



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change

HEARING DATE: MAY 14, 2015

Project Name: **Street Trees**
Case Number: 2015-003697 PCA [Board File No. 150221]
Initiated by: Supervisor Wiener / Reintroduced April 21, 2015
Staff Contact: Diego R Sánchez, Legislative Affairs
diego.sanchez@sfgov.org, 415-575-9082
Reviewed by: Aaron Starr, Manager Legislative Affairs
aaron.starr@sfgov.org, 415-558-6362
Recommendation: **Recommend Approval with Modifications**

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PLANNING CODE AMENDMENT

The proposed Ordinance would amend Planning Code Section 138.1 to (1) shift authority to require street trees in the case of certain types of development projects from the Planning Department to the Department of Public Works (DPW) and (2) eliminate the role of the Zoning Administrator in the granting of a modification or waiver of the street tree requirement.

The proposed Ordinance would eliminate Planning Code Section 428 and the authority of the Planning Department for applying an in-lieu fee in the case of a waiver from the street tree requirement.

The proposed Ordinance would amend the Public Works Code to reflect the shift in authority over the street tree requirement and the application of an in-lieu fee in the case of a waiver from the requirement from the Planning Department to DPW.

The Way It Is Now:

1. Planning Code Section 138.1 requires projects to provide a new street tree for each 20 linear feet of subject property frontage when proposing either (1) construction of a new building; (2) the relocation of a building; (3) the addition of gross floor area equal to 20 percent or more of the gross floor area of an existing building; (4) the addition of a new dwelling unit, garage or additional parking; or (5) the paving or repaving of more than 200 square feet of the front setback.
2. Planning Code Section 138.1 outlines the circumstances under which a waiver from the street tree requirement may be granted. The Zoning Administrator may either apply an in-lieu fee or modify the street tree requirement with the installation of alternative landscaping when a waiver or modification is granted.
3. Planning Code Section 428 authorizes the Planning Department to apply an in-lieu fee in the case of a waiver from the street tree requirement.

The Way It Would Be:

1. Planning Code Section 138.1 would indicate that Article 16, Section 806 of the Public Works Code (PWC) establishes the street tree requirement. PWC Section 806 would apply the street tree requirement to projects that propose either (1) the construction of a new building; (2) the addition of a dwelling unit; (3) the addition of a new curb cut; (4) the addition of a garage; or (5) a net addition to an existing building of 500 gross square feet or more.
2. The Planning Code would no longer outline the circumstances under which a waiver from the street tree requirement may be granted. PWC Section 806 would outline the circumstances under which the Director of DPW would grant a waiver or modification from the street tree requirement and whether an in-lieu fee or alternative landscaping is required.
3. Planning Code Section 428 would be removed from the Planning Code. The PWC would authorize the Director of DPW to apply an in-lieu fee.

ISSUES AND CONSIDERATIONS

Current Implementation Practice

Upon receipt of a proposed project's plan set, Planning Department staff review the proposal for compliance with applicable Planning Code requirements. This review includes compliance with Planning Code Section 138.1, where the street tree requirement is found. The street tree requirement applies to projects proposing either (1) construction of a new building; (2) the relocation of a building; (3) the addition of gross floor area equal to 20 percent or more of the gross floor area of an existing building; (4) the addition of a new dwelling unit, garage or additional parking; or (5) the paving or repaving of more than 200 square feet of the front setback. One street tree is required for each 20 linear feet of subject property frontage, with fractions of 0.5 rounded up. Credit toward meeting the street tree requirement is given for existing street trees.

If Planning Department staff confirms that the project is subject to the street tree requirement, Staff requests that the project sponsor provide a completed Tree Planting and Protection Checklist (Checklist). The Checklist requires the project sponsor to (1) confirm the proposed project triggers the street tree requirement; (2) to confirm the number of "Protected Trees" on the subject property; (3) to indicate whether the proposed scope of work will remove or impact a Protected Tree; and (4) to calculate the number of required street trees based on subject property street frontage.¹ The Checklist outlines three distinct "tree schedules" that apply to projects of differing scopes and zoning districts. Project sponsors are required to identify the correct "tree schedule" according to their proposed project and its underlying zoning district. Each "tree schedule" outlines a different tree planting specification.

Planning Department Staff reviews submitted Checklists for completeness and accuracy. Any errors must be corrected before the Planning Department can approve a project. In addition, the Planning Department is required to withhold project approval until the project sponsor provides evidence that DPW reviewed the project scope of work as it pertains to existing trees in the public right of way or on

¹ The Checklist uses the term "Protected Trees" to refer to Landmark Trees, as designated under Public Works Code Section 810, Significant Trees, as designated under Public Works Code Section 810A, and Street Trees as defined in Public Works Code Section 802.

the subject property. Specifically, the Planning Department must withhold approval until the project sponsor provides evidence of DPW consent or approval when (1) a project requires installation of a street tree; (2) a project proposes removal of a Protected Tree; (3) construction related activity impacts a Protected Tree; or (4) if the subject property contains a Landmark Tree.

Waivers or modifications of the street tree requirement due to infeasibility or undesirability require the action of both DPW and the Zoning Administrator. When installing a street tree is technically infeasible the Director of DPW must first make that determination and then the Zoning Administrator may grant a waiver or modification. For a street tree to be found undesirable the Zoning Administrator must find that installation conflicts with General Plan Policies.

Problems with the Existing Street Tree Implementation Practices

The current implementation process unnecessarily involves the participation of two public agencies in a process that really only requires one. Under the current practice, project sponsors are obligated to secure and coordinate the approvals or consent between the DPW and the Planning Department. For many project sponsors, especially those without experience in real estate development or construction, this can be a daunting task. It is also, arguably, one that could be streamlined and internalized.

Permit review and approval delays are often experienced as a result of the effort to successfully coordinate the consent or approval between the two public agencies. This is particularly concerning for projects, including those adding a new dwelling unit within an existing building envelope that could be approved over the counter.

The waiver or modification process is also cumbersome and awkward. Requiring the consent of two high level public officials to grant waivers or modifications on the grounds of technical infeasibility appears overly involved. Determinations on City policy found in the General Plan are typically outside the principal role of the Zoning Administrator, which is to administer and enforce the Planning Code.

Clarifications between Originally Introduced Ordinance and Substitute Ordinance

The proposed Ordinance was originally introduced on March 18, 2015. This version of the proposed Ordinance was based on an older, superseded version of Planning Code Section 138.1. The substitute version (attached as Exhibit B) is based on the current language in Planning Code Section 138.1. As a matter of substance, both versions of the Ordinance propose to eliminate the street tree requirement from the Planning Code and locate it to the Public Works Code.

The substitute version of the proposed Ordinance also eliminates Planning Code Section 428, Street Trees In-Lieu Fee. The in-lieu fee is proposed to be transferred to the Public Works Code and administered by DPW. Other proposed changes to the Public Works Code embodied in the substitute version of the Ordinance include (1) requiring a permit to perform major maintenance on street trees within 150 feet of a general advertising sign; and (2) requiring a tree protection plan in advance of construction and adopting a fee for review and approval of the plan.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

RECOMMENDATION

The Department recommends that the Commission recommend *approval with modifications* of the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendations are as follows:

1. Amend Planning Code Section 138.1(c)(1) to explicitly indicate that the project sponsor is the party responsible for the planting and maintenance of any required street tree(s). The modified section would read as follows:

Project Sponsors shall plant and maintain street trees as set forth in Article 16, Sections 805(a) and (d) and 806(d) of the Public Works Code.

BASIS FOR RECOMMENDATION

The Department supports the proposed Ordinance because it will create a less burdensome and confusing street tree implementation process for project sponsors. By reducing the number of public agencies involved in the regulation of street trees the Department believes that the requirement will be applied with greater accuracy and consistency, and collection of any applicable in-lieu fees will improve. In all, it is anticipated that the proposed Ordinance will help expand San Francisco's street tree population in a more efficient and fair manner.

