

FILE NO.

ORDINANCE NO.

1 [Public Works Code – Landmark Groves]

2

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

6 NOTE: Additions are *single-underline italics Times New Roman*;
7 deletions are ~~*strike-through italics Times New Roman*~~.
8 Board amendment additions are double-underlined;
9 Board amendment deletions are ~~strike through normal~~.

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

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

12 **SEC. 802. DEFINITIONS.**

13 Unless the context specifically indicates otherwise,

14 (a) "Administrative cost" shall mean 20 percent of the Department's actual
15 replacement cost, or a minimum of \$100, whichever is greater.

16 (b) "City" shall mean the City and County of San Francisco.

17 (c) "Community Boards" of San Francisco shall mean the neighborhood
18 mediation/dispute settlement service established under the auspices of The Community Board
19 Program, Inc.

20 (d) "Department" shall mean the Department of Public Works of the City and County of
21 San Francisco.

22 (e) "Director" shall mean the Director of the Department of Public Works or the
23 Director's designee.

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

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

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

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

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

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

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

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

11 (m) (j) "Landmark tree" shall mean a tree so designated pursuant to Section 810 of this
12 Article.

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

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

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

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

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

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

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

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

21 ~~(u)~~ ~~(s)~~ "Replacement value" shall mean the actual cost to the Department of replacing
22 a tree or landscape material removed or destroyed with a comparable size and species of tree
23 or with comparable landscape material. Certain trees or landscape material, because of their
24 size, species or historical significance, cannot be replaced from available nursery stock. In
25 such case, "replacement value" shall be determined pursuant to the valuation formula

1 adopted by the International Society of Arboriculture, as amended from time to time, plus the
2 Department's actual costs to replace the tree. "Replacement value" shall include the
3 Department's administrative costs.

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

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

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

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

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

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

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

20

21 **SEC. 805. RESPONSIBILITY FOR MAINTENANCE OF STREET TREES.**

22 (a) **Responsibilities of Property Owners.** Except as specified in Subsections 805(b)
23 and (c) below, it shall be the duty of owners of lots or portions of lots immediately abutting on,
24 fronting on or adjacent to any street tree to maintain such street tree. This duty shall include
25 both routine and major maintenance of the street tree. It shall be the responsibility of all

1 public agencies, including City, State and federal agencies, to maintain street trees abutting
2 on such public agency's property in accordance with this Section. In addition, and in
3 accordance with Section 706 of this Code, abutting property owners shall be responsible for
4 the care and maintenance of the sidewalk and sidewalk areas adjacent to any street tree.

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

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

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

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

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

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

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

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

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

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

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

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

14
15 **SEC. 806. PLANTING AND REMOVAL OF STREET TREES.**

16 (a) **Planting and Removal by the Department.**

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

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

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

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

10 (3) **Appeal of Tree Removal.**

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

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

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

23 (4) **Removal of Hazard Street Trees.**

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

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

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

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

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

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

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

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

7 (3) **Removal.**

8 (A) An abutting property owner who desires a permit to remove a street
9 tree shall apply to the Department on the designated form. The Department may grant or
10 deny the permit in accordance with the following procedures and requirements. If the
11 Department grants a tree removal permit, it shall require that a street tree or trees of
12 equivalent replacement value to the one removed be planted in the place of the removed tree
13 or impose an in-lieu fee unless it makes written findings detailing the basis for waiving or
14 modifying this requirement.

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

21 (ii) **Additional Fees.** In instances where administration or
22 processing of any application is or will exceed the fee amount established pursuant to
23 subsection (i), the Director, in his or her discretion, may require an applicant or permittee to
24 pay a sum in excess of the subject fee amounts. This additional sum shall be sufficient to
25 recover actual costs that the Department incurs and shall be charged on a time and materials

1 basis. The Director also may charge for any time and materials costs that other agencies,
2 boards, commissions, or departments of the City, including the City Attorney's Office, incur in
3 connection with the processing or administration of a particular application. Whenever
4 additional fees are or will be charged, the Director, upon request of the applicant or permittee,
5 shall provide in writing the basis for the additional fees or an estimate of the additional fees to
6 be charged.

7 (iii) **Fee Review and Adjustment.** Beginning with fiscal year
8 2010-2011, the fees that are established herein shall be reviewed and adjusted each year in
9 accordance with the procedures set forth in Public Works Code Section 2.1.2.

