



## Legislation Text

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**File #:** 19-444, **Version:** 1

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First Reading of a City of San Leandro City Council Ordinance to Amend Title 5, Chapter 5-2, Sections 5-2-100, 5-2-200, 5-2-210, 5-2-215, 5-2-225, and 5-2-230 of the San Leandro Municipal Code Relating to Street Trees

### Section 1. RECITALS

WHEREAS, the City of San Leandro has over 20,000 street trees that provide many benefits to the City and its residents; and

WHEREAS, the City of San Leandro desires to provide an option to residents who may wish to remove a street tree.

### Section 2. ORDINANCE TO AMEND THE MUNICIPAL CODE

NOW, THEREFORE, the City Council of the City of San Leandro does ORDAIN as follows:

That Chapter 5-2, Sections 5-2-100, 5-2-200, 5-2-210, 5-2-215, 5-2-225, and 5-2-230 of the San Leandro Municipal Code are amended to read as follows:

[New provisions proposed to be added are printed in ***bold italic type***; Existing provisions proposed to be deleted are printed in ~~strikeout type~~.]

#### 5-2-100 DEFINITIONS.

Unless the context otherwise requires, the definitions contained in this section shall govern the construction of this Chapter.

(a) **DIRECTOR:** "Director" shall mean the Public Works Director or designee.

(b) **PERSON:** "Person" shall mean any individual, firm, corporation, association, partnership and to the extent of the City's jurisdiction, public entities.

(c) **PARKWAY STRIP:** "Parkway strip" shall mean that area within the public right-of-way lying between the curb and the sidewalk.

(d) **STREET TREE:** "Street tree" shall mean that plant of arborescent form planted and maintained **by the City** within the public right-of-way.

5-2-200PROHIBITIONS. <[https://qcode.us/codes/sanleandro/view.php?topic=5-5\\_2-2-5\\_2\\_200&frames=on](https://qcode.us/codes/sanleandro/view.php?topic=5-5_2-2-5_2_200&frames=on)>

It shall be unlawful, a public nuisance, and an infraction punishable by a ~~One~~ **Five** Hundred Dollar (\$~~1500~~) fine for any person to plant, remove, prune, injure or destroy any street tree, as hereinafter defined, except in conformance with the provisions of this Chapter.

5-2-210 REQUESTS FOR REMOVAL, PRUNING. <[https://qcode.us/codes/sanleandro/view.php?topic=5-5\\_2-2-5\\_2\\_210&frames=on](https://qcode.us/codes/sanleandro/view.php?topic=5-5_2-2-5_2_210&frames=on)>

Any person may request the removal, ~~spraying~~, pruning, root pruning or replacement of a street tree on, or adjacent to ***in the right-of-way abutting*** his or her property. Upon such request, the Director may inspect such tree, and in his or her sole and exclusive determination, cause the removal, ~~spraying~~, pruning, root pruning or replacement of such street tree.

5-2-215 REQUESTS FOR REMOVAL, PRIVATE WORKS. <[https://qcode.us/codes/sanleandro/view.php?topic=5-5\\_2-2-5\\_2\\_215&frames=on](https://qcode.us/codes/sanleandro/view.php?topic=5-5_2-2-5_2_215&frames=on)>

Upon approval of the Director, any person requesting street tree service pursuant to Section 5-2-210 <[https://qcode.us/codes/sanleandro/view.php?cite=section\\_5-2-210&confidence=6](https://qcode.us/codes/sanleandro/view.php?cite=section_5-2-210&confidence=6)> may undertake such work privately or by agreement with a private nursery or tree service. Such work shall conform with all of the following, ~~in the sole and exclusive determination of the Director~~:

(a) There is sufficient assurance that such work will be properly undertaken and, ~~except in cases of removal, will not irrevocably damage the street tree~~; and ***The property owner shall obtain an encroachment permit from the Engineering & Transportation Department prior to pruning or removal of the City tree.***

(b) There is sufficient assurance that the public safety will not be impaired. To this end the Director may require a public liability and property damage insurance policy, permit and processing fee. ***The tree removal shall include stump-grinding, with return of the planting area to either softscape or hardscape that does not create a tripping hazard.***

(c) ***If a replacement tree is not requested, the property owner shall be required to pay the City the fee set forth in §6.4.100 of the San Leandro Administrative Code for a tree to be planted in a location of the City's choosing.***

5-2-225 DUTY OF UTILITY TO PROTECT TREES, EXCAVATIONS. <[https://qcode.us/codes/sanleandro/view.php?topic=5-5\\_2-2-5\\_2\\_225&frames=on](https://qcode.us/codes/sanleandro/view.php?topic=5-5_2-2-5_2_225&frames=on)>

(a) It shall be the duty of any person owning or operating any utilities within the public right-of-way (including, but not limited to water, sewers, gas, electrical, telephone, ***fiber optics***, and cable television services) to maintain such utilities in a manner to prevent damages to street trees.

5-2-230 LIABILITY, TREE DAMAGE. <[https://qcode.us/codes/sanleandro/view.php?topic=5-5\\_2-2-5\\_2\\_230&frames=on](https://qcode.us/codes/sanleandro/view.php?topic=5-5_2-2-5_2_230&frames=on)>

The provisions of this Chapter shall not be construed to release or relieve any owner or real property within the City of San Leandro from a duty to maintain his or her property, including such portions of the public right-of-way that are the maintenance responsibility of the property owner. Provided, however, in the sole and exclusive determination of the Director whenever damage to the public right-of-way is directly caused by the action of a street tree, the City may repair and/or reconstruct the right-of-way improvements exclusively or on any proportional cost basis ~~determined by the Director~~ ***as set forth in the City's Sidewalk Repair Program (specifically, §8.1.120 of the San Leandro Administrative Code)***. This section shall not be construed as creating an additional cause of action or liability on behalf of any property owner, person or the City.

### **Section 3. SEVERABILITY**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of San Leandro hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof is declared invalid or unenforceable.

### **Section 4. EFFECTIVE DATE AND PUBLICATION.**

This ordinance shall take effect thirty (30) days after adoption. The City Clerk is directed to publish the title once and post a complete copy thereof on the City Council Chamber bulletin board for five (5) days prior to adoption.