

1 [Public Works Code - City Responsibility for Maintaining Street Trees]

2

3 **Ordinance amending the Public Works Code to transfer responsibility for the**
4 **maintenance of street trees to the City; and affirming the Planning Department’s**
5 **determination under the California Environmental Quality Act.**

6 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
7 **Additions to Codes** are in *single-underline italics Times New Roman font*.
8 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
9 **Board amendment additions** are in double-underlined Arial font.
10 **Board amendment deletions** are in ~~strikethrough Arial font~~.
11 **Asterisks (* * * *)** indicate the omission of unchanged Code
12 subsections or parts of tables.

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

14

15 Section 1. The Planning Department has determined that the actions contemplated in
16 this ordinance comply with the California Environmental Quality Act (California Public
17 Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the
18 Board of Supervisors in File No. ____ and is incorporated herein by reference. The Board
19 affirms this determination.

20

21 Section 2. The Public Works Code is hereby amended by revising Sections 801, 802,
22 804, and 805, and deleting Section 802.1, to read as follows:

23 **SEC. 801. PURPOSE.**

24 The San Francisco Urban Forestry Ordinance is enacted to further the following public
25 purposes:

- 26 (a) To realize the optimum public benefits of trees on the City’s streets and public
27 places, including favorable modification of microclimates, abatement of air and noise pollution,

1 reduction of soil erosion and runoff, enhancement of the visual environment, and promotion of
2 community pride.

3 (b) To integrate street planting and maintenance with other urban elements and
4 amenities, including but not limited to utilities, vehicular and pedestrian traffic, and
5 enhancement of views and solar access.

6 (c) To promote efficient, cost effective management of the City's urban forest by
7 coordinating public and private efforts within a comprehensive and professional management
8 system.

9 (d) To reduce the public hazard, nuisance, and expense occasioned by improper tree
10 selection, planting, and maintenance.

11 (e) To provide for the creation of an equitable, sustained, and reliable means of
12 funding urban-forest management throughout the City.

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

15 (g) To recognize that trees are an essential part of the City's aesthetic environment
16 and that the removal of important trees should be addressed through appropriate public
17 participation and dialogue, including as provided in the California Environmental Quality Act
18 (Public Resources Code Sections 21000 et seq.).

19 (h) To recognize that green spaces are vital to San Francisco's quality of life, as they
20 provide a range of environmental benefits and bring beauty to our neighborhoods and
21 commercial districts.

22 (i) To ensure that landscaping in sidewalk areas is properly constructed and
23 maintained in order to maximize environmental benefits, protect public safety, and limit
24 conflicts with infrastructure.

1 (j) To acknowledge that maintenance of street trees is a fundamental responsibility of the City
2 and County of San Francisco.

3
4 **SEC. 802. DEFINITIONS.**

5 ~~Unless the context specifically indicates otherwise,~~ As used in this Article 16, the following
6 terms have the following meanings:

7 “Administrative cost” shall mean 20% percent of the Department’s actual replacement
8 cost, or a minimum of \$100, whichever is greater.

9 “City” shall mean the City and County of San Francisco.

10 “Climate appropriate” means plants, shrubs, ground covers, or tree species that meet at least
11 one of the following conditions:

12 (a) The species has a water use ranking of “low” or “very low” in Region 1 (North-
13 Central Coast) as established in the California Department of Water Resources 2000 publication
14 “Water Use Classification of Landscape Species” or subsequent editions as it may be updated;

15 (b) The species has a water use ranking of “no water,” “little water,” or “little to
16 moderate water” in the climate zone for the planting location as established in the Sunset Western
17 Garden Book, Eighth Edition, published by Oxmoor House on February 1, 2007, or subsequent
18 editions as it may be updated;

19 (c) The plantings are part of an engineered stormwater management feature approved
20 by the General Manager of the Public Utilities Commission pursuant to the San Francisco Stormwater
21 Design Guidelines established by the Public Utilities Commission;

22 (d) The Department of Public Works, the Recreation and Park Department, or the
23 General Manager of the Public Utilities Commission has determined that the species, when watered for
24 sufficient plant health and appearance, is low water use, based on that agency’s experience with the
25

1 species, and the agency has added the species to the Low Water Use and Climate Appropriate Plant
2 List maintained by the General Manager of the Public Utilities Commission;

3 (e) The species appears on the San Francisco Street Tree Species List established by
4 the Department of Public Works Bureau of Urban Forestry;

5 (f) The planting is part of a species test approved by the Department of Public Works
6 or the Recreation and Park Department; or

7 (g) The species has been permitted at the site by the Department of Public Works or the
8 General Manager of the Public Utilities Commission based on wet soil conditions stemming from
9 proximity to naturally occurring water features such as a high water table, springs, ponds, lakes,
10 creeks, and wetlands.

