

BOARD of SUPERVISORS



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June 25, 2019

File No. 190711

Lisa Gibson
Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On June 18, 2019, Supervisor Safai submitted the proposed legislation:

File No. 190711

Ordinance amending the Public Works Code to require Public Works, with certain exceptions, to replace any street tree it has removed within 120 days; and affirming the Planning Department's determination under the California Environmental Quality Act.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

By: Erica Major, Assistant Clerk
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Laura Lynch, Environmental Planning

1 [Public Works Code - Street Tree Replacement]

2
3 **Ordinance amending the Public Works Code to require Public Works, with certain**
4 **exceptions, to replace any street tree it has removed within 120 days; and affirming the**
5 **Planning Department's 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 Section 1. CEQA Findings.

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

20 Section 2. Article 16 of the Public Works Code is hereby amended by revising Section
21 806, to read as follows:

22 **SEC. 806. PLANTING AND REMOVAL OF STREET TREES.**

23 (a) **Planting and Removal by the Department.**

24 (1) **Planting.** The Department may determine to plant a new climate
25 appropriate Tree(s) in a Sidewalk or public right-of-way. When the Department determines to

1 plant a new Street Tree(s), the Department will undertake Maintenance responsibility for such
2 new Street Tree and shall send a courtesy Notice to the abutting property owner prior to
3 Planting such new Tree. Any objections to the proposed work must be submitted to the
4 Director in writing and postmarked within 30 days after Notice by the Director. The Director
5 shall consider such objections and may hold a hearing, in the Director's discretion. The
6 Director's decision on the matter shall be final and nonappealable.

7 (2) **Removal of Street Trees.** The Department may not cut down or remove a
8 Street Tree, unless 30 days prior to the Removal date, the Department notifies all Interested
9 San Francisco organizations and, to the extent practical, all owners and occupants of
10 properties that are on or across from the block face where the affected Tree is located. In
11 addition, 30 days prior to the Removal date, the Department shall post a notice on the
12 affected Tree.

13 (3) **Appeal of Tree Removal.**

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

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

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

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

2 (A) No ~~h~~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
5 owner of the property abutting the affected Tree; and

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

11 (B) Hazard Street Tree shall have the same meaning as Hazard Tree in
12 Section 802 except that a ~~h~~Hazard Street Tree is located within the public right-of-way.

13 **(5) Emergency Removal.** In the case of manifest danger and immediate
14 necessity, as determined by the Director, the Department may remove any Street Tree
15 immediately. After such emergency Removal, the Department shall provide Notice of the
16 necessity for such action to the owner of the property abutting the affected Tree, all Interested
17 San Francisco organizations and, to the extent practical, all owners and occupants of
18 properties that are on or across from the block face where the affected Tree was removed.

19 **(6) Replacement of Street Trees.** *If the Department removes a Street Tree under this*
20 *subsection (a), the Department shall replace the Street Tree at the same location within 120 days of its*
21 *removal, with the following exceptions and qualifications.*

22 **(A) If the Department removed a Street Tree and cannot replace it in the same**
23 **location due to accessibility requirements or interference with underground utilities, the Department**
24 **shall plant a new Street Tree in a new location as close as reasonably possible to the location of the**
25 **Street Tree that the Department removed.**

LEGISLATIVE DIGEST

[Public Works Code - Street Tree Replacement]

Ordinance amending the Public Works Code to require Public Works, with certain exceptions, to replace any street tree it has removed within 120 days; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

The San Francisco Urban Forestry Ordinance, Article 16 of the Public Works Code, addresses the planting, maintenance, and removal of street trees. Street trees are trees that are growing within the public right-of-way, such as public sidewalks, and any tree growing on land under Public Works' jurisdiction.

Under Article 16, and Proposition E (approved by the voters at the November 2016 election), the City is generally responsible for the maintenance of street trees. The Public Works Code also allows private property owners to voluntarily assume the maintenance responsibility for street trees, if they have entered into a voluntary agreement with Public Works to do so. Public Works Code § 805(c).

Article 16 also authorizes Public Works to plant new street trees, and allows Public Works to remove street trees, subject to the public notice requirements. Public Works Code § 806(a).

Amendments to Current Law

The proposed ordinance would generally require Public Works, if it removes a Street Tree under Section 806(a), to replace the street tree at the same location within 120 days of its removal.

This street tree replacement requirement would be subject to two exceptions.

- If Public Works removed a street tree and cannot replace it in the same location due to accessibility requirements or interference with underground utilities, Public Works would be allowed to plant a replacement street tree in a different location as close as reasonably possible to the location of the street tree that was removed.
- Public Works would not be required to replace any street trees, if a private property owner has already agreed to plant and maintain a new street tree at the same location.