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CITY ATTORNEY

REPORT NO. R 18 - 0023
JAN 25 2018

REPORT RE:

**DRAFT ORDINANCE ADDING SECTION 62.177 TO THE LOS ANGELES
MUNICIPAL CODE ESTABLISHING A TREE REPLACEMENT IN-LIEU FEE TO
SATISFY THE CITY'S TREE PLANTING REQUIREMENTS WHEN THE REQUIRED
TREES CANNOT BE PLANTED ON-SITE**

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. 16-0461

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 ordinance would add Section 62.177 to the Los Angeles Municipal Code (LAMC) establishing a tree replacement in-lieu fee to satisfy the City's tree planting requirements when a required tree cannot be planted on-site.

The in-lieu fee established in this draft ordinance will be collected by the Department of Public Works and will be used to procure, plant and provide water for three years for trees that cannot be planted on-site to satisfy the City's tree planting requirements.

Under Los Angeles Municipal Code Section 12.21(G)(2)(a)(3), at least one 24-inch box tree must be provided for every four dwelling units. Under the draft ordinance, if any of the required trees cannot be accommodated on-site, the applicable

in-lieu fee may be used to satisfy the tree planting requirement, subject to approval by a Director's Decision under Los Angeles Municipal Code Section 12.21(G)(3).

Under Los Angeles Municipal Code Sections 46.03 and 62.169, the Board of Public Works can approve permits for the removal of protected trees, as well as street trees. As a condition of a permit to remove a protected tree or a street tree, the Board can impose a requirement to replace the subject tree, typically on a 2:1 basis (street tree) or a 4:1 basis (protected tree). Under the draft ordinance, if any of the required replacement trees cannot be accommodated on-site, the applicable in-lieu fee may be used to satisfy the tree planting requirement, subject to approval by the Board of Public Works.

Lastly, under the draft ordinance, the in-lieu fee associated with replacement trees required by the Board of Public Works is reduced for residential properties with four or fewer dwelling units. Funding to cover the costs incurred by the City to procure, plant and provide water to trees under the reduced in-lieu fee is expected to come from the General Fund.

It should be noted that the Board of Public Works has prepared a fee study, dated November 20, 2017, which analyzed the City's total estimated cost to procure, plant and water trees for three years.

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

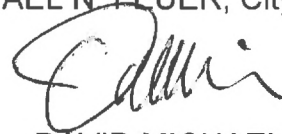
A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Planning Department and the Department of Public Works - Bureau of Street Services with a request that all comments, if any, be presented directly to the City Council when this matter is considered.

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.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By



DAVID MICHAELSON
Chief Assistant City Attorney

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Transmittal