

ARTICLE 16: URBAN FORESTRY ORDINANCE

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SEC. 800. TITLE.

This ordinance shall be known as the San Francisco Urban Forestry Ordinance.

(Added by Ord. 165-95, App. 5/19/95)

SEC. 801. PURPOSE.

The San Francisco Urban Forestry Ordinance is enacted to further the following public purposes:

- (a) To realize the optimum public benefits of trees on the City's streets and public places, including favorable modification of microclimates, abatement of air and noise pollution, reduction of soil erosion and runoff, enhancement of the visual environment, and promotion of community pride;
- (b) To integrate street planting and maintenance with other urban elements and amenities, including but not limited to utilities, vehicular and pedestrian traffic, and enhancement of views and solar access;
- (c) To promote efficient, cost effective management of the City's urban forest by coordinating public and private efforts within a comprehensive and professional management system;
- (d) To reduce the public hazard, nuisance, and expense occasioned by improper tree selection, planting, and maintenance;
- (e) To provide for the creation of an equitable, sustained, and reliable means of funding urban-forest management throughout the City;
- (f) To create and maintain a unified urban-forest resource, enhancing the City's overall character and sense of place.
- (g) To recognize that trees are an essential part of the City's aesthetic environment and that the removal of important trees should be addressed through appropriate public participation and dialogue, including the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.).
- (h) To recognize that green spaces are vital to San Francisco's quality of life as they provide a range of environmental benefits and bring beauty to our neighborhoods and commercial districts.
- (i) To ensure that landscaping in sidewalk areas is properly constructed and maintained in order to maximize environmental benefits, protect public safety, and limit conflicts with infrastructure.

(Added by Ord. 165-95, App. 5/19/95; amended by Ord. 17-06, File No. 051458, App. 1/20/2006; Ord. 121-06, File No. 060142, App. 6/14/2006)

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) "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.

(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.

(i) "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).

(j) "Landmark tree" shall mean a tree so designated pursuant to Section 810 of this Article. ~~(k) "Landmark grove" shall mean a group or stand of trees so designated pursuant to Section~~

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810 of this Article. Landmark Grove includes groups, stands, groves or series consisting of at least 3 trees in close proximity. The trees may be of the same or different species, native, naturalized, endemic or planted. Examples of Landmark Groves may include groups of trees in public rights of way, parkways, medians, parks, open spaces, or on private property.

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

(k) "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 International Society of Arboriculture Best Management Practices and ANSI Pruning Standards, whichever is more protective of tree preservation.

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

(m) "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.

(n) "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(l) of this Article. The Director's determination shall be in writing.

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(q) "Person" shall mean any individual, firm, partnership, association, corporation, company, or organization of any kind.

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

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

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(t) "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.

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(u) "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.

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(v) "Significant Tree" shall mean a tree so defined in Section 810A of this Article.

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

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(x) "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.

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

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(z) "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.

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(zz) "Urban Forestry Council" shall mean the Urban Forestry Council as established under the Environment Code Chapter 12.

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(Added by Ord. 165-95, App. 5/19/95; amended by Ord. 294-98, File No. 98-0991, Eff. 11/2/98; Ord. 17-06, File No. 051458, App. 1/20/2006; Ord. 193-06, File No. 060778, App. 7/21/2006)

SEC. 803. URBAN FORESTRY COUNCIL; ADDITIONAL POWERS AND DUTIES.

(a) The Urban Forestry Council shall serve in an advisory capacity to the Director or his designee on matters relating to this Article and to tree management in the City. The responsibilities of the Urban Forestry Council may include but shall not be limited to the following:

(1) Studying the problems and determining the needs of the City concerning its street tree planting and maintenance programs, and advising the Director in this regard;

(2) Preparing for the Director an annual report detailing the state of the urban forest;

(3) Recommending to the Director appropriate species of trees to be planted on City streets or other areas under the Department's jurisdiction;

(4) Working with the Community Boards of San Francisco in developing guidelines, standards, and procedures for the mediation of conflicts between property owners over the protection of views, solar access, planting/removal of trees, and other tree-related issues;

(5) Working with the Director concerning the maintenance of an Urban Forestry Management Plan;

(6) Developing and recommending for Board of Supervisors' adoption uniform criteria for designating "landmark" trees and uniform criteria, rules, and procedures for the removal of "landmark" trees pursuant to Section 810;

(7) Making recommendations to the Director on appeals of applications for tree removal;

(8) Recommending to the Director information to be distributed to the public concerning the selection, planting, and maintenance of trees throughout the City; and

(9) Recommending to the Director desirable City tree programs and activities, including legislation and funding mechanisms.

(b) The Urban Forestry Council shall perform such other duties assigned to it under the Municipal Codes.

(Added by Ord. 165-95, App. 5/19/95; amended by Ord. 17-06, File No. 051458, App. 1/20/2006)

SEC. 804. JURISDICTION.