Jurisdiction, the Public Right-of-Way and Street Trees

The Planning Department and DPW implement different bodies of law with different jurisdictional limits. The Planning Department implements the Planning Code. As outlined in Planning Code Section 101, one of the purposes of the Planning Code is the regulation of the location of buildings and the use of buildings and land adjacent to streets and thoroughfares is one of those purposes. Privately owned lots are typically adjacent to the City's streets and the activity on these lots is the primary concern of the most of the Planning Code. A December 1991 Zoning Administrator Interpretation of the Planning Code on catering trucks and push carts further clarifies that the Planning Code does not have jurisdiction over uses in the street rights-of-way.

The Public Works Code is one body of law that DPW implements. The Public Works Code explicitly outlines duties and responsibilities of the Director of DPW. Article 2 of the Public Works Code indicates that the Director of DPW is responsible for managing the public right-of-way, including sidewalks.² These responsibilities include oversight of any excavation and improvements in the City's sidewalks. The Public Works Code also outlines the jurisdictional extent of DPW. Article 16, the Urban Forestry Ordinance, indicates that DPW is provided with jurisdiction over the planning, planting, maintenance, and removal of trees in any street or other public right-of-way.³ This jurisdiction extends to Landmark and Significant Trees as well.

² Public Works Code, Article 2, Sections 2.4.1 and 2.4.4.

³ Public Works Code, Article 16, Section 804.

Street Tree Planting and Maintenance and Departmental Staffing Expertise

Planting and maintaining trees in an urban environment requires expertise in the fields of arboriculture, urban forestry, landscape architecture and street environmental services. The Planning Department does not have staff with expertise in these areas, making the Planning Department staff ill equipped to determine if proposed locations for street trees are appropriate and suitable to the health of the trees. DPW staff does include arborists and urban foresters, with expertise in the area of tree planting and maintenance as well as with sidewalk utility coordination, making DPW the agency best equipped to implement street tree requirements.

Improvement to Current Implementation Practices / Proposed Procedural Improvements

The proposed Ordinance would dramatically improve the current street tree implementation practices. Prior to the Planning Department receiving a permit application, the Department of Building Inspection (DBI) would screen all applications to determine if the street tree requirement is applicable. If the street tree requirement is applicable, DBI would include DPW as one of the agencies that would review the permit. The Planning Department would conduct its review and approve the permit application independent of the DPW determination. Once the Planning Department completes its review, the permit would then be routed to DPW, which would apply the street tree requirements. This new process will reduce delays in Planning Department review; the Planning Department would not have to wait for approval of the street planting plan from DPW before releasing the permit and it would allow for more projects to be approved over the counter, completely avoiding the Planning Department's backlog. Importantly, this reduction in Planning Department review is also in line with Mayor Lee's Executive Directive on Accelerating Housing Production.

Recommendation 1: Amend Planning Code Section 138.1(c)(1) to explicitly indicate that the project sponsor is the party responsible for the planting and maintenance of any required street tree(s).

The recommended modification clarifies the responsibility of project sponsors in the planting and maintenance of required street trees. It also adds reference to an additional, relevant section in the Public Works Code which further avoids confusion about responsibility of over street tree maintenance. In all, the recommended modification provides clarity from the outset of the

ENVIRONMENTAL REVIEW

The proposed Ordinance is not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it does not result in a physical change in the environment.

PUBLIC COMMENT

As of the date of this report, the Planning Department has received not received any input from the public regarding the proposed Ordinance.

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| RECOMMENDATION: Recommendation of Approval |
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Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 150221



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution

HEARING DATE MAY 14, 2015

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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE AND PUBLIC WORKS CODE TO SHIFT AUTHORITY TO REQUIRE STREET TREES IN THE CASE OF CERTAIN TYPES OF DEVELOPMENT PROJECTS FROM THE PLANNING DEPARTMENT TO PUBLIC WORKS; TO REQUIRE A PERMIT TO PERFORM MAJOR MAINTENANCE ON STREET TREES WITHIN A SPECIFIED DISTANCE OF GENERAL ADVERTISING SIGNS, ADOPT A FEE FOR SUCH PERMIT, AND IMPOSE PENALTIES FOR VIOLATIONS; TO REQUIRE A TREE PROTECTION PLAN IN ADVANCE OF CONSTRUCTION AND ADOPT A FEE FOR REVIEW AND APPROVAL OF THE PLAN; TO GIVE SPECIFIED PUBLIC WORKS STAFF ENFORCEMENT AUTHORITY; AND AFFIRMING THE PLANNING DEPARTMENTS DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND MAKING OTHER FINDINGS INCLUDING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, PLANNING CODE SECTION 302 AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE SECTION 101.1.

WHEREAS, on April 21, 2015, Supervisor Wiener re-introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 150221, which would amend the Planning Code and Public Works Code to shift authority to require street trees in the case of certain types of development projects from the Planning Department to Public Works; to require a permit to perform major maintenance on street trees within a specified distance of general advertising signs, adopt a fee for such permit, and impose penalties for violations; to require a tree protection plan in advance of construction and adopt a fee for review and approval of the plan; and to give specified Public Works staff enforcement authority;

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on May 14, 2015; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Sections 15060(c)(2) and 15378; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve with modification** the proposed ordinance.

The Commission recommended modification is:

Amend Planning Code Section 138.1(c)(1) to explicitly indicate that the project sponsor is the party responsible for the planting and maintenance of any required street tree(s). The modified section would read as follows:

Project Sponsors shall plant and maintain street trees as set forth in Article 16, Sections 805(a) and (d) and 806(d) of the Public Works Code.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. Street trees form the basis of San Francisco's urban forest. They add visual interest, soften the urban environment, provide habitat and remove pollutants from the air and water. In this way they help make San Francisco a more walkable, livable and sustainable city.
2. The Planning Department has been the agency to require the planting of street trees for certain types of development projects. However, because of a lack of expertise in arboriculture as well as jurisdiction over the public right-of-way, the Planning Department relies on the Department of Public Works to assist in the implementation of the street tree requirement.
3. Because of the participation of two public agencies, the implementation of the street tree requirement can be inefficient, time-consuming and burdensome to project applicants.
4. The Department of Public Works, having an expertise in arboriculture as well as jurisdiction over the public right-of-way, is the more appropriate public agency to implement the street tree requirement.
5. **General Plan Compliance.** The proposed amendments to the Planning Code are not addressed in the General Plan; the Commission finds that the proposed Ordinance is not inconsistent with the Objectives and Policies of the General Plan.

RECREATION AND OPEN SPACE ELEMENT

OBJECTIVE 3

IMPROVE ACCESS AND CONNECTIVITY TO OPEN SPACE.

Policy 3.6

Maintain, restore, expand and fund the urban forest.

Shifting authority of the street tree requirement to the Department of Public Works will help expand, fund and maintain San Francisco's urban forest. Because they are the agency with expertise in arboriculture and jurisdiction over the public right-of-way, they are best positioned to steward the urban forest.

URBAN DESIGN ELEMENT

OBJECTIVE 4

IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

Policy 4.12

Install, promote and maintain landscaping in public and private areas.

The improvements to the implementation of the street tree requirement as proposed in the Ordinance will help San Francisco to expand and care for its urban forest.

AIR QUALITY ELEMENT

OBJECTIVE 3

DECREASE THE AIR QUALITY IMPACTS OF DEVELOPMENT BY COORDINATION OF LAND USE AND TRANSPORTATION DECISIONS

Policy 3.9

Encourage and require planting of trees in conjunction with new development to enhance the pedestrian environment and select species of trees that optimize achievement of air quality goals.

The proposed Ordinance will ensure that all required street trees are planted or that in-lieu fees are appropriately assessed and collected. This will expand the urban forest, improve the pedestrian environment and help clean pollutants from the air.

6. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative effect on existing neighborhood serving retail uses because the Ordinance concerns itself with the implementation of the street tree requirement and the shifting of authority from the Planning Department to the Department of Public Works.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance will help improve neighborhood character by assuring the City receives all required street trees through an improved street tree implementation process.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance will not have an adverse effect on the City's supply of affordable housing because the Ordinance concerns itself with public agency authority over the street tree requirement.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance will not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking because the Ordinance concerns itself with public agency authority over the street tree requirement.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development because the Ordinance is concerned with the regulation of street trees. The proposed Ordinance does not have an effect on future opportunities for resident employment or ownership in these sectors.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance will not have an effect on City's preparedness against injury and loss of life in an earthquake as the Ordinance is concerned with shifting the authority of the street tree requirement from one public agency to another.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance will not have an effect on the City's Landmarks and historic buildings because it shifts authority of the street tree requirement from one public agency to another.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have an effect on the City's parks and open space and their access to sunlight and vistas as the Ordinance is concerned with the regulation and public agency authority over street trees.

- 8. Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on May 14, 2015.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: May 14, 2015

1 [Planning, Public Works Codes - Street Trees]

2

3 **Ordinance amending the Planning and Public Works Codes to shift the authority to**
 4 **require street trees in the case of certain types of development projects from the**
 5 **Planning Department to Public Works; to require a permit to perform major**
 6 **maintenance on street trees within a specified distance of general advertising signs,**
 7 **adopt a fee for such permit, and impose penalties for violations; to require a tree**
 8 **protection plan in advance of construction and adopt a fee for review and approval of**
 9 **the plan; to give specified Public Works staff enforcement authority; and affirming the**
 10 **Planning Department's determination under the California Environmental Quality Act,**
 11 **and making other findings including findings of consistency with the General Plan, and**
 12 **the eight priority policies of Planning Code, Section 101.1.**

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

17

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

19

20 Section 1. Findings.

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

25

1 (b) The City has long required street trees when certain types of development projects
2 are built. The Planning Code imposes these requirements and the Planning Department
3 implements them. However, the Planning Department does not have (1) jurisdiction over the
4 public right-of-ways in which street trees are planted or (2) meaningful expertise in
5 arboriculture or sidewalk utility conflicts. Accordingly, the Planning Department has
6 implemented tree planting requirements through an interagency referral process with
7 Department of Public Works (“PW”), which has jurisdiction over public right-of-ways and tree
8 permitting. This process is inefficient, time-consuming, and not friendly to applicants for
9 various City permits.

10 (c) The authority relating to street trees is more appropriately housed within the Public
11 Works Code and implemented by the staff of PW, which has both the jurisdiction and
12 expertise to more successfully implement the City’s street tree requirements.

13 (d) Topping of trees or other inappropriate pruning and maintenance can severely
14 injure or kill a tree. PW has witnessed numerous instances where street trees in the vicinity of
15 general advertising signs have been improperly pruned in an effort to make such signs more
16 visible at the expense of the street trees health and longevity.

17 (e) The Board of Supervisors wants to balance the potentially competing needs of
18 maintaining visible advertising signs and protecting the viability and other benefits of street
19 trees. The Board intends to strike this balance through a new requirement to obtain a permit
20 for maintenance of street trees within a specified distance of general advertising signs, a
21 condition that a certified arborist directly supervise the maintenance activity, and creation of
22 penalties for violating the permit terms or failing to obtain a permit.

23 (f) The Planning Department has determined that the actions contemplated in this
24 ordinance comply with the California Environmental Quality Act (California Public Resources
25 Code Section 21000 et seq.). The Board of Supervisors affirms this determination. Said

1 determination is on file with the Clerk of the Board of Supervisors in File No. _____
2 and is incorporated herein by reference.

3 (g) Pursuant to Planning Code Section 302, the Board finds this ordinance will serve
4 the public necessity, convenience and welfare for the reasons set forth in Planning
5 Commission Resolution No. _____, which reasons are incorporated herein by
6 reference as though fully set forth. A copy of Planning Commission Resolution No.
7 _____ is on file with the Clerk of the Board of Supervisors in File No.
8 _____.

9 (h) At a duly noticed public hearing held on _____, 2015, the Planning
10 Commission in Resolution No. _____ found that the proposed Planning and Public
11 Works Code amendments contained in this ordinance are consistent with the City's General
12 Plan and with the priority policies of Planning Code Section 101.1. The Commission
13 recommended that the Board of Supervisors adopt the proposed amendments. The Board
14 finds that the proposed amendments contained in this ordinance are consistent with the City's
15 General Plan and with the Priority Policies of Planning Code Section 101.1 for the reasons set
16 forth in said Resolution.

17
18 Section 2. The Planning Code is hereby amended by revising Sections 138.1 and
19 deleting 428, to read as follows

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

21 * * * *

22 (c) **Required streetscape and pedestrian improvements.** Development projects
23 shall include streetscape and pedestrian improvements on all publicly accessible rights-of-way
24 directly fronting the property as follows:
25

1 (1) **Street trees.** The Department shall require street trees and the abutting owner
2 shall maintain such trees as set forth in Article 16, Section 806 of the Public Works Code.

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

8 (B) ~~Standards.~~

- 9 _____ (i) ~~All districts.~~ *In any district, street trees shall:*
- 10 _____ (aa) ~~Comply with Public Works Code Article 16 and any other~~
11 ~~applicable ordinances;~~
- 12 _____ (bb) ~~Be suitable for the site;~~
- 13 _____ (cc) ~~Be a minimum of one tree of 24 inch box size for each 20~~
14 ~~feet of frontage of the property along each street or alley, with any remaining fraction of 10 feet or~~
15 ~~more of frontage requiring an additional tree. Such trees shall be located within the public right-of-way~~
16 ~~along such lot, and shall comply with all applicable codes and standards.~~
- 17 _____ (dd) ~~Provide a below grade environment with nutrient rich soils,~~
18 ~~free from overly compacted soils, and generally conducive to tree root development;~~
- 19 _____ (ee) ~~Be watered, maintained and replaced if necessary by the~~
20 ~~property owner, in accordance with Sec. 174 and Article 16 of the Public Works Code and compliant~~
21 ~~with applicable water use requirements of Chapter 63 of the Administrative Code.~~
- 22 _____ (ii) ~~DTR, RC, C, NC and Mixed-Use Districts, and Planned Unit~~
23 ~~Developments.~~ *In DTR, RC, C, NC and Mixed-Use Districts, and Planned Unit Developments, in*
24 *addition to the requirements of subsections (aa)-(ee) above, all street trees shall:*
- 25 _____ (aa) ~~Have a minimum 2 inch caliper, measured at breast height;~~

1 ~~_____ (bb) Branch a minimum of 80 inches above sidewalk grade;~~

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

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

7 ~~_____ (iii) **Continuous soil-filled trench.** Street trees shall be planted in a~~
8 ~~continuous soil-filled trench parallel to the curb, such that the basin for each tree is connected, if: (1)~~
9 ~~the project is on a lot that (a) is greater than 1/2-acre in total area, (b) contains 250 feet of total lot~~
10 ~~frontage on one or more publicly-accessible rights-of-way, or (c) the frontage encompasses the entire~~
11 ~~block face between the nearest two intersections with any other publicly-accessible rights-of-way, and~~
12 ~~(2) the project includes (a) new construction or (b) addition of 20% or more of gross floor area to an~~
13 ~~existing building. The trench may be covered by allowable permeable surfaces as defined in Section~~
14 ~~102.33, except at required tree basins, where the soil must remain uncovered.~~

15 ~~(C) **Approvals, waivers, and modifications.**~~

16 ~~_____ (i) Trees installed in the public right-of-way shall be subject to~~
17 ~~Department of Public Works approval. Procedures and other requirements for the installation,~~
18 ~~maintenance and protection of trees in the public right-of-way shall be as set forth in Article 16 of the~~
19 ~~Public Works Code.~~

