

[Public Works Code – Landmark Groves]

Ordinance amending Sections 802, 805, 806, 810 and 810A of the San Francisco Public Works Code to provide for the designation and protection of landmark groves of trees as well as individual trees; and making environmental findings.

NOTE: Additions are single-underline italics Times New Roman;
deletions are ~~strike through italics Times New Roman~~.
Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough normal~~.

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

Section 1. The San Francisco Public Works Code is hereby amended by amending Sections 802, 805, 806, 810 and 810A, to read as follows:

SEC. 802. DEFINITIONS.

Unless the context specifically indicates otherwise,

- (a) "Administrative cost" shall mean 20 percent of the Department's actual replacement cost, or a minimum of \$100, whichever is greater.
- (b) "City" shall mean the City and County of San Francisco.
- (c) "Community Boards" of San Francisco shall mean the neighborhood mediation/dispute settlement service established under the auspices of The Community Board Program, Inc.
- (d) "Department" shall mean the Department of Public Works of the City and County of San Francisco.
- (e) "Director" shall mean the Director of the Department of Public Works or the Director's designee.

(f) "Ex officio" shall mean a current employee of any City department, or California or federal agency whose appointment to the Urban Forestry Council has been approved by the Director of the Department of the Environment.

(g) "Grove" shall mean ~~a group of~~ ~~at least~~ three or more trees that function together ecologically, culturally, or aesthetically.

(h) "Hazard tree" shall mean any tree that poses an imminent hazard to person or property. The Director may determine that a tree is a hazard if it or any part of it: (1) appears dead, dangerous, or likely to fall, even after proper maintenance activities are performed to eliminate dead or dangerous parts; (2) obstructs or damages a street, sidewalk, or other existing structure; (3) harbors a serious disease or infestation threatening the health of other trees; (4) interferes with vehicular or pedestrian traffic; or (5) poses any other significant hazard or potential hazard, as determined by the Director; provided, however, that feasible measures have been applied to abate any such hazard, such as applicable maintenance activities listed in Section 802(o) of this Article. The Director's determination shall be in writing.

(i) ~~(g)~~ "Injure" or "injury" shall mean any act which harms or damages a tree, including but not limited to impact, cutting, carving, painting, transplanting, or knocking over, and includes but is not limited to the following: injurious attachment of any rope, wire, nail, advertising poster, or other contrivance to any tree subject to the provisions of this Article; intentionally or negligently allowing any gaseous, liquid, or solid substance that is harmful to a tree to come into contact with a tree; setting fire or intentionally or negligently permitting any fire to burn when such fire or the heat therefrom will injure any part of any tree; pruning which in and of itself will kill or cause a tree to decline; or severing of all or part of a tree.

(j) ~~(h)~~ "In-lieu fee" shall mean a fee deposited into the Adopt-A-Tree Fund and imposed by the Director. The in-lieu fee shall be equal to the replacement value of a tree(s) to be removed or trees that have been destroyed or as otherwise specified in Section 811. In

the case of trees required to be planted by Section 143 of the City Planning Code, yet excused under Section 143(d) of the Planning Code, the in-lieu fee shall be equal to the City's cost to plant and water a tree for three years. The minimum in lieu fee shall be \$1,489.00. Beginning with fiscal year 2007-2008, this fee shall be reviewed and adjusted each year in accordance with the procedures set forth in Public Works Code Section 2.1.2.

(k) ~~(#)~~ "Interested San Francisco organization" shall mean a San Francisco organization or individual that has made a written request to the Department for notification of proposed tree removals in a specified area(s) or neighborhood(s).

(l) *"Landmark grove" shall mean a group of trees so designated pursuant to Section 810 of this Article.*

(m) ~~(#)~~ "Landmark tree" shall mean a tree so designated pursuant to Section 810 of this Article.

(n) ~~(#)~~ "Landscape material" shall mean any tree, shrub, groundcover or other plant.

(o) ~~(#)~~ "Maintenance" shall mean those actions necessary to promote the life, growth, health, or beauty of a tree. Maintenance includes both routine and major activities. "Routine maintenance" shall include adequate watering to ensure the tree's growth and sustainability; weed control; removal of tree-well trash; staking; fertilizing; routine adjustment and timely removal of stakes, ties, tree guards, and tree grates; bracing; and sidewalk repairs related to the tree's growth or root system pursuant to Section 706 of this Code. "Major maintenance" shall include structural pruning as necessary to maintain public safety and to sustain the health, safety, and natural growth habit of the tree; pest and disease-management procedures as needed and in a manner consistent with public health and ecological diversity; replacement of dead or damaged trees. Pruning practices shall be in compliance with the most recent edition of the International Society of Arboriculture ~~Arboriculture~~ Best Management Practices and ANSI Pruning Standards, whichever is more protective of tree preservation.

~~(p) "Management plan" describes how the benefits provided by the grove will be preserved. The management plan should include routine maintenance activities, pruning guidelines and frequency parameters to make determinations on future tree removal, when trees will be planted within the grove, which species will be planted or how species will be chosen and how future planting locations will be determined, and parameters for tree protection planning for any future major landscaping work.~~

~~(p) Management Plan. Future management of the grove must be consistent with this plan, and the future management of the grove will be subject to the Department of Public Works staff approval. The management plan should describe how the benefits provided by the grove will be preserved. The management plan should include routine maintenance activities, pruning guidelines and frequency parameters to make determinations on future tree removal, when trees will be planted within the grove, which species will be planted or how species will be chosen and how future planning locations will be determine, and parameters for tree protection planning for any future major landscaping work.~~

~~(p) (m)(q)~~ "Median strip" shall mean the dividing area in the public way between opposing lanes of vehicular traffic.

~~(q) (r)(r)~~ "Notice" shall mean written notice by personal delivery or by mailing, either by letter or postal card, postage prepaid to the last known address as the same appears on the City's most recent assessment rolls.