(a) Department's Jurisdiction. The Department shall have jurisdiction over the planning, planting, maintenance, and removal of trees in any street or other public right-of-way as defined in Section 244 of this Code; over any landscape material in any street median, center strip, or other landscaped portion of a public right-of-way; over trees and other landscape material in other public spaces under the jurisdiction of the Department; over hazard trees on private property as specified in Section 809 and 810A of this Article; over landmark trees as specified in Section 810; and over significant trees as specified in Section 810A.

(Added by Ord. 165-95, App. 5/19/95; amended by Ord. 17-06, File No. 051458, App. 1/20/2006)

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 San 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) 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.

(d) 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.

(Added by Ord. 165-95, App. 5/19/95)

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 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 from 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(o) 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 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 another street tree 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 this requirement.

(i) The fee for a permit to remove 1-3 street trees shall be \$267.00; the fee for a permit to remove 4-9 street trees shall be \$360.00; and the fee to remove 10 or more street trees shall be \$565.00.

(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 2007-2008, 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.

(Added by Ord. 165-95, App. 5/19/95; amended by Ord. 294-98, File No. 98-0991, Eff. 11/2/98; Ord. 17-06, File No. 051458, App. 1/20/2006; Ord. 193-06, File No. 060778, App. 7/21/2006)

SEC. 807. DEPARTMENT OF PUBLIC WORKS URBAN FORESTRY PROGRAM; POWERS AND DUTIES.

(a) Arterial Planting Program. The Department shall continue its program of appropriate street tree planting along major traffic routes and commercial streets throughout the City.

(b) Neighborhood Planting Program. The Department shall continue to encourage and support neighborhood planting programs. Support may include, but need not be limited to, provision of trees and materials, sidewalk cutting and removal,

planting labor, technical advice, and organizational assistance. The Department is hereby authorized to donate such funds, materials and labor to neighborhood planting programs as are deemed by the Director to be in the public interest and in the interest of the promotion of the urban forest.

(c) Public Education. The Department shall undertake an on-going program of public outreach and education in order to promote public understanding of the City's urban forest and public adherence to the standards and procedures established under this Article.

(d) Authority over Site Development Plans.

(1) The Department shall have the authority to review and comment on site development plan applications received by the City's Central Permit Bureau that pertain to the planting, alteration, or removal of street trees. The Department shall also have the authority to review and comment on site development plan applications that pertain to the alteration or removal of landmark trees designated pursuant to Section 810(a) of this Article and significant trees pursuant to Section 810A of this Article. Protection of such trees during construction shall be required in accordance with Section 808(c) of this Article. Removal of such trees shall be subject to the applicable rules and procedures for removal set forth in Section 806, 810, or 810A of this Article.

(2) If the Zoning Administrator modifies or waives the requirements of Planning Code Section 143 pursuant to Planning Code Section 143(d), the Department shall impose an in-lieu fee of the property owner so excused. Further, if a property owner is required to plant a street tree pursuant to Planning Code Section 143, the Department shall require that the property owner maintain such tree or replace any such tree that subsequently dies or is removed by any person, or pay an in-lieu fee. The Department shall follow the requirements set forth herein for tree replacement or payment of an in-lieu fee unless it makes written findings detailing the basis for waiving said requirements.

(e) Adopt-A-Tree Fund. Pursuant to Section 10.117-77 of the Administrative Code, the Department shall maintain an Adopt-A-Tree Fund to enhance the urban forestry program.

(f) In-Lieu Planting Program. The Department shall develop and implement an In-Lieu Planting Program to offset the loss of street trees, significant trees, and landmark trees due to removal, destruction, or death. The In-Lieu Planting Program shall also compensate for the loss of trees required to be planted by Section 143 of the Planning Code, yet excused by the Zoning Administrator pursuant to Planning Code Section 143(d). The Department shall impose an in-lieu fee in accordance with a fee schedule adopted by the Director where a street tree is destroyed, removed or is excused from planting where otherwise required by Planning Code Section 143. The Department also shall assess an in-lieu fee or such other penalty as set forth in Section 811 as mitigation for violation of the

requirements of this Article. The Department shall follow the requirements set forth herein for payment of an in-lieu fee unless it makes written findings detailing the basis for waiving said requirements. As set forth in Section 811, in lieu fees shall be deposited in the Adopt-A-Tree Fund.

(g) Tree Adoption Program. The Department shall develop and implement a tree adoption program to allow persons to donate money for the purpose of tree planting and maintenance. Money donated to the City and County for the purpose of tree planting and maintenance shall be deposited into the Adopt-A-Tree Fund.

(Added by Ord. 165-95, App. 5/19/95; amended by Ord. 17-06, File No. 051458, App. 1/20/2006)

SEC. 808. PROTECTION OF TREES AND LANDSCAPE MATERIAL.

(a) Injury to or Destruction of Trees Prohibited. It shall be unlawful for any person to intentionally, maliciously or through gross negligence injure or destroy a street tree, any tree on City property, a significant tree, or a landmark tree. Removal of a tree under City order or removal in accordance with a permit issued pursuant to Section 806, 810, or 810A of this Article is exempt from this prohibition.

