

1 [Public Works Code - landmark trees, significant trees, and penalties for violations.]

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Ordinance amending the Public Works Code by amending Section 801 to add to the purposes; by amending Section 802 to modify various definitions; amending Sections 802, 806, and 809 to redefine nuisance trees as hazard trees; amending Sections 802 and 803 authorizing the Urban Forestry Council to succeed to the powers and duties of the Tree Advisory Board and to assume new duties; amending Section 806 to allow for appeals of decisions concerning removal of street trees that are the responsibility of City departments and to extend the notice period to 30 days for removal of street trees that are the responsibility of private property owners; amending Sections 806 and 807 to require imposition of in lieu fees under specified circumstances; adding Section 810A to define significant trees and establish a regulatory program governing their removal; amending Sections 804, 807, and 808 to make conforming changes regarding significant trees; amending Sections 804, 807, 808, and 810 concerning landmark trees and procedures to designate, nominate, and remove landmark trees; amending Section 811 to create civil penalties and fines and to modify provisions on administrative penalties; requiring the Office of the Legislative Analyst to prepare a report concerning financial incentives related to landmark trees; and making environmental findings.

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

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

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Section 1. Environmental Findings. The Planning Department has determined that the actions contemplated in this Ordinance are in compliance with the California Environmental Quality Act (California Public Resources Code sections 21000 et seq.). Said determination is

1 on file with the Clerk of the Board of Supervisors in File No. and is incorporated herein
2 by reference.

3 Section 2. The San Francisco Public Works Code is hereby amended by amending
4 Sections 801, 802, 803, 804, 806, 807, 808, 809, 810, and 811, to read as follows:

5 SEC. 801. PURPOSE.

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

8 (a) To realize the optimum public benefits of trees on the City's streets and
9 public places, including favorable modification of microclimates, abatement of air and noise
10 pollution, reduction of soil erosion and runoff, enhancement of the visual environment, and
11 promotion of community pride;

12 (b) To integrate street planting and maintenance with other urban elements
13 and amenities, including but not limited to utilities, vehicular and pedestrian traffic, and
14 enhancement of views and solar access;

15 (c) To promote efficient, cost effective management of the City's urban forest
16 by coordinating public and private efforts within a comprehensive and professional
17 management system;

18 (d) To reduce the public hazard, nuisance, and expense occasioned by
19 improper tree selection, planting, and maintenance;

20 (e) To provide for the creation of an equitable, sustained, and reliable means
21 of funding urban-forest management throughout the City;

22 (f) To create and maintain a unified urban-forest resource, enhancing the
23 City's overall character and sense of place.

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1 (g) To recognize that trees are an essential part of the City's aesthetic
2 environment and that the removal of important trees should be addressed through appropriate
3 public participation and dialogue, including the California Environmental Quality Act (Public
4 Resources Code Sections 21000 et seq.

5 SEC. 802. DEFINITIONS.

6 Unless the context specifically indicates otherwise,

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

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

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

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

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

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

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

5 (h) "In-lieu fee" shall mean a fee deposited into the Adopt-A-Tree Fund and
6 imposed by the Director. The in-lieu fee shall be equal to the replacement value of a tree(s) to
7 be removed or trees that have been destroyed *or as otherwise specified in Section 811*. In the
8 case of trees required to be planted by Section 143 of the City Planning Code, yet excused
9 under Section 143(d) of the Planning Code, the in-lieu fee shall be equal to the City's cost to
10 plant and water a tree for two years.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 SEC. 803. ~~TREE ADVISORY BOARD; ESTABLISHMENT; APPOINTMENT~~ URBAN
7 FORESTRY COUNCIL; ADDITIONAL POWERS AND DUTIES.