11 “Community Boards” of San Francisco shall mean the neighborhood mediation/dispute
12 settlement service established under the auspices of The Community Board Program, Inc.

13 “Department” shall mean the Department of Public Works of the City.

14 “Director” shall mean the Director of Public Works or the Director’s designee, which
15 shall include the Urban Forester or other departmental staff.

16 “Ex officio” shall mean a current employee of any City department, or California or
17 federal agency, whose appointment to the Urban Forestry Council has been approved by the
18 Director of the Department of the Environment.

19 “Hazard tree” shall mean any tree that poses an imminent hazard to person or
20 property. The Director may determine that a tree is a hazard if it or any part of it: (1a) appears
21 dead, dangerous, or likely to fall, even after proper maintenance activities are performed to
22 eliminate dead or dangerous parts; (2b) obstructs or damages a street, sidewalk, or other
23 existing structure; (3c) harbors a serious disease or infestation threatening the health of other
24 trees; (4d) interferes with vehicular or pedestrian traffic; or (5e) poses any other significant
25 hazard or potential hazard, as determined by the Director; provided, however, that feasible

1 measures have been applied to abate any such hazard, such as applicable Maintenance
2 activities as defined in this Section 802. The Director’s determination shall be in writing.

3 “Injure” or “injury” shall mean any act which harms or damages a tree, including but not
4 limited to impact, cutting, carving, painting, transplanting, or knocking over, and includes but is
5 not limited to the following: injurious attachment of any rope, wire, nail, advertising poster, or
6 other contrivance to any tree subject to the provisions of this Article 16; intentionally or
7 negligently allowing any gaseous, liquid, or solid substance that is harmful to a tree to come
8 into contact with a tree; setting fire or intentionally or negligently permitting any fire to burn
9 when such fire or the heat therefrom will injure any part of any tree; pruning which in and of
10 itself will kill or cause a tree to decline; or severing of all or part of a tree.

11 “In-lieu fee” shall mean a fee deposited into the Adopt-A-Tree Fund and imposed by
12 the Director. The in-lieu fee shall be equal to the replacement value of a tree(s) to be removed
13 or trees that have been destroyed, or as otherwise specified in Section 811. In the case of
14 trees required to be planted by Section 805 or 806, yet excused by the Director through a
15 waiver or modification, the In-lieu fee shall be equal to the City’s cost to plant and water a tree
16 for three years. The minimum In-lieu fee shall be \$1,489-00. Beginning with fiscal year 2007-
17 2008, this fee shall be reviewed and adjusted each year in accordance with the procedures
18 set forth in Public Works Code Section 2.1.2.

19 “Interested San Francisco organization” shall mean a San Francisco organization or
20 individual that has made a written request to the Department for notification of proposed tree
21 removals in a specified area(s) or neighborhood(s).

22 “Landmark Tree” shall mean a tree so designated pursuant to Section 810 of this
23 Article 16.

24 “Landscape Material” shall mean any tree, shrub, groundcover, or other plant.
25

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

14 “Median Strip” shall mean the dividing area in the public way between opposing lanes
15 of vehicular traffic.

16 “Notice” shall mean written notice by personal delivery or by mailing, either by letter or
17 postal card, postage prepaid to the last known address as the same appears on the City’s
18 most recent assessment rolls.

19 “Person” shall mean any individual, firm, partnership, association, corporation,
20 company, or organization of any kind.

21 “Planting” shall mean putting or setting into the ground or into a container to grow, and
22 irrigating until self-sufficient.

23 “Removal” shall mean any intentional or negligent moving, carrying away, elimination,
24 or taking away of part or all of a tree.

25

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

9 “Sidewalk” shall mean the area between the curbing and the abutting private property
10 lot line, whether paved or unpaved, as legislated by the Board of Supervisors and as reflected
11 in the Department’s official maps.

12 “Significant Tree” shall mean a tree so defined in Section 810A of this Article 16.

13 “Street” shall mean the vehicular travel-way portion of any public street, avenue,
14 boulevard, lane, road, parkway, freeway, or other public way.

15 “Street Tree” shall mean any tree growing within the public right-of-way, including
16 unimproved public streets and sidewalks, and any tree growing on land under the jurisdiction
17 of the Department. “Street Tree” shall not include any other forms of landscaping.

18 “Tree” shall mean any large perennial plant having a woody trunk(s), branches, and
19 leaves. Trees also shall include palm trees.