~~(o) "Hazard tree" shall mean any tree that poses an imminent hazard to person or property. The Director may determine that a tree is a hazard if it or any part of it: (1) appears dead, dangerous, or likely to fall, even after proper maintenance activities are performed to eliminate dead or dangerous parts; (2) obstructs or damages a street, sidewalk, or other existing structure; (3) harbors a serious disease or infestation threatening the health of other trees; (4) interferes with vehicular or pedestrian traffic; or (5) poses any other significant hazard or potential hazard, as determined by the Director; provided, however, that feasible measures have been applied to abate any such hazard, such as~~

Comment [A1]: Should the management plan match what is in the October 4 Designation criteria document as follows or stay as is? Oct 4 info: Landmark Grove nominations must be submitted with a defined management plan that relates to the conditions that support the grove's landmarkable characteristics, based on the designation criteria. For example, should a nominator seek to landmark a grove based on its ecological contributions, the defined management plan must seek to continue to support the ecological contributions that the grove provides.

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~~applicable maintenance activities listed in Section 802(l) of this Article. The Director's determination shall be in writing.~~

~~(r)~~ ~~(p)~~ ~~(s)~~ "Person" shall mean any individual, firm, partnership, association, corporation, company, or organization of any kind.

~~(s)~~ ~~(q)~~ ~~(t)~~ "Planting" shall mean putting or setting into the ground or into a container to grow and irrigating until self-sufficient.

~~(t)~~ ~~(r)~~ ~~(u)~~ "Removal" shall mean any intentional or negligent moving, carrying away, elimination or taking away of part or all of a tree.

~~(u)~~ ~~(s)~~ ~~(v)~~ "Replacement value" shall mean the actual cost to the Department of replacing a tree or landscape material removed or destroyed with a comparable size and species of tree or with comparable landscape material. Certain trees or landscape material, because of their size, species or historical significance, cannot be replaced from available nursery stock. In such case, "replacement value" shall be determined pursuant to the valuation formula adopted by the International Society of Arboriculture, as amended from time to time, plus the Department's actual costs to replace the tree. "Replacement value" shall include the Department's administrative costs.

~~(v)~~ ~~(t)~~ ~~(w)~~ "Sidewalk" shall mean the area between the curbing and the abutting private property lot line, whether paved or unpaved, as legislated by the Board of Supervisors and as reflected in the Department's official maps.

~~(w)~~ ~~(t)~~ ~~(x)~~ "Significant Tree" shall mean a tree so defined in Section 810A of this Article.

~~(x)~~ ~~(t)~~ ~~(y)~~ "Street" shall mean the vehicular travel-way portion of any public street, avenue, boulevard, lane, road, parkway, freeway, or other public way.

~~(y)~~ ~~(w)~~ ~~(z)~~ "Street tree" shall mean any tree growing within the public right-of-way, including unimproved public streets and sidewalks, and any tree growing on land under the jurisdiction of the Department.

~~(z)~~ ~~(x)~~ (aa) "Tree" shall mean any large perennial plant having a woody trunk(s), branches, and leaves. Trees also shall include palm trees.

~~(aa)~~ ~~(z)~~ (bb) "Urban forest" shall mean all trees on public streets and rights-of-way within the borders of the City and County of San Francisco, any trees growing on land subject to the jurisdiction of the Department, and any other trees subject to the provisions of this Article.

~~(bb)~~ ~~(z)~~ (cc) "Urban Forestry Council" shall mean the Urban Forestry Council as established under the Environment Code Chapter 12.

SEC. 805. RESPONSIBILITY FOR MAINTENANCE OF STREET TREES.

(a) **Responsibilities of Property Owners.** Except as specified in Subsections 805(b) and (c) below, it shall be the duty of owners of lots or portions of lots immediately abutting on, fronting on or adjacent to any street tree to maintain such street tree. This duty shall include both routine and major maintenance of the street tree. It shall be the responsibility of all public agencies, including City, State and federal agencies, to maintain street trees abutting on such public agency's property in accordance with this Section. In addition, and in accordance with Section 706 of this Code, abutting property owners shall be responsible for the care and maintenance of the sidewalk and sidewalk areas adjacent to any street tree.

Any person who suffers injury or property damage as a legal result of the failure of the owner to so maintain a street tree, sidewalk and sidewalk areas shall have a cause of action for such injury or property damage against such property owner. In addition to its rights under Section 706 of this Code, the City and County of Sand Francisco shall have a cause of action for indemnity against such property owner for any damages the City may be required to pay as satisfaction of any judgment or settlement of any claim that results from injury to persons or

property as a legal result of the failure of the owner to maintain a street tree in accordance with this Section.

The Department shall have available to interested persons, upon request, public pruning standards to ensure that street trees receive proper care.

(b) **Responsibilities of the Department.** The Department may, at the Director's discretion, determine to undertake the regular routine and/or major maintenance of certain street trees or corridors of street trees to promote consistency in the maintenance of trees or in the public interest. Where the Department determines to undertake such regular maintenance of street trees, the Director shall specify in writing by Departmental Order those trees or corridors of trees for which it has undertaken maintenance responsibility and shall specify in writing whether the Department will be responsible for routine or major maintenance, or both. Such determinations by the Department shall be readily accessible to property owners and members of the public. Where the Department has undertaken certain maintenance responsibility for street trees in writing, the abutting property owner shall be relieved of responsibility for such street tree maintenance.

Where the Department assumes maintenance responsibilities after the effective date of this Article, it shall send written notice of that fact to the abutting property owner.

