

1 [Public Works Code – landmark trees.]

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3 **Ordinance amending Section 810 of the San Francisco Public Works Code to make**  
4 **clarifying changes, establish hearing notice provisions, and extend the term of**  
5 **temporary designation of nominated landmark trees; and making environmental**  
6 **findings.**

7 Note: Additions are single-underline italics Times New Roman;  
8 deletions are ~~strikethrough italics Times New Roman~~.  
9 Board amendment additions are double underlined.  
Board amendment deletions are ~~strikethrough normal~~.

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

11 Section 1. The Planning Department has determined that the actions contemplated in  
12 this Ordinance are in compliance with the California Environmental Quality Act (California  
13 Public Resources Code sections 21000 et seq.). Said determination is on file with the Clerk of  
14 the Board of Supervisors in File No. \_\_\_\_\_ and is incorporated herein by  
15 reference.

16 Section 2. The San Francisco Public Works Code is hereby amended by amending  
17 Section 810, to read as follows:

18 SEC. 810. LANDMARK TREES.

19 (a) Designation Criteria. The ~~Urban Forestry Council shall develop and recommend for~~  
20 ~~adoption by the~~ Board of Supervisors in Resolution No. 440-06, Clerk of the Board of Supervisors  
21 File No. 060487, adopted uniform criteria for the designation of landmark trees, which ~~criteria~~  
22 ~~shall~~ included consideration of the age, size, shape, species, location, historical association,  
23 visual quality, ~~or and~~ other contribution to the City's character, as set forth Section  
24 810(f)(4)(A)--(E) below. ~~Upon adoption by the Board of Supervisors, the~~ This designation criteria,  
25 which may be amended from time to time, shall apply to all trees within the territorial limits of the

1 City and County of San Francisco. ~~Pending adoption of criteria for designation of landmark trees,~~  
2 ~~the Urban Forestry Council, affected City departments, and the Board of Supervisors shall rely on the~~  
3 ~~general criteria set forth in Section 810(f)(4)(A)–(E).~~

4 (b) Designation Process.

5 (1) Nominations. A tree may be nominated for designation as a landmark tree by any  
6 of the following parties: (i) the property owner whose property contains the subject tree by a  
7 written request to the Urban Forestry Council; (ii) the Board of Supervisors ~~by adoption of a~~  
8 ~~motion declaring the intent to nominate a tree for landmark status or the~~,<sup>7, 2</sup> Planning  
9 Commission,<sup>2</sup> or Landmarks Preservation Advisory Board by adoption of a resolution of intent  
10 to nominate a tree for landmark status; or (iii) the director of any City agency or department by  
11 filing a nomination letter with the Urban Forestry Council. Each tree nominated for landmark  
12 tree status shall be the subject of a separate individual nomination.

13 (2) Content of Nominations. Nominations shall be made in writing to the Urban  
14 Forestry Council and shall include the basis for the nomination, which may address one or  
15 more of the adopted designation criteria, including the factors listed below in Section  
16 810(f)(4)(A)–(E) below; the lot, assessor's block, and street address of the subject property;  
17 one or more pictures of the tree; and any other information that the nominating property owner  
18 or entity believes would be pertinent to the nomination.

19 (3) Urban Forestry Council Hearing and Determination. The Urban Forestry Council  
20 shall hold a public hearing on a ~~nomination within 60 days of receipt of a completed~~  
21 nomination request, and shall determine whether the tree qualifies as a landmark tree  
22 pursuant to the adopted designation criteria. ~~The Urban Forestry Council shall meet at least~~  
23 ~~twice annually to consider such nomination requests.~~ After the conclusion of the public  
24 hearing, the Urban Forestry Council shall adopt written findings that specify the basis for its  
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1 decision to approve or reject the nomination and shall forward these findings to the applicant  
2 for the nomination and the affected property owner. If the Urban Forestry Council determines  
3 that the subject tree meets the adopted designation criteria, it shall forward said decision to  
4 the Director, as to a tree on private property, or to the subject City agency, commission or  
5 department, as to a tree on City-owned property. If the Urban Forestry Council rejects the  
6 nomination, the Council shall not accept a new request for the subject tree for three years  
7 from the date of its decision. If the Urban Forestry Council determines that a tree qualifies as  
8 a landmark tree, its written findings on the nomination ~~shall be forwarded~~, along with any  
9 recommendations of relevant City agencies, commissions or departments, shall be forwarded  
10 ~~within 30 days~~ to the Board of Supervisors for its consideration pursuant to Section 810(b)(4)  
11 of this Article. If the Urban Forestry Council fails to forward said findings to the Board of  
12 Supervisors within ~~90~~ 120 days of the Urban Forestry Council's receipt of the nomination  
13 request, the Board of Supervisors may, in its discretion, schedule a public hearing on the  
14 nomination, in which event, the failure of the Urban Forestry Council to forward said findings  
15 within the ~~90~~ 120 day period shall constitute its approval of the nomination.

