

1 [Planning and Public Works Codes - Required Street Trees]

2

3 **Ordinance amending Planning Code, Section 138.1, and Public Works Code, Section**
 4 **806, to shift the authority to require street trees in the case of certain types of**
 5 **development projects from the Planning Department to Public Works; amending Public**
 6 **Works Code, Section 812, regarding Public Works staff with enforcement authority;**
 7 **affirming the Planning Department’s determination under the California Environmental**
 8 **Quality Act; and making other findings, including findings of consistency with the**
 9 **General Plan, and the eight priority policies of Planning Code, Section 101.1.**

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

14

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

16

17 Section 1. Findings.

18 (a) Tree-lined streets are a key component of San Francisco’s urban forest and
 19 contribute to a more walkable, livable and sustainable city. They remove pollutants from air
 20 and water, create greener and more vibrant neighborhoods, and make streets more enjoyable
 21 to walk and shop along.

22 (b) San Francisco has long required street trees when certain types of development
 23 projects are built. The Planning Code imposes these requirements and the Planning
 24 Department implements them. However, the Planning Department does not have (1)
 25 jurisdiction over the public right-of-ways in which street trees are planted or (2) meaningful

1 expertise in arboriculture or sidewalk utility conflicts. Accordingly, the Planning Department
2 has implemented tree planting requirements through an interagency referral process with the
3 Department of Public Works' Bureau of Urban Forestry ("DPWBUF"), which has jurisdiction
4 over public right-of-ways and tree permitting. This process is inefficient, time-consuming, and
5 not friendly to applicants for various City permits.

6 (c) The authority relating to street trees is more appropriately housed within the Public
7 Works Code and implemented by the staff of DPWBUF, which has both the jurisdiction and
8 expertise to more successfully implement the City's street tree requirements.

9 (d) The Planning Department has determined that the actions contemplated in this
10 ordinance comply with the California Environmental Quality Act (California Public Resources
11 Code Section 21000 et seq.). The Board of Supervisors affirms this determination. Said
12 determination is on file with the Clerk of the Board of Supervisors in File No. _____
13 and is incorporated herein by reference.

14 (e) Pursuant to Planning Code Section 302, the Board finds that the proposed
15 ordinance will serve the public necessity, convenience and welfare for the reasons set forth in
16 Planning Commission Resolution No. _____, which reasons are incorporated herein
17 by reference as though fully set forth. A copy of Planning Commission Resolution No.
18 _____ is on file with the Clerk of the Board of Supervisors in File No.
19 _____.

20 (f) At a duly noticed public hearing held on _____, 2015, the Planning
21 Commission in Resolution No. _____ found that the proposed Planning and Public
22 Works Code amendments contained in this ordinance are consistent with the City's General
23 Plan and with the priority policies of Planning Code Section 101.1. The Commission
24 recommended that the Board of Supervisors adopt the proposed amendments. The Board
25 finds that the proposed amendments contained in this ordinance are consistent with the City's

1 General Plan and with the Priority Policies of Planning Code Section 101.1 for the reasons set
2 forth in said Resolution.

3 Section 2. The Planning Code is hereby amended by revising Section 138.1, to read
4 as follows

5 **SEC. 138.1. STREETScape AND PEDESTRIAN IMPROVEMENTS.**

6 * * * *

7 (c) **Required streetscape and pedestrian improvements.** Development projects
8 shall include streetscape and pedestrian improvements on all publicly accessible rights-of-way
9 directly fronting the property as follows:

10 (1) **Street trees.** Street trees shall be required and maintained as set forth in Article 16,
11 Section 806 of the Public Works Code.

12 (i) — ~~**Application.** In any District, street trees shall be required under the following~~
13 ~~conditions: construction of a new building; relocation of a building; the addition of gross floor area~~
14 ~~equal to 20 percent or more of the gross floor area of an existing building; the addition of a new~~
15 ~~dwelling unit, a garage, or additional parking; or paving or repaving more than 200 square feet of the~~
16 ~~front setback.~~

17 (ii) — ~~**Standards.**~~

18 (A) — ~~**All districts.** In any district, street trees shall:~~

19 (aa) — ~~Comply with Public Works Code Article 16 and any other applicable ordinances;~~

20 (bb) — ~~Be suitable for the site;~~

21 (cc) — ~~Be a minimum of one tree of 24 inch box size for each 20 feet of frontage of the property~~
22 ~~along each street or alley, with any remaining fraction of 10 feet or more of frontage requiring an~~
23 ~~additional tree. Such trees shall be located either within a setback area on the lot or within the public~~
24 ~~right-of-way along such lot.~~

