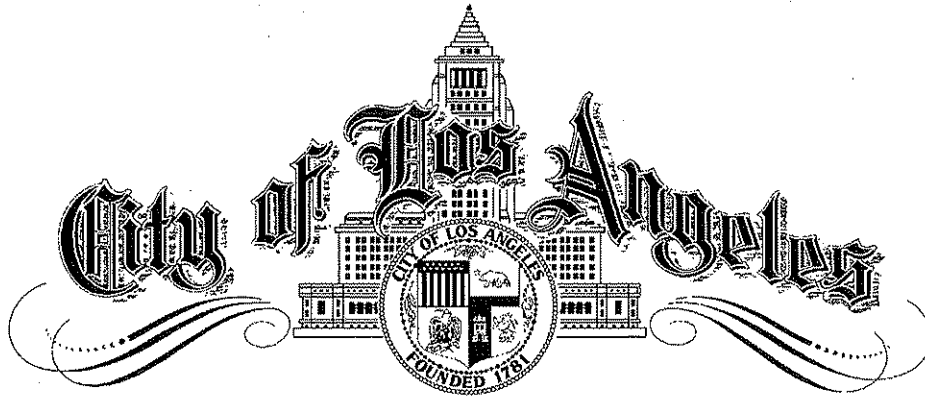


City Hall East
200 N. Main Street
Room 800
Los Angeles, CA 90012

(213) 978-8100 Tel
(213) 978-8312 Fax
CTrutanich@lacity.org
www.lacity.org/atty



CARMEN A. TRUTANICH
City Attorney

REPORT NO. R09-0270

AUG 03 2009

REPORT RE:

**BUDGET RELATED DRAFT ORDINANCE AMENDING SUBSECTION (e)
OF SECTION 62.104 OF THE LOS ANGELES MUNICIPAL CODE TO
REPEAL THE "EXCEPTION" WITHIN THIS SECTION THAT ESTABLISHED
CITY LIABILITY FOR REPAIR OF CURBS, DRIVEWAYS AND SIDEWALKS
DUE TO TREE ROOT DAMAGE**

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

Council File No. 05-1853

Honorable Members:

Pursuant to your request, this office has prepared and now transmits for your consideration the attached draft ordinance, approved as to form and legality. The draft ordinance amends Subsection (e) of Section 62.104 of the Los Angeles Municipal Code (LAMC) to repeal the "**EXCEPTION**" within that section which established City liability for repair of curbs, driveways and sidewalks due to tree root damage.

Summary of Modifications

This ordinance changes the Code to eliminate the "**EXCEPTION**" within Subsection (e) of Section 62.104 of the LAMC, thereby, eliminating City responsibility for damage done to curbs, driveways and sidewalks due to tree roots.

CEQA Exemption

This ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) because “. . . it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” State CEQA Guidelines Section 15061(b) (3). See also City CEQA Guidelines, Article II, (1) General Rule and General Exemption. If the Council chooses to adopt the ordinance, it should also find that it is exempt from the provisions of CEQA pursuant to the above cited section.


Council Rule 38

In accordance with the requirements of Council Rule 38, this office has forwarded the draft ordinance to affected city departments and requested that they address any comments that they may have directly to the City Council when this matter is considered.

If you have any questions regarding this matter, please contact Deputy City Attorney Keith W. Pritsker at (213) 978-8141. He or another member of this office will be available when you consider this matter in order to answer any questions you may have.

Sincerely,

CARMEN A. TRUTANICH, City Attorney

By 

PEDRO B. ECHEVERRIA
Chief Assistant City Attorney

DM:KWP:pb
Transmittal

ORDINANCE NO. _____

An ordinance to repeal the EXCEPTION within Subsection (e) of Section 62.104 of the Los Angeles Municipal Code to eliminate City responsibility for repair of curbs, driveways and sidewalks due to tree root damage.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Subsection (e) of Section 62.104 of the Los Angeles Municipal Code is hereby amended to read as follows:

(e) Determination of Responsibility for Damage. Whenever the Board determines that a curb, driveway or sidewalk is damaged as the result of negligence or violation of this Code and the Board determines the identity of the responsible party, all costs incurred pursuant to this section shall be a personal obligation of the responsible party, recoverable by the City in an action before any court of competent jurisdiction. These costs shall include an amount equal to forty percent (40%) of the cost to perform the actual work, but not less than the sum of \$100.00, to cover the City's costs for administering any contract and supervising the work required. In addition to this personal obligation and all other remedies provided by law, if the Board determines that a curb, driveway or sidewalk is damaged to such an extent as to create a menace to the public health, welfare and safety, and to constitute a public nuisance, the City may collect any judgment, fee, cost, or charge including any permit fees, fines, late charges, or interest, incurred in relation to the provisions of this section as provided in Los Angeles Administrative Code Sections 7.35.1 through 7.35.8.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

JUNE LAGMAY, City Clerk

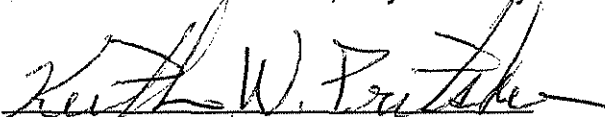
By _____
Deputy

Approved _____

Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By 
KEITH W. PRITSKER
Deputy City Attorney

Date 7-16-09

File No. 05-1853