20 “Urban Forest” shall mean all trees on public streets and right-of-ways within the
21 borders of the City and County of San Francisco, any trees growing on land subject to the
22 jurisdiction of the Department, and any other trees subject to the provisions of this Article 16.

23 “Urban Forestry Council” shall mean the Urban Forestry Council as established under
24 the Environment Code Chapter 12.

1 ***SEC. 802.1. ADDITIONAL DEFINITIONS.***

2 *Unless the context specifically indicates otherwise.*

3 *(a) “Climate appropriate” means plants, shrubs, ground covers, or tree species that meet at*
4 *least one of the following conditions:*

5 *(1) The species has a water use ranking of “low” or “very low” in Region 1 (North-*
6 *Central Coast) as established in the California Department of Water Resources 2000 publication*
7 *“Water Use Classification of Landscape Species” or subsequent editions as it may be updated;*

8 *(2) The species has a water use ranking of “no water”, “little water”, or “little to*
9 *moderate water” in the climate zone for the planting location as established in the Sunset Western*
10 *Garden Book, Eighth Edition, published by Oxmoor House on February 1, 2007 or subsequent editions*
11 *as it may be updated;*

12 *(3) The plantings are part of an engineered stormwater management feature approved*
13 *by the General Manager of the Public Utilities Commission pursuant to the San Francisco Stormwater*
14 *Design Guidelines established by the Public Utilities Commission;*

15 *(4) The Department of Public Works, the Recreation and Park Department, or the*
16 *General Manager of the Public Utilities Commission has determined that the species, when watered for*
17 *sufficient plant health and appearance, is low water use based on the agency’s experience with the*
18 *species, and the agency has added the species to the Low Water Use and Climate Appropriate Plant*
19 *List maintained by the General Manager of the Public Utilities Commission;*

20 *(5) The species appears on the San Francisco Street Tree Species List established by*
21 *the Department of Public Works Bureau of Urban Forestry;*

22 *(6) The planting is part of a species test approved by the Department of Public Works*
23 *or the Recreation and Park Department; or*

24 *(7) The species has been permitted at the site by the Department of Public Works or the*
25 *General Manager of the Public Utilities Commission based on wet soil conditions stemming from*

1 ~~proximity to naturally occurring water features such as a high water table, springs, ponds, lakes,~~
2 ~~creeks, and wetlands.~~

3
4 **SEC. 804. JURISDICTION.**

5 ~~(a) Department's Jurisdiction.~~ The Department shall have jurisdiction over the planning,
6 planting, maintenance, and removal of trees in any street or other public right-of-way as
7 defined in Section ~~244~~ 2.4.4 of this Code; over any landscape material in any street median,
8 center strip, or other landscaped portion of a public right-of-way; over trees and other
9 landscape material in other public spaces under the jurisdiction of the Department; over
10 hazard trees on private property as specified in Section 809 and 810A of this Article 16; over
11 landmark trees as specified in Section 810; and over significant trees as specified in Section
12 810A.

13
14 **SEC. 805. RESPONSIBILITY FOR MAINTENANCE OF STREET TREES.**

15 (a) Responsibilities of the Department.

16 (1) Except as otherwise provided by law, beginning on the effective date of the
17 ordinance in Clerk of the Board of Supervisors File No. 160750, the Department shall be responsible
18 for Maintenance of Street Trees.

19 (2) Nothing in this Section 805 shall: (A) affect the rights or responsibilities of the
20 City with respect to the Removal or Planting of a Street Tree; (B) affect the rights or responsibilities of
21 property owners with respect to the Removal of a Street Tree; (C) prevent the City from entering into
22 voluntary agreements with third parties for them to assume responsibility for Street Tree Maintenance
23 or continuing to abide by any such prior agreement; (D) prevent the City from imposing any legally
24 permitted penalties or fees on persons who Injure, damage, or destroy Street Trees; or (E) relieve
25 abutting property owners from their responsibility for the care and maintenance of the Sidewalk and

1 Sidewalk areas adjacent to any Street Tree, other than the responsibility for Sidewalk repairs related to
2 the Tree's growth or root system, which shall be the responsibility of the City.

3 (3) It is the policy of the City that if the Board of Supervisors in the future amends or
4 repeals this Section 805 in a manner that relinquishes or transfers responsibility for Maintenance of
5 Street Trees to abutting property owners, the Department shall endeavor to perform all necessary
6 Major Maintenance prior to such relinquishment or transfer.

