

1 [Business and Tax Regulations Code - Public Realm Landscaping, Improvement and
2 Maintenance Assessment Districts]

3 **Ordinance amending the Business and Tax Regulations Code by adding Article 15A**
4 **“Public Realm Landscaping, Improvement and Maintenance Assessment Districts”**
5 **(“Green Benefit Districts”) to provide for establishment of assessment districts to**
6 **finance landscaping, improvements and maintenance of Public Realm areas (outdoor**
7 **spaces open to the public), including parks, parklets, sidewalks, unimproved areas,**
8 **landscaped areas, plazas, and gardens; to authorize the purchase of real property with**
9 **assessment funds, where property will be a Public Realm area and the district will**
10 **provide landscaping, improvements and/or maintenance; and making environmental**
11 **findings.**

12
13 **NOTE:** **Unchanged Code text and uncodified text** are in plain Arial font.
14 **Additions to Codes** are in *single-underline italics Times New Roman font*.
15 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
16 **Board amendment additions** are in double-underlined Arial font.
17 **Board amendment deletions** are in ~~strikethrough Arial font~~.
18 **Asterisks (* * * *)** indicate the omission of unchanged Code
19 subsections or parts of tables.

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

22 Section 1. This section is uncodified.

23 The Planning Department has determined that the actions contemplated in this
24 ordinance comply with the California Environmental Quality Act (California Public Resources
25 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
Supervisors in File No. 130462 and is incorporated herein by reference.

1 Section 2. The San Francisco Business and Tax Regulations Code is hereby amended
2 by adding Article 15A, to read as follows:

3
4 **ARTICLE 15A**

5 **PUBLIC REALM LANDSCAPING, IMPROVEMENT AND MAINTENANCE**

6 **ASSESSMENT DISTRICTS ("GREEN BENEFIT DISTRICTS")**

7
8 **SEC. 15A.1. PURPOSE.**

9 *(a) State law provides procedures to form property and business improvement districts and levy*
10 *assessments (California Streets and Highways Code Sections 36600 et seq.). This Article 15A provides*
11 *authority for the City to augment and modify those state law procedures to provide services,*
12 *improvements and activities, focused on landscaping, improvements and maintenance in Public Realm*
13 *areas, by authorizing the Board of Supervisors to do any of the following in conjunction:*

14 *(1) Reduce the percentage of petitions required from property owners in order to*
15 *initiate formation;*

16 *(2) Have the district encompass residential property, and to assess residential property,*
17 *including parcels zoned solely for residential use;*

18 *(3) Extend the term of the district to a maximum of 15 years, or such longer term as is*
19 *authorized by state law;*

20 *(4) Extend the term of the district to a maximum of 40 years, if all or a portion of the*
21 *assessments will be pledged or applied to pay any bond, financing lease (including certificates of*
22 *participation therein), or other similar obligations of the City;*

23 *(5) Recover through assessments the costs incurred in formation of the district; and,*

24 *(6) Disestablish a district upon a supermajority vote of the Board of Supervisors.*
25

1 In addition, this Article augments and modifies state law by: requiring the Clerk of the Board of
2 Supervisors to notify business owners in English, Cantonese and Spanish when a petition for district
3 formation is received; and providing for representation by stakeholders who do not own property in the
4 district (e.g., residents, business owners, neighborhood organizations) on the governing body of an
5 owners' nonprofit association that administers, implements or provides the services, improvements and
6 activities specified in the management district plan.

7 (b) Under this Article 15A, the Board of Supervisors may establish property and business
8 improvement districts that focus on landscaping, improvements and maintenance in Public Realm
9 areas, which may be financed through assessments apportioned among parcels of real property within
10 such districts. It is the intent of this Article to provide a vehicle for financing services, activities and
11 improvements that supplement and complement existing services and facilities. The Board of
12 Supervisors may not establish any district or levy any assessment under this Article to replace or
13 supplant existing City services. Nothing in this Article shall be construed as prohibiting the
14 establishment of districts or levying of assessments to finance local capital improvements that are
15 otherwise authorized under the City Charter, any other City ordinance, or state law.

