. The Board affirms  
3 this determination.

4 (b) On October 24, 2024, the Planning Commission, in Resolution No. 21634, adopted  
5 findings that the actions contemplated in this ordinance are consistent, on balance, with the  
6 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board  
7 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the  
8 Board of Supervisors in File No. 240873, and is incorporated herein by reference.

9 (c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code  
10 amendments will serve the public necessity, convenience, and welfare for the reasons set  
11 forth in Planning Commission Resolution No. 21634, and the Board adopts such reasons as  
12 its own. A copy of said resolution is on file with the Clerk of the Board of Supervisors in File  
13 No. 240873 and is incorporated herein by reference.

## 14 15 Section 2. General Findings.

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

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

24 (c) Currently, the Inclusionary Housing Ordinance permits housing projects to use  
25 financing awarded from CDLAC and TCAC if (1) 20% of the project's units are affordable to

1 households at 50% of Area Median Income; or (2) 10% of the project's units are affordable to  
2 households at 50% of Area Median Income, and 30% of the units are affordable to  
3 households at 60% of Area Median Income for on-site housing.

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

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

19  
20 Section 3. Article 4 of the Planning Code is hereby amended by revising Section  
21 415.6, to read as follows:

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

24 \* \* \* \*

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

1                   \*   \*   \*   \*

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

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

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

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

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

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

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

14 (h) **Use of Subsidies.**

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

21 (2) **Exceptions:**

22 (A) Notwithstanding subsection (h)(1), subsidies may be used, ~~only with the~~  
23 ~~express written permission by MOHCD,~~ to deepen the affordability of an affordable unit beyond  
24 the level of affordability required by this Program, with the express written permission of MOHCD.  
25

1                                (iB) CDLAC and TCAC. Notwithstanding the provisions of Subsection  
2    415.6 (h)(1) and (h)(2)(A) above, a project may use California Debt Limit Allocation Committee  
3    (CDLAC) tax-exempt bond financing, ~~and~~ 4% tax credits under the Tax Credit Allocation  
4    Committee (TCAC), and tax credits allocated under the TCAC guidelines to help fund its  
5    obligations under Section 415.1 et seq. as long as the project provides at least one of the  
6    following: (i) 20% of the units as affordable to households at 50% of Area Median Income for  
7    on-site housing; ~~or~~ (ii) 10% of the units as affordable to households at 50% of Area Median  
8    Income, and 30% of the units as affordable to households at 60% of Area Median Income for  
9    on-site housing; or (iii) the same number of on-site affordable units as required by the applicable on-  
10   site affordable housing requirement in this Section 415 et seq. or any temporary reduction as set  
11   forth in Sections 415A et seq. or 415B et seq., plus an additional number of on-site affordable  
12   units equal to 2540% of the applicable on-site affordable units as affordable to households at or below  
13   80% of Area Median Income. The income table to be used for such projects when the units are  
14   priced at 50%, ~~or 60%, or 80%~~ of Area Median Income is the income table used by MOHCD  
15   for the Inclusionary Affordable Housing Program, not that used by TCAC or CDLAC. Except  
16   as provided in this subsection (h)(2)(iB), all units provided under this Section must meet all of  
17   the requirements of Section 415.1 et seq. and the Procedures Manual for on-site housing.

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

\* \* \* \*

Section 4. Article 12C of the Health Code is hereby amended by revising Section 12C.2, to read as follows:

**SEC. 12C.2 DEFINITIONS.**

\* \* \* \*

**Development Project:** Construction of a new building or buildings. Development Projects are Large Development Projects and Small Development Projects. Development Project does not include rehabilitation of buildings constructed prior to August 1, 2015. Development Project does not include (1) any 100% Affordable Housing Project, 100% Permanent Supportive Housing Project, ~~or~~ housing project funded or constructed pursuant to the HOPE SF Program sponsored and developed by the San Francisco Housing Authority and either the Mayor's Office of Housing and Community Development or the Office of Community Investment and Infrastructure, or housing project that is issued a First Construction Document, as that term is defined in Building Code Section 107A.13.1, prior to July 1, 2025, uses California Debt Limit Allocation Committee tax-exempt bond financing and tax credits under the Tax Credit Allocation Committee, as set forth in Planning Code Section 415.6(h)(2)(B), and provides at least 100 total on-site affordable units; (2) Hospital Buildings, Health Service Buildings, and Institutional Healthcare Use Buildings; (3) Industrial Use Buildings; (4) Production, Distribution, and Repair Use Buildings; (5) construction of a new building that will receive water service from the San Francisco Public Utilities Commission through no larger than a 5/8" domestic water meter or a 5/8" recycled water domestic meter, as determined in accordance with the San Francisco Public Utilities Commission's rules for water service; (6) for District projects located within the boundaries of the Reclaimed Water



