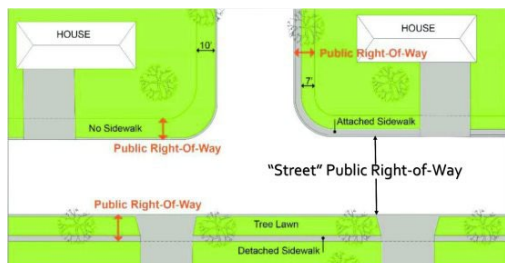




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Town clarifies property owner's 'Right-of-Way' landscaping responsibility

By Vera Kochan



It may surprise many residents, but the town of Moraga is not responsible for the maintenance of trees, hedges, shrubs and sidewalks in the area located from the roadway edge to the private property line (public right-of-way). This confusion can lead to unexpected costs for the property owner and unrealistic expectations of what the town's services should or shouldn't provide.

Public Works Director Shawn Knapp noted during his May 27 presentation before the town council that the Moraga-Orinda Fire District requested clarification of a 1990 ordinance in the Moraga Municipal Code's Chapter 12.04 regarding maintenance and repair of sidewalks. As the fire season approaches, MOFD wants property owners to be prepared due to the increase in wildfire possibilities.

The "Sidewalk Area" is the area between the street edge and the private property line. It is the "Public Right-of-Way" outside the "street" area shown in the above three examples.

The existing ordinance states, "The owner of a parcel of real property which fronts on any portion of a sidewalk area between the property line of the parcel and the street line, including a parking strip and curb, is responsible for the repair and maintenance of the sidewalk area and shall pay the cost and expense of repair and maintenance."

Additionally, the ordinance states that it is the property owners' duty to the public to keep the sidewalk area in a safe condition. Failing that, any negligence could result in liability measures from said public that may arise from injuries incurred in that sidewalk area.

The public works staff reviewed municipal codes for the cities of Lafayette and Orinda, along with those of Contra Costa County, in order to make recommendations to Moraga's town council with regards to clarifying the ROW landscaping responsibilities.

In proposing a new Chapter 12.10 to the existing ordinance the following definitions were adopted: "Abutting Property Owner" means the owner of a parcel of real property which fronts on any portion of a sidewalk area between the property line of the parcel and the street line, including a parking strip and curb." Also, "Public Right-of-Way" means the area in, upon, above, beneath, or across any land or interest which by deed, conveyance, agreement, easement, dedication, usage, or process of law is reserved for or dedicated to the use of the general public for travel, and includes any public street, road, highway, freeway, bridge, lane, court, alley, boulevard, sidewalk, median, parkway, or emergency vehicle easement."

Addressing the upcoming fire season, the importance of keeping ROWs clear and maintained in a semi-rural town such as Moraga is vital in the event of an evacuation so as not to impede a pedestrian escape route.

The town council voted unanimously to introduce the proposed ordinance clarifying abutting property owners' responsibilities in that "each tree, shrub, hedge or other landscaping placed in the Public-Right-of-Way, except for those trees, shrubs, hedges, or other landscaping placed by the Town, shall be maintained by the Abutting Property Owner in a neat, healthy and safe condition."

It also notes that any improper or lack of landscaping maintenance is unlawful and considered a public nuisance. Any such violation will be enforced according to the MMC or state law.

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