20 ~~_____ (ii) **Determination of infeasibility or undesirability.** Required street~~
21 ~~trees may be found to be infeasible or undesirable under the following circumstances:~~

22 ~~_____ (aa) **Technical infeasibility.** The Department of Public Works~~
23 ~~may determine that one or more trees in the public right-of-way cannot be planted or cannot meet all the~~
24 ~~requirements of subsections (ii)(A)-(C), I on the basis of inadequate sidewalk width, interference with~~
25 ~~utilities or other reasons regarding the public welfare.~~

1 ~~_____ (bb) **Incompatibility with existing policy.** The Zoning~~
2 ~~Administrator may determine that the planting of street trees conflicts with policies in the General Plan~~
3 ~~such as the Downtown Plan policy favoring unobstructed pedestrian passage or the Commerce and~~
4 ~~Industry Element policies to facilitate industry.~~

5 ~~_____ (iii) **Waiver or modification.** In any case in which a street tree is~~
6 ~~determined to be infeasible or undesirable under subsections (aa) or (bb), the Zoning Administrator~~
7 ~~may waive or modify the street tree requirement as follows:~~

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

10 ~~_____ (bb) As an alternative to payment of any portion of the in-lieu~~
11 ~~fee, the Zoning Administrator may modify the requirements of this section to allow the installation of~~
12 ~~alternative landscaping, including: sidewalk landscaping that is compliant with applicable water use~~
13 ~~requirements of Chapter 63 of the Administrative Code, to satisfy the requirements of Section~~
14 ~~138.1(c)(1), subject to permit approval from the Department of Public Works in accordance with~~
15 ~~Public Works Code Section 810B, planter boxes, tubs, or similar above-ground landscaping, street~~
16 ~~trees that do not meet all of the requirements of subsections (ii)(A)-(C), 1 or street trees planted in a~~
17 ~~required front setback area on the subject property.~~

18 ~~_____ (D) **Credit for existing street trees.** Where there is an existing, established~~
19 ~~street tree fronting the subject property, as determined by the Department of Public Works, the street~~
20 ~~tree requirement shall be waived and no in-lieu fee shall be applied for that particular tree.~~

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

22 **(A) Application.**

23 (i) In any district, streetscape and pedestrian elements in
24 conformance with the Better Streets Plan shall be required, if all the following conditions are
25 present: (1) the project is on a lot that (a) is greater than one-half acre in total area, (b)

1 contains 250 feet of total lot frontage on one or more publicly-accessible rights-of-way, or (c)
2 the frontage encompasses the entire block face between the nearest two intersections with
3 any other publicly-accessible rights-of-way, and (2) the project includes (a) new construction;
4 or (b) addition of 20% or more of gross floor area to an existing building.

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

11 (B) **Standards.** ~~Notwithstanding the requirements of Section 138.1(c)(2)(i),2~~
12 ~~the Department shall consider, but need not require, the streetscape and pedestrian elements listed~~
13 ~~below when analyzing a streetscape plan:~~

14 (i) **Required streetscape elements.** A continuous soil-filled trench
15 parallel to the curb shall connect all street tree basins for those street trees required under the Public
16 Works Code. The trench may be covered only by permeable surfaces as defined in Section 102 of the
17 Planning Code, except at required tree basins, where the soil must remain uncovered. The Director of
18 Planning, or his or her designee, may modify or waive this requirement where a continuous trench is
19 not possible due to the location of existing utilities, driveways, sub-sidewalk basements, or other pre-
20 existing surface or sub-surface features.

21 (ii) **Additional Standard streetscape elements.** The Department
22 shall consider, but need not require, additional ~~All standard~~ streetscape elements for the
23 appropriate street type per Table 1 and the Better Streets Plan, including benches, bicycle
24 racks, curb ramps, corner curb extensions, stormwater facilities, lighting, sidewalk
25

1 landscaping, special sidewalk paving, and other site furnishings, excepting crosswalks and
2 pedestrian signals.

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

6 ~~(bb)~~ b. Additionally, sStreetscape elements shall be
7 consistent with the overall character and materials of the district, and shall have a logical
8 transition or termination to the sidewalk and/or roadway adjacent to the fronting property.

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

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

23 * * * *

24
25 ~~**SEC. 428. STREET TREES IN LIEU FEE.**~~

1 ~~If the Zoning Administrator waives the requirement for a street tree under Section 138.1, the~~
2 ~~application shall pay a in-lieu fee. This fee shall be the amount specified in the Public Works Code~~
3 ~~Article 16 and be payable prior to issuance of any certificate of occupancy. The fee amount shall be~~
4 ~~deposited in the Department of Public Works Adopt-A-Tree Fund.~~

5
6 Section 3. The Public Works Code is hereby amended by revising Sections 802, 805,
7 806, 811, and 812, to read as follows:

8
9 **SEC. 802. DEFINITIONS.**

10 Unless the context specifically indicates otherwise,

11 ~~(a)~~ "Administrative cost" shall mean 20 percent of the Department's actual
12 replacement cost, or a minimum of \$100, whichever is greater.

13 ~~(b)~~ "City" shall mean the City and County of San Francisco.

14 ~~(c)~~ "Community Boards" of San Francisco shall mean the neighborhood
15 mediation/dispute settlement service established under the auspices of The Community Board
16 Program, Inc.

17 ~~(d)~~ "Department" shall mean the Department of Public Works of the City ~~and County of~~
18 ~~San Francisco.~~

19 ~~(e)~~ "Director" shall mean the Director of ~~the Department of~~ Public Works or the
20 Director's designee, which shall include the Urban Forester or other departmental staff.

21 ~~(f)~~ "Ex officio" shall mean a current employee of any City department, or California or
22 federal agency whose appointment to the Urban Forestry Council has been approved by the
23 Director of the Department of the Environment.

24 "Hazard Tree" shall mean any tree that poses an imminent hazard to person or property. The
25 Director may determine that a tree is a hazard if it or any part of it: (1) appears dead, dangerous, or

1 likely to fall, even after proper maintenance activities are performed to eliminate dead or dangerous
2 parts; (2) obstructs or damages a street, sidewalk, or other existing structure; (3) harbors a serious
3 disease or infestation threatening the health of other trees; (4) interferes with vehicular or pedestrian
4 traffic; or (5) poses any other significant hazard or potential hazard, as determined by the Director;
5 provided, however, that feasible measures have been applied to abate any such hazard, such as
6 applicable Maintenance activities as defined in this Section 802. The Director's determination shall be
7 in writing.

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

16 (~~h~~) "In-lieu fee" shall mean a fee deposited into the Adopt-A-Tree Fund and imposed
17 by the Director. The in-lieu fee shall be equal to the replacement value of a tree(s) to be
18 removed or trees that have been destroyed or as otherwise specified in Section 811. In the
19 case of trees required to be planted by Section ~~143 of the City Planning Code~~ 805 or 806, yet
20 excused ~~under Section 143(d) of the Planning Code~~ by the Director through a waiver or modification,
21 the ~~i~~n-lieu fee shall be equal to the City's cost to plant and water a tree for three years. The
22 minimum in lieu fee shall be \$1,489.00. Beginning with fiscal year 2007-2008, this fee shall be
23 reviewed and adjusted each year in accordance with the procedures set forth in Public Works
24 Code Section 2.1.2.

25

1 (i) "Interested San Francisco organization" shall mean a San Francisco organization
2 or individual that has made a written request to the Department for notification of proposed
3 tree removals in a specified area(s) or neighborhood(s).

4 (j) "Landmark ~~#~~Tree" shall mean a tree so designated pursuant to Section 810 of this
5 Article 16.

6 (k) "Landscape ~~m~~Material" shall mean any tree, shrub, groundcover or other plant.