10 (B) Thirty days prior to the removal date, the Department shall give
11 notice to all interested San Francisco organizations and, to the extent practicable, the owners
12 and occupants of properties that are on or across from the block face or adjacent to where the
13 affected tree is located. In addition, 30 days prior to the removal date, the Department shall
14 post a notice on the affected tree. If within 30 days after the giving of such notice any person
15 files with the Department written objections to the removal, the Director shall hold a hearing
16 prior to removing the tree. Written notice of the date, time and place of the hearing shall be
17 posted on the affected tree and sent to the objecting party and all interested San Francisco
18 organizations not less than seven days prior thereto.

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

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

23 (c) **Planting and Removal by City Agencies, Commissions, or Other**
24 **Departments.** If a City agency, commission, or department other than the Department of
25 Public Works desires to plant or remove a street tree, such agency, commission, or

1 department shall be subject to the provisions of Subsection (b); provided, however, that for
2 purposes of street tree removal, the notice and procedures for Director's hearings set forth in
3 Subsections (a)(2) and (a)(3) shall apply.

4
5 **SEC. 810. LANDMARK TREES AND GROVES.**

6 (a) **Designation Criteria.**

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

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

10 (B) The environmental contributions of the tree: including whether the tree is a
11 prominent landscape feature, is part of an interdependent group of trees or exists in an area with low
12 tree density, has a traffic calming effect, or provides important wildlife habitat;

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

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

21 ~~The Board of Supervisors in Resolution No. 440-06, Clerk of the Board of Supervisors File No. 060487,~~
22 ~~adopted uniform criteria for the designation of landmark trees, which included consideration of the~~
23 ~~age, size, shape, species, location, historical association, visual quality, and other contribution to the~~
24 ~~City's character, as set forth Section 810(f)(4)(A)-(E) below. This designation criteria, which may be~~

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1 ~~amended from time to time, shall apply to all trees within the territorial limits of the City and County of~~
2 ~~San Francisco.~~

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

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

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

10 (C) The noteworthy cultural or historical value of the grove, including whether
11 it reflects the character or a unique moment in the history of the neighborhood or the city; and

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

15 (b) **Designation Process.**

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

24 (2) **Content of Nominations.**

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1 (A) Nominations shall be made in writing to the Urban Forestry Council
2 and shall include the basis for the nomination, which may address one or more of the adopted
3 designation criteria, including the factors listed below in Section 810(f)(4)(A)-(E) below; the lot,
4 assessor's block, and street address of the subject property; one or more pictures of the tree
5 or grove; and any other information that the nominating property owner or entity believes
6 would be pertinent to the nomination.

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

14 (3) **Urban Forestry Council Hearing and Determination.** The Urban
15 Forestry Council shall hold a public hearing on a completed nomination request, and shall
16 determine whether the tree or grove qualifies as a landmark ~~tree~~ pursuant to the adopted
17 designation criteria. After the conclusion of the public hearing, the Urban Forestry Council
18 shall adopt written findings that specify the basis for its decision to approve or reject the
19 nomination and shall forward these findings to the applicant for the nomination and the
20 affected property owner. If the Urban Forestry Council determines that the subject tree or
21 grove meets the adopted designation criteria, it shall forward said decision to the Director, as
22 to a tree or grove on private property, or to the subject City agency, commission or
23 department, as to a tree or grove on City-owned property. If the Urban Forestry Council
24 rejects the nomination, the Council shall not accept a new request for the subject tree or grove
25 for three years from the date of its decision. If the Urban Forestry Council determines that a

1 tree or grove qualifies as a landmark ~~tree~~, its written findings on the nomination, along with any
2 recommendations of relevant City agencies, commissions or departments, shall be forwarded
3 to the Board of Supervisors for its consideration pursuant to Section 810(b)(4) of this Article.
4 If the Urban Forestry Council fails to forward said findings to the Board of Supervisors within
5 120 days of the Urban Forestry Council's receipt of the nomination request, the Board of
6 Supervisors may, in its discretion, schedule a public hearing on the nomination, in which
7 event, the failure of the Urban Forestry Council to forward said findings within the 120 day
8 period shall constitute its approval of the nomination.