(b) Injury to or Destruction of Landscape Materials Prohibited. It shall be unlawful for any person to intentionally, maliciously or through gross negligence injure or destroy any landscape material in any street median, center strip, or other landscaped portion of a public right-of-way under the City's jurisdiction, except as authorized by the Department.

(c) Construction Work: Protection of Trees Required. It shall be unlawful for any person to engage in any construction work on private or public property without first taking steps to protect street trees, significant trees, and landmark trees from damage, including damage caused by soil compaction or contamination, excavation, or placement of concrete or other pavement or foundation material. If excavation, construction, or street work is planned within the dripline of a significant tree, a landmark tree or a tree on any street or other publicly owned property said tree(s) shall be adequately protected. If any construction work results in the injury or damage to such trees, the responsible party(ies) may be subject to the penalties set forth in Section 811 of this Article.

(Added by Ord. 165-95, App. 5/19/95; amended by Ord. 17-06, File No. 051458, App. 1/20/2006)

SEC. 809. HAZARD TREES; ABATEMENT.

(a) Notice to Property Owner(s). Upon a finding by the Director that a tree on private property or a street tree for which a property owner is responsible is a "hazard tree" as defined herein, the Director shall provide notice to the property owner(s) which describes the condition creating the hazard, the actions required to

be taken to abate the hazard, and the date by which compliance must be completed. Required action may include replacement or removal of the tree in accordance with applicable requirements and procedures provided in this Article for removal of the subject tree. In cases of extreme danger, as determined by the Director, the Director may require immediate compliance.

(b) Director of Public Works To Abate Hazard if Owner Fails To Do So. If the responsible property owner does not undertake in a timely manner the abatement action, as required by said notice, the Director may perform necessary work to abate the hazard. The cost of such abatement, including labor, equipment, materials, inspection services, and administrative costs, shall be an obligation owing by the responsible property owner(s) to the City.

(c) Method of Enforcement and Collection of Lien. The Department shall send notice of assessment of costs to the responsible property owner. Such notice shall include a statement that payment is due within 60 days of the mailing date of the notice. If a responsible property owner fails timely to remit payment, the Department shall send a second notice of payment due. Such second notice shall include a statement that failure timely to remit payment in full to the City within 30 days of the mailing of the second notice shall cause the Director to institute lien proceedings pursuant to Sections 706.4– 706.7 of this Code. Enforcement and collection of liens for costs associated with hazard tree abatement shall be in accordance with Sections 706.4– 706.7 of this Code, except that all monies received in payment of such liens, with the exception of enforcement costs, shall be credited to the Adopt-A-Tree Fund.

(Added by Ord. 165-95, App. 5/19/95; amended by Ord. 17-06, File No. 051458, App. 1/20/2006)

SEC. 810. LANDMARK TREES and GROVES.

(a) Designation Criteria. The Urban Forestry Council shall develop and recommend for adoption by the Board of Supervisors uniform criteria for the designation of landmark trees, which criteria shall include consideration of the age, size, shape, species, location, historical association, visual quality, or other contribution to the City's character, as set forth Section 810(f)(4)(A)– (E) below. Upon adoption by the Board of Supervisors, the designation criteria shall apply to all trees within the territorial limits of the City and County of San Francisco. Pending adoption of criteria for designation of landmark trees, the Urban Forestry Council, affected City departments, and the Board of Supervisors shall rely on the general criteria set forth in Section 810(f)(4)(A)– (E).

(b) Designation Process.

(1) Nominations. A tree or grove may be nominated for landmarking by any of the following parties: (i) the property owner whose property contains the subject trees by a written request to the Urban Forestry Council; (ii) the Board of Supervisors, Planning Commission, or Landmarks Preservation Advisory Board by adoption of a resolution of

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intent to nominate a tree 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 nominated for landmark tree status shall be the subject of a separate individual nomination; a grove nominated for landmark status shall be the subject of one nomination for all the trees in the group. Trees within the group must be enumerated and identified by location to be considered part of the landmark grove.

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(2) Content of Nominations. 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) below; the lot, assessor's block, and street address of the subject property; one or more pictures of the tree(s); and any other information that the nominating property owner or entity believes would be pertinent to the nomination.

(3) Urban Forestry Council Hearing and Determination. The Urban Forestry Council shall hold a public hearing on a nomination within 60 days of receipt of a completed nomination request, and shall determine whether the tree or groves qualify for landmark status 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 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 for landmark status, its written findings on the nomination shall be forwarded, along with any recommendations of relevant City agencies, commissions or departments, 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 90 days 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 90 day period shall constitute its approval of the nomination.

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Authors note: Language shall reflect landmark trees and landmark groves in a consistent and parallel manner throughout Section 810.

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(4) Designation. Upon the recommendation of the Urban Forestry Council, the Board of Supervisors may designate as a "landmark tree" any tree 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.

