

LEGISLATIVE DIGEST

[Charter Amendment and Business and Tax Regulations Code - City Responsibility and Parcel Tax for Street Trees]

Describing and setting forth a proposal to the voters at an election to be held on November 8, 2016, to amend the Charter of the City and County of San Francisco to transfer responsibility for the maintenance of street trees to the City and establish a special fund primarily to pay for such maintenance and the maintenance of trees on San Francisco Unified School District property; and to amend the Business and Tax Regulations Code to add a special parcel tax primarily to fund the City's maintenance of street trees and the maintenance of trees on San Francisco Unified School District property; and to increase the City's appropriations limit by the amount of the parcel tax for four years from November 8, 2016; and to affirm the Planning Department's determination under the California Environmental Quality Act.

Existing Law

Section 805 of Article 16 of the Public Works Code currently makes it the duty of certain property owners whose properties abut on, front on, or are adjacent to a street tree to maintain that tree. These abutting property owners are also responsible for the care and maintenance of the sidewalk and sidewalk areas adjacent to the street trees.

Section 805 further provides that if a person suffers an injury or property damage as a result of the abutting property owner's failure to maintain a street tree or sidewalk as required, the injured person has a cause of action against the abutting property owner, and the abutting property owner must indemnify the City for any damages the City is required to pay as a result of any claim that results from an injury to a person or property as a result of the failure of the abutting property owner to maintain a street tree or sidewalk.

Amendments to Current Law

Effective July 1, 2017, this ordinance would add a provision to the City's charter to transfer to the City the responsibility for the maintenance of street trees, including any sidewalk damage caused by the tree's growth or root system. The charter provision would not: (1) affect the rights or responsibilities of the City or property owners with respect to the removal, establishment, or relocation of street trees; (2) prevent the City from entering into voluntary agreements with third parties for them to assume responsibility for street tree maintenance or continuing to abide by any such prior agreement; (3) prevent the City from imposing penalties or fees on persons who injure, damage, or destroy trees; or (4) relieve abutting property owners of their responsibility for the care and maintenance of the sidewalk areas adjacent to any street tree, other than the transfer to the City of the responsibility for sidewalk repairs related to the tree's growth or root system.

Under the proposed charter provision, abutting property owners would no longer be liable for injury or property damage to the extent that the injury or property damage was caused by the City’s failure to maintain a street tree under the new law. However, the City would not be responsible for any injury or damages related to the maintenance of a street tree if the injury or damages occurred as a result of the abutting property owner’s responsibility to maintain the street tree prior to July 1, 2017, or if the maintenance of such tree required that the City access private property, and the private property owner refused to grant access to the tree after the City’s good faith effort to obtain permission to access the tree.

To fund the City’s maintenance of the street trees and the removal of any street trees, this ordinance would add a provision to the City’s charter to create a general fund set-aside of \$8 million per year, adjusted annually by the percentage increase or decrease in the City’s discretionary revenues.

Also to fund the City’s maintenance of the street trees and the removal of any street trees, this ordinance would impose a parcel tax on each parcel in the City based on the number of linear feet of the parcel that is adjacent or tangent to a public right-of-way (“frontage”). The parcel tax would take effect on July 1, 2017, and would continue in effect through June 30, 2037, unless the charter provision transferring responsibility for the maintenance of street trees is repealed or is amended to transfer the maintenance of street trees to property owners, in which case the parcel tax would automatically expire. The parcel tax would be imposed at the following rates, adjusted annually in accordance with the consumer price index:

Frontage	Rate
Parcels with Less Than 25 Feet of Frontage, Including Parcels With No Frontage, and All Condominiums	\$29.50 per Parcel
Parcels with Frontage of 25 Feet or More But Less Than 150 Feet	\$1.42 per Linear Foot
Parcels with Frontage of 150 Feet or More	\$2 per Linear Foot, up to a maximum of \$5,000 per parcel per fiscal year

Parcels on which no ad valorem property tax is levied for the fiscal year would be exempt from the tax. Additionally, parcels in which an individual who is 65 years of age or older owns a beneficial interest and occupies the parcel as her or her principal residence would be exempt from the tax, as long as the property owner timely files the appropriate exemption application and documentation with the Tax Collector. The parcel tax would be collected by the Tax Collector on the City’s property tax bills.

In addition to funding the City's maintenance of street trees and removal of any street trees, the \$8 million general fund set-aside and parcel tax could also be used to make grants totaling up to \$500,000 annually to the San Francisco Unified School District exclusively to fund the maintenance and removal of trees on School District property. Neither the \$8 million general fund set-aside nor the parcel tax could be used to plant new trees.

Finally, this ordinance would increase the City's annual appropriations limit under Article XIII B of the California Constitution by the aggregate sum collected by the levy of the parcel tax.

Background Information

This legislative digest reflects amendments made in committee on June 8, 2016. The amendments added a \$5,000 cap on the parcel tax and made other non-substantive changes.

n:\legana\as2016\1600190\01111630.docx