7 (l) "Maintenance" shall mean those actions necessary to promote the life, growth,
8 health, or beauty of a tree. Maintenance includes both routine and major activities. "Routine
9 ~~m~~Maintenance" shall include adequate watering to ensure the tree's growth and sustainability;
10 weed control; removal of tree-well trash; staking; fertilizing; routine adjustment and timely
11 removal of stakes, ties, tree guards, and tree grates; bracing; and sidewalk repairs related to
12 the tree's growth or root system pursuant to Section 706 of this Code. "Major ~~m~~Maintenance"
13 shall include structural pruning as necessary to maintain public safety and to sustain the
14 health, safety, and natural growth habit of the tree; pest and disease-management procedures
15 as needed and in a manner consistent with public health and ecological diversity; replacement
16 of dead or damaged trees. Pruning practices shall be in compliance with International Society
17 of Arboriculture Best Management Practices and ANSI Pruning Standards, whichever is more
18 protective of tree preservation.

19 (m) "Median ~~s~~Strip" shall mean the dividing area in the public way between opposing
20 lanes of vehicular traffic.

21 (n) "Notice" shall mean written notice by personal delivery or by mailing, either by
22 letter or postal card, postage prepaid to the last known address as the same appears on the
23 City's most recent assessment rolls.

24 (o) ~~"Hazard tree" shall mean any tree that poses an imminent hazard to person or property.~~
25 ~~The Director may determine that a tree is a hazard if it or any part of it: (1) appears dead, dangerous,~~

1 ~~or likely to fall, even after proper maintenance activities are performed to eliminate dead or dangerous~~
2 ~~parts; (2) obstructs or damages a street, sidewalk, or other existing structure; (3) harbors a serious~~
3 ~~disease or infestation threatening the health of other trees; (4) interferes with vehicular or pedestrian~~
4 ~~traffic; or (5) poses any other significant hazard or potential hazard, as determined by the Director;~~
5 ~~provided, however, that feasible measures have been applied to abate any such hazard, such as~~
6 ~~applicable maintenance activities listed in Section 802(1) of this Article. The Director's determination~~
7 ~~shall be in writing.~~

8 (p) "Person" shall mean any individual, firm, partnership, association, corporation,
9 company, or organization of any kind.

10 (q) "Planting" shall mean putting or setting into the ground or into a container to grow
11 and irrigating until self-sufficient.

12 (r) "Removal" shall mean any intentional or negligent moving, carrying away,
13 elimination or taking away of part or all of a tree.

14 (s) "Replacement ~~+~~Value" shall mean the actual cost to the Department of replacing a
15 tree or landscape material removed or destroyed with a comparable size and species of tree
16 or with comparable landscape material. Certain trees or landscape material, because of their
17 size, species or historical significance, cannot be replaced from available nursery stock. In
18 such case, "replacement value" shall be determined pursuant to the valuation formula
19 adopted by the International Society of Arboriculture, as amended from time to time, plus the
20 Department's actual costs to replace the tree. "Replacement value" shall include the
21 Department's administrative costs.

22 (t) "Sidewalk" shall mean the area between the curbing and the abutting private
23 property lot line, whether paved or unpaved, as legislated by the Board of Supervisors and as
24 reflected in the Department's official maps.

25 (u) "Significant Tree" shall mean a tree so defined in Section 810A of this Article.

1 ~~(w)~~ "Street" shall mean the vehicular travel-way portion of any public street, avenue,
2 boulevard, lane, road, parkway, freeway, or other public way.

3 ~~(w)~~ "Street ~~#~~Tree" shall mean any tree growing within the public right-of-way, including
4 unimproved public streets and sidewalks, and any tree growing on land under the jurisdiction
5 of the Department.

6 ~~(x)~~ "Tree" shall mean any large perennial plant having a woody trunk(s), branches,
7 and leaves. Trees also shall include palm trees.

8 ~~(y)~~ "Urban ~~#~~Frest" shall mean all trees on public streets and right~~s~~-of-way~~s~~ within the
9 borders of the City and County of San Francisco, any trees growing on land subject to the
10 jurisdiction of the Department, and any other trees subject to the provisions of this Article 16.

11 ~~(z)~~ "Urban Forestry Council" shall mean the Urban Forestry Council as established
12 under the Environment Code Chapter 12.

13

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

15 **(a) Responsibilities of Property Owners.**

16 (1) Except as specified in Subsections 805(~~b c~~) and (~~e d~~) below, it shall be the
17 duty of owners of lots or portions of lots immediately abutting on, fronting on or adjacent to
18 any ~~s~~Street ~~#~~Tree to maintain such ~~s~~Street ~~#~~Free. This duty shall include both ~~#~~Rroutine and
19 ~~m~~Maajor maintenance of the ~~s~~Street ~~#~~Free. It shall be the responsibility of all public agencies,
20 including City, State and federal agencies, to maintain ~~s~~Street ~~#~~Frees abutting on such public
21 agency's property in accordance with this Section 805. In addition, and in accordance with
22 Section 706 of this Code, abutting property owners shall be responsible for the care and
23 maintenance of the ~~s~~Sidewalk and sidewalk areas adjacent to any ~~s~~Street ~~#~~Free.

24 (2) Any person who suffers injury or property damage as a legal result of the
25 failure of the owner to so maintain a ~~s~~Street ~~#~~Free, ~~s~~Sidewalk and sidewalk areas shall have a

1 cause of action for such injury or property damage against such property owner. In addition to
2 its rights under Section 706 of this Code, the City ~~and County of San Francisco~~ shall have a
3 cause of action for indemnity against such property owner for any damages the City may be
4 required to pay as satisfaction of any judgment or settlement of any claim that results from
5 injury to persons or property as a legal result of the failure of the owner to maintain a ~~s~~Street
6 ~~#~~Tree in accordance with this Section 805.

7 (3) The Department shall have available to interested persons, upon request,
8 public pruning standards to ensure that ~~s~~Street ~~#~~Trees receive proper care.

9 **(b) Permit Required for Major Maintenance of Street Trees Adjacent to General Advertising**
10 **Signs.**

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

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

20 (3) The fee for a permit for Major Maintenance of a Street Tree(s) specified in Section
21 805(b)(1) shall be \$ XX.00. This fee is subject to the fee adjustment provisions of Section 2.1.2 and
22 additional fee provisions of Section 2.1.3.

23 **(c) Responsibilities of the Department.** The Department may, at the Director's
24 discretion, determine to undertake the regular ~~#~~Routine and/or ~~m~~Major ~~m~~Maintenance of
25 certain ~~s~~Street ~~#~~Trees or corridors of ~~s~~Street ~~#~~Trees to promote consistency in the

1 ~~m~~Maintenance of ~~t~~Trees or in the public interest. Where the Department determines to
2 undertake such regular ~~m~~Maintenance of ~~s~~Street ~~t~~Trees, the Director shall specify in writing by
3 Departmental Order those ~~t~~Trees or corridors of ~~t~~Trees for which it has undertaken
4 ~~m~~Maintenance responsibility and shall specify in writing whether the Department will be
5 responsible for ~~r~~Routine or ~~m~~Major ~~m~~Maintenance, or both. Such determinations by the
6 Department shall be readily accessible to property owners and members of the public. Where
7 the Department has undertaken certain ~~m~~Maintenance responsibility for ~~s~~Street ~~t~~Trees in
8 writing, the abutting property owner shall be relieved of responsibility for such ~~s~~Street ~~t~~Tree
9 ~~m~~Maintenance.

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

12 (~~e~~-d) **Street Tree Establishment and Replacement of Dead Street Trees.**

13 (1) **Establishment of Street Trees.** The establishment period for newly
14 planted ~~s~~Street ~~t~~Trees shall be three years from the date of ~~p~~Planting. If the ~~s~~Street ~~t~~Tree is not
15 adequately established at the end of this period, the Director shall treat this as an ~~i~~Injury to the
16 ~~t~~Tree, as defined in Section 802(~~g~~), and may seek penalties for violation, as set forth in
17 Section 811. The Director may establish rules, regulations, or any other form of written
18 guidelines concerning standards for proper care and ~~m~~Maintenance during the establishment
19 period.

