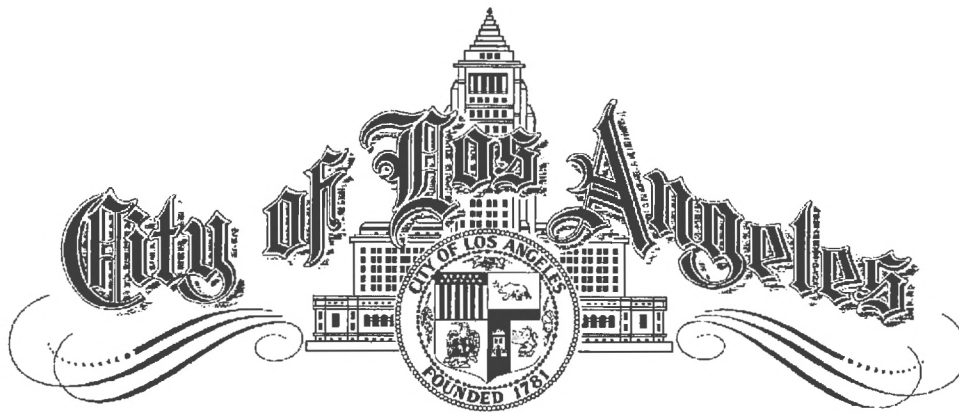




MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. **R 19-0225**
JUL 24 2019

REPORT RE:

**DRAFT ORDINANCE ADDING SECTION 62.178 TO THE LOS ANGELES
MUNICIPAL CODE ESTABLISHING A STREET TREE
INSPECTION CLEARANCE FEE**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 15-0448

Honorable Members:

Pursuant to your request, this Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and Legality. The draft ordinance adds Section 62.178 to the Los Angeles Municipal Code establishing a new street tree inspection clearance fee.

Under current City permitting procedures, the Department of Building and Safety (LADBS) utilizes a Building Permit Clearance Handbook to determine which agencies are required to provide clearances for projects that require a building permit or other land use permit. The required clearances must be obtained prior to the issuance of a permit by LADBS.

When a LADBS permit applicant proposes a project that affects the parkway or the public right-of-way, there is a potential for impacts to existing street trees. However, not all project plans identify existing street trees, and impacts to street trees are sometimes discovered only after a LADBS permit has been issued. Following a working

group of various City agencies, LADBS has revised its Building Permit Clearance Handbook to include a street tree inspection clearance for the Department of Public Works – Bureau of Street Services. This new clearance will provide an accurate assessment of potential impacts to street trees, prior to LADBS issuing a permit for a project. The proposed street tree inspection clearance fee will provide full cost recovery for the Bureau of Street Services for providing the street tree inspection clearance.

CEQA Determination

Regarding a finding to satisfy the requirements of the California Environmental Quality Act (CEQA), Public Works advises that prior to adoption of this ordinance, the City Council determine that it is not a CEQA project under State CEQA Guidelines Section 15378(b)(4) as the creation of a government funding mechanism which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment; and CEQA Guidelines Section 15061(b)(3) and City CEQA Guidelines Articles II, Section 1 (General Exemption) because it will not result in a direct or reasonably foreseeable indirect physical change in the environment and it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. If the City Council concurs, it should adopt this finding prior to or concurrent with taking action on the ordinance.

Fee Notice Requirement

We note that because this draft ordinance would establish a new fee, notice of its proposed adoption should be given in accordance with the provisions of California Government Code Sections 66018 and 6062a. Those sections of State law require that, prior to adoption of a new or increased fee, a public hearing be held and notice of that hearing be published in a newspaper with two publications at least five days apart over a ten-day period. The notice period begins the first day of publication, and there must be at least five days intervening between the first and the second publications, not counting the dates of publication.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to LADBS and to the Department of Public Works – Bureau of Street Services with a request that all comments, if any, be presented directly to the City Council when this matter is considered.

If you have any questions regarding this matter, please contact Assistant City Attorney Edward Jordan at (213) 978-8199. He or another member of this Office will be present when you consider this matter to answer questions you may have.

Sincerely,

MICHAEL N. FEUER, City Attorney

By



DAVID MICHAELSON
Chief Assistant City Attorney

DM:EMJ:ev
Transmittal