

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

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3 **Ordinance amending the Public Works Code by amending Sections 802, 804, 807, and**
4 **808 and adding Section 810A to address removal, maintenance, and nomination of**
5 **significant trees as defined herein; amending Sections 802, 806, and 809 to redefine**
6 **nuisance trees as hazard trees; amending Sections 802 and 803 authorizing the Urban**
7 **Forestry Council to succeed to the powers and duties of the Tree Advisory Board;**
8 **amending Section 810 to allow the City to landmark any tree within its territorial limits;**
9 **and amending Section 811 to create civil penalties and fines and to modify provisions**
10 **on administrative penalties.**

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

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

15 Section 1. The San Francisco Public Works Code is hereby amended by amending
16 Sections 802, 803, 804, 806, 807, 808, 809, 810, and 811, to read as follows:

17 SEC. 802. DEFINITIONS.

18 Unless the context specifically indicates otherwise,

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

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

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

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

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

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

7 (g) "Injure" or "injury" shall mean any act which harms or damages a tree, including
8 but not limited to impact, cutting, carving, painting, transplanting, or knocking over, and
9 includes but is not limited to the following: injurious attachment of any rope, wire, nail,
10 advertising poster, or other contrivance to any street tree as set forth in Sections 675 and
11 675.1 of the Municipal Police Code; intentionally or negligently allowing any gaseous, liquid,
12 or solid substance that is harmful to a tree to come into contact with a tree; setting fire or
13 intentionally or negligently permitting any fire to burn when such fire or the heat therefrom will
14 injure any part of any tree; pruning which in and of itself will kill or cause a tree to decline; or
15 severing of all or part of a tree.

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (u) "Significant Tree" shall mean a tree so designated pursuant to Section 810A of this
20 Article.

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

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1 (~~w~~) "Street tree" shall mean any tree growing within the public right-of-way, including
2 unimproved public streets and sidewalks, and any tree growing on land under the jurisdiction
3 of the Department.

4 (~~x~~) "Tree" shall mean any large perennial plant having a woody trunk(s), branches,
5 and leaves.

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

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

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

13 **SEC. 803. ~~TREE ADVISORY BOARD; ESTABLISHMENT; APPOINTMENT~~URBAN
14 FORESTRY COUNCIL; ADDITIONAL POWERS AND DUTIES.**

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

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

4 (e) — The ~~Free Board~~ Urban Forestry Council shall serve in an advisory capacity to the
5 Director or his designee on matters relating to this Article and to tree management in the City.
6 The responsibilities of the ~~Free Board~~ Urban Forestry Council may include but shall not be
7 limited to the following:

- 8 (1) Studying the problems and determining the needs of the City concerning
9 its street tree planting and maintenance programs, and advising the Director in this regard;
- 10 (2) Preparing for the Director an annual report detailing the state of the urban
11 forest;
- 12 (3) Recommending to the Director appropriate species of trees to be planted
13 on City streets or other areas under the Department's jurisdiction;
- 14 (4) Working with the Community Boards of San Francisco in developing
15 guidelines, standards, and procedures for the mediation of conflicts between property owners
16 over the protection of views, solar access, planting/removal of trees, and other tree-related
17 issues;
- 18 (5) Working with the Director concerning the maintenance of an Urban
19 Forestry Management Plan;
- 20 (6) Developing and recommending criteria for establishing "landmark" status
21 for trees under the jurisdiction of the Department;
- 22 (7) Recommending to the Director information to be distributed to the public
23 concerning the selection, planting, and maintenance of trees throughout the City; and

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

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

5 SEC. 804. JURISDICTION.

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

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

14 (a) Planting and Removal by the Department.

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

23 (2) Removal of Street Trees. No street tree shall be cut down or removed by
24 the Department unless:
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1 (A) The Department gives 30 days' prior written notice to the owner of the
2 property abutting the affected tree; and

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

8 (3) Appeal of Tree Removal.

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

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

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

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

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

23 (i) The Department gives 15 days' prior written notice to the owner of the
24 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, occupants of
3 properties that are on or across the block face where the affected tree is located. In addition,
4 15 days prior to the removal date, the Department shall post a notice on the affected tree.

