



Design Immunity Ordinance

What is Design Immunity?

- Legal defense that protects public entities from liability for injuries allegedly caused by the design of public facilities, like roads, bridges, and other infrastructure.
- Defense for “dangerous conditions” not “failure to maintain.”
- Codified in Government Code Section 830.6.

Elements of Design Immunity

1. A feature in the design caused the accident;
2. Discretionary approval of the design *prior* to construction; and
3. Substantial evidence supporting the reasonableness of the design.

What is the Purpose of Design Immunity?

- To prevent a jury from simply reweighing the same factors considered by the governmental entity which approved the design.
- The legislature intended to insulate discretionary planning and design decisions by responsible public officials from review of tort litigation.
- Allow the experts to be experts.



Situation Where this Ordinance Would Help



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Proposed Ordinance

The Director of Public Works and Utilities or designee is granted the discretionary authority to approve plans, specifications and designs for “public works,” as that term is defined in Section 68 of the Petaluma Charter, California Public Contract Code Section 1101, California Labor Code Section 1720, and other applicable law.

The Director of Public Works and Utilities or designee may delegate authority to approve plans, specifications and designs for public works projects, in writing, to a City of Petaluma employee, so long as such employee possesses a valid certificate of registration as an engineer by the California Board of Professional Engineers both at the time of delegation and at the time of approval of the plans, specifications and designs.

For purposes of this section and Section 830.6 of the California Government Code, a stamp or signature by the Director of Public Works or designee or delegee pursuant to this section on public works plans, specifications or designs, or a writing signed by the Director of Public Works or designee or delegee pursuant to this section concerning public works plans, specifications or designs (any or all of which may be in electronic form), shall be conclusive evidence of discretionary approval of the plans, specifications or designs.

Elements of Proposed Ordinance

1. Director of PWU or their designee has authority to approve plans, specifications, and plans for Public Works projects as that is defined in our Charter or State Law.
2. The Designee must have the required training and skills to approve plans.
3. A designee's stamp on a project is proof that the employee has the requisite authority and training.

What this Ordinance Does

- Codifies senior Public Works staff's ability to approve project designs.
- Allows the City to raise the design immunity affirmative defense for dangerous conditions regarding the design, which will save public money and resources.

What the Ordinance Does Not Do.

- Does not provide any additional authority to staff, as senior Public Work's employees job specifications includes approving project designs and plans.
- Does not change the City's current practice for which Public Work's projects are brought for Council's approval.

Questions?
