

FILE NO. 98-0991

ORDINANCE NO. 294-98

1 [Urban Forestry - Street Tree Removal]
2 AMENDING PART II, CHAPTER X OF THE SAN FRANCISCO MUNICIPAL CODE (PUBLIC
3 WORKS CODE) BY AMENDING SECTIONS 802, 806, AND 811 OF ARTICLE 16 (URBAN
4 FORESTRY) TO SPECIFY THE PUBLIC NOTICE AND APPEAL PROCEDURES
5 REGARDING STREET TREE REMOVAL BY CITY AGENCIES, COMMISSIONS, OR
6 DEPARTMENTS AND TO ESTABLISH A NOTIFICATION PROCESS AND ENFORCEMENT
7 MECHANISM FOR VIOLATIONS OF THE URBAN FORESTRY ORDINANCE; AND MAKING
8 SPECIFIED PROVISIONS OF THIS ORDINANCE APPLICABLE AS OF SEPTEMBER 1,
9 1998.

10 Note: Additions are underlined; deletions are in ((double parentheses)).

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

12 Section 1. Part II, Chapter X of the San Francisco Municipal Code (Public Works
13 Code) is hereby amended by amending Sections 802, 806, and 811 of Article 16 (Urban
14 Forestry) to read as follows:

15 **SEC. 802. DEFINITIONS.** Unless the context specifically indicates otherwise,

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

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

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

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

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

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BOARD OF SUPERVISORS

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

3 (g) "Injure" or "injury" shall mean any act which harms or damages a tree, including
4 but not limited to impact, cutting, carving, transplanting, or knocking over, and includes but is
5 not limited to the following: injurious attachment of any rope, wire, nail, advertising poster, or
6 other contrivance to any street tree as set forth in Sections 675 and 675.1 of the Municipal
7 Police Code; intentionally or negligently allowing any gaseous, liquid, or solid substance that is
8 harmful to a tree to come into contact with a tree; setting fire or intentionally or negligently
9 permitting any fire to burn when such fire or the heat therefrom will injure any part of any tree;
10 pruning which in and of itself will kill or cause a tree to decline; or severing of all or part of a tree.

11 (h) "In-lieu fee" shall mean a fee deposited into the Adopt-A-Tree Fund and imposed
12 by the Director. The in-lieu fee shall be equal to the replacement value of a tree(s) to be
13 removed or trees that have been destroyed. In the case of trees required to be planted by
14 Section 143 of the City Planning Code, yet excused under Section 143(d) of the Planning Code,
15 the in-lieu fee shall be equal to the City's cost to plant and water a tree for two years.

16 (i) "Interested San Francisco Organization" shall mean a San Francisco organization or
17 individual that has made a written request to the Department for notification of proposed
18 street tree removals in a specified neighborhood(s).

19 (j) "Landmark tree" shall mean a tree so designated pursuant to Section 810 of this
20 Article.

21 (((j))) (k) "Landscape material" shall mean any tree, shrub, ground cover or other plant.

22 (((k))) (l) "Maintenance" shall mean those actions necessary to promote the life,
23 growth, health, or beauty of a tree. Maintenance includes both routine and major activities.
24 "Routine maintenance" shall include adequate watering to ensure the tree's growth and
25 sustainability; weed control; removal of tree-well trash; staking; fertilizing; routine adjustment

1 and timely removal of stakes, ties, tree guards, and tree grates; bracing; and sidewalk repairs
2 related to the tree's growth or root system pursuant to Section 706 of this Code. "Major
3 maintenance" shall include structural pruning as necessary to maintain public safety and to
4 sustain the health, safety, and natural growth habit of the tree; pest and disease-management
5 procedures as needed and in a manner consistent with public health and ecological diversity;
6 replacement of dead or damaged trees.

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

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

12 ~~((n))~~ (o) "Nuisance tree" shall mean any tree that poses a hazard to person or
13 property. A tree may be deemed a nuisance if it or any part of it: (1) appears dead, dangerous,
14 or likely to fall; (2) obstructs or damages a street or sidewalk; (3) harbors a serious disease or
15 infestation threatening the health of other trees; (4) interferes with vehicular or pedestrian traffic;
16 (5) obstructs official street cleaning activities; or (6) poses any other significant hazard or
17 potential hazard, as determined by the Director.