(c) **Street Tree Establishment and Replacement of Dead Street Trees.**

(1) **Establishment of Street Trees.** The establishment period for newly planted street trees shall be three years from the date of planting. If the street tree is not adequately established at the end of this period, the Director shall treat this as an injury to the tree, as defined in Section ~~802(i)~~ ~~802(e)~~, and may seek penalties for violation, as set forth in Section 811. The Director may establish rules, regulations, or any other form of written guidelines concerning standards for proper care and maintenance during the establishment period.

(2) **Replacement of Dead Street Trees.** The permittee or agency responsible for a street tree shall replace a dead street tree within six months of the demise or removal of the tree. Removal of a dead street tree and planting of a replacement street tree shall be subject to all requirements set forth in this Article for removal and planting. The Director is authorized to waive this replacement requirement and may place conditions on any such waiver, which may include, but is not limited to, replacement planting at an alternate location or payment of the in-lieu fee. Any such waiver shall be in writing.

(d) **Department Inventory and Publication of Street Tree Responsibilities.** The Department shall use its best efforts to maintain an inventory of all trees under its jurisdiction.

As of the effective date of this Article, the Department shall continue to maintain street trees listed in its database as Department-maintained trees. Such information shall be made available to the public upon request.

Within 120 days of the effective date of this Article, the Department shall publish in a newspaper of general circulation in the City a list of all trees or corridors of trees maintained by the Department.

(e) **Department Relinquishment of Street Tree Maintenance.** The Director may, in his or her discretion, determine to relinquish tree maintenance responsibilities for certain trees or corridors of trees. Prior to such relinquishment, the Director shall post the affected trees and send notice to abutting property owners of the Department's intent to relinquish maintenance responsibilities on a date certain. Within 10 days of the posting and mailing of such notice, any affected property owner may object in writing to such relinquishment. At the written request of any person, the Director will hold a hearing prior to relinquishing maintenance responsibility for a particular tree or corridor of trees. The Director's decision on such relinquishment shall be final and nonappealable.

Prior to relinquishing maintenance responsibilities, the Department shall perform all necessary major tree maintenance. As of the date designated by the Director, all tree maintenance and tree-related maintenance shall be the responsibility of the abutting property owner.

SEC. 806. PLANTING AND REMOVAL OF STREET TREES.

(a) Planting and Removal by the Department.

(1) **Planting.** The Department may determine to plant a new climate appropriate tree(s) in a sidewalk or public right-of-way. When the Department determines to plant a new street tree(s), the Department will undertake maintenance responsibility for such new street tree and shall send a courtesy notice to the abutting property owner prior to planting such new tree. Any objections to the proposed work must be submitted to the Director in writing and postmarked within 30 days after notice by the Director. The Director shall consider such objections and may hold a hearing, in the Director's discretion. The Director's decision on the matter shall be final and nonappealable.

(2) **Removal of Street Trees.** No street tree shall be cut down or removed by the Department unless:

(A) The Department gives 30 days' prior written notice to the owner of the property abutting the affected tree; and

(B) Thirty days prior to the removal date, the Department notifies all interested San Francisco organizations and, to the extent practical, all owners and occupants of properties that are on or across from the block face where the affected tree is located. In addition, 30 days prior to the removal date, the Department shall post a notice on the affected tree.

(3) Appeal of Tree Removal.

(A) If within 30 days after the giving of notice for street tree removal, as specified in Subsection (a)(2), or if within 15 days after the giving of notice for removal of a hazard street tree, as specified in Subsection (a)(4), any person files with the Department written objections to the removal, the Director shall hold a hearing to consider public testimony concerning the proposed tree removal. Written notice of the date, time and place of the hearing shall be posted on the affected tree, provided in a newspaper of general circulation, and sent to the objecting party, the owner of the property abutting the affected tree, and all interested San Francisco organizations, not less than seven days prior thereto.

(B) The Director shall issue his or her written decision and order on the objections after the public hearing specified above.

(C) The Director's decision shall be final and appealable to the Board of Appeals.

(4) Removal of Hazard Street Trees.

(A) No hazard street tree shall be cut down or removed by the Department unless:

(i) The Department gives 15 days' prior written notice to the owner of the property abutting the affected tree; and

(ii) Fifteen days prior to the removal date, the Department notifies all interested San Francisco organizations and, to the extent practical, owners and occupants of properties that are on or across the block face where the affected tree is located. In addition, 15 days prior to the removal date, the Department shall post a notice on the affected tree.

(B) Hazard street tree shall have the same meaning as "hazard tree" in Section ~~802(h)~~ ~~802(e)~~ except that a hazard street tree is located within the public right-of-way and is the maintenance responsibility of the Department.

(5) **Emergency Removal.** In the case of manifest danger and immediate necessity, as determined by the Director, the Department may remove any street tree immediately. After such emergency removal, the Department shall provide notice of the necessity for such action to the owner of the property abutting the affected tree, all interested San Francisco organizations and, to the extent practical, all owners and occupants of properties that are on or across from the block face where the affected tree was removed.

(b) **Planting and Removal by Persons Other Than the Department.**

(1) **Planting and Removal Permits.** It shall be unlawful for any person to plant or to remove any street tree without a valid permit for such work issued by the Department. All permits for the planting or removal of street trees issued by the Director for residential properties shall be recorded on the Report of Residential Building Records in accordance with Section 351 of the Housing Code. All work associated with a street tree permit must be completed within six months of issuance, unless an extension has been granted by the Department.

(2) **Planting.** An abutting property owner who desires a permit to plant a street tree shall apply to the Department on the designated form. If approved by the Director, a permit to plant the specified climate appropriate species of tree(s) shall be issued to the applicant. There shall be no administrative fee imposed for a permit to plant a street tree unrelated to property development. The Director's decision on a street tree planting permit shall be final and appealable to the Board of Appeals.

(3) **Removal.**

(A) An abutting property owner who desires a permit to remove a street tree shall apply to the Department on the designated form. The Department may grant or deny the permit in accordance with the following procedures and requirements. If the Department grants a tree removal permit, it shall require that a street tree or trees of

equivalent replacement value to the one removed be planted in the place of the removed tree or impose an in-lieu fee unless it makes written findings detailing the basis for waiving or modifying this requirement.

