

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

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

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12 NOTE: Additions are *single-underline italics Times New Roman font*;
13 deletions are *strike-through italics Times New Roman font*.
14 Board amendment additions are double-underlined Arial font;
15 Board amendment deletions are ~~strikethrough Arial font~~.

15

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

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18 Section 1. This section is uncodified.

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

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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

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.

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.

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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.

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

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

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

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

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

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

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

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

3 (2) Levy assessments upon such properties; and

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

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

7 (1) Assessment district services, improvements and activities consistent with California
8 Streets and Highways Code Sections 36600 et seq. that are focused on landscaping, improvements and
9 maintenance of Public Realm areas, notwithstanding any other provisions in Sections 36606, 36610, or
10 36613 or any other provision of state law to the contrary.

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

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

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

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

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

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

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

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

11 (g) Disestablishment by Board of Supervisors Supermajority. Notwithstanding California
12 Streets and Highways Code Section 36670 or any other provision of state law to the contrary, the
13 Board of Supervisors may, by a supermajority vote of eight or more members, notice a hearing and
14 initiate proceedings to disestablish a district for any reason. Where the Board of Supervisors seeks to
15 disestablish a district in circumstances not authorized under California Streets and Highways Code
16 Section 36670, both the resolution of intention to disestablish the district and any final resolution to
17 disestablish the district shall require a supermajority vote of no fewer than eight members.

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

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

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

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

11 (j) Management of District.

12 (1) Management by Owners' Nonprofit Corporation. The Board of Supervisors may
13 contract with an existing or new owners' nonprofit corporation (California Streets and Highways Code
14 Section 36614.5) to administer or implement services, improvements and activities specified in the
15 management district plan ("Management Contract"). If so, the management district plan shall ensure
16 adequate representation on the governing body of the owners' nonprofit corporation of district
17 stakeholders who do not own or have an ownership interest in property located in the district, including
18 residents, businesses, and neighborhood organizations. Where warranted by the circumstances in a
19 proposed district, the Board of Supervisors in its discretion may require that the management district
20 plan provide particular levels of business owner or other district stakeholder representation.

21 (2) Management by the City. Alternatively, the Board of Supervisors may authorize the
22 City to administer or implement services, improvements and activities specified in the management
23 district plan by utilizing existing City departments, including but not limited to the Department of
24 Public Works and the Recreation and Park Department, and/or by contracting out.

1 (3) Change of Management during Term of District. Management may change during
2 the term of the district from an owners' nonprofit association to the City, or from the City to an owners'
3 nonprofit association, by changing the parties to the Management Contract. Procedures for such a
4 change shall be specified in the Management Contract.

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

8 (k) Notice to Businesses in Three Languages. No fewer than 30 days after the Clerk of the
9 Board receives a complete petition seeking formation of a district pursuant to this Article 15A, the
10 Clerk shall mail notice to all businesses located within the proposed district holding a current
11 registration certificate issued by the Tax Collector. The notice shall be in English, Spanish and
12 Cantonese, and shall inform the recipients:

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

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

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

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

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23 **SEC. 15A.3. SEVERABILITY.**

24 If any provision of this Article 15A or the application thereof to any person or circumstance
25 shall be held invalid, such invalidity shall not affect any other provision or such other application of

1 such provision which can be given effect without such provision or application, and to this end the
2 provisions of this Article are declared to be severable.

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

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

11 (b) If a resolution of intent is referred to the Department of City Planning pursuant to this
12 Section, the department shall make its report to the Board at or before the public hearing on the
13 resolution of intent.

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

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

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1 Section 3. This section is uncodified.

2 Effective Date. This ordinance shall become effective 30 days from the date of
3 passage.

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5 Section 4. This section is uncodified.

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

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

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16 By: _____
17 Marie Corlett Blits
Deputy City Attorney

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