1 Use Map, construction of new buildings subject to a disposition and development agreement  
2 or similar contractual agreement approved before November 1, 2015, that includes in its  
3 applicable infrastructure plan the construction and operations of water treatment facilities  
4 within the project boundaries that would provide recycled water to the project; (7) for District  
5 projects located within the boundaries of the Reclaimed Water Use Map, construction of new  
6 buildings subject to a development agreement or similar contractual agreement, within a  
7 development phase or subphase, a street improvement plan, or a tentative map or vesting  
8 tentative map approved before November 1, 2015; or (8) for District projects located outside  
9 the boundaries of the Reclaimed Water Use Map, construction of new buildings subject to a  
10 development agreement or similar contractual agreement, within a development phase or  
11 subphase, a street improvement plan, or a tentative map or vesting tentative map approved  
12 before November 1, 2017.

13 \* \* \* \*

14 Section 45. Effective Date. This ordinance shall become effective 30 days after  
15 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
16 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
17 of Supervisors overrides the Mayor's veto of the ordinance.

18 ///

19 ///

Section 56. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the “Note” that appears under the official title of the ordinance.

APPROVED AS TO FORM:  
DAVID CHIU, City Attorney

By: /s/  
AUSTIN M. YANG  
Deputy City Attorney

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**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 uncoded 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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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", with a long horizontal flourish 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 projects<sup>1</sup> and interim projects<sup>2</sup> were temporarily reduced<sup>3</sup> 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

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<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> 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 on 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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[Planning Code - Inclusionary Housing Ordinance]

**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; 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.**

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

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

Section 1. Environmental and Land Use Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. \_\_\_\_ and is incorporated herein by reference. The Board affirms this determination.

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  
25

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~~ubsection  
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.

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

\* \* \* \*

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

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

APPROVED AS TO FORM:  
DAVID CHIU, City Attorney

By: /s/  
AUSTIN M. YANG  
Deputy City Attorney

n:\legana\as2024\2500022\01783439.docx

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. (415) 554-5184  
Fax No. (415) 554-5163  
TDD/TTY No. (415) 554-5227

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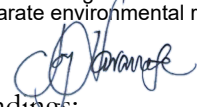
MEMORANDUM

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Date: September 18, 2024  
To: Planning Department/Planning Commission  
From: John Carroll, Assistant Clerk, Land Use and Transportation Committee  
Subject: Board of Supervisors Legislation Referral - File No. 240873  
Planning Code - Inclusionary Housing Ordinance

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- ☒ California Environmental Quality Act (CEQA) Determination  
(California Public Resources Code, Sections 21000 et seq.) Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment. Physical projects will require separate environmental review.  
☒ Ordinance / Resolution  
☐ Ballot Measure  
10/4/2024 
- ☒ Amendment to the Planning Code, including the following Findings:  
(Planning Code, Section 302(b): 90 days for Planning Commission review)  
☒ General Plan ☒ Planning Code, Section 101.1 ☒ Planning Code, Section 302
- ☐ Amendment to the Administrative Code, involving Land Use/Planning  
(Board Rule 3.23: 30 days for possible Planning Department review)
- ☐ General Plan Referral for Non-Planning Code Amendments  
(Charter, Section 4.105, and Administrative Code, Section 2A.53)  
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)
- ☐ Historic Preservation Commission  
☐ Landmark (Planning Code, Section 1004.3)  
☐ Cultural Districts (Charter, Section 4.135 & Board Rule 3.23)  
☐ Mills Act Contract (Government Code, Section 50280)  
☐ Designation for Significant/Contributory Buildings (Planning Code, Article 11)

Please send the Planning Department/Commission recommendation/determination to John Carroll at [john.carroll@sfgov.org](mailto:john.carroll@sfgov.org).