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

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

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

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

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

4 (3) Removal.

5 (A) An abutting property owner who desires a permit to remove a street tree
6 shall apply to the Department on the designated form. Such application must be accompanied
7 by an administrative fee in accordance with a fee schedule adopted by the Director. The
8 Department may grant or deny the permit. If the Department grants a tree removal permit, it
9 may require that another street tree be planted in the place of the removed tree or impose an
10 in-lieu fee.

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

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

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

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

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

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

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

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

17 (d) Authority over Site Development Plans.

18 (1) The Department shall have the authority to review and comment on site
19 development plan applications received by the City's Central Permit Bureau that pertain to the
20 planting, alteration, or removal of street trees. The Department shall also have the authority to
21 review and comment on site development plan applications that pertain to the alteration or
22 removal of landmark trees designated pursuant to Section 810(a) of this Article and significant
23 trees designated pursuant to Section 810A of this Article.

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1 (2) If the Zoning Administrator modifies or waives the requirements of
2 Planning Code Section 143 pursuant to Planning Code Section 143(d), the Department may
3 impose an in-lieu fee of the property owner so excused. Further, if a property owner is
4 required to plant a street tree pursuant to Planning Code Section 143, the Department can
5 require that the property owner maintain such tree or replace any such tree that subsequently
6 dies or is removed by any person, or pay an in-lieu fee.

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

9 (f) In-Lieu Planting Program. The Department shall develop and implement an In-
10 Lieu Planting Program to offset the loss of street trees *and significant trees* due to removal,
11 destruction, or death. The In-Lieu Planting Program shall also compensate for the loss of
12 trees required to be planted by Section 143 of the Planning Code, yet excused by the Zoning
13 Administrator pursuant to Planning Code Section 143(d). The Department may impose an in-
14 lieu fee in accordance with a fee schedule adopted by the Director where a street tree is
15 destroyed, removed or is excused from planting where otherwise required by Planning Code
16 Section 143. The Department may also assess an in-lieu fee *or such other penalty as set forth in*
17 *Section 811* as mitigation for violation of the requirements of this Article. *As set forth in Section*
18 *811, in-*lieu fees shall be deposited in the Adopt-A-Tree Fund.

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

23 SEC. 808. PROTECTION OF TREES AND LANDSCAPE MATERIAL.
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1 (a) Injury to or Destruction of Trees Prohibited. It shall be unlawful for any person to
2 intentionally, maliciously or through gross negligence injure or destroy a street tree, ~~or any~~
3 tree on City property, or a significant tree. Removal of a tree under City order or removal in
4 accordance with a permit issued pursuant to Section 806 or Section 810A of this Article is
5 exempt from this prohibition.

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

10 (c) Construction Work: Protection of Trees Required. It shall be unlawful for any
11 person to engage in any construction work on private or public property without first taking
12 steps to protect street trees and significant trees from damage, including damage caused by
13 soil compaction or contamination. All significant trees and all trees on any street or other
14 publicly owned property ~~near~~ within a distance of ten feet of any excavation, construction, or
15 street work shall be adequately protected.

16 SEC. 809. NUISANCE HAZARD TREES; ABATEMENT.

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

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

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

18 SEC. 810. LANDMARK TREES.

19 (a) Designation. With the advice of the *Tree Board Urban Forestry Council*, and
20 following a public hearing, the Director shall adopt criteria for the designation of landmark
21 trees, which criteria shall include consideration of the age, size, shape, species, location,
22 historical association, visual quality, or other contribution to the City's character. Upon the
23 recommendation of the Director, the Board of Supervisors may designate as a "landmark tree"
24 any *street tree or any tree on property under the jurisdiction of the Department within the territorial*
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1 limits of the City and County of San Francisco that ~~meetings~~ the criteria adopted by the Director, or
2 may rescind such designations. Any person seeking to have a tree designated as a landmark
3 must pay all costs related to the Board of Supervisors hearing.

