

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 **amending Section 811 to create civil penalties and fines and to modify provisions on**  
10 **administrative penalties; and making environmental findings.**

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. Findings. It shall be an official policy of the City and County of San  
16 Francisco to expand its urban forest for the following environmental and economic reasons:

17 (a) The public cares about the beauty and character of their neighborhoods, parks,  
18 and commercial areas.

19 (b) Trees provide multiple benefits for businesses, property values, neighborhood  
20 character, and the City's ecology and biological resources.

21 (c) Trees are an essential part of the City's aesthetic environment, and removal of  
22 important trees on City property should be addressed through appropriate public participation  
23 and dialogue, including the California Environmental Quality Act (California Public Resources  
24 Code sections 21000 et seq.).

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1 Section 2. Environmental Findings. The Planning Department has determined that the  
2 actions contemplated in this Ordinance are in compliance with the California Environmental  
3 Quality Act (California Public Resources Code sections 21000 et seq.). Said determination is  
4 on file with the Clerk of the Board of Supervisors in File No. and is incorporated herein  
5 by reference.

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

8 SEC. 802. DEFINITIONS.

9 Unless the context specifically indicates otherwise,

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

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

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

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

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

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

23 (g) "Injure" or "injury" shall mean any act which harms or damages a tree, including  
24 but not limited to impact, cutting, carving, *painting*, transplanting, or knocking over, and  
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1 includes but is not limited to the following: injurious attachment of any rope, wire, nail,  
2 advertising poster, or other contrivance to any *street tree as set forth in Sections 675 and 675.1 of*  
3 *the Municipal Police Code*; intentionally or negligently allowing any gaseous, liquid, or solid  
4 substance that is harmful to a tree to come into contact with a tree; setting fire or intentionally  
5 or negligently permitting any fire to burn when such fire or the heat therefrom will injure any  
6 part of any tree; pruning which in and of itself will kill or cause a tree to decline; ~~or~~ severing of  
7 all or part of a tree; or failing to perform those maintenance activities as defined in Section 802(l).

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

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

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

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

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

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

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

13 (o) "Nuisance Hazard tree" shall mean any tree that poses ~~a~~ an imminent hazard to  
14 person or property. ~~A~~ The Director may determine that a tree is a nuisance hazard only if it or any  
15 part of it: (1) appears dead, dangerous, or likely to fall even after proper maintenance activities  
16 have been performed to eliminate dead or dangerous parts; (2) obstructs or damages a street, ~~or~~  
17 sidewalk, or other structure; (3) harbors a serious disease or infestation threatening the health  
18 of other trees; (4) interferes with vehicular or pedestrian traffic; (5) obstructs official street  
19 cleaning activities; or (6) poses any other significant hazard or potential hazard, as  
20 determined by the Director; provided, however, that a tree shall not be determined to be a hazard  
21 until after all feasible measures have been applied to abate such hazard, including all applicable  
22 maintenance activities listed in Section 802(l). The Director's determination that a tree is a hazard  
23 shall be in writing.

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

3 (q) "Planting" shall mean putting or setting into the ground or into a container to  
4 grow, ~~and~~ irrigating, and maintaining until self-sufficient.

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

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

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

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

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

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

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1           (~~ix~~) "Tree" shall mean any large perennial plant having a woody trunk(s), branches,  
2 and leaves.

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

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

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

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

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

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

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

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

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

3            SEC. 804. JURISDICTION.

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

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

13            (a) Planting and Removal by the Department.

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

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



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~~ shall give  
4 written notice to all interested San Francisco organizations and owners and, to the extent  
5 practical, occupants of properties that are on or across from the block face or adjacent to  
6 where the affected tree is located. In addition, 30 days prior to the removal date, the  
7 Department shall post or cause to be posted a notice on the affected tree.

8 (C) The Director shall not authorize the Department to remove a significant tree  
9 unless the Director determines that the significant tree constitutes a hazard tree pursuant to Section  
10 802(o). In making a determination to allow removal of a significant tree, the Director also shall  
11 consider the factors related to the tree as set forth in Section 810A(c).

12 (3) Appeal of Tree Removal.

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

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

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

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

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

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

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

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

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

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

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

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

10 (3) Removal.

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

17 (B) ~~In addition, 10~~ Thirty days prior to the removal date, the Department shall  
18 give written notice to all interested San Francisco organizations and owners and, to the extent  
19 practicable, occupants of property that are on or across from the block face or adjacent to where the  
20 affected tree is located. In addition, 30 days prior to the removal date, the Department shall post or  
21 cause to be posted a notice on the affected tree.

22 (C) The Director shall not authorize removal of a significant tree unless the Director  
23 determines that the significant tree constitutes a hazard tree pursuant to Section 802(o). In making a  
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1 determination to allow removal of a significant tree, the Director also shall consider the factors related  
2 to the tree as set forth in Section 810A(c).

