

## **LEGISLATIVE DIGEST**

[Public Works and Subdivision Codes - City Maintenance of Street Trees]

**Ordinance amending the Public Works Code to implement Charter Section 16.129 (Proposition E, November 2016) and generally provide that the City shall maintain Street Trees and be liable for injuries and property damage resulting from the failure to maintain Street Trees; amending the Subdivision Code to incorporate conforming changes regarding Street Tree maintenance; and affirming the Planning Department's determination under the California Environmental Quality Act.**

### **Existing Law**

The Public Works and Subdivision Codes currently provide that, as a general matter, the maintenance of street trees (trees growing in sidewalks or public rights-of-way) is the responsibility of adjacent property owners. These Codes also generally provide that if a person suffers an injury as a result of the failure to maintain street trees, and the surrounding sidewalk impacted by the trees' roots, the adjacent property owner is liable for the injury.

At the November 2016 election, the voters approved Proposition E, which largely shifts the responsibility for the maintenance of street trees to the City, as of July 1, 2017. Under Proposition E, private property owners would continue to abide to previously existing obligations regarding the establishment, relocation or removal of street trees. Proposition E also provides that the City may enter into voluntary agreements with private parties to assume responsibility for the maintenance of street trees.

Proposition E also makes the City, after July 1, 2017, generally liable for injuries proximately caused by the failure to maintain street trees. But under Proposition E, the City would not be liable for such an injury, if the injury resulted from the adjacent property owner's failure to maintain street trees prior to July 1, 2017.

### **Amendments to Current Law**

The proposed legislation implements Proposition E's changes to City law, which generally require the City to maintain street trees as described above, in the Public Works and Subdivision Codes. For the Public Works Code, the amendments are generally found in Article 16, the City's Urban Forestry Ordinance.

In particular, the proposed legislation would specify:

- the City will not have the duty to maintain street trees, until they have been established;

- minimum requirements for the voluntary agreements that the City could enter into with private parties for maintenance of street trees; and
- under the proposed amendments to the Subdivision Code, the subdivider's responsibilities with respect to the maintenance of street trees would be subject to the Urban Forestry Ordinance.

The proposed legislation also explicitly establishes an appeal process for administrative penalties levied by Public Works for violations of the Urban Forestry Ordinance.

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