(c) Landmark Tree Designation Recorded Notice and Official Book. Upon Board of Supervisors designation of a landmark tree, the Department or affected agency shall record a notice on the subject property concerning the landmark tree. The Department also shall record the landmark tree designation in an official book entitled Landmark Trees. If the landmark tree 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 Tree book that is reserved for those landmark trees 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 Status. 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 nomination request as set forth in Section 810(b)(2), the subject tree shall be temporarily designated as a landmark tree ("temporary designation") and be subject to the provisions governing landmark trees set forth herein while proceedings are pending on the landmark tree designation. At the time the Planning Commission or Landmarks Preservation Advisory Board adopts a resolution of intent to initiate a nomination, temporary designation of the subject tree shall occur. If the Director of the Department or the director of any other City agency, commission or department initiates landmark tree designation, temporary designation shall occur when the Urban Forestry Council adopts a resolution determining that the subject tree 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 on private property or on any property under the jurisdiction of the Department to prevent the immediate removal of a tree. 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). If 180 days have elapsed from the date of temporary designation and final action on landmark tree designation has not been completed, the temporary designation status for the subject tree shall expire unless the Board of Supervisors adopts a resolution to extend the temporary designation. Such extension shall not exceed 90 additional days. Although the subject tree ultimately may be designated as a landmark tree sometime after expiration of temporary designation status, once the temporary designation has expired, the affected tree shall not be subject to a new temporary designation for at least two years from the date of temporary designation. 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) 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 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 provided in this Section.

(f) Removal Criteria and Procedures.

(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), below, and shall not authorize the removal of a landmark tree unless the it constitutes a hazard tree pursuant to Section 802(o). 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. 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)-(F).

(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)– (F) 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 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) 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(o).

(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.

(g) If a landmark tree(s) 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.

(Added by Ord. 165-95, App. 5/19/95; amended by Ord. 17-06, File No. 051458, App. 1/20/2006)

(h) Replacement of Landmark Trees.

In the case that a Landmark Tree needs to be removed due to danger of immediate necessity or through natural decline, a replacement tree shall be considered by the owner or agency responsible for the tree. On request, a Landmark Tree Committee hearing shall be held to approve the replacement tree to be planted. The Urban Forestry Council may be used as a resource for determining specifics in the replacement of such trees including species/provenance of the tree, specifications for the plant and its installation, and maintenance recommendations. On approval of the full Council, the replacement tree will assume Landmark Status. (Board approval??)

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

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provisions of Section 802(o). 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(o); and

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

(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.

(Added by Ord. 17-06, File No. 051458, App. 1/20/2006)

SEC. 810B. SIDEWALK LANDSCAPE PERMITS.

(a) Permit for Installation or Removal of Sidewalk Landscaping. Permits to install or remove sidewalk landscaping shall be subject to the rules and procedures applicable to planting and removal of street trees under Section 806(b).

(b) Permit Decision.

(1) The Director of the Department, in his or her discretion, may approve, conditionally approve, or disapprove the requested permit. When issuing permits, the Director may impose any conditions consistent with the public health, safety, welfare, and convenience, including, but not limited to, appropriate time, place, and manner restrictions and considerations to minimize neighborhood impacts.

(2) All sidewalk landscape permits are revocable at the will of the Director. In addition, when, in the judgment of the Director of Public Works, the public interest or convenience will be served by the removal of the dirt, debris, materials and equipment or any portion thereof from the sidewalk space, the Director shall modify, condition, or revoke the permit accordingly.

(c) Fees. The fee for a sidewalk landscape permit is \$215.00. If two, three, or four applicants on the same block submit a joint application for a sidewalk landscape permit, the fee is \$185.00 for each applicant. If five or more applicants on the same block submit a joint application for a sidewalk landscape permit, the fee is \$160.00 for each applicant. Fees for removal of sidewalk landscaping shall be the same as the fee charged for permits to remove street trees.

(1) Fee Review and Adjustment. Beginning with fiscal year 2007-2008, the fees that are established herein shall be reviewed and adjusted each year in accordance with the procedures set forth in Section 2.1.2.

(d) Minimum Accessibility Requirements.

(1) In no case shall the new sidewalk-landscape result in an unobstructed sidewalk width of less than 48 inches or increase the cross-slope of the portion of the sidewalk designated as an accessible path-of-travel.

(2) For each curbside parking space (approximately 20 feet of curb length), the design shall include a minimum 48-inch wide accessible curbside parking path that is perpendicular and connects the curb to the sidewalk path of travel. This path shall be: (i) located at the approximate centerline of each curbside parking space; (ii) made of concrete, pavers, or brick; and (iii) set on a firm base.

(e) The permit holder shall be responsible for maintaining the sidewalk-landscape area in a condition that is safe to pedestrians and vehicular traffic and free of litter and unsightly weeds. The permit holder also shall be responsible to maintain the health of plants with appropriate pruning, watering, and other care.

(f) Waiver of Requirements. The Director, in his or her discretion, may waive any of the substantive requirements for a sidewalk landscape permit. The Director may issue a waiver only after holding a public hearing on the waiver request and issuing a written decision concerning whether the waiver will be granted, conditionally granted, or denied. When issuing such waivers, the Director may impose any conditions consistent with the public health, safety, welfare, and convenience.

