Ordinance amending the Planning and Public Works Codes to shift the 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 Department’s determination under the California Environmental Quality Act, and making other findings including findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

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

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

Section 1. Findings.

(a) Tree-lined streets are a key component of San Francisco’s urban forest and contribute to a more walkable, livable, and sustainable city. They remove pollutants from air and water, create greener and more vibrant neighborhoods, and make streets more enjoyable to walk and shop along.
(b) The City has long required street trees when certain types of development projects are built. The Planning Code imposes these requirements and the Planning Department implements them. However, the Planning Department does not have (1) jurisdiction over the public right-of-ways in which street trees are planted or (2) meaningful expertise in arboriculture or sidewalk utility conflicts. Accordingly, the Planning Department has implemented tree planting requirements through an interagency referral process with Department of Public Works ("PW"), which has jurisdiction over public right-of-ways and tree permitting. This process is inefficient, time-consuming, and not friendly to applicants for various City permits.

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

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

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

(f) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.). The Board of Supervisors affirms this determination. Said
determination is on file with the Clerk of the Board of Supervisors in File No. 150221 and is incorporated herein by reference.

(g) Pursuant to Planning Code Section 302, the Board finds this ordinance will serve the public necessity, convenience and welfare for the reasons set forth in Planning Commission Resolution No. 19372, which reasons are incorporated herein by reference as though fully set forth. A copy of Planning Commission Resolution No. 19372 is on file with the Clerk of the Board of Supervisors in File No. 150221.

(h) At a duly noticed public hearing held on May 14, 2015, the Planning Commission in Resolution No. 19372 found that the proposed Planning and Public Works Code amendments contained in this ordinance are consistent with the City's General Plan and with the priority policies of Planning Code Section 101.1. The Commission recommended that the Board of Supervisors adopt the proposed amendments. The Board finds that the proposed amendments contained in this ordinance are consistent with the City's General Plan and with the Priority Policies of Planning Code Section 101.1 for the reasons set forth in said Resolution.

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

SEC. 138.1. STREETSCAPE AND PEDESTRIAN IMPROVEMENTS.

* * * *

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

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

(B) **Standards.**

(i) **All districts.** In any district, street trees shall:

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

(bb) Be suitable for the site;

(cc) Be a minimum of one tree of 24-inch box size for each 20 feet of frontage of the property along each street or alley, with any remaining fraction of 10 feet or more of frontage requiring an additional tree. Such trees shall be located within the public right-of-way along such lot, and shall comply with all applicable codes and standards.

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

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

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

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

(bb) Branch a minimum of 80 inches above sidewalk grade;
(ee) Be planted in a sidewalk opening at least 16 square feet, and have a minimum soil depth of 3 feet 6 inches;

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

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

(C) Approvals, waivers, and modifications:

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

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

(aa) Technical infeasibility. The Department of Public Works may determine that one or more trees in the public right-of-way cannot be planted or cannot meet all the requirements of subsections (ii)(A)-(C), I on the basis of inadequate sidewalk width, interference with utilities or other reasons regarding the public welfare.
(bb) Incompatibility with existing policy. The Zoning Administrator may determine that the planting of street trees conflicts with policies in the General Plan such as the Downtown Plan policy favoring unobstructed pedestrian passage or the Commerce and Industry Element policies to facilitate industry.

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

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

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

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

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

(A) Application.

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

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

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

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

(ii) **Additional Standard streetscape elements.** The Department shall consider, but need not require, additional All standard streetscape elements for the appropriate street type per Table 1 and the Better Streets Plan, including benches, bicycle racks, curb ramps, corner curb extensions, stormwater facilities, lighting, sidewalk
landscaping, special sidewalk paving, and other site furnishings, excepting crosswalks and pedestrian signals.

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

(bbb) Additionally, streetscape elements shall be consistent with the overall character and materials of the district, and shall have a logical transition or termination to the sidewalk and/or roadway adjacent to the fronting property.

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

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

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SEC. 428. STREET TREES IN-LIEU-FEE.
If the Zoning Administrator waives the requirement for a street tree under Section 138.1, the application shall pay a in lieu fee. This fee shall be the amount specified in the Public Works Code Article 16 and be payable prior to issuance of any certificate of occupancy. The fee amount shall be deposited in the Department of Public Works Adopt-A-Tree Fund.