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

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

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

21 (4) **Designation.** Upon the recommendation of the Urban Forestry Council, the
22 Board of Supervisors, by ordinance, may designate as a "landmark tree" or "landmark grove"
23 any tree or grove within the territorial limits of the City and County of San Francisco that meets
24 the adopted designation criteria, or may rescind such designations. If the Urban Forestry
25

1 Council does not issue findings in a timely manner pursuant to Subsection (b)(3), the Board of
2 Supervisors shall adopt its own findings as part of the designation of a landmark tree or grove.

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

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

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

14 (1) At the time a member of the Board of Supervisors introduces a resolution of
15 intent to initiate a nomination and submits to the Clerk of the Board of Supervisors the
16 information required for a landmark tree or grove nomination request as set forth in Section
17 810(b)(2), the subject tree or grove shall be temporarily designated as a landmark tree or grove
18 ("temporary designation") and be subject to the provisions governing landmark trees or groves
19 set forth herein while proceedings are pending on the landmark tree or grove designation. At
20 the time the Planning Commission or Landmarks Preservation Advisory Board adopts a
21 resolution of intent to initiate a nomination, temporary designation of the subject tree or grove
22 shall occur. If the Director of the Department or the director of any other City agency,
23 commission or department initiates the landmark tree or grove designation, the temporary
24 designation shall occur when the Urban Forestry Council adopts a resolution determining that
25 the subject tree or grove qualifies for landmark ~~tree~~ status. In addition, the Director of the

1 Department shall have the authority to issue an emergency order that temporarily designates
2 a tree or grove on private property or on any property under the jurisdiction of the Department
3 to prevent the immediate removal of a tree or grove. Upon initiation of a nomination pursuant
4 to this Section, the entity initiating nomination shall immediately inform the Director who shall
5 immediately cause a notice to be provided to the relevant department or private property
6 owner informing them of the special permit and approval requirements pursuant to
7 Section 810(f).

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

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

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

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

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1 (e) **Zoning Administrator.** The Zoning Administrator shall be required to identify
2 designated landmark tree(s) or grove(s) on proposed development or construction sites and to
3 notify the Urban Forestry Council and the Department or affected City agency, commission or
4 department. The Zoning Administrator and the Department or such other City Agency,
5 commission or department with jurisdiction, shall be required to impose measures to protect
6 such landmark trees or trees included in landmark groves on a construction site against damage
7 to trunk, roots, and branches in accordance with Section 808(c) of this Article. Removal of
8 such trees shall be subject to the rules and procedures for removal of landmark trees provided
9 in this Section.

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

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

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

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

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

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

25 (A) Size, age, and species;

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

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

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

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

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

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

1 (6) **Emergency Removal on City-Owned Property.** In the case of manifest
2 danger and immediate necessity, as determined by the director or general manager of the
3 subject agency, commission, or department, the subject agency, commission, or department
4 may remove a landmark tree within its jurisdiction immediately. After such emergency
5 removal, the subject agency, department, or commission shall provide written notice of the
6 necessity of such action to the Board of Supervisors, Urban Forestry Council and Department
7 of Public Works and shall also provide such notice to all interested San Francisco
8 organization and, to the extent practical, the owners and occupants of properties that are on
9 or across from the block face where the affected tree was removed. Removal of a landmark
10 tree pursuant to this Subsection is not subject to Section 810(f)(4) above.

11 (g) **Removal Criteria and Procedures—Landmark Groves.**

12 (1) **Removal From Private Property; Special Permit Required.** Except in the case of
13 an emergency as provided in subsection (g)(4), no person may remove from private property a tree or
14 trees included within a landmark grove designation without first obtaining a permit to do so from the
15 Director. A property owner who desires such a permit must apply to the Director on the designated
16 form and pay an application fee in an amount set by the Director. The Director may only issue a
17 removal permit after a noticed public hearing on the application and the adoption of written findings as
18 provided in subsection (g)(2). The Director shall follow the same notice procedures set forth in
19 Section 806(a)(2).