(i) **Removal Fees.** The fee for a permit to remove 1-3 street trees shall be \$607.00 when the permit is requested to allow for development or construction; the fee for a permit to remove 1-3 street trees shall be \$300.00 when the permit is requested to remove a hazard or a diseased tree or to prevent damage to the sidewalk; the fee for a permit to remove 4-9 street trees shall be \$808.00; and the fee to remove 10 or more street trees shall be \$1,214.00.

(ii) **Additional Fees.** In instances where administration or processing of any application is or will exceed the fee amount established pursuant to subsection (i), the Director, in his or her discretion, may require an applicant or permittee to pay a sum in excess of the subject fee amounts. This additional sum shall be sufficient to recover actual costs that the Department incurs and shall be charged on a time and materials basis. The Director also may charge for any time and materials costs that other agencies, boards, commissions, or departments of the City, including the City Attorney's Office, incur in connection with the processing or administration of a particular application. Whenever additional fees are or will be charged, the Director, upon request of the applicant or permittee, shall provide in writing the basis for the additional fees or an estimate of the additional fees to be charged.

(iii) **Fee Review and Adjustment.** Beginning with fiscal year 2010-2011, the fees that are established herein shall be reviewed and adjusted each year in accordance with the procedures set forth in Public Works Code Section 2.1.2.

(B) Thirty days prior to the removal date, the Department shall give notice to all interested San Francisco organizations and, to the extent practicable, the owners

and occupants of properties that are on or across from the block face or adjacent to where the affected tree is located. In addition, 30 days prior to the removal date, the Department shall post a notice on the affected tree. If within 30 days after the giving of such notice any person files with the Department written objections to the removal, the Director shall hold a hearing prior to removing the tree. Written notice of the date, time and place of the hearing shall be posted on the affected tree and sent to the objecting party and all interested San Francisco organizations not less than seven days prior thereto.

(C) The Director shall issue his or her written decision and order on the objections after the public hearing specified above.

(D) The Director's decision shall be final and appealable to the Board of Appeals.

(c) Planting and Removal by City Agencies, Commissions, or Other Departments. If a City agency, commission, or department other than the Department of Public Works desires to plant or remove a street tree, such agency, commission, or department shall be subject to the provisions of Subsection (b); provided, however, that for purposes of street tree removal, the notice and procedures for Director's hearings set forth in Subsections (a)(2) and (a)(3) shall apply.

SEC. 810. LANDMARK TREES AND GROVES.

(a) Designation Criteria.

(1) The following criteria shall govern the designation of landmark trees:

(A) Structure/physical characteristics. The tree presents a structural or physical presence that is exceptional. Also includes ~~the age, size, or rarity~~ species of the tree. ~~The overall health and condition of the tree is considered, particularly whether the tree is rare, is of significantly advanced age for the species, and the overall health and condition of the tree.~~

(B) Ecological interaction and contribution. ~~The ecological interaction and environmental contributions of the tree: The ecological contribution of the tree is exceptional or the tree positively affects the surrounding environment in a superlative manner, include: If the tree is part of an including whether the tree is a prominent landscape feature, is part of an interdependent group of trees or exists in an area with low tree density or if it provides important , has a traffic calming effect, or provides important wildlife habitat or environmental mitigation; The ecological contribution of the tree is exceptional or the tree positively affects the surrounding environment in a superlative manner.~~

(C) Cultural or historical value. ~~The noteworthy cultural or historical value of the tree: including whether it reflects the character or a unique time or event moment in the history of the neighborhood or the city, if it is of particular value to certain cultural or ethnic groups in the city, if it contributes significantly to or is representative of neighborhood character, and includes accessibility and utility to the public; and~~

(D) Aesthetic contribution. ~~The extraordinary aesthetic qualities contribution of the tree: including whether or not the tree is visible or accessible from public property, if the tree is of distinguished form or is is of notable size compared to other trees of the species in San Francisco, is of distinguished form or is a good example of form for its species, or has a majestic or otherwise unique structure, or is a prominent landscape feature.~~

~~The Board of Supervisors in Resolution No. 440-06, Clerk of the Board of Supervisors File No. 060487, adopted uniform criteria for the designation of landmark trees, which included consideration of the age, size, shape, species, location, historical association, visual quality, and other contribution to the City's character, as set forth Section 810(f)(4)(A) (E) below. This designation criteria, which may be amended from time to time, shall apply to all trees within the territorial limits of the City and County of San Francisco.~~

(2) The following criteria shall govern the designation of landmark groves:

(A) The age, size, or species of the trees, particularly whether they exhibit exceptional-exemplary characteristics in this regard;

(B) The ecological interaction and contribution of the trees, including whether they function together to provide an ecological contribution notably greater than the sum of the parts or whether their natural processes are inextricably linked to each other, and whether this interaction is of exceptional value to the city;

(C) The ~~noteworthy~~ cultural or historical value of the grove, including whether it reflects in an exemplary way the character or a unique moment in the history of the neighborhood or the city; if it is of particular value to certain cultural or ethnic groups in the city; if it contributes significantly to or is representative of neighborhood character; and

(D) The aesthetic contribution of the grove, including whether or not the trees function together to create a "sense of place," that is, a unique or distinct visual character of extraordinary quality.

(b) Designation Process.

(1) **Nominations.** A tree or grove may be nominated for designation as a landmark ~~tree~~ by any of the following parties: (i) the property owner whose property contains the subject tree or grove by a written request to the Urban Forestry Council; (ii) the Board of Supervisors, Planning Commission, or Historic Preservation Commission ~~Landmarks Preservation Advisory Board~~ by adoption of a resolution of intent to nominate a tree or grove for landmark status; or (iii) the director of any City agency or department by filing a nomination letter with the Urban Forestry Council. Each tree or grove nominated for landmark ~~tree~~ status shall be the subject of a separate individual nomination.