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## MEMORANDUM

TO: Daniel Adams, Director, Mayor's Office of Housing and Community Development

FROM: John Carroll, Assistant Clerk, Land Use and Transportation Committee

DATE: September 18, 2024

SUBJECT: LEGISLATION INTRODUCED

---

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Mayor Breed on September 10, 2024.

**File No. 240873**

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; 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.

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: [john.carroll@sfgov.org](mailto:john.carroll@sfgov.org).

cc:

Offices of Chair Melgar and Mayor Breed  
Lydia Ely, Mayor's Office of Housing and Community Development  
Brian Cheu, Mayor's Office of Housing and Community Development  
Maria Benjamin, Mayor's Office of Housing and Community Development  
Sheila Nickolopoulos, Mayor's Office of Housing and Community Development  
Kyra Geithman, Mayor's Office of Housing and Community Development

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## MEMORANDUM

TO: Budget and Legislative Analyst

FROM: John Carroll, Assistant Clerk, Land Use and Transportation Committee

DATE: February 5, 2025

SUBJECT: LEGISLATION AMENDED - FISCAL IMPACT DETERMINATION

---

The Board of Supervisors' Land Use and Transportation Committee (a nonfiscal committee) amended the following legislation on February 3, 2025. Pursuant to Administrative Code, Section 2.6-3, the new version is being forwarded to you as it was initially determined not to have fiscal impact. The amendments made were substantive and another review for a fiscal impact determination is required.

**File No. 240873-3**

**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 Development to report on such projects; 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.**

If the new version is determined to have fiscal impact, the legislation will need to be referred to a fiscal committee before it can be referred to the full Board for approval.

Please send your determination or contact with me any questions at (415) 554-4445 or email: [john.carroll@sfgov.org](mailto:john.carroll@sfgov.org).

---

**RESPONSE FROM THE BUDGET AND LEGISLATIVE ANALYST - Date:** \_\_\_\_\_

- \_\_\_\_\_ This matter has fiscal impact.  
\_\_\_\_\_ This matter does not have fiscal impact.  
\_\_\_\_\_ Additional information attached.

---

**Budget and Legislative Analyst**

**From:** [Menard, Nicolas \(BUD\)](#)  
**To:** [Carroll, John \(BOS\)](#)  
**Cc:** [Goncher, Dan \(BUD\)](#); [BOS Legislation, \(BOS\)](#); [Somera, Alisa \(BOS\)](#)  
**Subject:** RE: REFERRAL BLA - FISCAL IMPACT DETERMINATION REQUEST - AMENDED IN LUT - BOS File No. 240873 - Planning, Health Codes - Inclusionary Housing Ordinance, Non-Potable Water Exemption  
**Date:** Wednesday, February 5, 2025 4:56:49 PM  
**Attachments:** [image001.png](#)

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Hello John,

This legislation, as amended, does not have fiscal impact.

Thanks for checking in.

Nicolas Menard  
Budget & Legislative Analyst's Office  
415-484-5485

---

**From:** Carroll, John (BOS) <[john.carroll@sfgov.org](mailto:john.carroll@sfgov.org)>  
**Sent:** Wednesday, February 5, 2025 4:06 PM  
**To:** Menard, Nicolas (BUD) <[nicolas.menard@sfgov.org](mailto:nicolas.menard@sfgov.org)>  
**Cc:** Goncher, Dan (BUD) <[dan.goncher@sfgov.org](mailto:dan.goncher@sfgov.org)>; BOS Legislation, (BOS) <[bos.legislation@sfgov.org](mailto:bos.legislation@sfgov.org)>; Somera, Alisa (BOS) <[alisa.somera@sfgov.org](mailto:alisa.somera@sfgov.org)>  
**Subject:** REFERRAL BLA - FISCAL IMPACT DETERMINATION REQUEST - AMENDED IN LUT - BOS File No. 240873 - Planning, Health Codes - Inclusionary Housing Ordinance, Non-Potable Water Exemption

Good afternoon,

The subject ordinance was amended in LUT on February 3, 2025. It was then continued to the February 10, 2025 LUT meeting.

At the time of introduction this ordinance was determined to not have fiscal impact. Pursuant to Admin Code, Section 2.6-3, please review the amended ordinance to determine whether the amendments result in the legislation having a fiscal impact.