8 (a) ~~There is hereby established an advisory board to be known as the Tree Advisory Board~~
9 ~~consisting of nine private citizens, at least three of whom shall be professionally trained and~~
10 ~~experienced in a tree related field. All members of the Tree Board shall serve without compensation.~~
11 ~~Members shall be appointed by the Director for a term of four years and shall serve at the Director's~~
12 ~~pleasure. All terms shall commence 30 days after the enactment of this Article. Members may serve~~
13 ~~successive terms without limitation. At least one member shall be selected from a list of persons~~
14 ~~nominated by the Director, one from a list nominated by the Mayor, and one from a list nominated by~~
15 ~~the Board of Supervisors. At least one Department representative shall serve as an ex officio nonvoting~~
16 ~~member of the Tree Board. Any City agency, State agency, or federal agency may request of the~~
17 ~~Director an appointment to the Tree Board as an ex officio nonvoting member.~~

18 (b) ~~The Tree Board shall meet at least six times a year and shall establish its own operating~~
19 ~~procedures which, at a minimum, shall meet the public notice, meeting, voting, agenda and other~~
20 ~~procedural requirements of Section 3.500 of the San Francisco Charter.~~

21 (c) ~~The Tree Board~~ Urban Forestry Council shall serve in an advisory capacity to the
22 Director or his designee on matters relating to this Article and to tree management in the City.
23 The responsibilities of the ~~Tree Board~~ Urban Forestry Council may include but shall not be
24 limited to the following:
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- 1 (1) Studying the problems and determining the needs of the City concerning
2 its street tree planting and maintenance programs, and advising the Director in this regard;
- 3 (2) Preparing for the Director an annual report detailing the state of the urban
4 forest;
- 5 (3) Recommending to the Director appropriate species of trees to be planted
6 on City streets or other areas under the Department's jurisdiction;
- 7 (4) Working with the Community Boards of San Francisco in developing
8 guidelines, standards, and procedures for the mediation of conflicts between property owners
9 over the protection of views, solar access, planting/removal of trees, and other tree-related
10 issues;
- 11 (5) Working with the Director concerning the maintenance of an Urban
12 Forestry Management Plan;
- 13 (6) Developing and recommending for Board of Supervisors' adoption
14 uniform criteria for establishing designating "landmark" status for trees under the jurisdiction of
15 the Department and uniform criteria, rules, and procedures for the removal of "landmark" trees
16 pursuant to Section 810;
- 17 (7) Making recommendations to the Director on appeals of applications for
18 tree removal;
- 19 (8) Recommending to the Director information to be distributed to the public
20 concerning the selection, planting, and maintenance of trees throughout the City; and
- 21 (89) Recommending to the Director desirable City tree programs and
22 activities, including legislation and funding mechanisms.

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

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1 SEC. 804. JURISDICTION.

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

10 SEC. 806. PLANTING AND REMOVAL OF STREET TREES.

11 (a) Planting and Removal by the Department.

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

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

22 (A) The Department gives 30 days' prior written notice to the owner of the
23 property abutting the affected tree; and
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1 (B) Thirty days prior to the removal date, the Department notifies all
2 interested San Francisco organizations ~~and owners~~ and, to the extent practical, all owners
3 and occupants of properties that are on or across from the block face where the affected tree
4 is located. In addition, 30 days prior to the removal date, the Department shall post a notice
5 on the affected tree.

6 (3) Appeal of Tree Removal.

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

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

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

19 (4) Removal of *Nuisance Hazard* Street Trees.

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

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

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

6 (B) *Nuisance Hazard* street tree shall have the same meaning as
7 "~~nuisancehazard~~ tree" in Section 802(o) except that a *nuisance hazard* street tree is located
8 within the public right-of-way and is the maintenance responsibility of the Department.

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

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. All
20 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.

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

7 (3) Removal.

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

15 (B) Thirty days prior to the removal date, the Department shall give notice to
16 all interested San Francisco organizations and, to the extent practicable, the owners and
17 occupants of properties that are on or across from the block face or adjacent to where the
18 affected tree is located. In addition, ~~40~~30 days prior to the removal date, the Department shall
19 post a notice on the affected tree. If within ~~40~~30 days after the giving of such notice any
20 person files with the Department written objections to the removal, the Director shall hold a
21 hearing prior to removing the tree. Written notice of the date, time and place of the hearing
22 shall be posted on the affected tree and sent to the objecting party and all interested San
23 Francisco organizations not less than seven days prior thereto.