1 ~~(dd) — Provide a below-grade environment with nutrient-rich soils, free from overly-compacted~~
2 ~~soils, and generally conducive to tree root development;~~

3 ~~(ee) — Be watered, maintained and replaced if necessary by the property owner, in accordance~~
4 ~~with Sec. 174 and Article 16 of the Public Works Code and compliant with applicable water use~~
5 ~~requirements of Chapter 63 of the Administrative Code.~~

6 ~~(B) — DTR, RC, C, NC and Mixed-Use Districts, and Planned Unit Developments. In DTR,~~
7 ~~RC, C, NC and Mixed-Use Districts, and Planned Unit Developments, in addition to the requirements~~
8 ~~of subsections (aa) — (ee) above, all street trees shall:~~

9 ~~(aa) — Have a minimum 2 inch caliper, measured at breast height;~~

10 ~~(bb) — Branch a minimum of 80 inches above sidewalk grade;~~

11 ~~(cc) — Be planted in a sidewalk opening at least 16 square feet, and have a minimum soil depth~~
12 ~~of 3 feet 6 inches;~~

13 ~~(dd) — Include street tree basins edged with decorative treatment, such as pavers or cobbles.~~
14 ~~Edging features may be counted toward the minimum sidewalk opening per (cc) if they are permeable~~
15 ~~surfaces per Section 102.33.~~

16 ~~(C) — Street trees shall be planted in a continuous soil-filled trench parallel to the curb, such~~
17 ~~that the basin for each tree is connected, if all the following conditions are present: (1) the subject lot is~~
18 ~~in one of the Districts specified in Subsection 138.1(e)(1)(ii)(B); (2) the project is on a lot that (a) is~~
19 ~~greater than 1/2-acre in total area, (b) contains 250 feet of total lot frontage on one or more publicly-~~
20 ~~accessible rights-of-way, or (c) the frontage encompasses the entire block face between the nearest two~~
21 ~~intersections with any other publicly-accessible rights-of-way, and (3) the project includes (a) new~~
22 ~~construction; (b) addition of 20% or more of gross floor area to an existing building; or (c) alteration to~~
23 ~~greater than 50% of the existing square footage of a building.~~

24 ~~(aa) — The trench may be covered by allowable permeable surfaces as defined in Section~~
25 ~~102.33, except at required tree basins, where the soil must remain uncovered.~~

1 ~~(bb) — The Zoning Administrator may modify or waive the continuous trench requirement~~
2 ~~where a continuous trench is not possible due to the location of existing utilities, driveways, sub-~~
3 ~~sidewalk basements, or other pre-existing surface or sub-surface features.~~

4 ~~(iii) — Approvals and waivers.~~

5 ~~(A) — Trees installed in the public right-of-way shall be subject to Department of Public Works~~
6 ~~approval. Procedures and other requirements for the installation, maintenance and protection of trees~~
7 ~~in the public right-of-way shall be as set forth in Article 16 of the Public Works Code.~~

8 ~~(B) — In any case in which the Department of Public Works cannot grant approval for~~
9 ~~installation of a tree in the public right-of-way, on the basis of inadequate sidewalk width, interference~~
10 ~~with utilities or other reasons regarding the public welfare, and where installation of such tree on the~~
11 ~~lot itself is impractical, the tree planting requirements of this Section 138.1(c)(1) may be modified or~~
12 ~~waived by the Zoning Administrator as described herein:~~

13 ~~(aa) — For each required tree that the Zoning Administrator waives, the permittee shall pay an~~
14 ~~"in-lieu" street tree fee pursuant to Section 428.~~

15 ~~(bb) — When a pre-existing site constraint prevents the installation of a street tree, as an~~
16 ~~alternative to payment of any portion of the in-lieu fee, the Zoning Administrator may allow the~~
17 ~~installation of sidewalk landscaping that is compliant with applicable water use requirements of~~
18 ~~Chapter 63 of the Administrative Code, to satisfy the requirements of Section 138.1(c)(1), subject to~~
19 ~~permit approval from the Department of Public Works in accordance with Public Works Code Section~~
20 ~~810B.~~

