

MISSING ORIGINAL LEGISLATION

Resolution / Ordinance Number: 12622

City Council Meeting Date September 21, 2004

Agenda Item No. 20

Recorded Vote 7 AYES, 1 EXCUSED

Reason for Missing Legislation:

- Draft submitted in agenda packet, original never received
- Council amended legislation at the meeting

Responsible Contact Information

Department Zachary Wald

Contact Person/Ext. _____

Notes (if any)

DRAFT

OAKLAND CITY COUNCIL

ORDINANCE No. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER _____

AN ORDINANCE AMMENDING OAKLAND MUNICIPAL CODE SECTIONS 12.36.010 AND 12.36.090 AND ADDING A NEW SECTION 12.04.400 FOR THE PURPOSE OF FURTHER PROTECTING OAKLAND'S CITY-OWNED STREET TREES

WHEREAS, street trees are vital pieces of the urban fabric that should not be removed without serious justification, and;

WHEREAS, it is the responsibility of the City to provide safe, passable sidewalks for the mobility of its residents, and;

WHEREAS, current city policy and practice must address the conflicts between sidewalk repair and street trees, and;

WHEREAS, street trees provide concrete benefits to Oakland's infrastructure, property values and storm water management;

THEREFORE, the Municipal Code of the City of Oakland is hereby amended in the following sections (additions in bold, deletions with strike through):

1. OMC-12.04.400 (NEW SECTION) SIDEWALK REPAIR AND STREET TREES

The City of Oakland's policy is to provide a comprehensive Sidewalk Program, which is consistent with and which furthers the City's policy of protecting street trees. In furtherance of this policy, the City's practices related to sidewalk repair, installation and replacement (hereafter "sidewalk repair activities") shall include as a mandatory component, consideration of tree-related issues, including the planting, replacement, replanting, and/or removal of street trees. Accordingly, it is the policy of the City of Oakland that sidewalk repair activities include as a mandatory element the planting, maintenance, relocation and/or removal of street trees and that these two activities be performed, budgeted and programmed jointly and as part of the City's comprehensive Sidewalk and Street Tree Program.

Whenever the City undertakes sidewalk repair activities, it shall be the City's policy to achieve the maintenance of the maximum feasible number of street trees reasonably possible at such locations, through planting of new trees and/or replacement and relocation of existing trees required to be removed. Sidewalk

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repair activities also shall be made to provide the largest tree planting area possible for the specific site.

Property owners at the location where sidewalk repair activities are taking place shall receive a written notice from the Public Works Agency no less than thirty (30) days from the date of the beginning of the repair. This notice will describe the project to be performed and will be accompanied by a Tree Planting form to allow property owners to request a street tree from the City's approved tree list. If feasible, a requested tree shall be planted at the time of the repair or at the latest within the next planting season.

Empty tree wells shall not be covered over in concrete during sidewalk repair unless requested by the adjacent property owner. Tree wells may be relocated to alternate locations where ADA or utility conflicts exist.

2. OMC-12.36.010 INTENT AND FINDINGS

The ordinance codified in this chapter is enacted in recognition of the following facts and for the following reasons:

A. Among the features that contribute to the attractiveness and livability of the city are its trees, both indigenous and introduced, growing as single specimens, in clusters, or in woodland situations. These trees have significant psychological and tangible benefits for both residents and visitors to the city.

B. Trees contribute to the visual framework of the city by providing scale, color, silhouette and mass. Trees contribute to the climate of the city by reducing heat buildup and providing shade, moisture, and wind control. Trees contribute to the protection of other natural resources by providing erosion control for the soil, oxygen for the air, replenishment of groundwater, and habitat for wildlife. Trees contribute to the economy of the city by sustaining property values and reducing the cost of drainage systems for surface water. Trees provide screens and buffers to separate land uses, landmarks of the city's history, and a critical element of nature in the midst of urban settlement.

C. For all these reasons, it is in the interest of the public health, safety and welfare of the Oakland community to protect and preserve trees by regulating their removal; to prevent unnecessary tree loss and minimize environmental damage from improper tree removal; to encourage appropriate tree replacement plantings; to effectively enforce tree preservation regulations; **to retain as many large, mature trees as possible while repairing damaged sidewalks and streets**, and to promote the appreciation and understanding of trees. (Prior code § 7-6.01)

3. OMC-12.36.090 PROCEDURE--CITY-OWNED TREE REMOVALS

A. Prior to the removal of any City-owned tree, except in cases of emergency or imminent hazard, City staff must document that they have evaluated alternatives to tree removal. Such a finding is a requirement for removing a tree.

BA. Tree Posting. Except as exempted in Section 12.36.140, all city-owned trees proposed for removal shall be posted by the Office of Parks and Recreation. A tree tag shall be affixed to each tree proposed for removal in plain view of the street. The tags shall not be removed until such time as tree removal is approved or denied by the city for the tree(s) in question.

CB. Public Notice and Input. The Office of Parks and Recreation shall, within ten working days of tree posting, notify property owners of all parcels located adjacent to the site of proposed tree removal(s) in writing of the fact that city-owned trees have been proposed to be removed, and the closing date for public input. ~~Such a notice shall include staff's analysis of alternatives per Sec. 12.36.090A above.~~ The Office of Parks and Recreation shall accept public comment regarding the proposed removal of city-owned trees for a period of not less than twenty (20) working days following proper site posting.

DC. Tree Removal Determinations. The Tree Reviewer of the Office of Parks and Recreation shall review all proposed city-owned tree removals and shall be responsible for making all necessary findings for approval or denial of such removals **subject to the parameters described in sections E and F below**, including attaching all necessary conditions of approval.

Any telephone calls or written comments received regarding the public input period shall be considered in the preparation of findings, and written records of such calls and/or comments shall be entered into the permanent Tree Reviewer files.

E. Except in cases of emergency or imminent danger, no more than 10% of the trees on any given block shall be removed in one year, nor shall trees be removed from 2 consecutive residences on one block in one year, except where an ADA transition plan requires otherwise. Further, on streets where more than one tree will be removed, tree removal shall be implemented in phases so as to maximize continued canopy coverage.

F. Property owners adjacent to trees to be removed shall be notified that unless they indicate otherwise, or the site is unsuitable, a replacement tree(s) of the largest species appropriate for the site will be planted immediately following the tree removal(s).

In Council, Oakland, California, _____

Passed By The Following Vote:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN AND
PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California

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