

ORDINANCE NO. 2382

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCADIA, CALIFORNIA ADDING SECTION 2842.9 TO DIVISION 2 OF PART 4 OF CHAPTER 8 OF ARTICLE II OF THE ARCADIA MUNICIPAL CODE RELATING TO PUBLIC WORKS PROJECT CONTRACT PROCEDURES

WHEREAS, Government Code section 835 allows a public entity, such as the City of Arcadia ("City"), to be liable for an injury caused by a dangerous condition on its property in certain instances; and

WHEREAS, Government Code section 830.6 allows a public entity to avoid liability if placement of the object or improvement at issue was part of a plan or design for which the public entity gave its discretionary approval; and

WHEREAS, the Arcadia Municipal Code ("AMC") does not currently include a provision expressly providing that the plan or design for all public works projects must be reviewed and approved by the City Council or its designees; and

WHEREAS, the City Council desires to take full advantage of the liability protections of Government Code section 830.6; and

WHEREAS, in order to do so, the City Council must amend the AMC to expressly provide for discretionary approval of all plans or designs for public works projects.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ARCADIA, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The recitals set forth above are true and correct and are hereby adopted as findings in support of this Ordinance as if fully set forth herein.

SECTION 2. Addition of AMC Section 2842.9. A new Section 2842.9 is hereby added to Division 2 of Part 4 of Chapter 8 of Article II of the Arcadia Municipal Code, to read in its entirety as follows:

## **“2842.9 – REVIEW AND APPROVAL OF PLANS AND SPECIFICATIONS**

The Public Works Director and City Engineer, or their designees, are each authorized to review and approve engineering plans for all Public Works Projects for purposes of design immunity pursuant to Government Code Section 830.6. This shall include the working details, drawings, and plans and specifications prepared for every Public Works Project, including emergency and change order work, which may affect the design or operation of public improvements and which may bring into question the City’s liability for dangerous conditions of public property.”

SECTION 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof, is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

If for any reason any portion of this Ordinance is found to be invalid by a court of competent jurisdiction, the balance of this Ordinance shall not be affected.

SECTION 4. CEQA. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 5. The City Clerk shall certify to the adoption of this Ordinance and shall cause a copy of same to be published at least once in the official newspaper of the City within fifteen (15) days after its adoption. This Ordinance shall take effect on the thirty-first (31st) day after its adoption.

Passed, approved and adopted this 19th day of October, 2021.

**/s/ Sho Tay**  
Mayor of the City of Arcadia

ATTEST:

**/s/ Gene Glasco**  
City Clerk

APPROVED AS TO FORM:

**/s/ Stephen P. Deitsch**  
City Attorney

STATE OF CALIFORNIA        )  
COUNTY OF LOS ANGELES ) SS:  
CITY OF ARCADIA            )

I, GENE GLASCO, City Clerk of the City of Arcadia, hereby certifies that the foregoing Urgency Ordinance No. 2382 was passed and adopted by the City Council of the City of Arcadia, signed by the Mayor and attested to by the City Clerk at a regular meeting of said Council held on the 19th day of October, 2021 and that said Ordinance was adopted by the following vote, to wit:

AYES:        Beck, Chandler, Verlato, Cheng, and Tay

NOES:        None

ABSENT:     None

ABSTAIN:    None

**/s/ Gene Glasco**  
City Clerk of the City of Arcadia