



## Legislation Text

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Staff Report for the Adoption of a City of San Leandro City Council Resolution to Amend Title 12, Chapter 8 - Street Tree Policy and Procedure, of the City of San Leandro Administrative Code, and First Reading of an Ordinance to Amend Title 5, Chapter 5-2 of the City of San Leandro Municipal Code, Pertaining to City Street Trees

### **SUMMARY AND RECOMMENDATIONS**

Staff recommends that the City Council consider adopting a resolution to amend the City of San Leandro Administrative Code and hold a first reading for Municipal Code amendments pertaining to City street trees.

### **BACKGROUND**

At the City Council's regular meeting of November 5, 2018, staff presented discussion points for amendments to Section 5-2-200 of the City of San Leandro Municipal Code related to fines for the unlawful removal, pruning, injury, or destruction of any City tree.

At the conclusion of the discussion, in which staff proposed a significantly increased fine for illegal City tree removal/damage, in addition to a new charge for the replacement value of the tree, the City Council directed staff to prepare a survey for residents' input.

### **Analysis**

A 'City Tree Fines Survey' was made available online, from February 1<sup>st</sup> to February 15<sup>th</sup>. The survey (summary and individual responses attached) included five specific questions, with a sixth option available for comments. One hundred and twenty-two residents responded to the survey, with approximately half including comments. In reviewing the summary of responses, there doesn't appear to be overwhelming opinions that point to a definitive course of action.

Staff notes that the street trees are part of the City's infrastructure, similar to sewer pipes, and city buildings. Based on the specific species, there are anticipated life spans for the trees, which can be affected by pests and severe weather conditions, such as droughts. Public Works Department staff noticed a marked increase in City street tree failures, starting with the initial year of the last multi-year drought cycle. As street trees age, limb or entire tree failures are likely to occur with more frequency. Potential impacts to private property, including uplifting/cracking of sidewalks could be expected to increase as street trees grow. The City's Risk Manager reports that 13% of all claims filed against the City between 2010 and 2019 were associated with City street trees, with 1.2% of all paid claims for that same period attributed to street trees (with an additional 2.8% of claims paid related to tree grates, which are only found along major City thoroughfares).

In addition to the damage to public and private property that may occur from street trees, it is noted

that residents call asking for tree pruning and removals due to a variety of reasons: tree is messy; they didn't plant it/don't like it; they are elderly and are no longer able to pick up the leaves; it's shading too much of their yard and nothing else grows, etc. Current practice is that otherwise healthy trees are not removed, with the possible exception if it has caused repeated sidewalk repairs (for which the property owner pays half of the cost), or if it is near or beyond its anticipated life cycle.

It is noted that residents have historically removed or pruned City trees because they are either unaware that this practice is prohibited (§ 5-2-200 SLMC), or they are willing to incur the current \$100 fine. As staff noted in the November 2018 presentation to the City Council, staff does not issue citations when residents are caught removing, trimming or pruning a City street tree because the staff time to enforce does not make issuing the citation cost effective.

Based on the survey results and staff's desire to provide an alternative to residents who want to trim or remove the street tree in front of their properties, amendments to both the Administrative Code and Municipal Code are proposed that would allow residents to trim or remove City street trees at their cost (and upon receipt of an Encroachment Permit). In the case of removal, the resident would have the option to either have a new City street tree installed or pay for one to be planted elsewhere in the City. The Encroachment Permit process would protect the City should any damage to infrastructure occur due to maintenance or removal of the tree by the resident or their contractor. Insurance requirements for the Encroachment Permit would be included as an attachment. Language is also proposed so that residents who trim a City street tree assume all future maintenance and possible removal responsibilities.

Staff proposes to increase the fine from \$100 to \$500 as outlined in §5-2-200 of the Municipal Code with the intent of citing when property owners or residents perform maintenance or removals without first obtaining an Encroachment Permit. Based on the current Fee Schedule, Engineering inspections are charged at \$125/hour. Staff anticipates that one hour would suffice for an inspector to go onsite and verify that tree maintenance or removal (including the stump) was done correctly and without damage to other City infrastructure. The cost to residents or property owners for the required insurance would vary according to their carrier. The City's Risk Manager has indicated that the 'Minor-Lower Limits' insurance coverage limit would be required if a resident hires a contractor to trim or remove the tree. If the resident or property owner does the work themselves, the City would require \$1,000,000 general liability insurance coverage with an additional insured endorsement and an endorsement making the property owner's insurance primary.

### **Current Agency Policies**

City street trees are regulated both in Title 5, Chapter 5-2 of the San Leandro Municipal Code, and Title 12, Chapter 8 of the San Leandro Administrative Code.

### **Summary of Public Outreach Efforts**

As requested by the City Council at its November 5, 2018 regular meeting, a survey was prepared and placed online for two weeks, from February 1<sup>st</sup> through February 15<sup>th</sup>. One hundred and twenty-

two replies were received, with almost half including comments.

## **ATTACHMENTS**

### **Attachments to Staff Report**

- Summary of Tree Survey Responses
- Complete Survey Responses
- City Insurance Requirements

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