

Amendment of the Whole
October 4, 2006.

FILE NO. 016320

Amendment of the Whole

ORDINANCE NO.

1 [Property and Business Improvement Districts.]

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3 **Ordinance amending Section 1511 of the San Francisco Business and Tax Regulations**
4 **Code to (1) allow the owners of businesses who would pay at least 30% of the**
5 **proposed assessment, or a combination of property owners and business owners who**
6 **would pay at least 30% of the proposed assessment, to petition the Board of**
7 **Supervisors to form a property and business improvement district, and (2) make**
8 **conforming and clarifying changes to the procedural and substantive augmentation of**
9 **state law governing the formation of property and business improvement districts.**

10 Note: Additions are *single-underline italics Times New Roman*;
11 deletions are ~~*strikethrough italics Times New Roman*~~.
12 Board amendment additions are double underlined Arial;
13 Board amendment deletions are ~~strikethrough Arial~~.

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

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16 **Section 1. The San Francisco Business and Tax Regulations Code is hereby**
17 **amended by amending Section 1511, to read as follows:**

18 Sec. 1511. SAN FRANCISCO PROCEDURAL AND SUBSTANTIVE
19 AUGMENTATION OF STATE LAW REQUIREMENTS GOVERNING PROPERTY AND
20 BUSINESS IMPROVEMENT DISTRICTS.

21 In forming assessment districts that will fund improvements and services that confer
22 special benefit on businesses, residential, commercial or residential and commercial property,
23 the Board of Supervisors may elect to use the procedures set forth in California Streets &
24 Highways Code Sections 36600 et seq. or may elect to use those procedures as modified
25 herein. The Board of Supervisors shall be bound by, and comply with, the applicable state

1 law governing the formation of property and business improvement and maintenance districts
2 in all other respects not inconsistent with this Article when forming an assessment district to
3 fund improvements and services that provide special benefits to businesses, commercial
4 and/or residential property.

5 (a) Notwithstanding Streets & Highways Code Section 36621(a) or any other
6 provision of state law, the Board of Supervisors may initiate proceedings to establish a
7 property and business improvement district upon receipt of a petition signed by property
8 owners, business owners, or a combination of property owners and business owners in the proposed
9 district who will pay at least 30 percent of the assessments proposed to be levied. The
10 amount of assessment attributable to property and businesses owned by the same ~~property~~
11 owner that is in excess of 40 percent of the amount of all assessments proposed to be levied,
12 shall not be included in determining whether the petition is signed by the property owners,
13 business owners, or combination of property owners and business owners, as the case may be, who will
14 pay the requisite percentage of assessments. Where the Board initiates proceedings
15 pursuant to this subsection, the Board shall conduct a protest ballot proceeding in accordance
16 with Article XIII D of the California Constitution notwithstanding any language to the contrary
17 ~~of~~ in Streets & Highways Code Section 36623.

18 (b) Notwithstanding Streets & Highways Code Section 36622(h) or any other
19 provision of state law, the Board of Supervisors may form a district authorized to levy
20 assessments for a maximum term of up to 15 years, except where a longer term is authorized
21 by state law.

22 (c) Notwithstanding Streets & Highways Code Section 36632(b) or any other
23 provision of state law, the Board of Supervisors may establish an assessment district pursuant
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1 to this Article that encompasses, and levies assessments upon, and funds improvements and
2 services that specially benefit, properties zoned for residential use.

3 (d) The Board of Supervisors may authorize an assessment district formed
4 pursuant to this Article to recover through assessments the costs incurred in forming the
5 district, including:

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

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

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

12 (4) Compensation of any engineer or attorney employed to render services in
13 proceedings under this Article or Streets & Highways Code Sections 36600 et seq.; and

14 (5) Costs associated with any ballot proceedings required by law for approval
15 of a new or increased assessment.

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

22 (e) Notwithstanding Streets & Highways Code Section 36670 or any other
23 provision of state law, the Board of Supervisors may, by a supermajority vote of eight or more
24 members, notice a hearing and initiate proceedings to disestablish for any reason a district
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1 formed after the effective date of this section. Where the Board of Supervisors seeks to
2 disestablish a district in circumstances not authorized under Streets & Highways Code
3 Section 36670, both the resolution of intention to disestablish the district and any final
4 resolution to disestablish the district shall be subject to a supermajority vote of eight or more
5 members. This paragraph shall not be applicable where the district has outstanding bonded
6 indebtedness.

7 (f) The management plan submitted for each proposed district to be funded by
8 assessments on property and subject to this Article shall set forth minimum requirements to
9 ensure adequate representation of business owners located within the district who do not
10 own, or have an ownership interest in, commercial property located within the district. Not
11 less than 20 percent of voting members of the governing body of the district shall be such
12 business owners. Where warranted by the circumstances in a proposed district, the Board of
13 Supervisors may require that the management plan provide a greater level of business owner
14 representation. This subsection shall not limit the authority of the Board of Supervisors to require
15 that any other item or matter be incorporated into the management district plan pursuant to Streets &
16 Highways Code Section 36622(l) or other applicable law.

17 (g) Not less than 30 days after the Clerk of the Board receives a complete
18 petition seeking formation of a district pursuant to this Article, the Clerk shall mail notice to all
19 businesses located within the proposed district holding a current registration certificate issued
20 by the Tax Collector. The notice shall be in English, Spanish and Cantonese, and shall inform
21 the recipients that (1) a petition for formation of a property and business improvement district
22 has been received; (2) if the district is formed, it would authorize assessments against
23 property and/or businesses in the district and (3) that formation of the district is subject to the
24 approval of the Board of Supervisors following public hearings and a vote by ~~persons~~ owners of
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1 *the property, businesses, or both*, subject to the assessment (~~*unless the petition was signed by*~~
2 ~~*persons responsible for over 50 percent of the assessment, and such vote is not required pursuant to*~~
3 ~~*Streets & Highways Code Section 36623*~~). The notice shall also describe how recipients may
4 obtain further information about the petition and proposed district.

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7 **Section 2. Application of Section 1511 amendments to any pending proposal(s)**
8 **to establish a district.** The amendments to Section 1511 of the San Francisco Business and
9 Tax Regulations Code set forth above in Section 1 shall apply to the formation of a property
10 and business improvement district, including a district for which the petition requesting
11 formation of the district was submitted to the Board of Supervisors prior to the effective date of
12 this ordinance, where, on or after the effective date of this ordinance: (1) the public hearing is
13 conducted; (2) tabulation of assessment ballots occurs (if mail ballot proceedings are used to
14 determine if there is majority protest to the proposed assessments); and, (3) the Board of
15 Supervisors adopts a resolution establishing the district and levying the assessments.

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

20 By: _____
21 Marie Corlett Blits
22 Deputy City Attorney