16
17 **SEC. 15A.2. AUGMENTATION AND MODIFICATION OF STATE LAW**

18 **REQUIREMENTS GOVERNING PROPERTY AND BUSINESS IMPROVEMENT DISTRICTS.**

19 The Board of Supervisors may elect to use the procedures set forth in California Streets and
20 Highways Code Sections 36600 et seq. as augmented and modified by this Article 15A, for the
21 formation of property and business improvement districts and the levy of assessments on real property
22 to fund services, improvements and activities that confer benefits on property, including parcels zoned
23 solely for residential use, by focusing on landscaping, improvements and maintenance of Public Realm
24 areas.

25 (a) Definitions: of

1 (1) "Public Realm areas." As used in this Article 15A, Public Realm areas are outdoor spaces
2 open to the public that include but are not limited to parks, plazas, parklets, sidewalks, unimproved
3 areas, landscaped areas and gardens. Public Realm areas may be owned by public and/or private
4 entities or persons.

5 (2) "Ecological system." As used in this Article 15A, "ecological system" means a
6 system of living organisms and the physical environment those organisms inhabit. An
7 ecological system includes elements such as soil, geology, wildlife, vegetation, and
8 watersheds.

9 (3) "Recreational Improvements." As used in this Article 15A, "recreational
10 improvements" means improvements that will encourage recreational use, either by improving
11 current conditions (e.g., repairing a grass soccer field) or installation of new facilities (e.g.,
12 playground equipment).

13 (b) Petitions. Notwithstanding California Streets and Highways Code Section 36621(a) or any
14 other provision of state law to the contrary, the Board of Supervisors may initiate proceedings to
15 establish a property and business improvement district upon receipt of a petition signed by property
16 owners in the proposed district who will pay at least 30 percent of the assessments proposed to be
17 levied.

18 The amount of assessments attributable to properties owned by the same owner that is in excess
19 of 25 percent of all assessments proposed to be levied, shall not be included in determining whether the
20 petition is signed by the property owners who will pay the requisite 30 percent or more of the total
21 amount of assessments proposed to be levied.

22 (c) Term. Notwithstanding California Streets and Highways Code Section 36622(h) or any
23 other provision of state law to the contrary, the Board of Supervisors may form a district and levy
24 assessments:

1 (1) For a maximum term of up to 15 years, or such longer term as is authorized by state
2 law; or,

3 (2) For a maximum term of up to 40 years, if all or a portion of the assessments will be
4 pledged or applied to pay any bond, financing lease (including any certificates of participation
5 therein), or other similar obligations of the City. Such assessments may be pledged or applied to pay
6 such obligations commencing when the assessments are levied, or such later date as the Board of
7 Supervisors shall determine.

8 (d) Property Zoned Solely Residential. Notwithstanding California Streets and Highways Code
9 Section 36632(c) or any other provision of state law to the contrary, the Board of Supervisors may:

10 (1) Establish a district pursuant to this Article 15A that encompasses properties zoned
11 solely for residential use;

12 (2) Levy assessments upon such properties; and

13 (3) Authorize utilization of the assessments to fund services, improvements and
14 activities that benefit such properties.

15 (e) Under this Article 15A the Board of Supervisors may authorize:

16 (1) Assessment district services, improvements and activities consistent with California
17 Streets and Highways Code Sections 36600 et seq. that are focused on landscaping, improvements and
18 maintenance of Public Realm areas, notwithstanding any other provisions in Sections 36606, 36610, or
19 36613 or any other provision of state law to the contrary. Such services, improvements and
20 activities may include, but are not limited to, involvement with ecological systems, water and
21 energy systems, pedestrian and bicycle amenities, and recreational improvements.

22 (2) Use of assessment funds to purchase real property, in whole or in part, within or
23 contiguous to the District, where that property will be a Public Realm area and the district will provide
24 landscaping, improvements and/or maintenance of the area.

1 (f) Formation Cost Recovery. Notwithstanding any provision of state law to the contrary, the
2 Board of Supervisors may authorize a district formed pursuant to this Article 15A to recover through
3 assessments the costs incurred in forming the district, whether costs are generated by the City or by
4 others, including but not limited to:

5 (1) The costs of preparation of the management district plan and engineer's report
6 required by state law;

7 (2) The costs of circulating and submitting the petition to the Board of Supervisors
8 seeking establishment of the district;

9 (3) The costs of printing, advertising and the giving of published, posted or mailed
10 notices;

11 (4) The costs of engineering, consulting, legal or other professional services provided in
12 proceedings under this Article 15A or California Streets and Highways Code Sections 36600 et seq.;
13 and

14 (5) The costs of any ballot proceedings required by this Article 15A or other law for
15 approval of a new or increased assessment.