(g) Regulations. In addition to the requirements set forth in this Section, the Director, after a public hearing, may adopt such orders, policies, regulations, rules, or standard plans and specifications as he or she deems necessary in order to preserve and maintain the public health, safety, welfare, and convenience. Such orders, policies, regulations, or rules may include, but are not limited to, permit application materials, planting guidelines, planting locations, materials, key design dimensions for planting areas, site conditions, replanting, landscape design modifications, and accessibility of sidewalks and streets. When such orders, policies, regulations or rules will affect the operations and enforcement of the Department of Parking and Traffic or the Municipal Railway, the Director shall consult with and provide an opportunity to comment to the General Manager of the Municipal Transportation Agency prior to adoption of such orders, policies, regulations, or rules.

(Added by Ord. 121-06, File No. 060142, App. 6/14/2006)

SEC. 811. PENALTIES FOR VIOLATION OF ORDINANCE.

(a) Criminal Penalties. Violation of any of the provisions of Sections 806, 808, 810(f)(1), 810A(b), and 810B of this Article shall be chargeable as an infraction or a misdemeanor. Every violation determined to be an infraction is punishable by a fine of \$200 for a first violation and \$400 for each additional violation within one year. Every violation determined to be a misdemeanor is punishable by a fine

not exceeding \$1,000 and/or imprisonment in the County Jail for a period not to exceed six months, for each offense.

(b) Civil Penalties and Fees.

(1) The Director may call upon the City Attorney to maintain an action for injunction to restrain or summary abatement to cause the correction or abatement of the violation of this Article, and for assessment and recovery of a civil penalty and reasonable attorney's fees for such violation.

(2) Any person who violates this Article may be liable for a civil penalty, not to exceed \$500 for each day such violation is committed or permitted to continue, which penalty shall be assessed and recovered in a civil action brought in the name of the people of the City by the City Attorney in any court of competent jurisdiction. In assessing the amount of the civil penalty, the court may consider any one or more of the relevant circumstances presented by any of the parties to the case, including, but not limited to, the following: the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred; and the willfulness of the defendant's misconduct. The City Attorney also may seek recovery of the attorneys' fees and costs incurred in bringing a civil action pursuant to this Section.

(c) Administrative Penalties.

(1) In addition to the penalties set forth in Subsections (a) and (b) above, the Director may require any person who removes, injures, or destroys a tree in violation of the provisions of this Article to pay a sum of money equal to the tree's replacement value or the diminishment of the tree's value as set forth in the current edition of the Guide for Plant Appraisal (Council of Tree and Landscape Appraisers). Further, in addition to the penalties set forth in Subsections (a) and (b) above, the Director may require any person who removes, fails to maintain, injures, or destroys sidewalk landscaping or the associated design improvements in violation of the provisions of Section 810B to pay a sum of money equal to the replacement value of the affected landscape material and associated design improvements or the diminishment of the value of the landscape material as set forth in the current edition of the Guide for Plant Appraisal (Council of Tree and Landscape Appraisers). In no case shall the administrative penalty be less than \$500 per violation. When one or more additional violations occur within one year of the first violation, the Director may assess a responsible party double the tree's replacement value or the diminishment of the tree's value. Depending on the nature and seriousness of the misconduct, including unpermitted removal of or damage to a landmark or significant tree; the unpermitted removal of or damage to sidewalk landscaping installed pursuant to a permit issued under Section 810B; the number of violations; the persistence of the misconduct; the length of time over which the misconduct occurred; or the willfulness of the defendant's misconduct, the Director may assess additional penalties in excess of the amounts

specified above. In addition to the administrative penalty assessed pursuant to this Section, the Director may assess enforcement costs to cover the reasonable costs incurred in enforcing the administrative penalty, including reasonable attorneys' fees. Any and all amounts paid or collected pursuant to this subsection, with the exception of enforcement costs, shall be deposited into the Adopt-A-Tree Fund.

(2) The Department shall send notice of the assessment of administrative penalties to the responsible party. Such notice shall include a statement that payment is due within 60 days of the mailing date of the notice. If a responsible property owner fails timely to remit payment, the Department shall send a second notice of payment due. Such second notice shall include a statement that failure timely to remit payment in full to the City within 30 days of the mailing of the second notice shall cause the Director to institute lien proceedings pursuant to Sections 706.4– 706.7 of this Code. Enforcement and collection of liens for costs associated with hazard tree abatement shall be in accordance with Sections 706.4– 706.7 of this Code, except that all monies received in payment of such liens with the exception of enforcement costs, shall be credited to the Adopt-a-Tree Fund.

(Added by Ord. 165-95, App. 5/19/95; amended by Ord. 294-98, File No. 98-0991, Eff. 11/2/98; amended by Ord. 17-06, File No. 051458, App. 1/20/2006; Ord. 121-06, File No. 060142, App. 6/14/2006)

SEC. 812. ENFORCEMENT OF ORDINANCE; DESIGNATED EMPLOYEES.