21 ~~(cc) — In C-3, industrial, and South of Market Mixed Use Districts, the Zoning Administrator~~
22 ~~may allow the installation of planter boxes or tubs or similar landscaping in place of trees when that is~~
23 ~~determined to be more desirable in order to make the landscaping compatible with the character of the~~
24 ~~surrounding area, or may waive the requirement in C-3, industrial, and mixed use districts, districts~~
25 ~~where landscaping is considered to be inappropriate because it conflicts with policies of the Downtown~~

1 ~~Plan, a component of the General Plan, such as the Downtown Plan Policy favoring unobstructed~~
2 ~~pedestrian passage or the Commerce and Industry Element policies to facilitate industry.~~

3 (2) **Other streetscape and pedestrian elements for large projects.**

4 (i) **Application.**

5 (A) In any district, streetscape and pedestrian elements in conformance with the
6 Better Streets Plan shall be required, if all the following conditions are present: (1) the project
7 is on a lot that (a) is greater than ½-acre in total area, (b) contains 250 feet of total lot frontage
8 on one or more publicly-accessible rights-of-way, or (c) the frontage encompasses the entire
9 block face between the nearest two intersections with any other publicly-accessible rights-of-
10 way, and (2) the project includes (a) new construction; (b) addition of 20% or more of gross
11 floor area to an existing building; or (c) alteration to greater than 50% of the existing square
12 footage of a building.

13 (B) Project sponsors that meet the thresholds of this Subsection shall submit a
14 streetscape plan to the Planning Department showing the location, design, and dimensions of
15 all existing and proposed streetscape elements in the public right-of-way directly adjacent to
16 the fronting property, including street trees, sidewalk landscaping, street lighting, site
17 furnishings, utilities, driveways, and curb lines, and the relation of such elements to proposed
18 new construction and site work on the subject property.

19 (ii) **Standards.**

20 (A) **Required streetscape elements.** A continuous soil-filled trench parallel to the curb shall
21 connect all street tree basins for those street trees required under the Public Works Code. The trench
22 may be covered only by permeable surfaces as defined in Section 102.33 of the Planning Code, except
23 at required tree basins, where the soil must remain uncovered. The Director of Planning, or his or her
24 designee, may modify or waive this requirement where a continuous trench is not possible due to the

1 location of existing utilities, driveways, sub-sidewalk basements, or other pre-existing surface or sub-
2 surface features.

3 (B) Additional streetscape elements. Notwithstanding the requirements of Section 138.1(e)(2)(i),
4 ~~The Department shall consider, but need not require, the streetscape and pedestrian elements~~
5 ~~listed below when analyzing a streetscape plan:~~

6 (A) ~~Standard streetscape elements.~~ All standard streetscape elements for the
7 appropriate street type per Table 1 and the Better Streets Plan, including benches, bicycle
8 racks, curb ramps, corner curb extensions, stormwater facilities, lighting, sidewalk
9 landscaping, special sidewalk paving, and other site furnishings, excepting crosswalks and
10 pedestrian signals.

11 (aa) Streetscape elements shall be selected from a City-approved palette of
12 materials and furnishings, where applicable, and shall be subject to approval by all applicable
13 City agencies.

14 (bb) ~~Additionally, s~~Streetscape elements shall be consistent with the overall character
15 and materials of the district, and shall have a logical transition or termination to the sidewalk
16 and/or roadway adjacent to the fronting property.

17 (CB) **Sidewalk widening.** The Planning Department in consultation with other
18 agencies shall evaluate whether sufficient roadway space is available for sidewalk widening
19 for the entirety or a portion of the fronting public right-of-way in order to meet or exceed the
20 recommended sidewalk widths for the appropriate street type per Table 2 and the Better
21 Streets Plan and/or to provide additional space for pedestrian and streetscape amenities. If it
22 is found that sidewalk widening is feasible and desirable, the Planning Department shall
23 require the owner or developer to install such sidewalk widening as a condition of approval,
24 including all associated utility re-location, drainage, and street and sidewalk paving.

1 (D€) **Minimum sidewalk width.** New publicly-accessible rights-of-way proposed as
2 part of development projects shall meet or exceed the recommended sidewalk widths for the
3 appropriate street type per Table 2. Where a consistent front building setback of 3 feet or
4 greater extending for at least an entire block face is provided, the recommended sidewalk
5 width may be reduced by up to 2 feet.

6 * * * *

7
8 Section 3. The Public Works Code is hereby amended by revising Sections 806 and
9 812, to read as follows:

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

11 * * * *

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

18 (d) **Required Street Trees for Development Projects.** The Department shall require street trees
19 for the development projects as set forth in this Subsection.