16 To recover these costs, the management district plan required pursuant to California Streets
17 and Highways Code Section 36622 shall specify the formation costs eligible for recovery through
18 assessments, the schedule for recovery of those costs, and the basis for determining the amount of the
19 additional assessment for recovery of such costs, including the maximum amount of the additional
20 assessment, expressed either as a dollar amount, or as a percentage of the underlying assessment.

21 (g) Disestablishment by Board of Supervisors Supermajority. Notwithstanding California
22 Streets and Highways Code Section 36670 or any other provision of state law to the contrary, the
23 Board of Supervisors may, by a supermajority vote of eight or more of its 11 members, notice a
24 hearing and initiate proceedings to disestablish a district for any reason. Where the Board of
25 Supervisors seeks to disestablish a district in circumstances not authorized under California Streets

1 and Highways Code Section 36670, both the resolution of intention to disestablish the district and any
2 final resolution to disestablish the district shall require a supermajority vote of no fewer than eight of
3 its 11 members.

4 (h) Disestablishment Limitation. Notwithstanding Section 15A.2(g) of this Article, California
5 Streets and Highways Code Section 36670, or any other provision of law, the Board of Supervisors may
6 not disestablish a district where there are any outstanding bond, financing lease (including any
7 certificates of participation therein), or other similar obligations of the City, payable from or secured
8 by assessments levied within the district.

9 (i) Public Financing. Notwithstanding California Streets and Highways Code Section 36640 or
10 any other provision of state law to the contrary:

11 (1) The Board of Supervisors may, in the resolution to establish the district, determine
12 and declare that any bond, financing lease (including any certificates of participation therein), or other
13 similar obligations of the City, shall be issued to finance the estimated costs of some or all of the
14 proposed improvements or activities described in such resolution, pursuant to the City Charter, City
15 ordinances or state law, as the Board may determine; and

16 (2) The amount (including interest) of any City bond, financing lease (including any
17 certificates of participation therein) or other similar obligations, may not exceed the estimated total of
18 (A) revenues to be raised from the assessments over the term of the district, plus (B) such other monies,
19 if any, to be available for such purpose, in each case determined as of the date such obligations are
20 issued or incurred.

21 (j) Management of District.

22 (1) Management by Owners' Nonprofit Corporation. If so provided by the
23 management district plan, the Board of Supervisors may contract with an existing or new owners'
24 nonprofit corporation (California Streets and Highways Code Section 36614.5) to administer or
25 implement services, improvements and activities specified in the management district plan

1 ("Management Contract"). If so, the management district plan shall ensure adequate
2 representation that on the governing body of the owners' nonprofit corporation;

3 (i) a majority (over 50%) are district assessees; and,

4 (ii) there is adequate representation of district stakeholders who do not own or have
5 an ownership interest in property located in the district, including residents, businesses, and
6 neighborhood organizations. Where warranted by the circumstances in a proposed district, the Board
7 of Supervisors in its discretion may require that the management district plan provide particular levels
8 of such business owner or other district stakeholder representation.

9 (2) Management by the City. Alternatively, if so provided by the management
10 district plan, the Board of Supervisors may authorize the City to administer or implement services,
11 improvements and activities specified in the management district plan by utilizing existing City
12 departments, including but not limited to the Department of Public Works and the Recreation and Park
13 Department, and/or by contracting out.

14 (3) Change of Management during Term of District. If so provided by the
15 management district plan, Mmanagement may change during the term of the district from an
16 owners' nonprofit association to the City, or from the City to an owners' nonprofit association, by
17 changing the parties to the Management Contract. Procedures for such a change shall be
18 specified in the management district plan, and may be further detailed in any Management
19 Contract.

20 (4) This subsection (j) shall not limit the authority of the Board of Supervisors to
21 require the incorporation of any other item or matter into the management district plan under
22 California Streets and Highways Code Section 36622(l) or other applicable law.

23 (k) Notice to Businesses in Three Languages. No fewer than 30 days after the Clerk of the
24 Board receives a complete petition seeking formation of a district pursuant to this Article 15A, the
25 Clerk shall mail notice to all businesses located within the proposed district holding a current

1 registration certificate issued by the Tax Collector. The notice shall be in English, Spanish and
2 Cantonese, and shall inform the recipients:

3 (1) That a petition for formation of a property and business improvement district has
4 been received;

5 (2) That if the district is formed, assessments will be levied against property in the
6 district;

7 (3) That formation of the district is subject to the approval of the Board of Supervisors
8 following public hearings and a ballot proceeding by owners of the property subject to the assessment;
9 and,

10 (4) How recipients may obtain further information about the petition and proposed
11 district.

