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## San Francisco Business and Tax Regulations Code

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## ARTICLE 15A: PUBLIC REALM LANDSCAPING, IMPROVEMENT AND MAINTENANCE ASSESSMENT DISTRICTS ("GREEN BENEFIT DISTRICTS")

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- Sec. 15A.1. Purpose.
- Sec. 15A.2. Augmentation and Modification of State Law Requirements Governing Property and Business Improvement Districts.
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**Editor's Note:**

*The sections of this Article are numbered out of sequence with the rest of this Code. Section 15 of this Code is codified in Article 1 above. The preceding Article 15 comprises sections numbered through 1515. The following Article 17 comprises sections beginning with 1700.*

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### SEC. 15A.1. PURPOSE.

(a) State law provides procedures to form property and business improvement districts and levy assessments (California Streets and Highways Code Sections 36600 *et seq.*). This Article 15A provides authority for the City to augment and modify those state law procedures to provide services, improvements and activities, focused on landscaping, improvements and maintenance in Public Realm areas, by authorizing the Board of Supervisors to do any of the following in conjunction:

- (1) Reduce the percentage of petitions required from property owners in order to initiate formation;
- (2) Have the district encompass residential property, and to assess residential property, including parcels zoned solely for residential use;
- (3) Extend the term of the district to a maximum of 15 years, or such longer term as is authorized by state law;
- (4) Extend the term of the district to a maximum of 40 years, if all or a portion of the assessments will be pledged or applied to pay any bond, financing lease (including certificates of participation therein), or other similar obligations of the City;
- (5) Recover through assessments the costs incurred in formation of the district; and,
- (6) Disestablish a district upon a supermajority vote of the Board of Supervisors.

In addition, this Article augments and modifies state law by: requiring the Clerk of the Board of

Supervisors to notify business owners in English, Cantonese and Spanish when a petition for district formation is received; and providing for representation by stakeholders who do not own property in the district (e.g., residents, business owners, neighborhood organizations) on the governing body of an owners' nonprofit association that administers, implements or provides the services, improvements and activities specified in the management district plan.

(b) Under this Article 15A, the Board of Supervisors may establish property and business improvement districts that focus on landscaping, improvements and maintenance in Public Realm areas, which may be financed through assessments apportioned among parcels of real property within such districts. It is the intent of this Article to provide a vehicle for financing services, activities and improvements that supplement and complement existing services and facilities. The Board of Supervisors may not establish any district or levy any assessment under this Article to replace or supplant existing City services. Nothing in this Article shall be construed as prohibiting the establishment of districts or levying of assessments to finance local capital improvements that are otherwise authorized under the City Charter, any other City ordinance, or state law.

(Added by Ord. [14-14](#), File No. 130462, App. 2/14/2014, Eff. 3/16/2014)

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## **SEC. 15A.2. AUGMENTATION AND MODIFICATION OF STATE LAW REQUIREMENTS GOVERNING PROPERTY AND BUSINESS IMPROVEMENT DISTRICTS.**

The Board of Supervisors may elect to use the procedures set forth in California Streets and Highways Code Sections 36600 *et seq.* as augmented and modified by this Article 15A for the formation of property and business improvement districts and the levy of assessments on real property to fund services, improvements and activities that confer benefits on property, including parcels zoned solely for residential use, by focusing on landscaping, improvements and maintenance of Public Realm areas.

### **(a) Definitions.**

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

(2) "Ecological system." As used in this Article 15A, "ecological system" means a system of living organisms and the physical environment those organisms inhabit. An ecological system includes elements such as soil, geology, wildlife, vegetation, and watersheds.

(3) "Recreational Improvements." As used in this Article 15A, "recreational improvements" means improvements that will encourage recreational use, either by improving current conditions (e.g., repairing a grass soccer field) or installation of new facilities (e.g., playground equipment).

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

The amount of assessments attributable to properties owned by the same owner that is in excess of 25 percent of all assessments proposed to be levied, shall not be included in determining whether the

petition is signed by the property owners who will pay the requisite 30 percent or more of the total amount of assessments proposed to be levied.

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

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

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

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

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

(2) Levy assessments upon such properties; and

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

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

(1) Assessment district services, improvements and activities consistent with California Streets and Highways Code Sections 36600 *et seq.* that are focused on landscaping, improvements and maintenance of Public Realm areas, notwithstanding any other provisions in Sections 36606, 36610, or 36613 or any other provision of state law to the contrary. Such services, improvements and activities may include, but are not limited to, involvement with ecological systems, water and energy systems, pedestrian and bicycle amenities, and recreational improvements.

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

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

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

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

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

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

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

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

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

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

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

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

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

(j) **Management of District.**

(1) **Management by Owners' Nonprofit Corporation.** If so provided by the management district plan, the Board of Supervisors may contract with an existing or new owners' nonprofit corporation (California Streets and Highways Code Section 36614.5) to administer or implement services, improvements and activities specified in the management district plan ("Management Contract"). If so, the management district plan shall ensure that on the governing body of the owners' nonprofit corporation:

(i) a majority (over 50%) are district assesses; and,

(ii) there is adequate representation of district stakeholders who do not own or have an ownership interest in property located in the district, including residents, businesses, and neighborhood organizations. Where warranted by the circumstances in a proposed district, the Board of Supervisors in

its discretion may require that the management district plan provide particular levels of such business owner or other district stakeholder representation.

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

(3) **Change of Management During Term of District.** If so provided by the management district plan, management may change during the term of the district from an owners' nonprofit association to the City, or from the City to an owners' nonprofit association. Procedures for such a change shall be specified in the management district plan, and may be further detailed in any Management Contract.

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

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

- (1) That a petition for formation of a property and business improvement district has been received;
- (2) That if the district is formed, assessments will be levied against property in the district;
- (3) That formation of the district is subject to the approval of the Board of Supervisors following public hearings and a ballot proceeding by owners of the property subject to the assessment; and,
- (4) How recipients may obtain further information about the petition and proposed district.

(Added by Ord. [14-14](#), File No. 130462, App. 2/14/2014, Eff. 3/16/2014)

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### **SEC. 15A.3. SEVERABILITY.**

If any provision of this Article 15A or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect any other provision or such other application of such provision which can be given effect without such provision or application, and to this end the provisions of this Article are declared to be severable.

(Added by Ord. [14-14](#), File No. 130462, App. 2/14/2014, Eff. 3/16/2014)

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

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

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

(Added by Ord. [14-14](#), File No. 130462, App. 2/14/2014, Eff. 3/16/2014)

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

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

(Added by Ord. [14-14](#), File No. 130462, App. 2/14/2014, Eff. 3/16/2014)

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## **ARTICLE 16: [RESERVED]**

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Ordinance 305-93, App. 09/24/1993, which added sections 1601—1616 of the S.F. Business and Tax Regulations Code, is not operational. Entitled "San Francisco County Transactions and Use Tax," the ordinance established and implemented a tax in the event that CA Senate Constitutional Amendment No. 1 ("SCA 1") failed to be approved at the November 2, 1993 state special election. In the November 1993 California election, the voters passed Proposition 172 ("SCA 1"), the Local Public Safety Protection and Improvement Act of 1993.