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

SEC. 802. DEFINITIONS.

Unless the context specifically indicates otherwise,

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

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

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

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

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

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

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

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

(h) "In-lieu fee" shall mean a fee deposited into the Adopt-A-Tree Fund and imposed by the Director. The in-lieu fee shall be equal to the replacement value of a tree(s) to be removed or trees that have been destroyed or as otherwise specified in Section 811. In the case of trees required to be planted by Section 143 of the City Planning Code 805 or 806, yet excused under Section 143(d) of the Planning Code by the Director through a waiver or modification, the in-lieu fee shall be equal to the City's cost to plant and water a tree for three years. The minimum in lieu fee shall be $1,489.00. Beginning with fiscal year 2007-2008, this fee shall be reviewed and adjusted each year in accordance with the procedures set forth in Public Works Code Section 2.1.2.
"Interested San Francisco organization" shall mean a San Francisco organization or individual that has made a written request to the Department for notification of proposed tree removals in a specified area(s) or neighborhood(s).

"Landmark tree" shall mean a tree so designated pursuant to Section 810 of this Article 16.

"Landscape material" shall mean any tree, shrub, groundcover or other plant.

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

"Median strip" shall mean the dividing area in the public way between opposing lanes of vehicular traffic.

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

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

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

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

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

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

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

(u) "Significant Tree" shall mean a tree so defined in Section 810A of this Article.
(v) "Street" shall mean the vehicular travel-way portion of any public street, avenue, boulevard, lane, road, parkway, freeway, or other public way.

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

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

(y) "Urban Forest" shall mean all trees on public streets and rights-of-ways within the borders of the City and County of San Francisco, any trees growing on land subject to the jurisdiction of the Department, and any other trees subject to the provisions of this Article 16.

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

SEC. 805. RESPONSIBILITY FOR MAINTENANCE OF STREET TREES.

(a) Responsibilities of Property Owners.

(1) Except as specified in Subsections 805(h, c) and (e, d) below, it shall be the duty of owners of lots or portions of lots immediately abutting on, fronting on or adjacent to any street tree to maintain such street tree. This duty shall include both routine and major maintenance of the street tree. It shall be the responsibility of all public agencies, including City, State and federal agencies, to maintain street trees abutting on such public agency's property in accordance with this Section 805. In addition, and in accordance with Section 706 of this Code, abutting property owners shall be responsible for the care and maintenance of the sidewalk and sidewalk areas adjacent to any street tree.

(2) Any person who suffers injury or property damage as a legal result of the failure of the owner to so maintain a street tree, sidewalk and sidewalk areas shall have a
cause of action for such injury or property damage against such property owner. In addition to its rights under Section 706 of this Code, the City and County of San Francisco shall have a cause of action for indemnity against such property owner for any damages the City may be required to pay as satisfaction of any judgment or settlement of any claim that results from injury to persons or property as a legal result of the failure of the owner to maintain a street tree in accordance with this Section 805.

(3) The Department shall have available to interested persons, upon request, public pruning standards to ensure that street trees receive proper care.

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

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

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

(3) The fee for a permit for Major Maintenance of a street tree(s) specified in Section 805(b)(1) shall be $300.00. This fee is subject to the fee adjustment provisions of Section 2.1.2 and additional fee provisions of Section 2.1.3.

(c) Responsibilities of the Department. The Department may, at the Director's discretion, determine to undertake the regular routine and/or major maintenance of certain street trees or corridors of street trees to promote consistency in the
Maintenance of trees or in the public interest. Where the Department determines to undertake such regular maintenance of street trees, the Director shall specify in writing by Departmental Order those trees or corridors of trees for which it has undertaken maintenance responsibility and shall specify in writing whether the Department will be responsible for routine or major maintenance, or both. Such determinations by the Department shall be readily accessible to property owners and members of the public. Where the Department has undertaken certain maintenance responsibility for street trees in writing, the abutting property owner shall be relieved of responsibility for such street tree maintenance.

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

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

(1) Establishment of Street Trees. The establishment period for newly planted street trees shall be three years from the date of planting. If the street tree is not adequately established at the end of this period, the Director shall treat this as an injury to the tree, as defined in Section 802(g), and may seek penalties for violation, as set forth in Section 811. The Director may establish rules, regulations, or any other form of written guidelines concerning standards for proper care and maintenance during the establishment period.