[Referral to BLA – February 5, 2025](#)

You are invited to review the entire matter on our [Legislative Research Center](#) by following the link below.

[Board of Supervisors File No. 240873](#)

Best to you,

**John Carroll**

**Assistant Clerk**

Board of Supervisors

San Francisco City Hall, Room 244

San Francisco, CA 94102

(415)554-4445



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form.

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation and archived matters since August 1998.

**Disclosures:** *Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.*



**MYRNA MELGAR**

---

DATE: February 6, 2025

TO: Angela Calvillo  
Clerk of the Board of Supervisors

FROM: Supervisor Myrna Melgar, Chair, Land Use and Transportation Committee

RE: Land Use and Transportation Committee  
COMMITTEE REPORT

---

Pursuant to Board Rule 4.20, as Chair of the Land Use and Transportation Committee, I have deemed the following matter is of an urgent nature and request it be considered by the full Board on Tuesday, February 11, 2025.

**File No. 240873**

**Planning, Health Codes - Inclusionary Housing  
Ordinance, Non-Potable Water Exemption**  
Sponsors: Mayor; Sauter, Mahmood

This matter will be heard in the Land Use and Transportation Committee at a Regular Meeting on Monday, February 10, 2025.

**From:** [Carroll, John \(BOS\)](#)  
**To:** [Brianna Morales](#); [Melgar, Myrna \(BOS\)](#); [MahmoodStaff](#); [MandelmanStaff \(BOS\)](#); [SauterStaff](#); [ChenStaff](#)  
**Cc:** [Jane Natoli](#); [Board of Supervisors \(BOS\)](#)  
**Subject:** RE: Support for Housing at 1101-1111 Sutter (Item 1) - BOS File No. 240873  
**Date:** Monday, February 10, 2025 4:57:00 PM  
**Attachments:** [1101-1111 Sutter Petition Signers - Sheet1.pdf](#)  
[image001.png](#)

---

Thank you for your comment letter.

By copy of this message to the [board.of.supervisors@sfgov.org](mailto:board.of.supervisors@sfgov.org) email address, your comments will be forwarded to the full membership of the Board of Supervisors. I will include your comments in the file for this ordinance matter.

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

-

[Board of Supervisors File No. 240873](#)

**John Carroll**

**Assistant Clerk**

Board of Supervisors  
San Francisco City Hall, Room 244  
San Francisco, CA 94102  
(415)554-4445



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***Disclosures:** Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.*

---

**From:** Brianna Morales <brianna@housingactioncoalition.org>

**Sent:** Monday, February 10, 2025 12:25 PM

**To:** Melgar, Myrna (BOS) <myrna.melgar@sfgov.org>; MahmoodStaff <MahmoodStaff@sfgov.org>; MandelmanStaff (BOS) <mandelmanstaff@sfgov.org>; SauterStaff <SauterStaff@sfgov.org>; ChenStaff <ChenStaff@sfgov.org>

**Cc:** Jane Natoli <jane@yimbyaction.org>; Carroll, John (BOS) <john.carroll@sfgov.org>

**Subject:** Support for Housing at 1101-1111 Sutter (Item 1)

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Members of the Land Use Committee,

I am writing on behalf of the Housing Action Coalition and San Francisco YIMBY to share our [petition](#) in support of the 1101-1111 Sutter Street project and the proposed non-potable water amendment, which is critical to ensuring the financial feasibility of this much-needed development.

We appreciate the Supervisors' leadership in advancing policies that expand housing opportunities and recognize the complexities of this project. We are eager to see more homes built in San Francisco and to welcome more neighbors into our communities.

This development maximizes state funding to build affordable housing and help us with our Housing Element goals without relying on San Francisco dollars -- a rare and valuable opportunity that we should seize. Along with providing 303 new homes, including 101 affordable units, it will also bring a child care center and pedestrian improvements, benefiting both families and the broader community.

Our petition reflects the voices of residents and neighbors who recognize the importance of moving this project forward.

Attached to this email, you will find a PDF listing over 400 residents who have signed the petition in support of our initiative. We kindly ask that you review the attached document and consider our request for support in moving this project forward. We are hopeful for a positive response and appreciate your support.

Thank you for your time and consideration. Please let me know if you have any questions.