The classes of employees of the City and County of San Francisco set forth below shall have the duty of enforcing the provisions of this Article including, but not limited to, the unauthorized removal, injury or destruction of street trees or landmark trees:

Classification No.	Class Title
3418	Gardener Supervisor
3422	Park Section Supervisor
3426	Urban Forester
3434	Arborist Technician
3436	Tree Topper Supervisor I
5170	Superintendent, Street Environmental Services
5173	Assistant Superintendent, Street Environmental Services
7281	Street Cleaning Supervisor II
8280	Environmental Control Officer

(Added by Ord. 165-95, App. 5/19/95; Ord. 121-06, File No. 060142, App. 6/14/2006)

SEC. 813. URBAN FOREST MANAGEMENT PLAN.

The Department shall use its best efforts to ensure that activities of the Department are guided by the Urban Forest Management Plan entitled "The Trees of San Francisco" and adopted on April 16, 1991. The Department shall update and improve the Urban Forest Management Plan as necessary.

(Added by Ord. 165-95, App. 5/19/95)

SEC. 814. SEVERABILITY.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Article or any part thereof is for any reason held to be invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Article or any part thereof. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared invalid or ineffective.

(Added by Ord. 165-95, App. 5/19/95)

Program shall also compensate for the loss of trees required to be planted by Section 143 of the Planning Code, yet excused by the Zoning Administrator pursuant to Planning Code Section 143(d). The Department may impose an in-lieu fee in accordance with a fee schedule adopted by the Director where a street tree is destroyed, removed or is excused from planting where otherwise required by Planning Code Section 143. The Department may also assess an in-lieu fee as mitigation for violation of the requirements of this Article. In-lieu fees shall be deposited in the Adopt-A-Tree Fund.

(g) **Tree Adoption Program.** The Department shall develop and implement a tree adoption program to allow persons to donate money for the purpose of tree planting and maintenance. Money donated to the City and County for the purpose of tree planting and maintenance shall be deposited into the Adopt-A-Tree Fund. (Added by Ord. 165-95, App. 5/19/95)

SEC. 808. PROTECTION OF TREES AND LANDSCAPE MATERIAL.

(a) **Injury to or Destruction of Trees Prohibited.** It shall be unlawful for any person to intentionally, maliciously or through gross negligence injure or destroy a street tree or any tree on City property. Removal of a tree under City order or removal in accordance with a permit issued pursuant to Section 806 of this Article is exempt from this prohibition.

(b) **Injury to or Destruction of Landscape Materials Prohibited.** It shall be unlawful for any person to intentionally, maliciously or through gross negligence injure or destroy any landscape material in any street median, center strip, or other landscaped portion of a public right-of-way under the City's jurisdiction, except as authorized by the Department.

(c) **Construction Work: Protection of Trees Required.** It shall be unlawful for any person to engage in any construction work on private or public property without first taking steps to protect street trees from damage, including damage caused by soil compaction or contamination. All trees on any street or other publicly owned property near any excavation, construction, or street work shall be adequately protected. (Added by Ord. 165-95, App. 5/19/95)

SEC. 809. NUISANCE TREES; ABATEMENT.

(a) **Notice to Property Owner(s).** Upon a finding by the Director that a tree on private property or a street tree for which a property owner is responsible is a "nuisance tree" as defined herein, the Director shall notice to the property owner(s) which describes the condition creating the nuisance, the actions required to be taken to abate the nuisance, and the date by which compliance must be completed. Required action may include replacement or removal of the tree. In cases of extreme danger, as determined by the Director, the Director may require immediate compliance.

(b) **Director of Public Works To Abate Nuisance if Owner Fails To Do so.** If the responsible property owner does not undertake in a timely manner the abatement action, as required by said notice, the Director may perform necessary work to abate the nuisance. The cost of such abatement, including labor, equipment, materials, inspection services, and administrative costs, shall be an obligation owing by the responsible property owner(s) to the City.

(c) **Method of Enforcement and Collection of Lien.** The Department shall send notice of assessment of costs to the responsible property owner. Such notice shall include a statement that payment is due within 60 days of the mailing date of the notice. If a responsible property owner fails timely to remit payment, the Department shall send a second notice of payment due. Such second notice shall include a statement that failure timely to remit payment in full to the City within 30 days of the mailing of the second notice shall cause the Director to institute lien proceedings pursuant to Sections 706.4—706.7 of this Code. Enforcement and collection of liens for costs associated with nuisance tree abatement shall be in accordance with Sections 706.4—706.7 of this Code, except that all monies received in payment of such liens shall be credited to the Adopt-A-Tree Fund. (Added by Ord. 165-95, App. 5/19/95)

SEC. 810. LANDMARK TREES.

(a) **Designation.** With the advice of the Tree Board and following a public hearing, the Director shall adopt criteria for the designation of landmark trees, which criteria shall include consideration of the

age, size, shape, species, location, historical association, visual quality, or other contribution to the City's character. Upon the recommendation of the Director, the Board of Supervisors may designate as a "landmark tree" any street tree or any tree on property under the jurisdiction of the Department meeting the criteria adopted by the Director, or may rescind such designations. Any person seeking to have a tree designated as a landmark must pay all costs related to the Board of Supervisors hearing.