(2) Replacement of Dead Street Trees. The permittee or agency responsible for a street tree shall replace a dead street tree within six months of the demise or removal of the tree. Removal of a dead street tree and planting of a replacement street tree shall be subject to all requirements set forth in this Article 16 for removal and planting. The Director is authorized to waive this replacement requirement and may place conditions on
any such waiver, which may include, but is not limited to, replacement planting at an alternate location or payment of the "in-lieu" fee. Any such waiver shall be in writing.

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

1. The Department shall use its best efforts to maintain an inventory of all street trees under its jurisdiction.

2. As of the effective date of this Article 16, the Department shall continue to maintain street trees listed in its database as Department-maintained trees. Such information shall be made available to the public upon request.

3. Within 120 days of the effective date of this Article 16, the Department shall publish in a newspaper of general circulation in the City a list of all street trees or corridors of street trees maintained by the Department.

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

1. The Director may, in his or her discretion, determine to relinquish street tree maintenance responsibilities for certain street trees or corridors of street trees. Prior to such relinquishment, the Director shall post the affected street trees and send notice to abutting property owners of the Department's intent to relinquish maintenance responsibilities on a date certain. Within 10 days of the posting and mailing of such notice, any affected property owner may object in writing to such relinquishment. At the written request of any person, the Director will hold a hearing prior to relinquishing maintenance responsibility for a particular street tree or corridor of street trees. The Director's decision on such relinquishment shall be final and nonappealable.

2. Prior to relinquishing maintenance responsibilities, the Department shall perform all necessary major tree maintenance. As of the date designated by the Director, all street tree maintenance and tree-related maintenance shall be the responsibility of the abutting property owner.
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 sidewalk or public right-of-way. When the Department determines to plant a new street tree(s), the Department will undertake maintenance responsibility for such new street tree and shall send a courtesy notice to the abutting property owner prior to 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 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 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 street tree removal, as specified in Subsection (a)(2), or if within 15 days after the giving of notice for removal of a hazard street tree, as specified in Subsection (a)(4), any person files with the Department written objections to the removal, the Director shall hold a hearing to...
consider public testimony concerning the proposed $\text{Tree Removal}$. Written Notice of the date, time, and place of the hearing shall be posted on the affected $\text{Tree}$, provided in a newspaper of general circulation, and sent to the objecting party, the owner of the property abutting the affected $\text{Tree}$, and all interested San Francisco organizations, not less than seven days prior thereto.

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

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

(4) Removal of Hazard Street Trees.

(A) No hazard $\text{Street Tree}$ shall be cut down or removed by the Department unless:

(i) The Department gives 15 days' prior written Notice to the owner of the property abutting the affected $\text{Tree}$; and

(ii) Fifteen days prior to the $\text{Removal}$ date, the Department notifies all interested San Francisco organizations and, to the extent practical, owners and occupants of properties that are on or across the block face where the affected $\text{Tree}$ is located. In addition, 15 days prior to the $\text{Removal}$ date, the Department shall post a notice on the affected $\text{Tree}$.

(B) Hazard $\text{Street Tree}$ shall have the same meaning as "hazard $\text{Tree}$" in Section 802(6) except that a hazard $\text{Street Tree}$ is located within the public right-of-way and is the maintenance responsibility of the Department.

(5) Emergency Removal. In the case of manifest danger and immediate necessity, as determined by the Director, the Department may remove any $\text{Street Tree}$ immediately. After such emergency $\text{Removal}$, the Department shall provide Notice of the
necessity for such action to the owner of the property abutting the affected tree, all
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 was removed.

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

(1) Planting and Removal Permits. It shall be unlawful for any person to plant
or to remove any street tree without a valid permit for such work issued by the Department.
All permits for the planting or removal of street trees issued by the Director for residential
properties shall be recorded on the Report of Residential Building Records in accordance with
Section 351 of the Housing Code. All work associated with a street tree permit must be
completed within six months of issuance, unless an extension has been granted by the
Department.

