



TOWN OF FAIRFAX

STAFF REPORT

April 6, 2016

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager 

SUBJECT: Second reading by title only and adoption of an Ordinance of the Town Council of the Town of Fairfax Amending Chapter 12.44 ("Street Trees and Shrubs") of the Town Code

RECOMMENDATION

Waive second reading and read by title only and adopt Ordinance No. 801, an Ordinance of the Town Council of the Town of Fairfax Amending Chapter 12.44 ("Street Trees and Shrubs") of the Town Code.

DISCUSSION

On March 2, 2016, at a duly-noticed public hearing, the Town Council introduced Ordinance No. 801. This amendment provides more clarity regarding the liability of owners of property abutting the sidewalk area and also provides for more consistency within the Chapter.

Tonight is the second reading and adoption. If adopted, the ordinance would take effect in 30 days.

CEQA REVIEW

Exempt from the California Environmental Quality Act per 14 CCR 15061(b)(3), as it can be shown with certainty that the action will have no significant adverse effect on the environment.

FISCAL IMPACT

None

ATTACHMENT

Ordinance No. 801

ORDINANCE NO. 801

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
AMENDING CHAPTER 12.44
("STREET TREES AND SHRUBS") OF THE TOWN CODE**

WHEREAS, the Town regulates the maintenance of street trees and shrubs within the Town through Chapter 12.44 ("Street Trees and Shrubs") of the Town Code; and

WHEREAS, Section 12.44.020 of the Town Code ("Trees – Property Owner Maintenance Responsibility and Duty to Public") provides for the imposition of a duty on the owner of property abutting the sidewalk area to maintain trees, shrubs, hedges or other landscaping in such area in a safe and non-dangerous condition; and

WHEREAS, Section 12.44.030 ("Maintenance and Repair of Sidewalks") of the Town Code provides for the imposition of a duty on the owner of property abutting the sidewalk area to maintain the sidewalk in such area in a safe and non-dangerous condition; and

WHEREAS, Section 12.44.040 of the Town Code ("Liability for Injuries to Public") provides for the imposition of liability on the owner of property abutting the sidewalk area for damages and injury to members of the public for failure to maintain the sidewalk area in a safe and non-dangerous condition; and

WHEREAS, the Town of Fairfax now desires to clarify the liability of the owner of property abutting the sidewalk area to members of the public for failure to maintain the sidewalk;

NOW, THEREFORE, the Town Council of the Town of Fairfax does ordain as follows:

SECTION 1: Subdivision (E) of Section 12.44.020 of the Town Code is hereby amended to read as follows:

"(E) The requirements of this section shall not apply to any sidewalk damaged by any tree, shrub, hedge or other landscaping installed and maintained by the Town of Fairfax."

SECTION 2: Subdivision (D) of Section 12.44.030 of the Town Code is hereby amended to read as follows:

"(D) The requirements of this section shall not apply to any sidewalk damaged by any tree, shrub, hedge or other landscaping installed and maintained by the Town of Fairfax."

SECTION 3: Section 12.44.040 of the Town Code is hereby amended to read as follows:

"The property owner of a lot or portion of a lot fronting on or adjacent to any portion of a street or any portion of a sidewalk area between the property line of the lot and the street line, and any person in possession of such lot by virtue of any permit or right, shall owe a duty to members of the public to keep and maintain the sidewalk area in a safe and non-dangerous condition. If, as a result of the failure of any

property owner or person in possession of the property, to maintain the sidewalk area in a non-dangerous condition, any person suffers injury or damage to person or property, the property owner or person in possession of the property shall be liable to such person for the resulting damages or injury. The requirements of this section shall not apply to any sidewalk damaged by any tree, shrub, hedge or other landscaping installed and maintained by the Town of Fairfax.”

SECTION 4: This Ordinance shall be effective 30 days following its adoption by the Town Council. Copies of this Ordinance shall, within fifteen days after its passage and adoption, be posted in three public places in the Town of Fairfax, to wit: 1. Bulletin Board, Town Hall Offices; 2. Bulletin Board, Fairfax Post Office; 3. Bulletin Board, Fairfax Women's Club building.

The foregoing Ordinance was introduced at a regular meeting of the Town Council on the 2nd day of March 2016, and duly adopted at the next regular meeting of the Town Council on the 6th day of April 2016, by the following vote, to wit:

AYES:
NOES:
ABSENT:

Renée Goddard, Mayor

Attest:

Michele Gardner, Town Clerk

Date