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

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

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

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

10 (c) Landmark Tree Designation Recorded Notice and Official Book. Upon Board of  
11 Supervisors designation of a landmark tree, the Department or affected agency shall record a  
12 notice on the subject property concerning the landmark tree. The Department also shall  
13 record the landmark tree designation in an official book entitled Landmark Trees. If the  
14 landmark tree is a street tree under the maintenance responsibility of the Department, the  
15 Department shall record the landmark tree designation in a separate section of the Landmark  
16 Tree book that is reserved for those landmark trees under the maintenance responsibility of  
17 the Department. The Department shall maintain this book for public review and update it on a  
18 regular basis with the assistance of affected agencies.

19 (d) Temporary Designation of Landmark Tree Status.

20 (1) At the time a member of the Board of Supervisors introduces a ~~resolution of motion~~  
21 ~~declaring the resolution of~~ intent to initiate a nomination and submits to the Clerk of the Board  
22 of Supervisors the information required for a landmark tree nomination request as set forth in  
23 Section 810(b)(2), the subject tree shall be temporarily designated as a landmark tree  
24 ("temporary designation") and be subject to the provisions governing landmark trees set forth  
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1 herein while proceedings are pending on the landmark tree designation. At the time the  
2 Planning Commission or Landmarks Preservation Advisory Board adopts a resolution of intent  
3 to initiate a nomination, temporary designation of the subject tree shall occur. If the Director of  
4 the Department or the director of any other City agency, commission or department initiates  
5 landmark tree designation, temporary designation shall occur when the Urban Forestry  
6 Council adopts a resolution determining that the subject tree qualifies for landmark tree status.  
7 In addition, the Director of the Department shall have the authority to issue an emergency  
8 order that temporarily designates a tree on private property or on any property under the  
9 jurisdiction of the Department to prevent the immediate removal of a tree. Upon initiation of a  
10 nomination pursuant to this Section, the entity initiating nomination shall immediately inform  
11 the Director who shall immediately cause a notice to be provided to the relevant department  
12 or private property owner informing them of the special permit and approval requirements  
13 pursuant to Section 810(f).

14 (2) If ~~180~~ 215 days have elapsed from the date of temporary designation and final  
15 action on landmark tree designation has not been completed, the temporary designation  
16 status for the subject tree shall expire unless the Board of Supervisors adopts a resolution to  
17 extend the temporary designation. Such extension shall not exceed 90 additional days.

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

23 (4) The 215-day term of temporary designation or any additional term, if extended through  
24 Board of Supervisors action pursuant to this Section, shall automatically be extended 30 additional

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1 days from the date the Mayor either signs the ordinance designating the subject tree as a landmark tree  
2 or the 10<sup>th</sup> day after the Clerk of the Board refers said ordinance to the Mayor and the ordinance is not  
3 signed or vetoed.

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

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

15 (f) Removal Criteria and Procedures.

16 (1) Removal Criteria. The Urban Forestry Council shall develop and recommend for  
17 adoption by the Board of Supervisors uniform criteria, rules, and procedures governing  
18 determinations to remove landmark trees. Removal criteria shall require consideration and  
19 written findings on all of the factors related to the landmark tree as set forth in Section  
20 810(g)(4), below, and shall not authorize the removal of a landmark tree unless the it  
21 constitutes a hazard tree pursuant to Section 802(o). Public notice, in accordance with the  
22 requirements of Section 806(a)(2), and a hearing shall be required.

23 (2) Removal on Private Property; Special Permit Required. A property owner who  
24 desires a permit to remove a landmark tree shall apply to the Department on the designated  
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1 form. Such application must be accompanied by an administrative fee in accordance with a  
2 fee schedule adopted by the Director. Except in the case of manifest danger and immediate  
3 necessity, landmark trees on private property shall be removed only after the Director's  
4 determination and issuance of a permit, following a public hearing. If the Director determines  
5 that removal of a landmark tree is necessary or permissible in accordance with the adopted  
6 removal criteria, the Director may impose such reasonable conditions on the permit for  
7 removal as he or she deems necessary to compensate for the loss of the tree, including but  
8 not limited to the replacement value of the tree, administrative costs, and contribution to the  
9 Adopt-A-Tree Fund. The Director's determination shall be final and appealable to the Board of  
10 Appeals. Any person seeking permission to remove a landmark tree must pay all costs related  
11 to the permit process and public hearings. Pending adoption of criteria for removal of  
12 landmark trees, the Department shall rely on the general criteria set forth in Section  
13 810(f)(4)(A)--(F).

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

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

7 (A) Size, age, and species;

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

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

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

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

19 (F) One or more criteria that qualify the tree as a hazard tree pursuant to  
20 Section 802(o).

21 (5) Emergency Removal on Private Property. In the case of manifest danger and  
22 immediate necessity, as determined by the Director, the Director may remove or require the  
23 responsible owner(s) to remove a landmark tree immediately. After such emergency removal,  
24 the Director shall provide written notice of the necessity for such action to the Board of  
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1 Supervisors and the Urban Forestry Council and shall also provide such notice to all  
2 interested San Francisco organizations and, to the extent practical, to the owners and  
3 occupants of properties that are on or across from the block face where the affected tree was  
4 removed. 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 landmark tree  
7 pursuant to this Subsection is not subject to Section 810(f)(4) above.

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

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

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1 APPROVED AS TO FORM:  
2 DENNIS J. HERRERA, City Attorney

3 By: \_\_\_\_\_  
4 John D. Malamut  
5 Deputy City Attorney

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