(b) Advise the Zoning Administrator. Upon request by the Zoning Administrator, the Director shall advise the Zoning Administrator regarding landmark trees on a proposed construction site. The Department shall propose measures to protect landmark trees on a construction site against damage to trunk, roots, and branches.

(c) Removal; Special Permit Required. Except in the case of manifest danger and immediate necessity, landmark trees shall be removed only upon a determination of the Board of Supervisors following a public hearing. The Director shall issue criteria governing such determinations. If the Board of Supervisors determines that removal of a landmark tree is necessary or permissible, it may impose such reasonable conditions on the permit for removal as it deems necessary to compensate for the loss of the tree, including but not limited to the replacement value of the tree, and administrative costs, or contribution to the Adopt-A-Tree Fund. Any person seeking permission to remove a landmark tree must pay all costs related to the Board of Supervisors hearing. (Added by Ord. 165-95, App. 5/19/95)

SEC. 811. PENALTIES FOR VIOLATION OF ORDINANCE.

(a) Criminal Penalties. Violation of any of the provisions of Sections 806, 808 and 810(c) of this Article shall be chargeable as an infraction or a misdemeanor. Every violation determined to be an infraction is punishable by a fine of \$200 for a first violation and \$400 for each additional violation within one year. Every violation determined to be a misdemeanor is punishable by a fine not exceeding \$1,000 and/or imprisonment in the County Jail for a period not to exceed six months, for each offense.

(b) Administrative Civil Penalties.

(1) In addition to the penalties set forth in Subsection (a) above, any person who removes, damages, or destroys a tree in violation of the provisions of this Article shall pay a sum of money equal to the tree's replacement value or the diminishment of the tree's value. Any and all amounts paid or collected pursuant to this subsection shall be deposited into the Adopt-A-Tree Fund.

(2) The Department shall send notice of the assessment of administrative civil penalties to the responsible property owner. Such notice shall include a statement that payment is due within 60 days of the mailing of the notice. If a responsible property owner fails timely to remit payment, the Department shall send a second notice of payment due. Such second notice shall include a statement that failure timely to remit payment in full to the City within 30 days of the mailing of the second notice shall cause the Director to institute lien proceedings pursuant to Sections 706.4—706.7 of this Code. Enforcement and collection of liens for costs associated with nuisance tree abatement shall be in accordance with 706.4—706.7 of this Code, except that all monies received in payment of such liens shall be credited to the Adopt-a-Tree Fund. (Added by Ord. 165-95, App. 5/19/95; amended by Ord. 294-98, File No. 98-0991, Eff. 11/2/98)

SEC. 812. ENFORCEMENT OF ORDINANCE; DESIGNATED EMPLOYEES.

The classes of employees of the City and County of San Francisco set forth below shall have the duty of enforcing the provisions of this Article including, but not limited to, the unauthorized removal, injury or destruction of street trees or landmark trees.

Classification Number	Class Title
3418	Gardener Supervisor
3422	Park Section Supervisor
3426	Urban Forester
3436	Tree Topper Supervisor I
5170	Superintendent, Street Environmental Services

SAN FRANCISCO LANDMARK TREE NOMINATION FORM

Note: All trees must be in the sidewalk or public right of way and currently maintained by the Department of Public Works. Please see attached list.

Qualifications for Nomination

- Historically Significant (explain below)
- Of an exceptional size, age or quality for the species
- An extremely rare specimen for the San Francisco Bay Area

Tree Information

Address or Location: _____

Common Name: _____

Botanical Name (if known): _____

Single Specimen Grouping/Grove

Approximate Height: _____

Historical Significance: _____

Nominator

Name: _____

Address: _____

Telephone: _____

Owner (if known)

Name: _____

Address: _____

Telephone: _____

Photograph:

(A photo of the tree(s) must be included with this application)

**Please feel free to include other materials in support of this nomination
(i.e. newspaper articles, letters, historical documents)**

CITY AND COUNTY OF SAN FRANCISCO
Department of Public Works

ORDER NO. 169-250

PURSUANT TO ORDINANCE NO. 165-95, ESTABLISHING CRITERIA FOR THE LANDMARK TREE PROGRAM FOR TREES UNDER THE JURISDICTION OF THE DEPARTMENT.

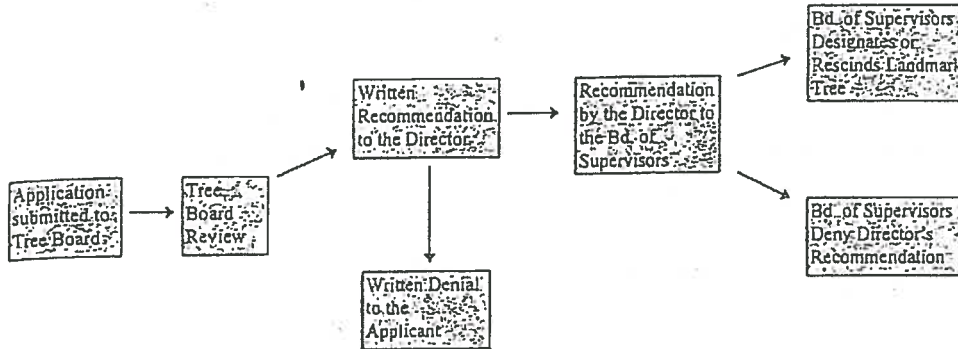
I PURPOSE: Article 16, Section 810 of the Public Works Code authorizes the Director of Public Works to establish criteria for the designation of landmark trees and the revocation of such designations. This Department of Public Works (DPW) Order provides detailed criteria.