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

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

17 SEC. 811. PENALTIES FOR VIOLATION OF ORDINANCE.

18 (a) Criminal Penalties. Violation of any of the provisions of Sections 806, 808, ~~and~~
19 810(c), and 810A(b) of this Article shall be chargeable as an infraction or a misdemeanor.
20 Every violation determined to be an infraction is punishable by a fine of \$200 for a first
21 violation and \$400 for each additional violation within one year. Every violation determined to
22 be a misdemeanor is punishable by a fine not exceeding \$1,000 and/or imprisonment in the
23 County Jail for a period not to exceed six months, for each offense.

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

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

14 (c) Administrative Penalties.

15 (1) In addition to the penalties set forth in Subsections (a) and (b) above, the
16 Director may require any person who removes, damages, or destroys a tree in violation of the
17 provisions of this Article shall to pay a sum of money equal to the tree's replacement value or
18 the diminishment of the tree's value as set forth in the current edition of the Guide for Plant
19 Appraisal (Council of Tree and Landscape Appraisers). In no case shall the administrative penalty be
20 less than \$500 per violation. When one or more additional violations occur within one year of the first
21 violation, the Director may assess a responsible party double the tree's replacement value or the
22 diminishment of the tree's value. Depending on the nature and seriousness of the misconduct, including
23 unpermitted removal of or damage to a landmark or significant tree; the number of violations; the
24 persistence of the misconduct; the length of time over which the misconduct occurred; or the wilfulness

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

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

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

19 SEC. 810A. SIGNIFICANT TREES.

20 (a) Definition. For purposes of this Section, a significant tree shall be a tree on privately-
21 owned property or City-owned property within the City and County of San Francisco that satisfies at
22 least one of the following criteria: (1) a diameter at breast height (DBH) in excess of twelve (12)
23 inches, (2) a height in excess of twenty (20) feet, or (3) a canopy in excess of fifteen (15) feet. A
24 significant tree shall not be a landmark tree or street tree as defined in this Article; however, the
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1 Director may deem a significant tree a hazard tree if such tree satisfies the provisions of Section
2 802(o).

3 (b) Removal on Privately-Owned; Permit Required.

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

6 (2) If removal of a significant tree is proposed as part of any activity related to any
7 permit or authorization under the Building Code or Planning Code, then the City department or
8 commission with jurisdiction over the permit or authorization shall specifically address the proposed
9 removal as part of its decision on the permit or authorization. Prior to any such decision, the affected
10 department or commission shall consult with the Department's Urban Forester. Failure of an
11 applicant to identify a significant tree that may be affected by a permit issuance or authorization
12 specified above shall result in suspension or denial of the permit or authorization until the applicant or
13 permittee complies with this Section.

14 (3) If removal of a significant tree is part of a permit or authorization from a
15 department or commission other than the Department of Public Works, appeal of such permit or
16 authorization shall be in accordance with the provisions governing appeal of the subject permit or
17 authorization.

18 (4) If the Director determines that a significant tree qualifies as a hazard tree, this
19 Article's provisions applicable to removal of a hazard tree shall apply.

20 (5) Emergency Removal. In the case of manifest danger and immediate necessity, as
21 determined by the Director, the Director may remove or require the responsible owner(s) to remove a
22 significant tree immediately. After such emergency removal, the Director shall make a reasonable
23 effort to notify interested organizations and others requesting notice of the necessity for such action. If
24 the Department incurs any costs related to an emergency removal, said costs, including labor,
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1 equipment, materials, inspection services, and administrative costs, shall be an obligation owing by the
2 responsible owner(s) to the City. Removal of a significant tree pursuant to this Subsection is not
3 subject to Subsection (d) below.

4 (c) Removal on City Property.

5 (1) Removal of a significant tree(s) on City property under the jurisdiction of any
6 City agency, department, or commission shall be subject to the rules and procedures governing
7 removal of trees under the jurisdiction of the subject agency, department, or commission if the subject
8 agency, department, or commission, after a public hearing, has adopted rules and procedures for tree
9 removal that incorporates a process for public notice prior to removal of the significant tree. Such
10 rules and procedures also shall address removal of a significant tree that qualifies as hazard tree as
11 defined in Section 802(o) or as defined by the agency, department, or commission.

