



[DRAFT]

[Insert Date]

San Francisco Board of Supervisors
One Dr. Carlton B. Goodlett Place, City Hall, Room 244
San Francisco, CA 94102
Board.of.Supervisors@sfgov.org

Dear Supervisors:

The Board of Appeals (“BOA”) has identified a serious problem that is negatively affecting San Francisco. More specifically, the City’s precious tree canopy is being reduced because of illegal tree removal. We learned of this issue after conducting numerous hearings for appeals of tree removal orders issued by the San Francisco Public Works Department.

To better understand the causes of illegal tree removal, the BOA held two public meetings with presentations given by the Bureau of Urban Forestry.¹ At both meetings, there was robust public comment in support of increasing deterrence. The conclusion reached by both the BOA and the Bureau of Urban Forestry is that ***the current regulatory framework under Article 16 of the Public Works Code does not provide sufficient deterrence of illegal tree removal because the administrative fines for this violation are too low.***

The BOA recognizes that it is not a policy body, but believe we have an obligation to alert you to this significant issue. Trees are vital to San Francisco’s quality of life as they provide a wide range of environmental and human health benefits and bring beauty to the neighborhoods and commercial districts.

The BOA respectfully requests that that the Board of Supervisors review the fines and penalties set forth in Section 811 of the Urban Forestry Ordinance (Public Works Code Article 16) and amend this Section, as needed, to deter illegal behavior. Some possible amendments, supported by the Bureau of Urban Forestry, include:

1. Requiring a cash deposit for development projects where there are existing protected trees.

¹ September 2, 2020 BOA Meeting

https://sanfrancisco.granicus.com/MediaPlayer.php?view_id=6&clip_id=36539

January 6, 2021 BOA Meeting

https://sanfrancisco.granicus.com/MediaPlayer.php?view_id=6&clip_id=37436

2. Increasing the minimum fine for illegal tree removal to \$10,000 per violation.
3. Imposing a penalty of four times the value of the tree (plus staff costs) if the tree removal is related to any development or subdivision.²
4. Requiring a higher replacement ratio if a tree is illegally removed. For example, if one tree is illegally removed, it must be replaced with five trees (the current law only requires a one-to-one replacement).

The BOA strongly supports the Bureau of Urban Forestry's efforts to deter illegal tree removal and would appreciate your consideration of the request to increase administrative penalties.

Respectfully,

President Darryl Honda

Cc: Carla Short, Acting Deputy Director for Operations
San Francisco Public Works Department

² According to research by the Bureau of Urban Forestry, this is the penalty imposed by the City of San Luis Obispo. <https://sanluisobispo.municipal.codes/Code/12.24.170>

DOCUMENT SUBMITTED BY THE DEPARTMENT FOR SPECIAL
ITEM THAT WAS HEARD ON SEPTEMBER 2, 2020



September 1, 2020

Board of Appeals

September 2, 2020 Regular Hearing

Item (7) Special Item

Presentation by Bureau of Urban Forestry

RE: Fines imposed for illegal removal of trees

President Lazarus:

Thank you for taking the time to place this informational item on the September 2nd, Board of Appeals agenda. San Franciscans value street trees and significant trees and have mandated their protection. Our Urban Forestry Ordinance, Article 16 of the Public Works Code, has evolved over the years to reflect these shared values. What follows are replies to the questions we have been asked to discuss at the meeting. We look forward to sharing this information with the public, answering questions that commissioners may have, and discussing how Public Works imposes fines for illegal removal of trees.

Q: Available remedies for illegal tree removal

A: **Criminal charges.** (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.)

Civil Penalties and Fees. (not to exceed \$500 for each day such violation is committed or permitted to continue)

London N. Breed
Mayor

Alaric Degrafinried
Acting Director

Carla Short
Superintendent

Urban Forestry
2323 Cesar Chavez St.
San Francisco, CA 94124
tel 415-695-2097

sfpublicworks.org
facebook.com/sfpublicworks
twitter.com/sfpublicworks

Administrative Penalties. the Director may require any person who removes, injures, or destroys a Tree in violation of the provisions of this Article 16 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). 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.

(the above are excerpts from SEC. 811. Penalties for Violation of Ordinance)

Q: Legal authority for fines

A: San Francisco Public Works / Urban Forestry Ordinance

Article 16, Public Works Code

Jurisdiction over trees within the public ROW & Significant trees

San Francisco's Urban Forestry Ordinance

SEC. 804. JURISDICTION

SEC. 811. PENALTIES FOR VIOLATION OF ORDINANCE.

SEC. 812. ENFORCEMENT OF ORDINANCE; DESIGNATED EMPLOYEES.

Link to Urban Forestry Ordinance on the Public Works' website:

<https://sfpublicworks.org/Permits-trees-and-plants>

Q: Amount of the penalties that may be imposed and how that is determined

A: SEC. 811. PENALTIES FOR VIOLATION OF ORDINANCE.

(c) Administrative Penalties.

In addition to the penalties set forth in Subsections (a) and (b) above (Civil and Criminal penalties), the Director may require any person who removes, injures, or destroys a Tree in violation of the provisions of this Article 16 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).

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.

As dictated by our Ordinance, our Bureau issues the fine for the greater of the two amounts, either the standard in-lieu fee (\$2,122.00), or the appraised value of the tree(s) when sufficient information is available to perform the landscape appraisal. The base or set, in-lieu fee amount is based on the cost of Public Works to purchase and plant a 24-inch size box tree, and water the tree once a week for three years until the root system is established. These fines go into our Adopt-A-Tree program which funds the planting of trees – they do not go into our general fund.

Q: Who sets the fines

A: Established in SEC. 811 above.

Q: Who has the authority to change the fines?

A: The Board of Supervisors, with approval by the Mayor, through amendment of the Urban Forestry Ordinance.

Q: The process for imposing fines once Public Works is made aware of illegal tree removal, including who determines the outcome

A: Once the department is made aware the Urban Forestry Inspector (an ISA Certified Arborist) for the area visits the site and confirms if a violation has occurred. They document the violation with photos and issue a fine.

The fine is issued, and the responsible party has 60 days to pay the fine or appeal the fine. If they appeal the fine they are scheduled for an administrative hearing. These are typically held once a month (formerly at City Hall, currently remotely). Public Works staff present the basis for issuing the fine. The respondent has an opportunity to present their case. The hearing officer makes a recommendation to the Director, who's decision is final. (Sec. 811 (c) 4)

We look forward to discussing this in greater detail and answering any additional questions you may have.

Respectfully,

Chris Buck

Chris Buck

Urban Forester