--

In support,

**Brianna Morales** | Pronouns: She/Her  
San Francisco Organizer | Housing Action Coalition  
555 Montgomery St, San Francisco, CA 94111  
Cell: (619) 535-6182 | Email: [brianna@housingactioncoalition.org](mailto:brianna@housingactioncoalition.org)



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**From:** [Carroll, John \(BOS\)](#)  
**To:** ["Julien DeFrance"](#)  
**Cc:** [Melgar, Myrna \(BOS\)](#); [Low, Jen \(BOS\)](#); [Chen, Chyanne \(BOS\)](#); [Sciammas, Charlie \(BOS\)](#); [Mahmood, Bilal \(BOS\)](#); [Cooper, Raynell \(BOS\)](#)  
**Subject:** RE: URGENT - Support 303 New Homes at 1101-1111 Sutter Street! - BOS File No. 240873  
**Date:** Thursday, February 6, 2025 11:58:00 AM  
**Attachments:** [image001.png](#)

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Thank you for your comment letter.

I am forwarding your comments to the members of the LUT committee, and I will include your comments in the file for this ordinance matter.

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

-

[Board of Supervisors File No. 240873](#)

**John Carroll**

**Assistant Clerk**

Board of Supervisors

San Francisco City Hall, Room 244

San Francisco, CA 94102

(415)554-4445



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form.

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation and archived matters since August 1998.

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**From:** Julien DeFrance <julien.defrance@gmail.com>

**Sent:** Wednesday, February 5, 2025 8:15 PM

**To:** Carroll, John (BOS) <john.carroll@sfgov.org>

**Subject:** Fwd: URGENT - Support 303 New Homes at 1101-1111 Sutter Street!

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Begin forwarded message:

**From:** Julien DeFrance <[julien.defrance@gmail.com](mailto:julien.defrance@gmail.com)>

**Date:** February 5, 2025 at 20:10:41 PST

**To:** [daniel.lurie@sfgov.org](mailto:daniel.lurie@sfgov.org), [Board.of.Supervisors@sfgov.org](mailto:Board.of.Supervisors@sfgov.org), [bos@sfgov.org](mailto:bos@sfgov.org), [ChanStaff@sfgov.org](mailto:ChanStaff@sfgov.org), [connie.chan@sfgov.org](mailto:connie.chan@sfgov.org), [Chyanne.chen@sfgov.org](mailto:Chyanne.chen@sfgov.org), [chenstaff@sfgov.org](mailto:chenstaff@sfgov.org), [matt.dorsey@sfgov.org](mailto:matt.dorsey@sfgov.org), [DorseyStaff@sfgov.org](mailto:DorseyStaff@sfgov.org), [joel.engardio@sfgov.org](mailto:joel.engardio@sfgov.org), [engardiostaff@sfgov.org](mailto:engardiostaff@sfgov.org), [jackie.fielder@sfgov.org](mailto:jackie.fielder@sfgov.org), [fielderstaff@sfgov.org](mailto:fielderstaff@sfgov.org), [mahmoodstaff@sfgov.org](mailto:mahmoodstaff@sfgov.org), [Bilal.mahmood@sfgov.org](mailto:Bilal.mahmood@sfgov.org), [rafael.mandelman@sfgov.org](mailto:rafael.mandelman@sfgov.org), [MandelmanStaff@sfgov.org](mailto:MandelmanStaff@sfgov.org), [myrna.melgar@sfgov.org](mailto:myrna.melgar@sfgov.org), [melgarstaff@sfgov.org](mailto:melgarstaff@sfgov.org), [danny.sauter@sfgov.org](mailto:danny.sauter@sfgov.org), [sauterstaff@sfgov.org](mailto:sauterstaff@sfgov.org), [Stephen.sherrill@sfgov.org](mailto:Stephen.sherrill@sfgov.org), [sherrillstaff@sfgov.org](mailto:sherrillstaff@sfgov.org), [Shamann.Walton@sfgov.org](mailto:Shamann.Walton@sfgov.org), [waltonstaff@sfgov.org](mailto:waltonstaff@sfgov.org), [mayorspressoffice@sfgov.org](mailto:mayorspressoffice@sfgov.org)

**Subject: URGENT - Support 303 New Homes at 1101-1111 Sutter Street!**

Supervisors and members of the land use committee,

The Housing Action Coalition strongly supports the proposed housing project at 1101-1111 Sutter Street—a much-needed development that will bring 303 new homes to San Francisco, including 101 affordable units and a 4,000-square-foot child care center. This project is a vital step in addressing our city's severe housing shortage while improving the neighborhood with thoughtful design and community-focused amenities.