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

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

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

24 ~~((r))~~ (s) "Replacement value" shall mean the actual cost to the Department of
25 replacing a tree or landscape material removed or destroyed with a comparable tree or

1 landscape material. Certain trees or landscape material, because of their size, species or
2 historical significance, cannot be replaced from available nursery stock. In such case,
3 "replacement value" shall be determined pursuant to the valuation formula adopted by the
4 International Society of Arboriculture, as amended from time to time, plus the Department's
5 actual costs to replace the tree. "Replacement value" shall include the Department's
6 administrative costs.

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

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

12 ~~((u))~~ (v) "Street tree" shall mean any tree growing within the public right-of-way,
13 including unimproved public streets and sidewalks, and any tree growing on land under the
14 jurisdiction of the Department.

15 ~~((v))~~ (w) "Tree" shall mean any large perennial plant having a woody trunk(s),
16 branches, and leaves.

17 ~~((w))~~ (x) "Tree Advisory Board" or "Tree Board" shall mean a board of private
18 citizens to be appointed and to perform specific duties as set forth in Section 803 of this Article.

19 ~~((x))~~ (y) "Urban forest" shall mean all trees on public streets and rights-of-way
20 within the borders of the City and County of San Francisco and any trees growing on land
21 subject to the jurisdiction of the Department.

22 **SEC. 806. PLANTING AND REMOVAL OF STREET TREES. (a) Planting and**
23 **Removal by the Department.**

24 (1) **Planting.** The Department may determine to plant a new tree(s) in a sidewalk
25 or public right-of-way. When the Department determines to plant a new street tree(s), the

1 Department will undertake maintenance responsibility for such new street tree and shall send
2 a courtesy notice to the abutting property owner prior to planting such new tree. Any
3 objections to the proposed work must be submitted to the Director in writing and postmarked
4 within 30 days after notice by the Director. The Director shall consider such objections and
5 may hold a hearing, in the Director's discretion. The Director's decision on the matter shall be
6 final and nonappealable.

7 (2) **Removal of Street Trees.** ((Except in the case of manifest danger and
8 immediate necessity, as determined by the Director,)) ((n))No street tree shall be cut down or
9 removed by the Department unless:

10 (A) The Department gives ((10)) 30 days' prior written notice ((is given)) to the
11 owner of the ((abutting)) property abutting the affected tree; and

12 (B) Thirty days prior to the removal date, the Department notifies all Interested
13 San Francisco Organizations and owners and, to the extent practical, occupants of properties
14 that are on or across from the block face where the affected tree is located. In addition, ((10))
15 30 days prior to the removal date, the Department shall post a notice on the affected tree.

16 (3) **Appeal of Tree Removal.** (A) If within ((10)) 30 days after the giving of ((such))
17 notice for street tree removal, as specified in Subsection (a)(2), or if within 15 days after the
18 giving of notice for removal of a Nuisance Street Tree, as specified in Subsection (a)(4), any
19 person files with the Department written objections to the removal, the Director ((will)) shall
20 hold a hearing ((prior to removing the tree)) to consider public testimony concerning the
21 proposed tree removal. Written notice of the date, time and place of the hearing shall be
22 posted on the affected tree, provided in a newspaper of general circulation, and sent to the
23 objecting party, the owner of the property abutting the affected tree, and all Interested San
24 Francisco Organizations, not less than seven days prior thereto.

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

3 (C) The Director's decision shall be final and nonappealable.

4 (4) **Removal of Nuisance Street Trees.** (A) No Nuisance Street Tree shall be cut
5 down or removed by the Department unless:

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

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

13 (B) Nuisance Street Tree shall have the same meaning as "Nuisance tree" in
14 Section 802(o) except that a Nuisance Street Tree is located within the public right-of-way
15 and is the maintenance responsibility of the Department.

16 (5) **Emergency Removal.** In the case of manifest danger and immediate necessity,
17 as determined by the Director, the Department may remove any street tree immediately.
18 After such emergency removal, the Department shall make a reasonable effort to notify
19 owners and, to the extent practical, occupants of properties that are on or across from the
20 block face where the affected tree was removed and Interested San Francisco Organizations
21 of the necessity for such action.

22 (b) **Planting and Removal by Persons other than the Department.**

23 (1) **Planting and Removal Permits.** It shall be unlawful for any person to plant or
24 to remove any street tree without a valid permit for such work issued by the Department. All
25 permits for the planting or removal of street trees issued by the Director for residential

1 properties shall be recorded on the Report of Residential Building Records in accordance with
2 Section 351 of the Housing Code. All work associated with a street tree permit must be
3 completed within six months of issuance, unless an extension has been granted by the
4 Department.