7 ~~(a) **Responsibilities of Property Owners.**~~

8 ~~(1) Except as specified in Subsections 805(c) and (d) below, it shall be the duty of~~
9 ~~owners of lots or portions of lots immediately abutting on, fronting on or adjacent to any Street Tree to~~
10 ~~maintain such Street Tree. This duty shall include both Routine and Major maintenance of the Street~~
11 ~~Tree. It shall be the responsibility of all public agencies, including City, State and federal agencies, to~~
12 ~~maintain Street Trees abutting on such public agency's property in accordance with this Section 805.~~
13 ~~In addition, and in accordance with Section 706 of this Code, abutting property owners shall be~~
14 ~~responsible for the care and maintenance of the Sidewalk and sidewalk areas adjacent to any Street~~
15 ~~Tree.~~

16 ~~———— (2) Any person who suffers injury or property damage as a legal result of the failure of~~
17 ~~the owner to so maintain a Street Tree, Sidewalk and sidewalk areas shall have a cause of action for~~
18 ~~such injury or property damage against such property owner. In addition to its rights under Section~~
19 ~~706 of this Code, the City shall have a cause of action for indemnity against such property owner for~~
20 ~~any damages the City may be required to pay as satisfaction of any judgment or settlement of any claim~~
21 ~~that results from injury to persons or property as a legal result of the failure of the owner to maintain a~~
22 ~~Street Tree in accordance with this Section 805.~~

23 ~~———— (3) The Department shall have available to interested persons, upon request, public~~
24 ~~pruning standards to ensure that Street Trees receive proper care.~~

1 ~~(b) **Permit Required for Major Maintenance of Street Trees Adjacent to General Advertising**~~
2 ~~**Signs.**~~

3 ~~(1) The Department shall require a permit to perform Major Maintenance, as defined in~~
4 ~~Section 802, on any Street Tree within 150 feet of any portion of a general advertising sign, as defined~~
5 ~~in Planning Code Section 602.7. The Department shall issue such permit only to the owners of lots or~~
6 ~~portions of lots immediately abutting on, fronting on or adjacent to any such Street Tree unless the~~
7 ~~subject Tree is under the Maintenance responsibility of the Department, in which case the Department~~
8 ~~may perform the Major Maintenance itself.~~

9 ~~——— (2) Any permit for Major Maintenance of Street Trees specified in Section 805(b)(1)~~
10 ~~shall include a condition that the Maintenance work be conducted under the direct supervision of a~~
11 ~~certified arborist in accordance with this Article 16 and other standards that the Department adopts.~~

12 ~~——— (3) The fee for a permit for Major Maintenance of a Street Tree(s) specified in Section~~
13 ~~805(b)(1) shall be \$300.00. This fee is subject to the fee adjustment provisions of Section 2.1.2 and~~
14 ~~additional fee provisions of Section 2.1.3.~~

15 ~~(c) **Responsibilities of the Department.** The Department may, at the Director's discretion,~~
16 ~~determine to undertake the regular Routine and/or Major Maintenance of certain Street Trees or~~
17 ~~corridors of Street Trees to promote consistency in the Maintenance of Trees or in the public interest.~~
18 ~~Where the Department determines to undertake such regular Maintenance of Street Trees, the Director~~
19 ~~shall specify in writing by Departmental Order those Trees or corridors of Trees for which it has~~
20 ~~undertaken Maintenance responsibility and shall specify in writing whether the Department will be~~
21 ~~responsible for Routine or Major Maintenance, or both. Such determinations by the Department shall~~
22 ~~be readily accessible to property owners and members of the public. Where the Department has~~
23 ~~undertaken certain Maintenance responsibility for Street Trees in writing, the abutting property owner~~
24 ~~shall be relieved of responsibility for such Street Tree Maintenance.~~

1 ~~Where the Department assumes Maintenance responsibilities after the effective date of this~~
2 ~~Article 16, it shall send written notice of that fact to the abutting property owner.~~

3 **(db) Street Tree Establishment ~~and Replacement of Dead Street Trees.~~**

4 ~~(1) Establishment of Street Trees. Whenever the City requires a person to plant a~~
5 ~~Street Tree as a condition of a development project, as a replacement of a Street Tree that the person~~
6 ~~has Removed, or for any other reason, the~~ ~~The~~ establishment period for newly planted Street
7 Trees shall be three years from the date of Planting. If the Street Tree is not adequately
8 established at the end of this period, the Director shall treat this as an Injury to the Tree, as
9 defined in Section 802, and may seek penalties for violation, as set forth in Section 811. The
10 Director may establish rules, regulations, or any other form of written guidelines concerning
11 standards for proper care and Maintenance during the establishment period.