(2) Content of Nominations.

(A) Nominations shall be made in writing to the Urban Forestry Council and shall include the basis for the nomination, which may address one or more of the adopted

designation criteria, including the factors listed below in **Section 810(f)(4)(A)-(E)** (*City Att'y to check all ref numbers jibing?*) below; the lot, assessor's block, and street address of the subject property; one or more pictures of the tree *or grove*; and any other information that the nominating property owner or entity believes would be pertinent to the nomination.

(B) A nomination of a landmark grove must also (shall? Ask City Att'y) include a tree-by-tree inventory, in which case only noted trees would be included within the designation, or by identification of a bounded area of defined management, in which case any trees within the boundaries would be included in the designation. In either case, the nomination must include an initial tree inventory and an area map showing the location of the grove. Landmark grove nominations must also include a defined management plan for the grove that relates to the conditions justifying the grove's designation as a landmark and the designation criteria adopted by the Board of Supervisors.

(3) Urban Forestry Council Hearing and Determination. The Urban Forestry Council shall hold a public hearing on a completed nomination request, and shall determine whether the tree *or grove* qualifies as a landmark ~~tree~~ pursuant to the adopted designation criteria. After the conclusion of the public hearing, the Urban Forestry Council shall adopt written findings that specify the basis for its decision to approve or reject the nomination and shall forward these findings to the applicant for the nomination and the affected property owner. If the Urban Forestry Council determines that the subject tree *or grove* meets the adopted designation criteria, it shall forward said decision to the Director, as to a tree *or grove* on private property, or to the subject City agency, commission or department, as to a tree *or grove* on City-owned property. If the Urban Forestry Council rejects the nomination, the Council shall not accept a new request for the subject tree *or grove* for three years from the date of its decision. If the Urban Forestry Council determines that a tree *or grove* qualifies as a landmark ~~tree~~, its written findings on the nomination, along with any recommendations of relevant City agencies, commissions or departments, shall be forwarded

Comment [A2]: Should any of the information from the Landmark Groves designation criteria be revised here? The Landmark Grove shall be defined as follows:

Through a distinct tree-by-tree inventory, where only noted trees are included within Landmark Grove designation and protection.

This will require:

- 1) an area map showing the grove location and boundaries
- 2) a tree inventory, and
- 3) a defined management plan

Landmark Grove nominations must be submitted with a defined management plan that relates to the conditions that support the grove's landmarkable characteristics, based on the designation criteria described above. For example, should a nominator seek to landmark a grove based on its ecological contributions, the defined management plan must seek to continue to support the ecological contributions that the grove provides.

to the Board of Supervisors for its consideration pursuant to Section 810(b)(4) of this Article. If the Urban Forestry Council fails to forward said findings to the Board of Supervisors within 120 days (sufficient time?) of the Urban Forestry Council's receipt of the nomination request, the Board of Supervisors may, in its discretion, schedule a public hearing on the nomination, in which event, the failure of the Urban Forestry Council to forward said findings within the 120 day period shall constitute its approval of the nomination.

(A) If the nominated tree or grove is on private or public property, the Council shall provide mailed notice of the hearing to the subject property owner and all property owners adjoining the subject property where the tree is located at least seven (7) days prior to its hearing. The Council, in its discretion, also may provide delivered notice of the hearing to residents adjoining the subject property, posted notice, or both.

(B) If the subject property exceeds one (1) acre in size, the Council shall provide posted notice in lieu of the mailed notice. Such notice shall be posted on at least two locations on each block face(s) tangent to the subject property at least seven (7) days prior to its hearing.

(C) If the Council either delivers or posts notice in accordance with these provisions, staff assigned to this task shall sign an affidavit, accompanied with any supporting material, stating when and where the notice was delivered or posted.

(4) **Designation.** Upon the recommendation of the Urban Forestry Council, the Board of Supervisors, by ordinance, may designate as a "landmark tree" or "landmark grove" any tree or grove within the territorial limits of the City and County of San Francisco that meets the adopted designation criteria, or may rescind such designations. If the Urban Forestry Council does not issue findings in a timely manner pursuant to Subsection (b)(3), the Board of Supervisors shall adopt its own findings as part of the designation of a landmark tree or grove.

(c) Landmark Tree or Grove Designation Recorded Notice and Official Book.

Upon Board of Supervisors designation of a landmark tree or grove, the Department or affected agency shall record a notice on the subject property concerning the landmark tree or grove. The Department also shall record the landmark tree or grove designation in an official book entitled Landmark Trees and Groves. If the landmark tree or grove is ~~a street tree~~ under the maintenance responsibility of the Department, the Department shall record the landmark tree designation in a separate section of the Landmark Trees and Groves ~~Tree~~ book that is reserved for those landmark trees or groves under the maintenance responsibility of the Department. The Department shall maintain this book for public review and update it on a regular basis with the assistance of affected agencies.

(d) Temporary Designation of Landmark Tree or Grove Status.

(1) At the time a member of the Board of Supervisors introduces a resolution of intent to initiate a nomination and submits to the Clerk of the Board of Supervisors the information required for a landmark tree or grove nomination request as set forth in Section 810(b)(2), the subject tree or grove shall be temporarily designated as a landmark tree or grove ("temporary designation") and be subject to the provisions governing landmark trees or groves set forth herein while proceedings are pending on the landmark tree or grove designation. At the time the Planning Commission or ~~Landmarks Preservation Advisory Board~~ Historic Preservation Commission adopts a resolution of intent to initiate a nomination, temporary designation of the subject tree or grove shall occur. If the Director of the Department or the director of any other City agency, commission or department initiates the landmark tree or grove designation, the temporary designation shall occur when the Urban Forestry Council adopts a resolution determining that the subject tree or grove qualifies for landmark ~~tree~~ status. In addition, the Director of the Department shall have the authority to issue an emergency order that temporarily designates a tree or grove as a landmark on private property or on any

property under the jurisdiction of the Department to prevent the immediate removal of a tree or grove. Upon initiation of a nomination pursuant to this Section, the entity initiating nomination shall immediately inform the Director who shall immediately cause a notice to be provided to the relevant department or private property owner informing them of the special permit and approval requirements pursuant to Section 810(f).