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

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

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

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

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

16 (b) Neighborhood Planting Program. The Department shall continue to encourage
17 and support neighborhood planting programs. Support may include, but need not be limited
18 to, provision of trees and materials, sidewalk cutting and removal, planting labor, technical
19 advice, and organizational assistance. The Department is hereby authorized to donate such
20 funds, materials and labor to neighborhood planting programs as are deemed by the Director
21 to be in the public interest and in the interest of the promotion of the urban forest.

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

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1 (d) Authority over Site Development Plans.

2 (1) The Department shall have the authority to review and comment on site
3 development plan applications received by the City's Central Permit Bureau that pertain to the
4 planting, alteration, or removal of street trees. The Department shall also have the authority to
5 review and comment on site development plan applications that pertain to the alteration or
6 removal of landmark trees designated pursuant to Section 810(a) of this Article and significant
7 trees pursuant to Section 810A of this Article. Protection of such trees during construction
8 shall be required in accordance with Section 808(c) of this Article. Removal of such trees
9 shall be subject to the applicable rules and procedures for removal set forth in Section 806,
10 810, or 810A of this Article.

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

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

21 (f) In-Lieu Planting Program. The Department shall develop and implement an In-
22 Lieu Planting Program to offset the loss of street trees, significant trees, and landmark trees due
23 to removal, destruction, or death. The In-Lieu Planting Program shall also compensate for the
24 loss of trees required to be planted by Section 143 of the Planning Code, yet excused by the
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1 Zoning Administrator pursuant to Planning Code Section 143(d). The Department ~~may~~shall
2 impose an in-lieu fee in accordance with a fee schedule adopted by the Director where a
3 street tree is destroyed, removed or is excused from planting where otherwise required by
4 Planning Code Section 143. The Department ~~may~~ also shall assess an in-lieu fee or such other
5 penalty as set forth in Section 811 as mitigation for violation of the requirements of this Article.
6 The Department shall follow the requirements set forth herein for payment of an in-lieu fee
7 unless it makes written findings detailing the basis for waiving said requirements. As set forth
8 in Section 811, in~~In~~-lieu fees shall be deposited in the Adopt-A-Tree Fund.

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

13 SEC. 808. PROTECTION OF TREES AND LANDSCAPE MATERIAL.

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

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

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

9 SEC. 809. NUISANCE HAZARD TREES; ABATEMENT.

10 (a) Notice to Property Owner(s). Upon a finding by the Director that a tree on private
11 property or a street tree for which a property owner is responsible is a "nuisance hazard tree" as
12 defined herein, the Director shall provide notice to the property owner(s) which describes the
13 condition creating the nuisance hazard, the actions required to be taken to abate the nuisance
14 hazard, and the date by which compliance must be completed. Required action may include
15 replacement or removal of the tree in accordance with applicable requirements and
16 procedures provided in this Article for removal of the subject tree. In cases of extreme danger,
17 as determined by the Director, the Director may require immediate compliance.

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

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

12 SEC. 810. LANDMARK TREES.

13 (a) Designation Criteria. ~~With the advice of the Tree Board and following a public~~
14 ~~hearing, the Director shall adopt criteria for the designation of landmark trees, which criteria~~
15 ~~shall include consideration of the age, size, shape, species, location, historical association,~~
16 ~~visual quality, or other contribution to the City's character. Upon the recommendation of the~~
17 ~~Director, the Board of Supervisors may designate as a "landmark tree" any street tree or any~~
18 ~~tree on property under the jurisdiction of the Department meeting the criteria adopted by the~~
19 ~~Director, or may rescind such designations. Any person seeking to have a tree designated as~~
20 ~~a landmark must pay all costs related to the Board of Supervisors hearing.~~

