

LEGISLATIVE DIGEST

[Public Works Code - City Responsibility for Maintaining Street Trees]

Ordinance amending the Public Works Code to transfer responsibility for the maintenance of street trees to the City; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

The City's Public Works Code generally makes it the duty of property owners whose properties abut on, front on, or are adjacent to a tree located along a City street ("a street tree") to maintain that tree. These property owners are also responsible for the care and maintenance of the sidewalk and sidewalk areas adjacent to the trees.

The Code further provides that if someone suffers an injury or property damage as a result of the abutting property owner's failure to maintain a street tree or sidewalk as required, the injured person may sue the property owner, and the property owner must re-pay the City for any damages the City must pay when someone sues the City for an injury to a person or property cause by the property owner's failure to maintain a street tree or sidewalk.

Amendments to Current Law

The proposed ordinance would transfer from abutting property owners to the City the responsibility for maintaining street trees, including repair of any sidewalk damage caused by the tree's growth or root system. The proposal would not: (1) affect the rights or responsibilities of the City or property owners with respect to the removal, establishment, or relocation of street trees; (2) prevent the City from entering into or continuing to abide by voluntary agreements with third parties for them maintain street trees; (3) prevent the City from imposing penalties or fees on persons who injure, damage, or destroy trees; or (4) relieve abutting property owners of their responsibility for the care and maintenance of the sidewalk areas adjacent to any street tree where the damage is not caused by the tree's growth or root system.

Under the proposal, abutting property owners would no longer be liable for injury or property damage to the extent that the injury or property damage was caused by the City's failure to maintain a street tree under the new law. However, the City would not be responsible for any injury or damages related to the maintenance of a street tree if the injury or damages occurred as a result of the abutting property owner's failure to maintain the street tree prior to the transfer, or if the maintenance of such tree would require that the City access private property, and the private property owner refused to grant the City such access.