(2) Planting. An abutting property owner who desires a permit to plant a
street tree shall apply to the Department on the designated form. If approved by the
Director, the Department shall issue a permit to plant the specified climate appropriate species of
trees to the applicant. There shall be no administrative fee imposed for a
permit to plant a street tree unrelated to property development. The Director's decision on a
street tree planting permit shall be final and appealable to the Board of Appeals.

(3) Removal.

(A) An abutting property owner who desires a permit to remove a street
tree shall apply to the Department on the designated form. The Department may grant or
deny the permit in accordance with the following procedures and requirements. If the
Department grants a tree removal permit, it shall require that a street tree or trees of
equivalent replacement value to the one removed be planted in the place of the removed
tree or impose an in-lieu fee unless it makes written findings detailing the basis for waiving
or modifying this requirement.
(i) The fee for a permit to remove 1-3 street trees shall be $607.00 when the permit is requested to allow for development or construction; the fee for a permit to remove 1-3 street trees shall be $300.00 when the permit is requested to remove a hazard or a diseased tree or to prevent damage to the sidewalk; the fee for a permit to remove 4-9 street trees shall be $808.00; and the fee to remove 10 or more street trees shall be $1,214.00.

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

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

(B) Thirty days prior to the removal date, the Department shall give notice to all interested San Francisco organizations and, to the extent practicable, the owners and occupants of properties that are on or across from the block face or adjacent to 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. If within 30 days after the giving of such notice any person files with the Department written objections to the removal, the Director
shall hold a hearing prior to removing the Street Tree. Written notice of the date, time, and place of the hearing shall be posted on the affected Street Tree and sent to the objecting party and all interested San Francisco organizations not less than seven days prior thereto.

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

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

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

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

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

(A) the construction of a new building;

(B) the addition of a dwelling unit;

(C) the addition of a new curb-cut;

(D) the addition of a garage; and/or

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

(2) Number of Trees Required. The Director shall require one Street Tree for each 20 feet of Street frontage of the property containing the development project, with any remaining fraction of 10 feet or more of frontage requiring an additional Tree. Any existing Street Trees located within
the public right-of-way along such property that have been protected during construction and that the Director does not recommend for Removal, shall count toward meeting the requirement.

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

- (A) be planted within the public right-of-way adjacent to the property containing the development project;
- (B) be of a species suitable for the site conditions;
- (C) be a minimum of 24-inch box size;
- (D) have a minimum 1 1/4-inch caliper, measured at 6-inches above ground;
- (E) be planted no higher than the adjacent Sidewalk and provide a below-grade environment with nutrient-rich soils, free from overly-compacted soils, and generally conducive to Tree root development; and
- (F) be watered, maintained, and replaced if necessary by the property owner, in accordance with this Article 16, and be in compliance with applicable water use requirements of Administrative Code Chapter 63.

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

- (A) The Director, in his or her sole discretion, may waive or modify the requirements of this subsection when inadequate Sidewalk width or interference with driveways, sub-sidewalk basements, or other pre-existing surface, sub-surface, or above-grade features render installation of the required Street Tree(s) in the required fashion impossible, impractical, and/or unsafe. For each required Street Tree that the Director waives, the applicant, at his or her choosing, shall either (i) pay an In-lieu fee pursuant to Section 802 or (ii) to fulfill all or a portion of the requirement, provide alternative landscaping, including but not limited to Sidewalk landscaping, in amount comparable to or greater than the number of Street Trees waived; or
(B) Only in those extraordinary and unusual circumstances where an applicant successfully demonstrates that an overriding City policy renders the Planting of the required Street Tree(s) inappropriate and both the Director and the Director of Planning concur, the Director may waive one or more required Street Trees. For each required Street Tree that the Director waives, the Director, in his or her sole discretion, shall require that the applicant either (i) pay an In-lieu fee pursuant to Section 802 or (ii) fulfill all or a portion of the requirement by providing alternative landscaping, including but not limited to Sidewalk landscaping, in amount comparable to or greater than the number of Street Trees waived.

SEC. 808. PROTECTION OF TREES AND LANDSCAPE MATERIAL.

(a) Injury to or Destruction of Trees Prohibited. It shall be unlawful for any person to intentionally, maliciously, or through gross negligence injure or destroy a Street Tree, any Street Tree on City property, a Significant Street Tree, or a Landmark Street Tree. Removal of a Street Tree under City order or Removal in accordance with a permit issued pursuant to Section 806, 810, or 810A of this Article is exempt from this prohibition.