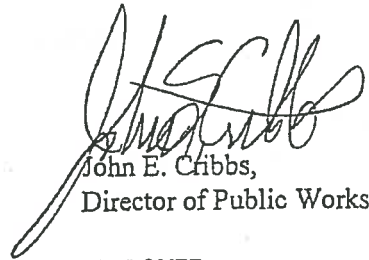
II LANDMARK TREE DESIGNATION CRITERIA:

A. Nominations for Landmark Tree Designations or Revoking such Designations shall include the following criteria:

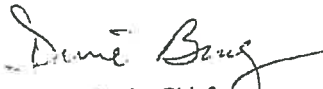
1. The tree shall be under the jurisdiction of the Department and currently included within the Department's tree maintenance inventory.
2. The tree shall exhibit one or more of the following criteria:
 - a. Extraordinary age or size
 - b. Unusual mature species for the area
 - c. Extraordinary visual quality or growing in an unusual or significant location
 - d. Possessing documented historical significance or growing adjacent to a significant historical location
 - e. Extraordinary contribution to the City's character
3. To revoke Landmark Tree Status one or more of the aforementioned criteria must have changed or the tree must require extraordinary maintenance efforts to ensure public safety.
4. Upon His/Her request, the Director shall advise the Zoning Administrator of the existence of a Landmark Tree on or adjacent to a construction site. The Board of Supervisors may authorize the removal of any Landmark Tree because of construction activities.

B. The Landmark Tree Designation or Revocation process is summarized in the chart below:





 John E. Cribbs,
 Director of Public Works

RECOMMENDED:


 Denise Brady, Chief
 of St. Use & Mapping

APPROVED:


 Vitaly B. Troyan
 Deputy Director, Public Services

Distribution

Return to B.S.M. - D. McKenna, Room 460, 875 Stevenson. (1-signed)

Outside of B.S.M.

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 Clifford Janoff

Traffic - H. Quan
 Muni - Duncan Watry
 BOE - Richard Skaff
 Cathrine Sneed

APPROVED: NOVEMBER 1, 1995

JOHN E. CRIBBS, DIRECTOR

Landmark Groves

Section 802. Definitions

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

"Landmark grove" shall mean a group of trees so designated pursuant to ...

Section 810. Designation criteria

...criteria shall include consideration of

- (1) the age, size, or species of the trees, particularly whether they exhibit exemplary characteristics in this regard;
- (2) the ecological interaction 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;
- (3) the 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; and
- (4) 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.

Landmark Grove boundaries may be defined in one of following two ways:

- a) through a distinct tree-by-tree inventory, where only noted trees are included within Landmark Grove designation and protection.
- b) through describing a bounded area of defined management, where any trees within the area boundaries are included within Landmark Grove designation and protection.

Both definition methods require an initial tree inventory and area map describing grove location.

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.



San Francisco Urban Forestry Council

June 28, 2011

Members of the Board of Supervisors:

The Landmark Tree Ordinance (Public Works Code Article 16, Section 802-810) was codified in July 2005 to increase opportunities to protect and enhance San Francisco's urban forest, through creation of an open and comprehensive designation process.

In an effort to further strengthen the Landmark Tree program, the Urban Forestry Council proposes amendments to the current code that would allow inclusion of landmark groves, defined as groups of three or more trees that function together ecologically, culturally, or aesthetically. We urge the Board of Supervisors to adopt these recommendations.

The Urban Forestry Council recognizes the value in extending landmark protection to groves of trees, due to their potential to provide greater environmental, economic, aesthetic, and social/cultural benefits than single trees alone may supply.

Additionally, there is precedence for landmark groves in San Francisco. The city currently recognizes and protects several groves of landmark trees, which were elected by DPW prior to the current designation process. Some examples of these groves are the Guadalupe palm trees (*Brahea edulis*) in the Dolores Street median, the six blue gum trees (*Eucalyptus globulus*) adjacent to 1801 Bush Street, and the stand of thirteen Canary Island palms (*Phoenix canariensis*) on Quesada Street. These groves were recognized as neighborhood treasures that provide greater community and environmental benefits than a single specimen alone would be able to provide.

Adoption of these enclosed revisions will strengthen the Urban Forest Ordinance (Article 16 of the PWC) by providing a practical means of enhancing and protecting the urban forest within existing management and review programming.

We thank the Board for their previous support of all recommended changes to the landmark tree code and urge the Board to adopt these amendments in continuing support of San Francisco's ecology in general and urban forest in particular.

Respectfully,

San Francisco Urban Forestry Council

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Email: urbanforestcouncil@sfgov.org

