

LEGISLATIVE DIGEST

(Amended at Board - 7/26/16 - Fourth Draft)

[Charter Amendment - City Responsibility for Maintaining 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, establish the Street Tree Maintenance Fund primarily to pay for such maintenance and the maintenance of trees on San Francisco Unified School District property, and require an annual contribution by the City to the Fund of \$19 million, adjusted annually for changes in aggregate discretionary City revenues; 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 \$19 million per year, adjusted annually by the percentage increase or decrease in the City's discretionary revenues.

In addition to funding the City's maintenance of street trees and removal of any street trees, the \$19 million general fund set-aside 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. The \$19 million general fund set-aside could not be used to plant new trees.

Up until January 1, 2017, the Mayor would have the one-time authority to terminate the set-aside immediately, based on his or her review of the City's financial condition.

Background Information

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

This legislative digest also reflects amendments made in committee on June 23, 2016. The amendments increased the tax rate for parcels with frontage of at least 25 feet but less than 150 feet from \$1.42 per linear foot of frontage to \$1.47 per linear foot of frontage. They also added a special tax calculation for parcels on corner lots in RH-1(D), RH-1, RH-1(S) and RH-2 Districts that would otherwise be subject to an annual tax of less than \$250, and made other, non-substantive changes.

This legislative digest also reflects amendments made at the Board of Supervisors on July 26, 2016. The amendments deleted the proposed parcel tax, increased the general fund set-aside from \$8 million to \$19 million, made other changes related to these revisions, and authorized the Mayor to terminate the set-aside before January 1, 2017, based on his or her review of the City's financial condition..

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