(2) If 215 days have elapsed from the date of temporary designation and final action on landmark tree or grove designation has not been completed, the temporary designation status for the subject tree or grove shall expire unless the Board of Supervisors adopts a resolution to extend the temporary designation. Such extension shall not exceed 90 additional days.

(3) Although the subject tree or grove ultimately may be designated as a landmark tree or grove sometime after expiration of temporary designation status, once the temporary designation has expired or is rejected as set forth below in Subsection (5), the affected tree or grove shall not be subject to a new temporary designation for at least two years from the date of temporary designation.

(4) The 215-day term of temporary designation or any additional term, if extended through Board of Supervisors action pursuant to this Section, shall automatically be extended 30 additional days from the date the Mayor either signs the ordinance designating the subject tree as a landmark tree or grove or the 10th day after the Clerk of the Board refers said ordinance to the Mayor and the ordinance is not signed or vetoed.

(5) If the Board of Supervisors rejects a resolution of intent to initiate nomination of a tree or grove, or if the Urban Forestry Council rejects a nomination under subsection (b)(3), the temporary designation shall automatically terminate.

(e) **Zoning Administrator.** The Zoning Administrator shall be required to identify designated landmark tree(s) or grove(s) on proposed development or construction sites and to

notify the Urban Forestry Council and the Department or affected City agency, commission or department. The Zoning Administrator and the Department or such other City Agency, commission or department with jurisdiction, shall be required to impose measures to protect such landmark trees *or trees included in landmark groves* on a construction site against damage to trunk, roots, and branches in accordance with Section 808(c) of this Article. Removal of such trees shall be subject to the rules and procedures for removal of landmark trees and groves provided in this Section.

(f) **Removal Criteria and Procedures—Landmark Trees.**

(1) **Removal Criteria.** The Urban Forestry Council shall develop and recommend for adoption by the Board of Supervisors uniform criteria, rules, and procedures governing determinations to remove landmark trees. Removal criteria shall require consideration and written findings on all of the factors related to the landmark tree as set forth in **Section 810(g)(4) (City Atty, correct section?)**, below, and shall not authorize the removal of a landmark tree unless the it constitutes a hazard tree pursuant to Section ~~802(h)~~ ~~802(e)~~. Public notice, in accordance with the requirements of Section 806(a)(2), and a hearing shall be required.

(2) **Removal on Private Property; Special Permit Required.** A property owner who desires a permit to remove a landmark tree shall apply to the Department on the **designated form (DPW, what form is this?)**. Such application must be accompanied by an administrative fee in accordance with a fee schedule adopted by the Director. Except in the case of manifest danger and immediate necessity, landmark trees on private property shall be removed only after the Director's determination and issuance of a permit, following a public hearing. If the Director determines that removal of a landmark tree is necessary or permissible in accordance with the adopted removal criteria, the Director may impose such reasonable conditions on the permit for removal as he or she deems necessary to

compensate for the loss of the tree, including but not limited to the replacement value of the tree, administrative costs, and contribution to the Adopt-A-Tree Fund. The Director's determination shall be final and appealable to the Board of Appeals. Any person seeking permission to remove a landmark tree must pay all costs related to the permit process and public hearings. Pending adoption of criteria for removal of landmark trees, the Department shall rely on the general criteria set forth in Section 810(f)(4)(A)-~~(E)~~ (E).

(3) **Removal on City-owned Property; Special Approval Required.** Removal of a landmark tree(s) on City property under the jurisdiction of any City agency, commission, or department shall be subject to the criteria, rules, and procedures adopted by the Board of Supervisors pursuant to Section 810(f)(1), above, including the process for public notice and a hearing prior to removal of the tree. After following said criteria, rules, and procedures, the subject City agency, commission, or department shall make its decision on removal of a landmark tree(s). Such decision is final and nonappealable. Pending the Board of Supervisor's adoption of the criteria, rules, and procedures pursuant to Section 810(f)(1), the agency, commission, or department shall follow the general criteria of Subsection (f)(4)(A)-~~(E)~~ (E) and similar rules and procedures for removal of street trees as set forth in Section 806(c) and for removal of hazard trees as set forth in this Section 806(a)(4). This Subsection shall not ~~supersede~~ ~~supercede~~ the Charter jurisdiction that has been granted to any City agency, commission, or department.

(4) **Required Findings.** As part of any determination that authorizes removal of any landmark tree, the City entity making such determination shall, in addition to the adopted removal criteria, consider and make written findings on each of the following factors related to the tree:

(A) The age, size, or species of the tree: particularly whether the tree is rare, is of significantly advanced age for the species, and the overall health and condition of the tree.

(B) The ecological and environmental contributions of the tree: including whether the tree is a prominent landscape feature, is part of an interdependent group of trees or exists in an area with low tree density, has a traffic calming effect, or provides important wildlife habitat. The ecological contribution of the tree is exceptional or the tree positively affects the surrounding environment in a superlative manner;

(C) The noteworthy cultural or historical value of the tree: including whether it reflects the character or a unique moment in the history of the neighborhood or the city, if it is of particular value to certain cultural or ethnic groups in the city, if it contributes significantly to or is representative of neighborhood character; and includes accessibility and utility to the public; and

(D) The aesthetic contribution of the tree: including whether or not the tree is visible or accessible from public property, is of notable size compared to other trees of the species in San Francisco, is of distinguished form or is a good example of form for its species, or has a majestic or otherwise unique structure, or is a prominent landscape feature.