20 (1) **Applicability.** This Subsection shall apply to development projects that involve any of the
21 following:

- 22 (A) the construction of a new building;
- 23 (B) the addition of a dwelling unit;
- 24 (C) the addition of a new curb-cut;
- 25 (D) the addition of a garage; and/or

1 (E) a net addition to an existing building of 500 gross square feet or more.

2 (2) **Number of Trees Required.** The Department shall require one street tree for each 20 feet of
3 street frontage of the property containing the development project, with any remaining fraction of 10
4 feet or more of frontage requiring an additional tree. Any existing street trees located within the public
5 right-of-way along such property that have been protected during construction and that the Department
6 does not recommended for removal, shall count toward meeting the requirement.

7 (3) **Standards for Required Trees.** New street trees that the Department requires to be planted
8 under this Subsection shall:

9 (A) be planted within the public right-of-way adjacent to the property containing the
10 development project;

11 (B) be of a species suitable for the site conditions;

12 (C) be a minimum of 24-inch box size;

13 (D) have a minimum 1 1/4-inch caliper, measured at 6-inches above ground;

14 (E) be planted no higher than the adjacent sidewalk and provide a below-grade environment
15 with nutrient-rich soils, free from overly-compacted soils, and generally conducive to tree root
16 development; and

17 (F) be watered, maintained, and replaced if necessary by the property owner, in accordance
18 with this Article 1, and be in compliance with applicable water use requirements of Administrative
19 Code Chapter 63.

20 (4) **Waivers and Modifications.** The Urban Forester may waive or modify the number of
21 and/or standards for street trees required pursuant to this Subsection only as described below:

22 (A) The Urban Forester, in his or her sole discretion, may waive or modify the requirements of
23 this Subsection when inadequate sidewalk width or interference with driveways, sub-sidewalk
24 basements, or other pre-existing surface, sub-surface, or above-grade features render installation of
25 the required street tree(s) in the required fashion impossible, impractical, and/or unsafe. For each

1 required street tree that the Urban Forester waives, the applicant, at his or her choosing, shall either
 2 (i) pay an "in-lieu" fee pursuant to Planning Code Section 428 or (ii) to fulfill all or a portion of the
 3 requirement, provide alternative landscaping, including but not limited to sidewalk landscaping, in
 4 amount comparable to or greater than the number of street trees waived; or

5 (B) Only in those extraordinary and unusual circumstances where an applicant successfully
 6 demonstrates that an overriding City policy renders the planting of the required street tree(s)
 7 inappropriate and both the Urban Forester and the Director of Planning concur, the Urban Forester
 8 may waive one or more required street trees. For each required street tree that the Urban Forester
 9 waives, the Urban Forester, in his or her sole discretion, shall require that the applicant either (i) pay
 10 an "in-lieu" fee pursuant to Planning Code Section 428 or (ii) fulfill all or a portion of the requirement
 11 by providing alternative landscaping, including but not limited to sidewalk landscaping, in amount
 12 comparable to or greater than the number of street trees waived.

13
 14 **SEC. 812. ENFORCMENT OF ORDINANCE, DESIGNATED EMPLOYEES.**The

15 classes of employees of the City and County of San Francisco set forth below shall have the
 16 duty of enforcing the provisions of this Article including, but not limited to, the unauthorized
 17 removal, injury or destruction of street trees or landmark trees:

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Classification No.	Class Title
3418	Garden Supervisor
3422	Park Section Supervisor
3426 0922	Urban Forester (<u>Manager II</u>)
3434	Arborist Technician
3436	Arborist Technician Supervisor I

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1	<u>3435</u>	<u>Urban Forestry Inspector</u>
2	5170	Superintendent, Street Environmental Services
3	5173 <u>0932</u>	Assistant Superintendent, Street Environmental Services <u>Urban Forestry (Manager IV)</u>
5	7281	Street Environmental Services Operations Supervisor
7	8280	Environmental Control Officer
8	<u>0941</u>	<u>Superintendent, Urban Forestry (Manager VI)</u>

9

10 Section 4. Effective Date. This ordinance shall become effective 30 days after

11 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the

12 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board

13 of Supervisors overrides the Mayor's veto of the ordinance

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15 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors

16 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,

17 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal

18 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment

19 additions, and Board amendment deletions in accordance with the "Note" that appears under

20 the official title of the ordinance.

21 APPROVED AS TO FORM:

22 DENNIS J. HERRERA, City Attorney

23 By: _____

24 John D. Malamut

25 Deputy City Attorney

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