20 (2) **Replacement of Dead Street Trees.** The permittee or agency responsible
21 for a ~~s~~Street ~~t~~Tree shall replace a dead ~~s~~Street ~~t~~Tree within six months of the demise or
22 ~~r~~Removal of the ~~t~~Tree. Removal of a dead ~~s~~Street ~~t~~Tree and ~~p~~Planting of a replacement ~~s~~Street
23 ~~t~~Tree shall be subject to all requirements set forth in this Article 16 for ~~r~~Removal and ~~p~~Planting.
24 The Director is authorized to waive this replacement requirement and may place conditions on
25

1 any such waiver, which may include, but is not limited to, replacement ~~p~~Planting at an
2 alternate location or payment of the ~~i~~n-lieu fee. Any such waiver shall be in writing.

3 ~~(d-e)~~ **Department Inventory and Publication of Street Tree Responsibilities.**

4 (1) The Department shall use its best efforts to maintain an inventory of all
5 ~~f~~Trees under its jurisdiction.

6 (2) As of the effective date of this Article 16, the Department shall continue to
7 maintain ~~s~~Street ~~f~~Trees listed in its database as Department-maintained ~~f~~Trees. Such
8 information shall be made available to the public upon request.

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

12 ~~(e-f)~~ **Department Relinquishment of Street Tree Maintenance.**

13 (1) The Director may, in his or her discretion, determine to relinquish ~~f~~Tree
14 ~~m~~Maintenance responsibilities for certain ~~f~~Trees or corridors of ~~f~~Trees. Prior to such
15 relinquishment, the Director shall post the affected ~~f~~Trees and send ~~n~~Notice to abutting
16 property owners of the Department's intent to relinquish ~~m~~Maintenance responsibilities on a
17 date certain. Within 10 days of the posting and mailing of such ~~n~~Notice, any affected property
18 owner may object in writing to such relinquishment. At the written request of any person, the
19 Director ~~will~~shall hold a hearing prior to relinquishing ~~m~~Maintenance responsibility for a
20 particular ~~f~~Tree or corridor of ~~f~~Trees. The Director's decision on such relinquishment shall be
21 final and nonappealable.

22 (2) Prior to relinquishing ~~m~~Maintenance responsibilities, the Department shall
23 perform all necessary ~~m~~Major ~~tree~~ ~~m~~Maintenance. As of the date designated by the Director,
24 all ~~f~~Tree ~~m~~Maintenance ~~and tree-related maintenance~~ shall be the responsibility of the abutting
25 property owner.

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SEC. 806. PLANTING AND REMOVAL OF STREET TREES.

(a) Planting and Removal by the Department.

(1) **Planting.** The Department may determine to plant a new climate appropriate ~~#~~Tree (s) in a ~~s~~Sidewalk or public right-of-way. When the Department determines to plant a new ~~s~~Street ~~#~~Tree(s), the Department will undertake ~~#~~Maintenance responsibility for such new ~~s~~Street ~~#~~Tree and shall send a courtesy ~~#~~Notice to the abutting property owner prior to ~~p~~Planting such new ~~#~~Tree. Any objections to the proposed work must be submitted to the Director in writing and postmarked within 30 days after ~~#~~Notice by the Director. The Director shall consider such objections and may hold a hearing, in the Director's discretion. The Director's decision on the matter shall be final and nonappealable.

(2) **Removal of Street Trees.** No ~~s~~Street ~~#~~Tree shall be cut down or removed by the Department unless:

(A) The Department gives 30 days' prior written ~~#~~Notice to the owner of the property abutting the affected ~~#~~Tree; and

(B) Thirty days prior to the ~~#~~Removal date, the Department notifies all ~~i~~Interested San Francisco organizations and, to the extent practical, all owners and occupants of properties that are on or across from the block face where the affected ~~#~~Tree is located. In addition, 30 days prior to the ~~#~~Removal date, the Department shall post a notice on the affected ~~#~~Tree.

(3) Appeal of Tree Removal.

(A) If within 30 days after the giving of ~~#~~Notice for ~~s~~Street ~~#~~Tree ~~#~~Removal, as specified in Subsection (a)(2), or if within 15 days after the giving of notice for ~~#~~Removal of a hazard ~~s~~Street ~~#~~Tree, as specified in Subsection (a)(4), any ~~p~~Person files with the Department written objections to the ~~#~~Removal, the Director shall hold a hearing to

1 consider public testimony concerning the proposed ~~Tree~~ ~~Removal~~. Written ~~Notice~~ of the
2 date, time, and place of the hearing shall be posted on the affected ~~Tree~~, provided in a
3 newspaper of general circulation, and sent to the objecting party, the owner of the property
4 abutting the affected ~~Tree~~, and all ~~Interested~~ San Francisco organizations, not less than
5 seven days prior thereto.

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

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

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

11 (A) No hazard ~~Street~~ ~~Tree~~ shall be cut down or removed by the
12 Department unless:

13 (i) The Department gives 15 days' prior written ~~Notice~~ to the
14 owner of the property abutting the affected ~~Tree~~; and

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

20 (B) Hazard ~~Street~~ ~~Tree~~ shall have the same meaning as "~~Hazard~~
21 ~~Tree~~" in Section 802(~~o~~) except that a hazard ~~Street~~ ~~Tree~~ is located within the public right-of-
22 way ~~and is the maintenance responsibility of the Department~~.

23 (5) **Emergency Removal.** In the case of manifest danger and immediate
24 necessity, as determined by the Director, the Department may remove any ~~Street~~ ~~Tree~~
25 immediately. After such emergency ~~Removal~~, the Department shall provide ~~Notice~~ of the

1 necessity for such action to the owner of the property abutting the affected ~~Tree~~, all
2 ~~Interested~~ San Francisco organizations and, to the extent practical, all owners and occupants
3 of properties that are on or across from the block face where the affected ~~Tree~~ was removed.

4 (b) **Planting and Removal by Persons Other Than the Department.**

5 (1) **Planting and Removal Permits.** It shall be unlawful for any person to plant
6 or to remove any ~~Street Tree~~ without a valid permit for such work issued by the Department.
7 All permits for the ~~Planting~~ or ~~Removal~~ of ~~Street Trees~~ issued by the Director for residential
8 properties shall be recorded on the Report of Residential Building Records in accordance with
9 Section 351 of the Housing Code. All work associated with a ~~Street Tree~~ permit must be
10 completed within six months of issuance, unless an extension has been granted by the
11 Department.

12 (2) **Planting.** An abutting property owner who desires a permit to plant a
13 ~~Street Tree~~ shall apply to the Department on the designated form. If approved by the
14 Director, *the Department shall issue* a permit to plant the specified climate appropriate species of
15 ~~Tree(s) shall be issued~~ to the applicant. There shall be no administrative fee imposed for a
16 permit to plant a ~~Street Tree~~ unrelated to property development. The Director's decision on a
17 ~~Street Tree~~ planting permit shall be final and appealable to the Board of Appeals.

18 (3) **Removal.**

19 (A) An abutting property owner who desires a permit to remove a ~~Street~~
20 ~~Tree~~ shall apply to the Department on the designated form. The Department may grant or
21 deny the permit in accordance with the following procedures and requirements. If the
22 Department grants a ~~Tree Removal~~ permit, it shall require that a ~~Street Tree~~ or ~~Trees~~ of
23 equivalent ~~Replacement~~ value to the one removed be planted in the place of the removed
24 ~~Tree~~ or impose an ~~In-lieu~~ fee unless it makes written findings detailing the basis for waiving
25 or modifying this requirement.