Why We Support This Project:

**More Homes for San Francisco:** The 22-story tower will add 303 homes, with 33% set aside as below-market-rate units, ensuring that working families, low-income residents, and essential workers can live in the heart of the city.

**Revitalizing Underutilized Land:** This project replaces a deteriorating structure with a modern, mixed-use building that includes a child care center, retail spaces, and welcoming open areas for the community.

**Sustainable, Walkable Neighborhoods:** The project includes landscaped courtyards, rooftop gathering spaces, wider sidewalks, better lighting, and more street trees—all designed to create a vibrant, transit-friendly, and environmentally conscious community.

This is exactly the type of smart, innovative housing development San Francisco needs to combat the housing crisis.

This is a much overdue project.

We urge city leaders to approve 1101-1111 Sutter Street without delay.

Please advise.

**From:** [John Avalos](#)  
**To:** [Carroll, John \(BOS\)](#)  
**Subject:** Fwd: Concerns: re: File # 240873 Inclusionary Housing Program  
**Date:** Wednesday, February 5, 2025 2:11:40 PM  
**Attachments:** [Conditioned Use of TC fr Inclusionary.pdf](#)

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Hi John,

Good to see you yesterday. I forgot to cc you on this letter to Melgar. Not sure if it should go in the legislative file for the record.

I will be sending another LUTC letter re: File # 2400927 later today or tomorrow.

Thanks,

John  
**JOHN AVALOS** (he/him/his)  
**Executive Director**  
Council of Community Housing Organizations  
[john@sfccho.org](mailto:john@sfccho.org)  
Phone: 415-359-8367  
Pronouns: He/Him/His



----- Forwarded message -----

From: **John Avalos** <[john@sfccho.org](mailto:john@sfccho.org)>  
Date: Tue, Jan 28, 2025 at 1:29 PM  
Subject: Concerns: re: File # 240873 Inclusionary Housing Program  
To: Melgar, Myrna (BOS) <[myrna.melgar@sfgov.org](mailto:myrna.melgar@sfgov.org)>, <[bilal.mahmood@sfgov.org](mailto:bilal.mahmood@sfgov.org)>, <[chyanne.chen@sfgov.org](mailto:chyanne.chen@sfgov.org)>  
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January 27, 2025

Supervisor Melgar, Chair Land Use and Transportation Committee

Supervisor Bilal Mahmood, LUT Member  
Supervisor Chyanne Chen, LUT Member

Dear Members of the Land Use Committee,

I am writing on behalf of the Council of Community Housing Organizations in regards to the Mayor's legislation to amend the Inclusionary Housing Ordinance (File # 240873). We urge the committee to ensure that we design this policy to protect the integrity of the inclusionary ordinance and avoid any unintended outcomes that could undermine our affordable housing pipeline.

We understand that the intent of this legislation is for the City to advance more market development projects which is part of our obligation under RHNA. Although it is suggested as part of the rationale, we don't see this legislation as a way to facilitate more affordable housing units. That's because the amount of additional affordable units above current requirements is negligible and will have a superficial impact on affordability. Although there is no direct investment that the city must pay, this legislation further enables public subsidies to advance market rate development and there is an opportunity cost for using tax exempt bond financing.

As such, we urge the Board to consider amendments that ensure this policy does not undermine the prioritization of public subsidy for 100% affordable projects. We believe this can be accomplished through three amendments:

- First, adding tighter language that determines how MOHCD manages the "queue" of applicants that seek to use these subsidies, making sure that market projects never jump the queue to displace any 100% affordable projects.
- Second, creating an ability to re-assess the program if conditions change, for example if it becomes more difficult in the future for 100% affordable projects to be awarded state CDLAC and TCAC funding. Currently, MOHCD reports that 100% affordable projects are being fully funded, but that may change, as has happened in the past, and if so, this will only intensify competition between market and 100% affordable projects.
- Third, if the city's goal in this legislation, as was explained by Planning staff, is to tie the requirement to the current inclusionary rate which can change over time, then we recommend that the City use the tried and tested standard that worked during our last recession, the post 2008 recession era. During that time, the CDLAC requirement was 33% greater than the underlying on-site requirement. This approach would be simple, straightforward, and reasonable, and would be durable through the ups and

downs of real estate cycles. It would ensure elasticity of the policy without undermining its integrity.