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

(c) Construction Work: Protection of Trees Required.

(1) It shall be unlawful for any person to engage in any construction work on private or public property without first taking steps to protect Street Trees, Significant Street Trees, and Landmark Street Trees from damage, including damage caused by soil compaction or contamination, excavation, or placement of concrete or other pavement or foundation material. If excavation, construction, or Street work is planned within the dripline of a
Significant Tree, a Landmark Tree, or a Tree on any Street or other publicly owned property shall be adequately protected. If any construction work results in the injury or damage to such Trees, the responsible party(ies) may be subject to the penalties set forth in Section 811 of this Article.

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

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

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

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

(6) The Director shall charge a fee of $151.00 for review and approval of a Tree protection plan. This fee is subject to the fee adjustment provisions of Section 2.1.2 and additional fee provisions of Section 2.1.3.

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

SEC. 811. PENALTIES FOR VIOLATION OF ORDINANCE.

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

(b) Civil Penalties and Fees.

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

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

(1) In addition to the penalties set forth in Subsections (a) and (b) above, the Director may require any person who removes, injures, or destroys a tree in violation of the provisions of this Article to pay a sum of money equal to the tree's replacement value or the diminishment of the tree's value as set forth in the current edition of the Guide for Plant Appraisal (Council of Tree and Landscape Appraisers). Further, in addition to the penalties set forth in Subsections (a) and (b) above, the Director may require any person who removes, fails to maintain, injures, or destroys sidewalk landscaping or the associated design improvements in violation of the provisions of Section 810B to pay a sum of money equal to the replacement value of the affected landscape material and associated design improvements or the diminishment of the value of the landscape material as set forth in the current edition of the Guide for Plant Appraisal (Council of Tree and Landscape Appraisers).

In no case shall the administrative penalty be less than $500 per violation. When one or more additional violations occur within one year of the first violation, the Director may assess a responsible party double the tree's replacement value or the diminishment of the tree's value. Depending on the nature and seriousness of the misconduct, including unpermitted removal of or damage to a landmark or significant tree; the unpermitted removal of or damage to sidewalk landscaping installed pursuant to a permit issued under Section 810B; the number of violations; the persistence of the misconduct; the length of time over which the misconduct occurred; or the willfulness of the defendant's misconduct, the Director may assess additional penalties in excess of the amounts specified above. In addition to the administrative penalty assessed pursuant to this Section, the Director may assess enforcement costs to cover the reasonable costs incurred in enforcing the administrative penalty, including reasonable attorneys' fees. Any and all amounts paid or collected pursuant
to this subsection, with the exception of enforcement costs, shall be deposited into the Adopt-A-Tree Fund.

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

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

SEC. 812. ENFORCEMENT OF ORDINANCE, DESIGNATED EMPLOYEES. The classes of employees of the City and County of San Francisco set forth below shall have the duty of enforcing the provisions of this Article including, but not limited to, the unauthorized removal, injury or destruction of Street Trees, Significant Trees, or Landmark Trees:

<table>
<thead>
<tr>
<th>Classification No.</th>
<th>Class Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>3418</td>
<td>Garden Supervisor</td>
</tr>
</tbody>
</table>

Supervisors Wiener; Christensen
BOARD OF SUPERVISORS
Section 4. Effective Date. This ordinance shall become effective 30 days after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the Mayor's veto of the ordinance.

Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions, deletions, Board amendment additions, and Board amendment deletions in accordance with the "Note" that appears under the official title of the ordinance.
APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: John D. Malamut
Deputy City Attorney
Ordinance amending the Planning and Public Works Codes to shift the 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 Department’s determination under the California Environmental Quality Act, and making other findings including findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

June 15, 2015 Land Use and Transportation Committee - RECOMMENDED

June 23, 2015 Board of Supervisors - PASSED, ON FIRST READING
Ayes: 11 - Avalos, Breed, Campos, Christensen, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

July 07, 2015 Board of Supervisors - FINALLY PASSED
Ayes: 11 - Avalos, Breed, Campos, Christensen, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

File No. 150221

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 7/7/2015 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor

Date Approved

7/15/15