

LEGISLATIVE DIGEST

[Initiative Ordinance - Business and Tax Regulations Code - Excise Tax on Keeping Parcels Last Used as Grocery Stores or Pharmacies Vacant or Using Them Differently]

Motion ordering submitted to the voters at an election to be held on November 3, 2026, an Ordinance amending the Business and Tax Regulations Code to impose an excise tax, commencing in tax year 2027, on persons keeping vacant or using differently parcels last used, in whole or in part, as formula retail grocery stores or formula retail pharmacies on or after January 1, 2017; and increasing the City's appropriations limit by the amount collected under the tax for four years from November 3, 2026.

Background

Access to affordable groceries and essential pharmacy services is fundamental to the health and well-being of all San Franciscans. San Francisco has experienced a significant and accelerating loss of formula retail grocery stores. And it has simultaneously experienced a severe loss of formula retail pharmacies.

The loss of a grocery store or pharmacy, unlike most commercial closures, eliminates residents' ready access to food and essential medications, necessities with no readily available market substitute, causing qualitatively greater and more immediate harm to surrounding communities than the vacancy of other commercial property, particularly for residents without vehicles or other means to travel.

Formula retail grocery stores and formula retail pharmacies typically occupy large commercial spaces with configurations that reflect the operational requirements of large chain operators and that present distinct re-tenanting challenges when vacated.

Amendments to Current Law

To address the unique issues the closure of formula retail grocery stores and formula retail pharmacies creates, the proposed measure would impose a tax on keeping certain former formula retail grocery stores or formula retail pharmacies vacant, or using those properties for other purposes.

The tax would apply only if the last use of any portion of the property of at least 365 consecutive days as of December 31, 2026, was as a former formula retail grocery store or formula retail pharmacy. And it would not apply if that former use terminated prior to January 1, 2017. These properties are referred to as "Covered Properties."

An owner or lessee that keeps a Covered Property vacant during a tax year would be subject to a tax of \$3 per square foot of lot area in the first year that the Covered Property is kept vacant, \$5 per square foot in the second year that the Covered Property is kept vacant, and \$10 per square foot for each subsequent year that the Covered Property is kept vacant.

For this purpose, a Covered Property is vacant if it is unoccupied, uninhabited, or unused for more than 182 days (or more than 183 days in a leap year), whether consecutive or nonconsecutive, in a tax year.

An owner or lessee that uses a Covered Property for any purpose other than as a grocery store or pharmacy for more than 182 days (or more than 183 days during a leap year), whether consecutive or nonconsecutive, in a tax year, would be subject to a one-time tax of \$5 per square foot of lot area. For all tax years after the tax year in which this tax on different use is paid, no person would be subject to either the vacancy tax or the tax on different use with respect to that Covered Property. And if a Covered Property is used as a new grocery store or pharmacy for more than 182 days (or more than 183 days during a leap year), whether consecutive or nonconsecutive, in a tax year, no person would be subject to either the vacancy tax or the tax on different use with respect to that Covered Property, even though no person paid the \$5 per square foot tax on different use with respect to the use of that Covered Property.

If a person receives a building permit for the repair, rehabilitation, or construction with respect to a Covered Property, all days within the three-year period following issuance of that permit would not count toward the property being vacant. This exclusion period would only apply to the first building permit issued to the taxpayer or any related person with respect to that Covered Property. Similarly, days within a two-year period following the date that a Covered Property was severely damaged and made unusable by a natural disaster would not count toward the property being vacant.

If a person purchases or leases a Covered Property in a tax year from an unrelated person and certifies that they intend to use the Covered Property as a grocery store or pharmacy, such person would be exempt from the proposed taxes for the tax year in which they purchased or leased the property and the following two tax years. Certain non-profit organizations would also be exempt from the tax.

The proposed tax would be deposited into the General Fund, and could be used for any governmental purposes. The Board of Supervisors could amend or repeal the ordinance, but only with a two-thirds vote and only as consistent with the California Constitution.

The proposed measure would increase the City's appropriation limit under Article XIII B of the California Constitution by the amount of tax this measure imposes.