12
13 **SEC. 15A.3. SEVERABILITY.**

14 If any provision of this Article 15A or the application thereof to any person or circumstance
15 shall be held invalid, such invalidity shall not affect any other provision or such other application of
16 such provision which can be given effect without such provision or application, and to this end the
17 provisions of this Article are declared to be severable.

18
19 **SEC. 15A.4. CITY PLANNING REFERRAL.**

20 (a) If a resolution of intent adopted pursuant to this Article 15A proposes to finance
21 acquisition, extension, widening, removal, relocation, vacation, abandonment, sale or change in the use
22 of any public way, transportation route, ground, open space, building, or structure which requires
23 referral to the Planning Department under Section 4.105 of the Charter, or any successor provision,
24 the resolution of intent shall be referred to the Planning Department for a report regarding conformity
25 with the General Plan.

1 **(b) If a resolution of intent is referred to the Planning Department pursuant to this Section, the**
2 **department shall make its report to the Board at or before the public hearing on the resolution of**
3 **formation to establish the District.**

4
5 **SEC. 15A.5. ASSESSMENT LIMITATION.**

6 **No amount proposed to be assessed upon any lot for the construction of any improvement or the**
7 **acquisition of any property for public use shall exceed one-half of the assessed value of the lot. The**
8 **total amount of all assessments levied on lots within the district for the construction or any**
9 **improvement or the acquisition of any property for public use shall not exceed one-half the assessed**
10 **value of all lots assessed or proposed to be assessed. Assessment amounts shall satisfy any further**
11 **limitations imposed by Section 1.20 of the Administrative Code and Part 5 of Division 4 of the**
12 **California Streets and Highways Code (Sections 2900 et seq.) or any preemptive successor statute.**

13
14 Section 3. ~~This section is uncodified.~~


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

19
20 Section 4. ~~This section is uncodified.~~

21 ~~In enacting this ordinance, the Board intends to amend only those words, phrases,~~
22 ~~paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or~~
23 ~~any other constituent parts of the Administrative Code that are explicitly shown in this~~
24 ~~ordinance as additions, deletions, Board amendment additions, and Board amendment~~
25 ~~deletions in accordance with the "Note" that appears under the official title of the ordinance.~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: 
Marie Corlett Blits
Deputy City Attorney

n:\leganas2013\1300304\00898471.doc



City and County of San Francisco

**Tails
Ordinance**

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 130462

Date Passed: February 11, 2014

Ordinance amending the Business and Tax Regulations Code, by adding Article 15A "Public Realm Landscaping, Improvement and Maintenance Assessment Districts" (Green Benefit Districts), to provide for establishment of assessment districts to finance landscaping, improvements, and maintenance of public realm areas (outdoor spaces open to the public), including parks, parklets, sidewalks, unimproved areas, landscaped areas, plazas, and gardens; to authorize the purchase of real property with assessment funds, where property will be a public realm area and the district will provide landscaping, improvements and/or maintenance; and making environmental findings.

June 13, 2013 Government Audit and Oversight Committee - CONTINUED TO CALL OF THE CHAIR

January 23, 2014 Government Audit and Oversight Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

January 23, 2014 Government Audit and Oversight Committee - RECOMMENDED AS AMENDED

February 04, 2014 Board of Supervisors - PASSED, ON FIRST READING

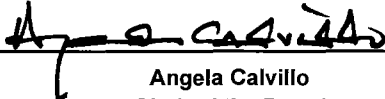
Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

February 11, 2014 Board of Supervisors - FINALLY PASSED

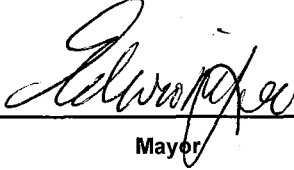
Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

File No. 130462

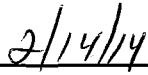
I hereby certify that the foregoing
Ordinance was FINALLY PASSED on
2/11/2014 by the Board of Supervisors of the
City and County of San Francisco.



Angela Calvillo
Clerk of the Board



Mayor



Date Approved