3 (D) If within ~~10~~ 30 days after the giving of such notice any person files with the  
4 Department written objections to the removal, the Director shall hold a hearing prior to  
5 removing the tree to consider public testimony concerning the proposed removal. Written notice of  
6 the date, time and place of the hearing shall be posted on the affected tree, provided in a  
7 newspaper of general circulation, mailed to all interested San Francisco organizations, and sent to  
8 the objecting party not less than seven days prior thereto.

9 ~~(C)(E)~~ The Director shall issue his or her written decision and order on the  
10 objections after the public hearing specified above.

11 ~~(D)(F)~~ The Director's decision shall be final and appealable to the Board of  
12 Appeals.

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

19 SEC. 807. DEPARTMENT OF PUBLIC WORKS URBAN FORESTRY PROGRAM;  
20 POWERS AND DUTIES.

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

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

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

10 (d) Authority over Site Development Plans.

11 (1) The Department shall have the authority to review and comment on site  
12 development plan applications received by the City's Central Permit Bureau that pertain to the  
13 planting, alteration, or removal of street trees. The Department shall also have the authority to  
14 review and comment on site development plan applications that pertain to the alteration or  
15 removal of landmark trees designated pursuant to Section 810(a) of this Article and significant  
16 trees designated pursuant to Section 810A of this Article; and to require the protection of trees during  
17 construction in accordance with Section 808(c) of this Article. The removal of any street tree,  
18 significant tree, or landmark trees shall be subject to the rules and procedures as set forth in Section  
19 806(b) and Section 810(c).

20 (2) If the Zoning Administrator modifies or waives the requirements of  
21 Planning Code Section 143 pursuant to Planning Code Section 143(d), the Department may  
22 impose an in-lieu fee of the property owner so excused. Further, if a property owner is  
23 required to plant a street tree pursuant to Planning Code Section 143, the Department ~~can~~shall

1 require that the property owner maintain such tree or replace any such tree that subsequently  
2 dies or is removed by any person, or pay an in-lieu fee.

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

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

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

#### 19 SEC. 808. PROTECTION OF TREES AND LANDSCAPE MATERIAL.

20 (a) Injury to or Destruction of Trees Prohibited. It shall be unlawful for any person to  
21 intentionally, maliciously or through gross negligence injure or destroy a street tree, ~~or any~~  
22 tree on City property, *or a significant tree*. Removal of a tree under City order or removal in  
23 accordance with a permit issued pursuant to ~~Section 806 of~~ this Article is exempt from this  
24 prohibition.

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

5 (c) Construction Work: Protection of Trees Required. It shall be unlawful for any  
6 person to engage in any construction work on private or public property without first taking  
7 steps to protect street trees and significant trees from damage, including damage caused by  
8 soil compaction or contamination, excavation or placement of concrete or other pavement or  
9 foundation material. All significant trees and all trees on any street or other publicly owned  
10 property ~~near~~ within a distance of ten feet of any excavation, construction, or street work shall be  
11 adequately protected and development plan shall be modified as necessary to protect and maintain  
12 and not injure or damage such trees. Any injury or damage resulting to such trees from construction  
13 work may be subject to the penalties set forth in Section 811 of this Article.

14 SEC. 809. NUISANCE HAZARD TREES; ABATEMENT.

15 (a) Notice to Property Owner(s). Upon a finding by the Director that a tree on private  
16 property or a street tree for which a property owner is responsible is a "nuisance hazard tree" as  
17 defined herein, the Director shall provide written notice to the property owner(s) which  
18 describes the condition creating the nuisance hazard, the actions required to be taken to abate  
19 the nuisance hazard, and the date by which compliance must be completed. ~~Required action may~~  
20 ~~include~~ Replacement or removal of the tree shall not be authorized or approved except in  
21 accordance with the applicable requirements and procedures for notice and hearing as provided in this  
22 Article for removal of the subject tree. In cases of extreme danger, as determined by the  
23 Director, the Director may require immediate compliance.

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 must~~  
3 ~~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~~ The Zoning Administrator shall be required to take into consideration the  
6 recommendations of the Director regarding landmark trees on a proposed development or  
7 construction site. The Department shall propose measures to protect landmark trees on a  
8 development or construction site against damage to trunk, roots, and branches.

9 (c) Removal; Special Permit Required. Except in the case of manifest danger and  
10 immediate necessity, landmark trees shall be removed only after the following: (1) the Director's  
11 issuance of a recommendation and an accompanying resolution to the Board of Supervisors and (2)  
12 ~~upon~~ a determination of the Board of Supervisors following a public hearing. The Director shall  
13 hold a public hearing on removal of the landmark tree prior to issuance of his or her recommendation  
14 to the Board of Supervisors. The Director, in consultation with the Urban Forestry Council, shall  
15 issue criteria governing ~~such~~ determinations to remove landmark trees. If the Board of  
16 Supervisors determines that removal of a landmark tree is necessary or permissible, it may  
17 impose such reasonable conditions on the permit for removal as it deems necessary to  
18 compensate for the loss of the tree, including but not limited to the replacement value of the  
19 tree, ~~and~~ administrative costs, ~~or~~ and contribution to the Adopt-A-Tree Fund. Any person  
20 seeking permission to remove a landmark tree must pay all costs related to the Director's  
21 hearing and Board of Supervisors hearing.