We look forward to working together with you as you consider this legislation and ways to ensure that it addresses our communities' concerns referenced above.

CC

Board of Supervisors President Rafael Mandelman

Mayor Daniel Lurie

Sincerely

**JOHN AVALOS** (he/him/his)

**Executive Director**

Council of Community Housing Organizations

[john@sfccho.org](mailto:john@sfccho.org)

Phone: 415-359-8367

Pronouns: He/Him/His





January 27, 2025

Supervisor Melgar, Chair Land Use and Transportation Committee  
Supervisor Bilal Mahmood, LUT Member  
Supervisor Chyanne Chen, LUT Member

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As such, we urge the Board to consider amendments that ensure this policy does not undermine the prioritization of public subsidy for 100% affordable projects. We believe this can be accomplished through three amendments:

- First, adding tighter language that determines how MOHCD manages the "queue" of applicants that seek to use these subsidies, making sure that market projects never jump the queue to displace any 100% affordable projects.
- Second, creating an ability to re-assess the program if conditions change, for example if it becomes more difficult in the future for 100% affordable projects to be awarded state CDLAC and TCAC funding. Currently, MOHCD reports that 100% affordable projects are being fully funded, but that may change, as has happened in the past, and if so, this will only intensify competition between market and 100% affordable projects.
- Third, if the city's goal in this legislation, as was explained by Planning staff, is to tie the requirement to the current inclusionary rate which can change over time, then we recommend that the City use the tried and tested standard that worked during our last



recession, the post 2008 recession era. During that time, the CDLAC requirement was 33% greater than the underlying on-site requirement.<sup>1</sup> This approach would be simple, straightforward, and reasonable, and would be durable through the ups and downs of real estate cycles. It would ensure elasticity of the policy without undermining its integrity.

We look forward to working together with you as you consider this legislation and ways to ensure that it addresses our communities' concerns referenced above.

Sincerely

A handwritten signature in black ink, appearing to read "John Avalos". The signature is fluid and cursive, with the first name "John" written in a larger, more prominent script than the last name "Avalos".

John Avalos  
Executive Director

CC  
Board of Supervisors President Rafael Mandelman  
Mayor Daniel Lurie

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<sup>1</sup> During the last economic recession, the city set a standard for what conditions market projects had to meet in order to utilize tax exempt CDLAC bonds. Just like now, the inclusionary requirement in and of itself was not preventing projects from moving forward, but rather the cost of money and other economic factors. Even eliminating inclusionary obligations did not make it feasible for development projects to move forward. At the time, the on-site inclusionary requirement was 15% and the city standard for developers to utilize CDLAC financing was that developers had to provide 20% inclusionary affordability. (That's an additional 33% over the baseline requirement). This standard proved effective and a number of projects were able to take advantage of tax exempt bonds and move forward and provided additional inclusionary units, including for example the Vida project on Mission and 14th, and the Potrero Launch project in the Dogpatch, both 20% affordable projects that moved only because they used tax-exempt bonds.

**From:** [Carroll, John \(BOS\)](#)  
**To:** [Lorna Walker](#)  
**Cc:** [Melgar, Myrna \(BOS\)](#); [Low, Jen \(BOS\)](#); [Chen, Chyanne \(BOS\)](#); [Sciammas, Charlie \(BOS\)](#); [Mahmood, Bilal \(BOS\)](#); [Cooper, Raynell \(BOS\)](#); [MelgarStaff \(BOS\)](#); [ChenStaff](#); [MahmoodStaff](#)  
**Subject:** FW: Please reject 1101-1123 Sutter Street Upsizing - BOS File No. 240873  
**Date:** Monday, February 3, 2025 1:39:00 PM  
**Attachments:** [1101 Sutter.pdf](#)  
[image001.png](#)

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Thank you for your comment letter.

I am forwarding your comments to the members of the LUT committee, and I will include your comments in the file for this ordinance matter.

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

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[Board of Supervisors File No. 240873](#)

**John Carroll**

**Assistant Clerk**

Board of Supervisors

San Francisco City Hall, Room 244

San Francisco, CA 94102

(415)554-4445



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form.