The Board of Supervisors in Resolution No. 440-06, Clerk of the Board of Supervisors File No. 060487, adopted uniform criteria for the designation of landmark trees, which included consideration of the age, size, shape, species, location, historical association, visual quality, and other contribution to the City's character, as set forth Section 810(f)(4)(A) (E) below. This designation criteria, which may be amended from time to time, shall apply to all trees within the territorial limits of the City and County of San Francisco.

(A) Size, age, and species;

(B) Visual characteristics, including the tree's form and whether it is a prominent landscape feature;

~~(C) Cultural or historic characteristics, including whether the tree has significant ethnic appreciation or historical association or whether the tree was part of a historic planting program that defines neighborhood character;~~

~~(D) Ecological characteristics, including whether the tree provides important wildlife habitat, is part of a group of interdependent trees, provides erosion control, or acts as a wind or sound barrier;~~

~~(E) Locational characteristics, including whether the tree is in a high traffic area or low tree density area, provides shade or other benefits to multiple properties, and is visually accessible from the public right of way; and~~

~~(F) One or more criteria that qualify the tree as a hazard tree pursuant to Section 802(h) ~~802(e)~~.~~

(5) **Emergency Removal on Private Property.** In the case of manifest danger and immediate necessity, as determined by the Director, the Director may remove or require the responsible owner(s) to remove a landmark tree immediately. After such emergency removal, the Director shall provide written notice of the necessity for such action to the Board of Supervisors and the Urban Forestry Council and shall also provide such notice to all interested San Francisco organizations and, to the extent practical, to the owners and occupants of properties that are on or across from the block face where the affected tree was removed. If the Department incurs any costs related to an emergency removal, said costs, including labor, equipment, materials, inspection services, and administrative costs, shall be an obligation owing by the responsible owner(s) to the City. Removal of a landmark tree pursuant to this Subsection is not subject to Section 810(f)(4) above.

(6) **Emergency Removal on City-Owned Property.** In the case of manifest danger and immediate necessity, as determined by the director or general manager of the subject agency, commission, or department, the subject agency, commission, or department

may remove a landmark tree within its jurisdiction immediately. After such emergency removal, the subject agency, department, or commission shall provide written notice of the necessity of such action to the Board of Supervisors, Urban Forestry Council and Department of Public Works and shall also provide such notice to all interested San Francisco organization and, to the extent practical, the owners and occupants of properties that are on or across from the block face where the affected tree was removed. Removal of a landmark tree pursuant to this Subsection is not subject to Section 810(f)(4) above.

(7) If a landmark tree has been designated as part of a local historic district or landmark under Article 10 of the Planning Code, removal of such tree shall be subject to the procedures set forth in the Planning Code Article 10 in addition to the requirements of Subsection 810(f) above. In the case of a conflict between Section 810(f) and the Article 10 designation, the more restrictive provisions shall apply.

(g) Removal Criteria and Procedures—Landmark Groves.

(1) Removal Criteria. The Urban Forestry Council shall develop and recommend for adoption by the Board of Supervisors uniform criteria, rules, and procedures governing determinations to remove trees within landmark groves. Removal criteria shall require consideration and written findings on all of the factors related to the tree(s) within the landmark grove as set forth in Section 810(g)(4), below, and shall not authorize the removal of such a tree unless the it constitutes a hazard tree pursuant to Section 802(h) ~~802(o)~~. Public notice, in accordance with the requirements of Section 806(a)(2), and a hearing shall be required.

(2) Removal From Private Property; Special Permit Required. Except in the case of an emergency as provided in subsection (g)(4 5), no person may remove from private property a tree or trees included within a landmark grove designation without first obtaining a permit to do so from the Director. A property owner who desires such a permit must apply to the Director on the designated

form and pay an application fee in an amount set by the Director. The Director may only issue a removal permit after a noticed public hearing on the application and the adoption of written findings as provided in subsection (g)(2,3). The Director shall follow the same notice procedures set forth in Section 806(a)(2).

The Director may impose such reasonable conditions on the removal permit as he or she deems necessary to compensate the City and the community for the loss of the tree or trees, including, but not limited, payment of an amount representing the replacement value of the tree or trees to the Adopt-A-Tree Fund. The Director's determination shall be final and may be appealed to the Board of Appeals.

(3) Director's Determination and Findings. The Director shall only issue a removal permit if he or she determines that removal of the tree or trees would be consistent with the management plan for the grove. As part of that determination, the Director shall make written findings on the impact of such removal on the ongoing implementation of the grove management plan, considering each of the factors that originally supported designation of the grove as set forth in subsection (a)(2). If the Department determines that removal of such a tree is justified on the grounds that it is a Hazard Tree (City Attorney, why is this capitalized? Is this not the same definition per Page 2, Line 6 (aka 802(h))? It appears to be considering the rest of this sentence.) Need to make consistent throughout – either caps or not.), the Department shall make written findings regarding how the determination satisfies the criteria set forth in Section 802(h).

(4) Removal From City-Owned Property; Special Approval Required. Except in the case of an emergency as provided in subsection (g)(5,6), no City agency, commission, or department ("the Agency") may remove a tree or trees included within a landmark grove designation and located on City-owned property under the Agency's jurisdiction without first determining, after a noticed public hearing, that removal of the tree or trees would be consistent with the management plan for the grove. The Agency shall follow the same notice procedures set forth in Section 806(a)(2). As part of its

determination, the Agency shall make written findings on the impact of the removal on the ongoing implementation of the grove management plan, considering each of the factors that originally supported designation of the grove as set forth in subsection (a)(2). If the Agency determines that removal of such a tree is justified on the grounds that it is a Hazard Tree, the Agency shall make written findings regarding how the determination satisfies the criteria set forth in Section 802(h).