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

11 (3) **Removal.** (A) An abutting property owner who desires a permit to remove a
12 street tree shall apply to the Department on the designated form. Such application must be
13 accompanied by an administrative fee in accordance with a fee schedule adopted by the
14 Director. The Department may grant or deny the permit. If the Department grants a tree
15 removal permit, it may require that another street tree be planted in the place of the removed
16 tree or impose an in-lieu fee.

17 (B) In addition, 10 days prior to the removal date, the Department shall post a
18 notice on the affected tree. If within 10 days after the giving of such notice any person files
19 with the Department written objections to the removal, the Director ((will)) shall hold a hearing
20 prior to removing the tree. Written notice of the date, time and place of the hearing shall be
21 posted on the affected tree and sent to the objecting party not less than seven days prior
22 thereto.

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

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

3 (c) Planting and Removal by City agencies, commissions, or departments. If a
4 City agency, commission, or department other than the Department of Public Works desires
5 to plant or remove a street tree, such agency, commission, or department shall be subject to
6 the provisions of Subsection (b); provided, however, that for purposes of street tree removal,
7 the notice and procedures for Director's hearings set forth Subsections (a)(2) and (a)(3) (A)
8 and (B) shall apply.

9 **SEC. 811. PENALTIES FOR VIOLATION OF ORDINANCE.** (a) **Criminal Penalties.**
10 Violation of any of the provisions of Sections 806, 808 and 810(c) of this Article shall be
11 chargeable as an infraction or a misdemeanor. Every violation determined to be an infraction is
12 punishable by a fine of \$200 for a first violation and \$400 for each additional violation within one
13 year. Every violation determined to be a misdemeanor is punishable by a fine not exceeding
14 \$1,000 and/or imprisonment in the County Jail for a period not to exceed six months, for each
15 offense.

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

21 (2) The Department shall send notice of the assessment of administrative civil penalties
22 to the responsible property owner. Such notice shall include a statement that payment is due
23 within 60 days of the mailing date of the notice. If a responsible property owner fails timely to
24 remit payment, the Department shall send a second notice of payment due. Such second notice
25 shall include a statement that failure timely to remit payment in full to the City within 30 days of


1 the mailing of the second notice shall cause the Director to institute lien proceedings pursuant
2 to Sections 706.4—706.7 of this Code. Enforcement and collection of liens for costs associated
3 with nuisance tree abatement shall be in accordance with Sections 706.4—706.7 of this Code,
4 except that all monies received in payment of such liens shall be credited to the Adopt-A-Tree
5 Fund.

6 Section 2. Prior to the effective date of this ordinance, the provisions of this ordinance
7 shall apply, to the extent possible and practicable, to all street tree removal acts and permits
8 granted by the Department of Public Works on or after September 1, 1998.

9 AS TO FORM:

10 LOUISE H. RENNE, City Attorney

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13 By:


14 John D. Malamut
15 Deputy City Attorney

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SUPERVISOR KATZ
BOARD OF SUPERVISORS

Board of Supervisors, San Francisco

Passed on First Reading

September 14, 1998

Ayes: Supervisors Ammiano Bierman
Brown Katz Leno Medina Newsom
Teng Yaki

Noes: Supervisor Kaufman

Absent: Supervisor Yee

§ Finally Passed

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§ September 22, 1998

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§ Ayes: Supervisors Ammiano Brown
§ Katz Leno Medina Newsom Teng Yaki
§ Yee

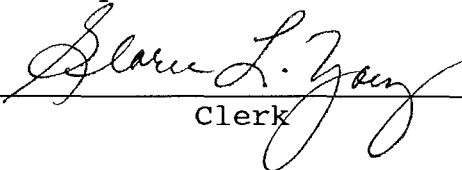
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§ Noes: Supervisor Kaufman

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§ Absent: Supervisor Bierman

I hereby certify that the foregoing ordinance was finally passed by the Board of Supervisors of the City and County of San Francisco


Clerk

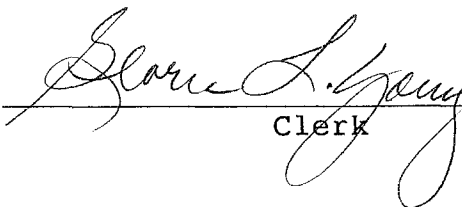
File No.
98-0991

Date Approved

Mayor

Date: October 5, 1998

I hereby certify that the foregoing ordinance, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, became effective without his approval in accordance with the provision of said Section 3.103 of the Charter.


Clerk

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98-0991