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation and archived matters since August 1998.

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**From:** Lorna Walker <sf.lorna@gmail.com>

**Sent:** Sunday, February 2, 2025 5:42 PM

**To:** ChenStaff <ChenStaff@sfgov.org>; MahmoodStaff <MahmoodStaff@sfgov.org>; MelgarStaff (BOS) <melgarstaff@sfgov.org>

**Cc:** Carroll, John (BOS) <john.carroll@sfgov.org>; Lurie, Daniel (MYR) <daniel.lurie@sfgov.org>

**Subject:** Please reject 1101-1123 Sutter Street Upsizing

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

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Good evening,

I am submitting the attached statement opposing Martin Building Company's proposal to increase the building height and density at 1101-1111 Sutter Street. For the reasons set forth in my statement, please reject this proposal.

Please feel free to contact me if you have any questions about my statement.

Best,  
Lorna Walker

**To: San Francisco Land Use Committee Members**

**From: Lorna Walker**

I strongly oppose the proposed housing project at 1101-1111 Sutter Street for the following reasons.

First, this developer should not benefit from delaying its original planned development. Martin Building (“Martin”) initially proposed to build a 14-story building in 2022, with construction to be complete by 2024.<sup>1</sup> It is now February 2025, and Martin has not even started construction. Rather, instead of starting construction, Martin seeks to take advantage of laws enacted after its plan was approved and upsize the building by 8 more stories, in complete disregard of local zoning laws and neighborhood compatibility. Martin should not benefit from its construction delay, which Sacramento uses to punish San Francisco, or be allowed to benefit retroactively from new laws. Rather, the City should mandate that Martin start construction immediately on its existing approved plans.

Second, there is no justification to approve this upsizing. Clearly, Martin is seeking this upsizing solely so it can sell more high-end condos and increase its profits. Martin should not benefit from its three-year construction delay by being allowed to make a higher profit.

Third, Sutter Street cannot sustain this excess upsizing, and this is exactly the type of ridiculous, oversized development that San Francisco needs to prevent. The City previously approved a 14-story proposed building, despite the fact that a 14-story building far exceeds the current height and density limitations, will tower over existing structures, and will forever change this neighborhood. There is absolutely no justification to further upsize the building to 22 stories, which is more than a 50% increase over the current 14-story proposal and a 400% increase over existing height limitations. As depicted in the photo below, the new proposal does not fit in the neighborhood and this type of development is not in an area designated for upsizing since it is not a major thoroughfare.

Fourth, the City can meet its housing needs by allowing smaller upsizing (no more than 1-4 stories above current zoning limitations), which will not destroy neighborhoods. These super-sized buildings are ridiculous and do nothing to reduce housing costs.

Please reject this proposal and show that San Francisco intends to stand up to the rich real estate developers who are upsizing San Francisco solely to become richer, with complete disregard to San Francisco residents. Our world-renowned City is loved because of its low building profiles and ability to feel the sun’s warmth while walking down our streets and we need to make sure that it stays a welcoming city. Please help protect San Francisco neighborhoods and reject the modification to the proposed 1101-1111 Sutter Street construction.

Lorna Walker (a San Francisco registered voter)

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<sup>1</sup> <https://skyscraperpage.com/forum/showthread.php?t=257789>









BOARD of SUPERVISORS



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## MEMORANDUM

LAND USE AND TRANSPORTATION COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Myrna Melgar, Chair  
Land Use and Transportation Committee

FROM: John Carroll, Assistant Clerk

DATE: February 10, 2025

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**  
Tuesday, February 11, 2025

The following file should be presented as COMMITTEE REPORT during the Board meeting on Tuesday, February 11, 2025. This ordinance was acted upon during the Land Use and Transportation Committee meeting on Monday, February 10, 2025, at 1:30 p.m., by the votes indicated.

**BOS Item No. 26**

**File No. 240873**

**[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 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.

**RECOMMENDED AS A COMMITTEE REPORT**

Vote: Supervisor Myrna Melgar – Aye  
Supervisor Chyanne Chen – Aye  
Supervisor Bilal Mahmood – Aye

Cc: Board of Supervisors  
Angela Calvillo, Clerk of the Board  
Alisa Somera, Legislative Deputy  
Brad Russi, Deputy City Attorney