The Agency's decision shall be final and may not be appealed to the Board of Appeals. Nothing in this subsection (g)(~~3~~4) shall be construed to supersede the jurisdiction over its property granted to any City agency, commission, or department by the Charter.

(5) **Emergency Removal From Private Property.** Where the Director determines that the condition of a tree or trees included within a landmark grove designation and located on private property creates a clear and immediate danger to life or property, the Director may immediately remove such tree or trees without regard for the provisions of subsection (g)(~~1~~2) and (~~2~~3), or cause the responsible owner or owners to remove such tree or trees. The Director shall promptly submit written notice of his or her action, including the justification for the removal, to the Board of Supervisors and the Urban Forestry Council. The Director shall also provide copies of the notice to all interested San Francisco organizations that have requested in writing to be notified of such actions, and, to the extent practical, to the owners and occupants of properties that are on or across from the block face where the subject tree or trees were located.

If the Department incurs any costs related to an emergency removal under this subsection (g)(~~4~~5), the Department may bill the owner or owners of the property for those costs, including labor, equipment, materials, inspection services, and administrative costs, and the owner or owners shall be responsible for payment of those costs.

(6) **Emergency Removal From City-Owned Property.** Where the Director determines that the condition of a tree or trees included within a landmark grove designation and located on City property creates a clear and immediate danger to life or property, the Director may immediately

remove such tree or trees without regard for the provisions of subsection (g)(3,4). The Director shall promptly submit written notice of his or her action, including the justification for the removal, to the Board of Supervisors and the Urban Forestry Council. The Director shall also provide copies of the notice to all interested San Francisco organizations that have requested in writing to be notified of such actions, and, to the extent practical, to the owners and occupants of properties that are on or across from the block face where the subject tree or trees were located.

(h) (g) If a landmark tree or trees within a landmark grove (s) or groves has been designated as part of a local historic district or landmark under Article 10 of the Planning Code, removal of such tree (s) or a tree or trees included in the landmark grove designation shall be subject to the procedures set forth in the Planning Code Article 10 in addition to the requirements of Subsection 810 (f)(g) **(should say 810(g) specific to groves)** above. In the case of a conflict between Section 810 (f)(g) **(should say 810(g) specific to groves)** and the Article 10 designation, the more restrictive provisions shall apply.

SEC. 810A. SIGNIFICANT TREES.

(a) **Definition.** For purposes of this Section, a significant tree shall be a tree: (1) on property under the jurisdiction of the Department of Public Works or (2) on privately owned-property with any portion of its trunk within 10 feet of the public right-of-way, and (3) that satisfies at least one of the following criteria: (a) a diameter at breast height (DBH) in excess of twelve (12) inches, (b) a height in excess of twenty (20) feet, or (c) a canopy in excess of fifteen (15) feet. The Director may deem a significant tree a hazard tree if such tree satisfies the provisions of Section 802(h) 802(ø). A landmark tree shall not be treated as a significant tree even if the landmark tree meets one or more of the abovementioned criteria. A landmark tree shall be governed by the provisions of Section 810.

(b) **Removal; Requirements.**

(1) Removal of a significant tree(s) on privately-owned property shall be subject to the rules and procedures governing permits for removal of street trees as set forth in Section 806(b).

(2) Removal of a significant tree(s) that are the responsibility of the Department shall be subject to the rules and procedures governing permit for Departmental removal of street trees as set forth in Section 806(a).

(3) If the Director determines that a significant tree is a hazard tree, this Article's provisions applicable to removal of a hazard tree shall apply.

(4) **Emergency Removal.** In the case of manifest danger and immediate necessity, as determined by the Director in writing, the Director may remove or require the responsible owner(s) to remove a significant tree immediately. After such emergency removal, the Department shall provide written notice to all interested San Francisco organizations and, to the extent practical, owners and occupants of properties that are on or across from the block face where the affected tree was removed of the necessity for such action. If the Department incurs any costs related to an emergency removal, said costs, including labor, equipment, materials, inspection services, and administrative costs, shall be an obligation owing by the responsible owner(s) to the City. Removal of a significant tree pursuant to this Subsection is not subject to Subsection (c) below.

(c) As part of the Director's determination to authorize removal of a significant tree, the Director shall consider the following factors related to the tree;

(1) Size, age, and species;

(2) Visual and aesthetic characteristics, including the tree's form and whether it is a prominent landscape feature or part of a streetscape;

(3) Cultural or historic characteristics, including whether the tree has significant ethnic appreciation or historical association or whether the tree was part of a historic planting program that defines neighborhood character;

(4) Ecological characteristics, including whether the tree provides important wildlife habitat, is part of a group of interdependent trees, provides erosion control, or acts as a wind or sound barrier;

(5) Locational characteristics, including whether the tree is in a high traffic area or low tree density area, or provides shade or other public benefits;

(6) Whether the tree constitutes a hazard tree as set forth in Section 802(h) ~~802(o)~~; and

(7) Whether the tree has been maintained as set forth in Section 802(o) ~~802(t)~~.

(d) **Zoning Administrator.** The Zoning Administrator shall be required to identify significant tree(s) on proposed development or construction sites and to notify the Department. The Zoning Administrator and the Department shall be required to impose measures to protect such significant trees on a construction site against damage to trunk, roots, and branches in accordance with Section 808(c) of this Article. Removal of such trees shall be subject to the rules and procedures for removal of significant trees provided in this Section.

Section 2. **Environmental Findings.** The Planning Department has determined that the actions contemplated in this ordinance are in compliance with the California Environmental Quality Act (Cal. Pub. Res. Code §§ 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by reference.

Section 3. **Effective Date.** This ordinance shall become effective 30 days from the date of passage.