22 (d) Removal on City-owned Property; Special Approval Required. Except in the case of  
23 manifest danger and immediate necessity, landmark trees on property under the control of a particular  
24 City agency, commission, or department shall be removed only after the following: (1) the affected City  
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1 agency's, commission's, or department's issuance of a recommendation and an accompanying  
2 resolution to the Board of Supervisors and (2) a determination of the Board of Supervisors following a  
3 public hearing. The affected agency, commission, or department shall hold a public hearing on  
4 removal of the landmark tree prior to issuance of its recommendation to the Board of Supervisors. If  
5 the Board of Supervisors determines that removal of a landmark tree is necessary or permissible, it  
6 may impose such reasonable conditions for removal as it deems necessary to compensate for the loss of  
7 the tree, including but not limited to the replacement value of the tree. This Subsection shall not  
8 supersede the Charter jurisdiction that has been granted to any City agency, commission, or  
9 department.

10 SEC. 811. PENALTIES FOR VIOLATION OF ORDINANCE.

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

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

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

22 (2) Any person who violates this Article may be liable for a civil penalty, not to  
23 exceed \$1000 for each day such violation is committed or permitted to continue, which penalty shall be  
24 assessed and recovered in a civil action brought in the name of the people of the City by the City  
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1 Attorney in any court of competent jurisdiction. In assessing the amount of the civil penalty, the court  
2 may consider any one or more of the relevant circumstances presented by any of the parties to the case,  
3 including, but not limited to, the following: the nature and seriousness of the misconduct, the number of  
4 violations, the persistence of the misconduct, the length of time over which the misconduct occurred;  
5 and the wilfulness of the defendant's misconduct. The City Attorney also may seek recovery of the  
6 attorneys' fees and costs incurred in bringing a civil action pursuant to this Section.

7 (c) Administrative Penalties.

8 (1) In addition to the penalties set forth in Subsections (a) and (b) above, the  
9 Director may require any person who removes, ~~damages~~ injures, or destroys a tree in violation of  
10 the provisions of this Article ~~shall to~~ pay a sum of money equal to the tree's replacement value  
11 or the diminishment of the tree's value as set forth in the current edition of the Guide for Plant  
12 Appraisal (Council of Tree and Landscape Appraisers). In no case shall the administrative penalty be  
13 less than \$1000 per violation. Depending on the nature and seriousness of the misconduct, including  
14 unpermitted removal of or damage to a landmark or significant tree; the number of violations; the  
15 persistence of the misconduct; the length of time over which the misconduct occurred; or the wilfulness  
16 of the defendant's misconduct, the Director may assess additional penalties in excess of the amounts  
17 specified above. In addition to the administrative penalty assessed pursuant to this Section, the  
18 Director may assess enforcement costs to cover the reasonable costs incurred in enforcing the  
19 administrative penalty, including reasonable attorneys' fees. Any and all amounts paid or  
20 collected pursuant to this subsection, with the exception of enforcement costs, shall be deposited  
21 into the Adopt-A-Tree Fund.

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

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

10 SEC. 810A. SIGNIFICANT TREES.

11 (a) Definition. For purposes of this Section, a significant tree shall be a tree on privately-  
12 owned property or a street tree that satisfies at least one of the following criteria: (1) a diameter at  
13 breast height (DBH) in excess of twelve (12) inches, (2) a height in excess of twenty (20) feet, or (3) a  
14 canopy in excess of fifteen (15) feet. The Director may deem a significant tree a hazard tree if such tree  
15 satisfies 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 shall be  
17 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 subject to  
20 the rules and procedures governing permits for removal of street trees as set forth in Section 806(b).

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

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

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

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

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

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

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

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

13           (2) The Urban Forestry Council shall hold a hearing on the nomination request and  
14 determine whether the tree qualifies as a significant tree. If the Urban Forestry Council determines  
15 that the subject tree qualifies as a significant tree, it shall adopt written findings that specify the basis  
16 for its decision and shall forward said decision to the Departments of Public Works and City Planning,  
17 which shall keep a record of the significant tree. The Urban Forestry Council shall forward to the  
18 property owner a written record of its decision to approve or reject the nomination. If the Urban  
19 Forestry Council rejects the nomination, the Council shall not accept a new request for the subject tree  
20 for three years from the date of its decision.

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

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

9 Section 3. This section is uncodified. The powers and duties of the Tree Advisory  
10 Board, set forth in Public Works Code Section 803, pursuant to the Board of Supervisors  
11 Ordinance No. 165-95, Clerk of the Board of Supervisors File No. \_\_\_\_\_, are transferred to  
12 the Urban Forestry Council pursuant to this Ordinance, and the Tree Advisory Board is hereby  
13 dissolved.

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

18 By: \_\_\_\_\_  
19 John D. Malamut  
20 Deputy City Attorney

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