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

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1 ~~_____ (c) _____~~ Removal; Special Permit Required. Except in the case of manifest danger
2 and immediate necessity, landmark trees shall be removed only upon a determination of the
3 Board of Supervisors following a public hearing. The Director shall issue criteria governing
4 such determinations. If the Board of Supervisors determines that removal of a landmark tree
5 is necessary or permissible, it may impose such reasonable conditions on the permit for
6 removal as it deems necessary to compensate for the loss of the tree, including but not limited
7 to the replacement value of the tree, and administrative costs, or contribution to the Adopt-A-
8 Tree Fund. Any person seeking permission to remove a landmark tree must pay all costs
9 related to the Board of Supervisors hearing. The Urban Forestry Council shall develop and
10 recommend for adoption by the Board of Supervisors uniform criteria for the designation of
11 landmark trees, which criteria shall include consideration of the age, size, shape, species,
12 location, historical association, visual quality, or other contribution to the City's character, as
13 set forth Section 810(f)(4)(A)-(E) below. Upon adoption by the Board of Supervisors, the
14 designation criteria shall apply to all trees within the territorial limits of the City and County of
15 San Francisco.

16 (b) Designation Process.

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

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

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

3 (4) Designation. Upon the recommendation of the Urban Forestry Council,
4 the Board of Supervisors may designate as a "landmark tree" any tree within the territorial
5 limits of the City and County of San Francisco that meets the adopted designation criteria, or
6 may rescind such designations.

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

16 (d) Temporary Designation of Landmark Tree Status. At the time a member of the
17 Board of Supervisors introduces a resolution of intent to initiate a nomination and submits to
18 the Clerk of the Board of Supervisors the information required for a landmark tree nomination
19 request as set forth in Section 810(b)(2), the subject tree shall be temporarily designated as a
20 landmark tree ("temporary designation") and be subject to the provisions governing landmark
21 trees set forth herein while proceedings are pending on the landmark tree designation. At the
22 time the Planning Commission or Landmarks Preservation Advisory Board adopts a resolution
23 of intent to initiate a nomination, temporary designation of the subject tree shall occur. If the
24 Director of the Department or the director of any other City agency, commission or department
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1 initiates landmark tree designation, temporary designation shall occur when the Urban
2 Forestry Council adopts a resolution determining that the subject tree qualifies for landmark
3 tree status. In addition, the Director of the Department shall have the authority to issue an
4 emergency order that temporarily designates a tree on private property or on any property
5 under the jurisdiction of the Department to prevent the immediate removal of a tree. Upon
6 temporary designation pursuant to this Section, the entity initiating nomination shall
7 immediately inform the Director who shall immediately cause a notice to be provided to the
8 relevant department or private property owner informing them of the special permit and
9 approval requirements pursuant to Section 810(f). If 180 days have elapsed from the date of
10 temporary designation and final action on landmark tree designation has not been completed,
11 the temporary designation status for the subject tree shall expire unless extended by a vote of
12 the Board of Supervisors. Although the subject tree ultimately may be designated as a
13 landmark tree sometime after expiration of temporary designation status, once the temporary
14 designation has expired, the affected tree shall not be subject to a new temporary designation
15 for at least two years from the date of temporary designation.

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

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

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

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

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

13 (A) Size, age, and species;

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

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

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

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

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

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

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

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

6 SEC. 811. PENALTIES FOR VIOLATION OF ORDINANCE.

7 (a) Criminal Penalties. Violation of any of the provisions of Sections 806, 808, ~~and~~
8 ~~810(e)(f)(1), and 810A(b)~~ of this Article shall be chargeable as an infraction or a misdemeanor.
9 Every violation determined to be an infraction is punishable by a fine of \$200 for a first
10 violation and \$400 for each additional violation within one year. Every violation determined to
11 be a misdemeanor is punishable by a fine not exceeding \$1,000 and/or imprisonment in the
12 County Jail for a period not to exceed six months, for each offense.