1 (i) The fee for a permit to remove 1-3 ~~s~~Street ~~#~~Trees shall be
2 \$607.00 when the permit is requested to allow for development or construction; the fee for a
3 permit to remove 1-3 ~~s~~Street ~~#~~Trees shall be \$300.00 when the permit is requested to remove
4 a hazard or a diseased ~~#~~Tree or to prevent damage to the ~~s~~Sidewalk; the fee for a permit to
5 remove 4-9 ~~s~~Street ~~#~~Trees shall be \$808.00; and the fee to remove 10 or more ~~s~~Street ~~#~~Trees
6 shall be \$1,214.00.

7 (ii) **Additional Fees.** ~~In instances where administration or processing~~
8 ~~of any application is or will exceed the fee amount established pursuant to subsection (i), the~~ The
9 Director, in his or her discretion, may require an applicant or permittee to pay ~~a sum in excess of~~
10 ~~the subject fee amounts. This additional sum shall be sufficient to recover actual costs that the~~
11 ~~Department incurs and shall be charged on a time and materials basis. The Director also may charge~~
12 ~~for any time and materials costs that other agencies, boards, commissions, or departments of the City,~~
13 ~~including the City Attorney's Office, incur in connection with the processing or administration of a~~
14 ~~particular application. Whenever~~ additional fees as set forth in Section 2.1.3 ~~are or will be charged,~~
15 ~~the Director, upon request of the applicant or permittee, shall provide in writing the basis for the~~
16 ~~additional fees or an estimate of the additional fees to be charged.~~

17 (iii) **Fee Review and Adjustment.** Beginning with fiscal year
18 2010-2011, the fees that are established herein shall be reviewed and adjusted each year in
19 accordance with the procedures set forth in Public Works Code Section 2.1.2.

20 (B) Thirty days prior to the ~~#~~Removal date, the Department shall give
21 ~~#~~Notice to all ~~#~~Interested San Francisco organizations and, to the extent practicable, the
22 owners and occupants of properties that are on or across from the block face or adjacent to
23 where the affected ~~#~~Tree is located. In addition, 30 days prior to the ~~#~~Removal date, the
24 Department shall post a notice on the affected ~~#~~Tree. If within 30 days after the giving of such
25 notice any person files with the Department written objections to the ~~#~~Removal, the Director

1 shall hold a hearing prior to removing the ~~#~~Tree. Written notice of the date, time, and place of
2 the hearing shall be posted on the affected ~~#~~Tree and sent to the objecting party and all
3 ~~i~~Interested San Francisco organizations not less than seven days prior thereto.

4 (C) The Director shall issue his or her written decision and order on the
5 objections after the public hearing specified above.

6 (D) The Director's decision shall be final and appealable to the Board of
7 Appeals.

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

14 (d) **Required Street Trees for Development Projects.** The Director shall require Street Trees
15 for the development projects as set forth in this Subsection (d).

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

- 18 (A) the construction of a new building;
- 19 (B) the addition of a dwelling unit;
- 20 (C) the addition of a new curb-cut;
- 21 (D) the addition of a garage; and/or
- 22 (E) a net addition to an existing building of 500 gross square feet or more.

23 (2) **Number of Trees Required.** The Director shall require one Street Tree for each 20
24 feet of Street frontage of the property containing the development project, with any remaining fraction
25 of 10 feet or more of frontage requiring an additional Tree. Any existing Street Trees located within

1 the public right-of-way along such property that have been protected during construction and that the
2 Director does not recommended for Removal, shall count toward meeting the requirement.

3 (3) Standards for Required Trees. New Street Trees that the Director requires to be
4 planted under this Subsection shall:

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

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

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

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

10 (E) be planted no higher than the adjacent Sidewalk and provide a below-grade
11 environment with nutrient-rich soils, free from overly-compacted soils, and generally conducive to Tree
12 root development; and

13 (F) be watered, maintained, and replaced if necessary by the property owner, in
14 accordance with this Article 16, and be in compliance with applicable water use requirements of
15 Administrative Code Chapter 63.

16 (4) Waivers and Modifications. The Director may waive or modify the number of
17 and/or standards for Street Trees required pursuant to this Subsection only as described below:

18 (A) The Director, in his or her sole discretion, may waive or modify the
19 requirements of this subsection when inadequate Sidewalk width or interference with driveways, sub-
20 sidewalk basements, or other pre-existing surface, sub-surface, or above-grade features render
21 installation of the required Street Tree(s) in the required fashion impossible, impractical, and/or
22 unsafe. For each required Street Tree that the Director waives, the applicant, at his or her choosing,
23 shall either (i) pay an In-lieu fee pursuant to Section 802 or (ii) to fulfill all or a portion of the
24 requirement, provide alternative landscaping, including but not limited to Sidewalk landscaping, in
25 amount comparable to or greater than the number of Street Trees waived; or

1 (B) Only in those extraordinary and unusual circumstances where an applicant
2 successfully demonstrates that an overriding City policy renders the Planting of the required Street
3 Tree(s) inappropriate and both the Director and the Director of Planning concur, the Director may
4 waive one or more required Street Trees. For each required Street Tree that the Director waives, the
5 Director, in his or her sole discretion, shall require that the applicant either (i) pay an In-lieu fee
6 pursuant to Section 802 or (ii) fulfill all or a portion of the requirement by providing alternative
7 landscaping, including but not limited to Sidewalk landscaping, in amount comparable to or greater
8 than the number of Street Trees waived.

9

10 **SEC. 808. PROTECTION OF TREES AND LANDSCAPE MATERIAL.**

11 (a) **Injury to or Destruction of Trees Prohibited.** It shall be unlawful for any person
12 to intentionally, maliciously, or through gross negligence ~~i~~njure or destroy a ~~s~~Street ~~#~~Tree, any
13 ~~#~~Tree on City property, a ~~s~~Significant ~~#~~Tree, or a ~~#~~Landmark ~~#~~Tree. Removal of a ~~#~~Tree under
14 City order or ~~#~~Removal in accordance with a permit issued pursuant to Section 806, 810, or
15 810A of this Article ~~1~~6 is exempt from this prohibition.

16 (b) **Injury to or Destruction of Landscape Materials Prohibited.** It shall be unlawful
17 for any person to intentionally, maliciously or through gross negligence ~~i~~njure or destroy any
18 ~~#~~Landscape ~~#~~Material in any ~~s~~Street median, center strip, or other landscaped portion of a
19 public right-of-way under the City's jurisdiction, except as authorized by the Department.

20 (c) **Construction Work: Protection of Trees Required.**

21 (1) It shall be unlawful for any person to engage in any construction work on
22 private or public property without first taking steps to protect ~~s~~Street ~~#~~Trees, ~~s~~Significant ~~#~~Trees,
23 and ~~#~~Landmark ~~#~~Trees from damage, including damage caused by soil compaction or
24 contamination, excavation, or placement of concrete or other pavement or foundation
25 material. If excavation, construction, or ~~s~~Street work is planned within the dripline of a

1 ~~s~~Significant ~~#~~Tree, a ~~h~~Landmark ~~#~~Tree, or a ~~#~~Tree on any ~~s~~Street or other publicly owned
2 property said ~~#~~Tree(s) shall be adequately protected. If any construction work results in the
3 ~~i~~Injury or damage to such ~~#~~Trees, the responsible party(ies) may be subject to the penalties
4 set forth in Section 811 of this Article.

5 (2) Prior to Department of Building Inspection issuance of a building permit or site
6 permit, the applicant for a project that may damage one or more Street Trees, Significant Trees, and/or
7 Landmark Trees shall submit a Tree protection plan to the Director for review and approval.

8 (3) Prior to issuance of a Public Works permit for excavation, construction, or Street
9 work that will occur within the dripline of a Significant Tree, a Landmark Tree, or a Tree on any Street
10 or other publicly owned property, the applicant shall submit a Tree protection plan to the Director for
11 review and approval.

12 (4) If the Public Utilities Commission or Municipal Transportation Agency plans to
13 perform any excavation, construction, or Street work within the dripline of a Significant Tree, a
14 LandmarkTree, or a Tree on any Street or other publicly owned property, said department shall submit
15 a Tree protection plan to the Director for informational purposes only.

