FILE NO. 251211

LEGISLATIVE DIGEST

[Public Works, Administrative, Planning Codes - Street Trees]

Ordinance amending the Public Works Code to allow development projects to satisfy street tree planting requirements through payment of an in lieu fee or providing alternative landscaping; exempt accessory dwelling units from street tree planting requirements; eliminate appeals to the Board of Appeals for tree removals undertaken by City departments and commissions; and update in lieu fee reporting requirements; amending the Administrative Code to create a separate account within the Adopt-A-Tree Fund to receive in lieu fees for street tree requirements; amending the Planning Code to update street tree applicability requirements; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1; and making public necessity, convenience, and welfare findings under Planning Code, Section 302.

Existing Law

Decisions on Street Tree Removals

Article 16 of the Public Works Code (Sections 800 et seq.) is the Urban Forestry Ordinance, which regulates the planting and removal of street trees by private parties, the Department of Public Works, and other City agencies and commissions. A Street Tree is "any tree growing within the public right-of-way, including unimproved public streets and sidewalks, and any tree growing on land under the jurisdiction of the Department [of Public Works]." (Public Works Code Section 802.)

Section 806(a)(2) provides that the decision by the Department of Public Works to remove a Street Tree is first appealable to the Director of Public Works. Section 806(a)(3) prescribes noticing requirements for the hearing on the appeal, which includes posting on the affected Tree and in a newspaper of general circulation, and notice to the objecting party, the owner of the property abutting the affected Tree, and all interested San Francisco organizations, not less than seven days prior to the hearing. After the hearing, the Director of Public Works must issue a written decision, which can then be further appealed to the Board of Appeals.

Section 806(c) applies the same notice and procedure requirements of 806(a)(2) and (a)(3) to decisions by other City departments and agencies to remove a Street Tree.

Section 806(a)(3) and (a)(4) also govern the Department of Public Works' removal of Hazard Trees. A Hazard Tree is a "tree that poses an imminent hazard to person or property." (Public Works Code Section 802.) Prior to removing a Hazard Tree, the Department of Public Works must provide 15 days' written notice on the affected tree, to the owner of the property abutting the affected tree, all interested San Francisco organizations, and to the extent

practical, owner and occupants of properties on the block where the affected tree is located. If an objection is filed within those 15 days, the Director of the Department of Public Works must hold a hearing and issue a written decision, which can then be further appealed to the Board of Appeals.

Required Street Trees for Development Projects

Section 806(d) prescribes Street Tree planting requirements for development projects. Development projects include: the construction of a new building; the addition of a dwelling unit; the addition of a new curb-cut; the addition of a garage; and/or a net addition to an existing building of 500 gross square feet or more. New developments must provide one Street Tree for each 20 feet of street frontage of the property containing the development project, with any remaining fraction of 10 feet or more of frontage requiring an additional tree.

The Director of Public Works may waive or modify this Street Tree planting requirement when (i) inadequate sidewalk width or interference with driveways, sub-sidewalk basements, or other pre-existing surface, sub-surface, or above-grade features render installation of the required Street Tree(s) in the required fashion impossible, impractical, and/or unsafe; or (ii) where an applicant successfully demonstrates that an overriding City policy renders the Planting of the required Street Tree(s) inappropriate. For each required Street Tree that the Director waives, the applicant shall either (i) pay an In-lieu fee; or (ii) to fulfill all or a portion of the requirement, provide alternative landscaping, including but not limited to sidewalk landscaping, in amount comparable to or greater than the number of Street Trees waived.

The In-lieu fee shall be equal to the City's cost to plant and water a tree for three years. (Planning Code Section 802.) The current In-lieu fee is $2,590 and the fee is reviewed and adjusted each year to reflect changes in the relevant Consumer Price Index, as determined by the Controller in accordance with the procedures set forth in Public Works Code Section 2.1.2. The In-lieu fee is deposited into the Adopt-A-Tree Fund, which is established in Administrative Code Section 10.100-227.

Planning Code Section 138.1 codifies streetscape and pedestrian improvements for new development projects and cross-references the Street Tree planting requirements of Article 16 of the Public Works Code.

Amendments to Current Law

Decisions on Street Tree Removals

For Street Tree removals undertaken by the Department of Public Works, this ordinance would amend the Public Works Code to:

- Replace the requirement that hearing notices be published in a newspaper of general circulation with a requirement that the hearing notice be posted to the Department's website;

- Provide that the Director of Public Works' decision on removal of a Street Tree—excluding a Hazard Tree—is final and nonappealable;
- Provide that the Department of Public Works' decision on removal of a Hazard Tree is final and nonappealable.

For Street Tree removals initiated by other City agencies or commissions, this ordinance would:

- Replace the requirement that hearing notices be published in a newspaper of general circulation with a requirement that the hearing notice be posted to the Department's website; and
- Provide that the Director's decision on removal of a Street Tree is final and nonappealable.

This ordinance would not change the notice or appeal procedures for Street Tree removals initiated by private parties.

Required Street Trees for Development Projects

This ordinance would also amend the Public Works Code and Planning Code to exempt Accessory Dwelling Units and Junior Accessory Dwelling Units, as defined in Planning Code Section 102, from Street Tree planting requirements.

This ordinance would also enable any development project to pay the In-lieu fee instead of planting the required Street Trees, regardless of whether the planting is impossible, impractical, and/or unsafe.

In instances where the Director of Public Works determines that inadequate sidewalk width or interference with driveways, sub-sidewalk basements, or other pre-existing surface, sub-surface, or above-grade features render installation of the required Street Tree(s) impossible, impractical, and/or unsafe, a development project could elect to provide alternative landscaping that complies with various conditions set forth in the ordinance, including a minimum area of 75 square feet of sidewalk landscaping for each required Street Tree that cannot be planted.

The ordinance also amends the Public Works Code and the Administrative Code to prescribe procedures for the collection, accounting, and deposit of In-lieu fees into the Adopt-A-Tree Fund.

Background Information

This ordinance contains findings that document how San Francisco's urban forest creates a more walkable, livable, and sustainable city. However, with just over 125,000 trees, San Francisco's tree canopy—measured by the amount of land covered by trees when viewed from above—is just 13.7%, one of the smallest of any major city in the United States. The

findings detail how the ordinance balances the need to grow the City's tree canopy with the need to promote efficiency and certainty in the development process. Expanding the availability of the in lieu fee to all new developments and streamlining hearings on City agency removals of street trees successfully balances these needs.

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