13 (b) ~~Administrative Civil Penalties and Fees.~~

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

18 (2) Any person who violates this Article may be liable for a civil penalty, not to
19 exceed \$500 for each day such violation is committed or permitted to continue, which penalty shall be
20 assessed and recovered in a civil action brought in the name of the people of the City by the City
21 Attorney in any court of competent jurisdiction. In assessing the amount of the civil penalty, the court
22 may consider any one or more of the relevant circumstances presented by any of the parties to the case,
23 including, but not limited to, the following: the nature and seriousness of the misconduct, the number of
24 violations, the persistence of the misconduct, the length of time over which the misconduct occurred;

1 and the wilfulness of the defendant's misconduct. The City Attorney also may seek recovery of the
2 attorneys' fees and costs incurred in bringing a civil action pursuant to this Section.

3 (c) Administrative Penalties.

4 (1) In addition to the penalties set forth in Subsections (a) and (b) above, the
5 Director may require any person who removes, damages, or destroys a tree in violation of the
6 provisions of this Article ~~shall to~~ pay a sum of money equal to the tree's replacement value or
7 the diminishment of the tree's value as set forth in the current edition of the Guide for Plant
8 Appraisal (Council of Tree and Landscape Appraisers). In no case shall the administrative penalty be
9 less than \$500 per violation. When one or more additional violations occur within one year of the first
10 violation, the Director may assess a responsible party double the tree's replacement value or the
11 diminishment of the tree's value. Depending on the nature and seriousness of the misconduct, including
12 unpermitted removal of or damage to a landmark or significant tree; the number of violations; the
13 persistence of the misconduct; the length of time over which the misconduct occurred; or the wilfulness
14 of the defendant's misconduct, the Director may assess additional penalties in excess of the amounts
15 specified above. In addition to the administrative penalty assessed pursuant to this Section, the
16 Director may assess enforcement costs to cover the reasonable costs incurred in enforcing the
17 administrative penalty, including reasonable attorneys' fees. Any and all amounts paid or
18 collected pursuant to this subsection, with the exception of enforcement costs, shall be deposited
19 into the Adopt-A-Tree Fund.

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

1 the City within 30 days of the mailing of the second notice shall cause the Director to institute
2 lien proceedings pursuant to Sections 706.4 - 706.7 of this Code. Enforcement and collection
3 of liens for costs associated with *nuisance hazard* tree abatement shall be in accordance with
4 Sections 706.4 - 706.7 of this Code, except that all monies received in payment of such liens
5 with the exception of enforcement costs, shall be credited to the Adopt-a-Tree Fund.

6 Section 3. The San Francisco Public Works Code is hereby amended by adding
7 Section 810A, to read as follows:

8 SEC. 810A. SIGNIFICANT TREES.

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

18 (b) Removal: Requirements.

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

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

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

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

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

- 15 (1) Size, age, and species;
16 (2) Visual and aesthetic characteristics, including the tree's form and whether
17 it is a prominent landscape feature or part of a streetscape;
18 (3) Cultural or historic characteristics, including whether the tree has
19 significant ethnic appreciation or historical association or whether the tree was part of a
20 historic planting program that defines neighborhood character;
21 (4) Ecological characteristics, including whether the tree provides important
22 wildlife habitat, is part of a group of interdependent trees, provides erosion control, or acts as
23 a wind or sound barrier;

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

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

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

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

13 Section 34. This section is uncodified.

14 (a) The powers and duties of the Tree Advisory Board, set forth in Public Works Code
15 Section 803, pursuant to the Board of Supervisors Ordinance No. 165-95, Clerk of the Board
16 of Supervisors File No. , are transferred to the Urban Forestry Council pursuant to this
17 Ordinance, and the Tree Advisory Board is hereby dissolved.

18 (b) The Office of the Legislative Analyst shall prepare a report to the Board of
19 Supervisors on all possible financial incentives, including, but not limited to, tax credits, tax
20 rebates, and subsidized tree care, for residents or businesses whose properties contain
21 designated landmark trees.

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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