12 (2) If tree removal rules and procedures have not been adopted in accordance with
13 Subsection (1) above, the agency, department, or commission shall follow similar rules and procedures
14 for removal of street trees as set forth in Section 806(c) and for removal of hazard trees as set forth in
15 this Article; provided, however, that this Subsection shall not supercede the Charter jurisdiction that
16 has been granted to any City agency, commission, or department.

17 (3) If a significant tree(s) has been designated as part of a local historic or cultural
18 landmark in accordance with Article 10 of the Planning Code, removal of such tree shall be subject to
19 the procedures set forth in the Planning Code Article 10 designation in addition to the requirements of
20 this Subsection (c). In the case of a conflict between this Subsection and the Article 10 designation, the
21 more restrictive provisions shall apply.

22 (4) Emergency Removal. In the case of manifest danger and immediate necessity, as
23 determined by the director, general manager, president, or chair of the subject agency, department, or
24 commission, the subject agency, department, or commission may remove a significant tree within its
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1 jurisdiction immediately. After such emergency removal, the subject agency, department, or
2 commission shall make a reasonable effort to notify interested organizations and others requesting
3 notice of the necessity for such action. Removal of a significant tree pursuant to this Subsection is not
4 subject to Subsection (d) below.

5 (d) As part of any City decision that authorizes removal of a significant tree, the City
6 agency, department, or commission making such decision shall consider the following factors related to
7 the tree:

8 (1) Size, age, and species;

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

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

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

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

20 (e) Nomination of a Tree as a Significant Tree. Even though a tree does not meet the
21 requirements for a significant tree as set forth in Section 810A(a), any property owner may nominate a
22 tree on his or her property as a significant tree.

23 (1) Nominations shall be made in writing to the Urban Forestry Council. The
24 written request shall include the basis for the nomination, which may address one or more of the
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1 factors listed above in Subsection (d); the lot, assessor's block, and street address of the subject
2 property; one or more pictures of the tree; any other information that the property owner believes
3 would be pertinent to the nomination; and payment to cover the cost of the Urban Forestry Council
4 hearing.

5 (2) The Urban Forestry Council shall hold a hearing on the nomination request and
6 determine whether the tree qualifies as a significant tree. If the Urban Forestry Council determines
7 that the subject tree qualifies as a significant tree, it shall adopt written findings that specify the basis
8 for its decision and shall forward said decision to the Departments of Public Works and City Planning,
9 which shall keep a record of the significant tree. The Urban Forestry Council shall forward to the
10 property owner a written record of its decision to approve or reject the nomination. If the Urban
11 Forestry Council rejects the nomination, the Council shall not accept a new request for the subject tree
12 for three years from the date of its decision.

13 (3) If the Urban Forestry Council determines that a tree qualifies as a significant
14 tree, said tree shall be subject to the provisions of this Section 810A.

15 (4) A property owner may request rescission of the Urban Forestry Council's
16 decision that a tree qualifies as a significant tree in accordance with this Subsection (e). A rescission
17 request shall be in writing and satisfy all the requirement for a nomination request as specified above
18 in Subsection (1). The Urban Forestry Council shall hold a hearing on the rescission request and make
19 a determination following the same procedures as set forth in Subsection (2). The Urban Forestry
20 Council's decision on the rescission request shall be final and appealable to the Board of Appeals.
21 Should an appeal be filed, the Urban Forestry Council shall forward the Board of Appeals' final
22 decision to the Departments of Public Works and City Planning for their records. If the City's final
23 decision is to reject the request for rescission, the Council shall not accept a new nomination request
24 for the subject tree for three years from the date of the City's final decision.

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1 Section 3. This section is uncodified. The powers and duties of the Tree Advisory
2 Board, set forth in Public Works Code Section 803, pursuant to the Board of Supervisors
3 Ordinance No. 165-95, Clerk of the Board of Supervisors File No. , are transferred to
4 the Urban Forestry Council pursuant to this Ordinance, and the Tree Advisory Board is hereby
5 dissolved.

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

By: _____
John D. Malamut
Deputy City Attorney