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

1 (2) Director's Determination and Findings. *The Director shall only issue a removal*
2 *permit if he or she determines that removal of the tree or trees would be consistent with the*
3 *management plan for the grove. As part of that determination, the Director shall make written findings*
4 *on the impact of such removal on the ongoing implementation of the grove management plan,*
5 *considering each of the factors that originally supported designation of the grove as set forth in*
6 *subsection (a)(2). If the Department determines that removal of such a tree is justified on the grounds*
7 *that it is a Hazard Tree, the Department shall make written findings regarding how the determination*
8 *satisfies the criteria set forth in Section 802(h).*

9 (3) Removal From City-Owned Property; Special Approval Required. *Except in the*
10 *case of an emergency as provided in subsection (g)(5), no City agency, commission, or department*
11 *("the Agency") may remove a tree or trees included within a landmark grove designation and located*
12 *on City-owned property under the Agency's jurisdiction without first determining, after a noticed public*
13 *hearing, that removal of the tree or trees would be consistent with the management plan for the grove.*
14 *The Agency shall follow the same notice procedures set forth in Section 806(a)(2). As part of its*
15 *determination, the Agency shall make written findings on the impact of the removal on the ongoing*
16 *implementation of the grove management plan, considering each of the factors that originally*
17 *supported designation of the grove as set forth in subsection (a)(2). If the Agency determines that*
18 *removal of such a tree is justified on the grounds that it is a Hazard Tree, the Agency shall make*
19 *written findings regarding how the determination satisfies the criteria set forth in Section 802(h).*

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

23 (4) Emergency Removal From Private Property. *Where the Director determines that*
24 *the condition of a tree or trees included within a landmark grove designation and located on private*
25 *property creates a clear and immediate danger to life or property, the Director may immediately*

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1 remove such tree or trees without regard for the provisions of subsection (g)(1) and (2), or cause the
2 responsible owner or owners to remove such tree or trees. The Director shall promptly submit written
3 notice of his or her action, including the justification for the removal, to the Board of Supervisors and
4 the Urban Forestry Council. The Director shall also provide copies of the notice to all interested San
5 Francisco organizations that have requested in writing to be notified of such actions, and, to the extent
6 practical, to the owners and occupants of properties that are on or across from the block face where
7 the subject tree or trees were located.

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

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

21 (h) ~~(g)~~ If a landmark tree(s) or grove(s) has been designated as part of a local historic
22 district or landmark under Article 10 of the Planning Code, removal of such tree or a tree or
23 trees included in the landmark grove designation shall be subject to the procedures set forth in the
24 Planning Code Article 10 in addition to the requirements of Subsection 810(f) above. In the
25

1 case of a conflict between Section 810(f) and the Article 10 designation, the more restrictive
2 provisions shall apply.

3

4 **SEC. 810A. SIGNIFICANT TREES.**

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

14 (b) **Removal; Requirements.**

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

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

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

23 (4) **Emergency Removal.** In the case of manifest danger and immediate
24 necessity, as determined by the Director in writing, the Director may remove or require the
25 responsible owner(s) to remove a significant tree immediately. After such emergency

1 removal, the Department shall provide written notice to all interested San Francisco
2 organizations and, to the extent practical, owners and occupants of properties that are on or
3 across from the block face where the affected tree was removed of the necessity for such
4 action. If the Department incurs any costs related to an emergency removal, said costs,
5 including labor, equipment, materials, inspection services, and administrative costs, shall be
6 an obligation owing by the responsible owner(s) to the City. Removal of a significant tree
7 pursuant to this Subsection is not subject to Subsection (c) below.

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

10 (1) Size, age, and species;

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

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

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

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

21 (6) Whether the tree constitutes a hazard tree as set forth in Section 802(h)
22 ~~802(o)~~; and

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

24 (d) **Zoning Administrator.** The Zoning Administrator shall be required to identify
25 significant tree(s) on proposed development or construction sites and to notify the

1 Department. The Zoning Administrator and the Department shall be required to impose
2 measures to protect such significant trees on a construction site against damage to trunk,
3 roots, and branches in accordance with Section 808(c) of this Article. Removal of such trees
4 shall be subject to the rules and procedures for removal of significant trees provided in this
5 Section.

6
7 Section 2. **Environmental Findings.** The Planning Department has determined that
8 the actions contemplated in this ordinance are in compliance with the California
9 Environmental Quality Act (Cal. Pub. Res. Code §§ 21000 et seq.). Said determination is on
10 file with the Clerk of the Board of Supervisors in File No. _____ and is incorporated
11 herein by reference.

12
13 Section 3. **Effective Date.** This ordinance shall become effective 30 days from the
14 date of passage.

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