12 ~~———— (2) Replacement of Dead Street Trees. The permittee or agency responsible for a~~
13 ~~Street Tree shall replace a dead Street Tree within six months of the demise or Removal of the Tree.~~
14 ~~Removal of a dead Street Tree and Planting of a replacement Street Tree shall be subject to all~~
15 ~~requirements set forth in this Article 16 for Removal and Planting. The Director is authorized to waive~~
16 ~~this replacement requirement and may place conditions on any such waiver, which may include, but is~~
17 ~~not limited to, replacement Planting at an alternate location or payment of the In-lieu fee. Any such~~
18 ~~waiver shall be in writing.~~

19 **(ec) Department Inventory ~~and Publication of Street Tree Responsibilities.~~**

20 ~~(1) The Department shall use its best efforts to maintain an inventory of all~~
21 ~~Trees for which it is responsible for Maintenance under its jurisdiction.~~

22 ~~———— (2) As of the effective date of this Article 16, the Department shall continue to maintain~~
23 ~~Street Trees listed in its database as Department maintained Trees.~~ Such information shall be made
24 available to the public on the Department's website ~~upon request.~~

1 ~~—— (3) Within 120 days of the effective date of this Article 16, the Department shall publish~~
2 ~~in a newspaper of general circulation in the City a list of all Trees or corridors of Trees maintained by~~
3 ~~the Department.~~

4 ~~(f) **Department Relinquishment of Street Tree Maintenance.**~~

5 ~~—— (1) The Director may, in his or her discretion, determine to relinquish Tree~~
6 ~~Maintenance responsibilities for certain Trees or corridors of Trees. Prior to such relinquishment, the~~
7 ~~Director shall post the affected Trees and send Notice to abutting property owners of the Department's~~
8 ~~intent to relinquish Maintenance responsibilities on a date certain. Within 10 days of the posting and~~
9 ~~mailing of such Notice, any affected property owner may object in writing to such relinquishment. At~~
10 ~~the written request of any person, the Director shall hold a hearing prior to relinquishing Maintenance~~
11 ~~responsibility for a particular Tree or corridor of Trees. The Director's decision on such~~
12 ~~relinquishment shall be final and nonappealable.~~

13 ~~—— (2) Prior to relinquishing Maintenance responsibilities, the Department shall perform~~
14 ~~all necessary Major Maintenance. As of the date designated by the Director, all Tree Maintenance~~
15 ~~shall be the responsibility of the abutting property owner.~~

16 ~~(d) **Limitation of Liability.**~~

17 ~~(1) Any City law imposing liability for personal injury or property damage on~~
18 ~~property owners that have not performed Street Tree Maintenance shall not apply to the extent that the~~
19 ~~injury or property damage occurred on or after the effective date of the ordinance in Board File No.~~
20 ~~_____, and was directly caused by the City's failure to perform Street Tree Maintenance under this~~
21 ~~Section 805, but shall otherwise remain applicable.~~

22 ~~(2) Nothing in this Section 805 shall be construed to impose liability on the City for~~
23 ~~injury or property damage that occurred as a result of the property owner's responsibility for Street~~
24 ~~Tree Maintenance prior to the effective date of the ordinance in Clerk of the Board of Supervisors File~~
25 ~~No. 160750.~~

1 (3) To the extent that the Maintenance of a Street Tree requires that the City have
2 access to private property, the City shall attempt in good faith to obtain permission from the owner of
3 the private property. If the owner refuses to grant the City permission to access the private property
4 for the purpose of Street Tree Maintenance, the City shall have no liability for any damages related to
5 the Maintenance of that Street Tree, and the property owner shall be subject to liability for such
6 damages. In that circumstance, any person who suffers injury or property damage as a legal result of
7 the failure of the owner to provide Maintenance of the Street Tree, Sidewalk, and Sidewalk areas shall
8 have a cause of action for such injury or property damage against such property owner. In addition to
9 its rights under Section 706 of this Code, the City shall have a cause of action for indemnity against
10 such property owner for any damages the City may be required to pay as satisfaction of any judgment
11 or settlement of any claim that results from injury to persons or property as a legal result of the failure
12 of the owner to provide Maintenance of the Street Tree, Sidewalk, and Sidewalk areas.

13
14 Section 3. Effective Date. This ordinance shall become effective 30 days after
15 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
16 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
17 of Supervisors overrides the Mayor's veto of the ordinance.

18
19 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
20 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
21 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
22 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment

1 additions, and Board amendment deletions in accordance with the "Note" that appears under
2 the official title of the ordinance.

3

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

6 By: _____
7 JON GIVNER
8 Deputy City Attorney

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