

REVISED LEGISLATIVE DIGEST
(Amended in Committee, 12/6/2021)

[Public Works Code - Street Tree Planting and Removal]

Ordinance amending the Public Works Code to require the Department of Public Works to plant replacement Street Trees within 120 days of removal, require that Street Trees removed without a permit be replaced by Street Trees of equal size, require that Tree protection plans include the applicant’s acknowledgement of potential Tree replacement costs, and set maximum administrative penalties for removing or injuring Street Trees; and affirming the Planning Department’s determination under the California Environmental Quality Act.

Existing Law

Article 16 of the Public Works Code, the San Francisco Urban Forestry Ordinance, outlines the responsibilities, requirements, and processes for protecting and growing the City’s urban forest canopy. Article 16 does not currently mandate that the Department replace Street Trees within a certain amount of time after removal, nor does Article 16 provide guidelines for the minimum size of replacement trees required when property owners remove Street Trees without a permit. Article 16 requires that any person proposing development that may impact a Significant Tree, Landmark Tree, or Street Tree, submit an arborist-prepared Tree protection plan for Public Works’ review and approval. Where a property owner has damaged, destroyed, or removed a Street Tree in violation of the provisions of Article 16, administrative penalties may be imposed up to the calculated replacement value of the removed tree or the diminished value of an injured tree.

Amendments to Current Law

The Proposed Legislation was amended at the Land Use Committee to preserve the 15-day period for filing written objections to Public Works’ proposed removal of a Hazard Street Tree.

The Proposed Legislation would mandate Public Works replace Street Trees removed by the Department in the same location within 120 days of removal. The exceptions to Department replacement within 120 days include: the Department determining that replanting in place would conflict with existing utilities and the replacement tree is planted at the closest feasible location instead; where a private party has agreed to plant and maintain the replacement tree instead of the Department; and where the Department logs the reason why replacement was not possible within 120 days in a Delayed Replacement Tree Report.

Where a Street Tree is removed by a private party without first obtaining a tree removal permit from the Department, the Proposed Legislation would require—in addition to any

administrative penalties—that the responsible party plant a replacement tree that is the same or greater diameter as the removed tree.

The Proposed Legislation would require that Tree protection plans include the arborist's estimate of the total replacement costs for all trees covered by the plan and the applicant's acknowledgement of receipt of the estimate and potential responsibility for replacement costs if the trees are injured or destroyed.

The Proposed Legislation would revise the maximum administrative penalties for destroying or removing a tree without a permit to the Tree's Replacement value or \$10,000, whichever is greater for the first violation, and \$20,000 or double the replacement value for any additional violations by the same party within one year of an initial violation.

Background Information

The Proposed Legislation seeks to resolve issues flagged by the community, Public Works, and the Board of Appeals regarding the current provisions in Article 16. These issues include the lack of clear requirements for replacement trees; difficulty calculating replacement value after trees have been removed; and general lack of public awareness of tree value, which can lead to disregard for tree protection provisions. The Proposed Legislation addresses these issues by: requiring Public Works replace removed Street Trees within 120 days and instituting a reporting mechanism to track and assess the reasons for any delays beyond that deadline; mandating that Tree protection plans provide appraisals of existing tree values to project developers before any development takes place; and providing an objective dollar value metric in addition to difficult *post hoc* replacement value calculations to set the administrative penalties limit for removing, damaging, or destroying a Street Tree without a permit.

n:\legana\as2021\2100421\01570229.docx