16 (5) The Tree protection plan referenced above in Subsection (2)-(4) shall be prepared
17 by a certified arborist.

18 (6) The Director shall charge a fee of \$X.00 for review and approval of a Tree
19 protection plan. This fee is subject to the fee adjustment provisions of Section 2.1.2 and additional fee
20 provisions of Section 2.1.3.

21 (7) An applicant's or permittee's failure to obtain a Director approved Tree protection
22 plan pursuant to Subsections (2) or (3) above, shall be deemed in violation of the subject permit. The
23 Director may enforce such a violation under the terms of the relevant Public Works permit, including a
24 requirement that all work stop until the applicant or permittee complies with this Section. In the case of
25 a Department of Building Inspection building or site permit, the Director shall request the Director of

1 Building Inspection to initiate an enforcement action under the Building Code, including a requirement
2 that all work stop until the applicant or permittee complies with this Section.

3
4 **SEC. 811. PENALTIES FOR VIOLATION OF ORDINANCE.**

5 (a) **Criminal Penalties.** Violation of any of the provisions of Sections 805(b), 806, 808,
6 810(f)(1), 810A(b), and 810B of this Article 16 shall be chargeable as an infraction or a
7 misdemeanor. Every violation determined to be an infraction is punishable by a fine of \$200
8 for a first violation and \$400 for each additional violation within one year. Every violation
9 determined to be a misdemeanor is punishable by a fine not exceeding \$1,000 and/or
10 imprisonment in the County Jail for a period not to exceed six months, for each offense.

11 (b) **Civil Penalties and Fees.**

12 (1) The Director may call upon the City Attorney to maintain an action for
13 injunction to restrain or summary abatement to cause the correction or abatement of the
14 violation of this Article 16, and for assessment and recovery of a civil penalty and reasonable
15 attorney's fees for such violation.

16 (2) Any person who violates this Article 16 may be liable for a civil penalty, not
17 to exceed \$500 for each day such violation is committed or permitted to continue, which
18 penalty shall be assessed and recovered in a civil action brought in the name of the people of
19 the City by the City Attorney in any court of competent jurisdiction. In assessing the amount of
20 the civil penalty, the court may consider any one or more of the relevant circumstances
21 presented by any of the parties to the case, including, but not limited to, the following: the
22 nature and seriousness of the misconduct, the number of violations, the persistence of the
23 misconduct, the length of time over which the misconduct occurred; and the willfulness of the
24 defendant's misconduct. The City Attorney also may seek recovery of the attorneys' fees and
25 costs incurred in bringing a civil action pursuant to this Section.

1 (c) Administrative Penalties.

2 (1) In addition to the penalties set forth in Subsections (a) and (b) above, the
3 Director may require any person who removes, injures, or destroys a ~~#~~Tree in violation of the
4 provisions of this Article 16 to pay a sum of money equal to the ~~#~~Tree's ~~#~~Replacement value or
5 the diminishment of the ~~#~~Tree's value as set forth in the current edition of the Guide for Plant
6 Appraisal (Council of Tree and Landscape Appraisers). Further, in addition to the penalties set
7 forth in Subsections (a) and (b) above, the Director may require any person who removes,
8 fails to maintain, injures, or destroys sidewalk landscaping or the associated design
9 improvements in violation of the provisions of Section 810B to pay a sum of money equal to
10 the ~~#~~Replacement value of the affected ~~#~~Landscape ~~#~~Material and associated design
11 improvements or the diminishment of the value of the ~~#~~Landscape material as set forth in the
12 current edition of the Guide for Plant Appraisal (Council of Tree and Landscape Appraisers).
13 In no case shall the administrative penalty be less than \$500 per violation. When one or more
14 additional violations occur within one year of the first violation, the Director may assess a
15 responsible party double the ~~#~~Tree's ~~#~~Replacement value or the diminishment of the ~~#~~Tree's
16 value. Depending on the nature and seriousness of the misconduct, including unpermitted
17 removal of or damage to a ~~#~~Landmark or ~~#~~Significant ~~#~~Tree; the unpermitted removal of or
18 damage to ~~#~~Sidewalk landscaping installed pursuant to a permit issued under Section 810B;
19 the number of violations; the persistence of the misconduct; the length of time over which the
20 misconduct occurred; or the willfulness of the defendant's misconduct, the Director may
21 assess additional penalties in excess of the amounts specified above. In addition to the
22 administrative penalty assessed pursuant to this Section, the Director may assess
23 enforcement costs to cover the reasonable costs incurred in enforcing the administrative
24 penalty, including reasonable attorneys' fees. Any and all amounts paid or collected pursuant
25

1 to this subsection, with the exception of enforcement costs, shall be deposited into the Adopt-
2 A-Tree Fund.

3 (2) Notwithstanding the monetary limitation specified above in this Subsection (c), if a
4 responsible party performs Major Maintenance on a Street Tree subject to the provisions of Section
5 805(b) without a permit or injures, destroys, or removes such a Tree, the Department may assess a
6 penalty of up to \$10,000 per violation in addition to the other remedies specified above.

7 (3) The Department shall send ~~h~~nNotice of the assessment of administrative
8 penalties to the responsible party. Such ~~h~~nNotice shall include a statement that payment is due
9 within 60 days of the mailing date of the ~~h~~nNotice. If a responsible property owner fails timely to
10 remit payment, the Department shall send a second ~~h~~nNotice of payment due. Such second
11 ~~h~~nNotice shall include a statement that failure timely to remit payment in full to the City within
12 30 days of the mailing of the second ~~h~~nNotice shall cause the Director to institute lien
13 proceedings pursuant to Sections 706.4-706.7 of this Code. Enforcement and collection of
14 liens for costs associated with ~~h~~Hazard ~~#~~Tree abatement shall be in accordance with Sections
15 706.4-706.7 of this Code, except that all monies received in payment of such liens with the
16 exception of enforcement costs, shall be credited to the Adopt-a-Tree Fund.

17
18 **SEC. 812. ENFORCEMENT OF ORDINANCE, DESIGNATED EMPLOYEES.** The
19 classes of employees of the City ~~and County of San Francisco~~ set forth below shall have the
20 duty of enforcing the provisions of this Article 16 including, but not limited to, the unauthorized
21 removal, ~~#~~injury or destruction of ~~s~~Street ~~#~~Trees, Significant Trees, or ~~h~~Landmark ~~#~~Trees:
22

| Classification No. | Class Title |
|--------------------|------------------------------|
| 3418 | Garden Supervisor |

| | | |
|----|-----------------------------|---|
| 1 | 3422 | Park Section Supervisor |
| 2 | 3426 <u>0922</u> | Urban Forester (<i>Manager I</i>) |
| 3 | 3434 | Arborist Technician |
| 4 | 3436 | Arborist Technician Supervisor I |
| 5 | <u>3435</u> | <i>Urban Forestry Inspector</i> |
| 6 | 5170 | Superintendent, Street Environmental Services |
| 7 | 5173 <u>0932</u> | Assistant Superintendent, Street Environmental Services <i>Urban Forestry (Manager IV)</i> |
| 8 | 7281 | Street Environmental Services Operations Supervisor |
| 9 | 8280 | Environmental Control Officer |
| 10 | <u>0941</u> | <i>Superintendent, Urban Forestry (Manager VI)</i> |
| 11 | | |
| 12 | | |
| 13 | | |
| 14 | | |

15 Section 4. Effective Date. This ordinance shall become effective 30 days after
16 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
17 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
18 of Supervisors overrides the Mayor's veto of the ordinance

19
20 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
21 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
22 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
23 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
24 additions, and Board amendment deletions in accordance with the "Note" that appears under
25 the official title of the ordinance.

1 APPROVED AS TO FORM:
2 DENNIS J. HERRERA, City Attorney

3 By: _____
4 John D. Malamut
5 Deputy City Attorney

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