



**Council Meeting: October 14, 2008**

**SUBJECT: A More Aggressive Approach to Code Enforcement (Study Issue)**

**REPORT IN BRIEF**

The purpose of this study issue is to reevaluate the Neighborhood Preservation (NP) program to determine if more aggressive procedures and methods should be implemented in an attempt to achieve more expedited compliance with code violators (Attachment A).

The last time the NP program was substantially reevaluated was in 2002, which resulted in the City Council broadening NP's authority to issue administrative citations and substantially increasing citation amounts. These changes were critical since administrative citations have proven to be the most efficient and effective method for achieving code compliance after attempts to achieve voluntary compliance have failed.

At the beginning of 2008, Council expressed concern that the NP program's compliance (warning) period is prolonged on problem cases and that the citation process is not as effective as it could be. This report will address those issues and also include the following information:

- An overview of the code enforcement process
- Statistics
- Recent, operational changes
- Neighborhood Enhancement Program overview, statistics and lessons learned
- More aggressive options pertaining to administrative citations, administrative citation appeal deadline and graffiti
- Recommended changes to the ordinance pertaining to automotive repair in residential neighborhoods
- Options for how to handle code violations on vacant and/or foreclosed properties
- Abandoned sign enforcement
- More aggressive approaches positives and negatives

## **BACKGROUND**

On March 5, 2002, the City Council approved broadening NP's authority to issue administrative citations from eight violations to all violations under its purview. Council approved new citation amounts of \$50, \$100, \$200 and \$500. At the time, Council supported the notion that citations would only be issued as a last resort, after repeated attempts at compliance had failed.

At the beginning of 2008, Council expressed the desire for NP staff to issue citations earlier in the compliance process with the goal of quicker compliance.

## **EXISTING POLICY**

The quality and vitality of the community is directly associated with the preservation and enhancement of residential and non-residential properties. The policy for code enforcement in Sunnyvale is located in the Housing and Community Revitalization Sub-Element and the Land Use and Transportation Element of the General Plan.

### **Housing and Community Revitalization Sub-Element**

GOAL C: Ensure A High Quality Living and Working Environment.

Policy C.2 Continue to encourage and assist property owners to maintain existing developments in a manner that is aesthetically pleasing, free from nuisances, and safe from hazards.

#### Action Statements

C.2.a Continue to offer technical assistance to homeowners to aid them in maintaining, upgrading and improving their property.

Policy C.3 Improve and continue to implement a citizen-oriented, proactive education program regarding neighborhood preservation.

#### Action Statements

C.3.a Continue to implement the Neighborhood Preservation Program. The Neighborhood Preservation Program consists of three key elements: (1) public education, (2) proactive staff action, and (3) neighborhood specific programs. The City periodically reviews existing codes, ordinances, and use permit conditions to determine their current applicability to neighborhood and community preservation issues. The Neighborhood Preservation Program is coordinated with other programs, to avoid duplication of activity and to maximize efficiency.

Policy C.4 Continue to implement rehabilitation and code compliance focusing on providing the programs in the areas of greatest need.

#### Action Statements

C.4.a Continue the concentrated rehabilitation and code compliance program. The City focuses code compliance activities in residential areas that fall below accepted residential property maintenance standards. The program identifies specific areas, and involves a strong community participation component.

Policy C.6 Allow home businesses that do not conflict with the residential character of the neighborhood.

Action Statements

C.6.a Continue to implement the home occupation regulations that allow businesses that do not affect the primary residential character of the neighborhood and that do not involve retail sales, large inventories, hazardous materials, or traffic or parking problems. Such businesses may not be operated in the yard or garage.

**Land Use and Transportation Element**

GOAL C1: Preserve and enhance an attractive community, with a positive image and a sense of place, that consists of distinctive neighborhoods, pockets of interest, and human-scale development.

Policy C1.1 Recognize that the City is composed of residential, industrial and commercial neighborhoods, each with its own individual character; and allow change consistent with reinforcing positive neighborhood values.

Action Statements

C1.1.2 Promote and achieve compliance with land use and transportation standards

GOAL N1: Preserve and enhance the quality character of Sunnyvale's industrial, commercial, and residential neighborhoods by promoting land use patterns and related transportation opportunities that are supportive of the neighborhood concept.

Policy N1.1 Protect the integrity of the City's neighborhoods; whether residential, industrial or commercial.

Action Statements

N1.1.1 Limit the intrusion of incompatible uses and inappropriate development into city neighborhoods.

N1.1.5 Establish and monitor standards for community appearance and property maintenance.

## **DISCUSSION**

### **Overview of the code enforcement process**

NP receives code violation complaints from the public and also proactively opens code violation cases at residential and non-residential properties. NP Specialists (code enforcement officers) respond to and investigate these violations through a progressive enforcement process resulting in administrative citations, or abatements on rare occasions, if compliance is not met. The primary objective of enforcement is to achieve voluntary compliance through education. Citations will only be issued, and abatements will only occur, if attempts at voluntary compliance have failed.

Approximately 60% of code violation cases are complaint-based (reported by the public via telephone, e-mail, US mail or in person) and 40% are proactive, which are staff initiated. Proactive cases are not given higher priority than complaint-based cases unless they are first priority or health and safety violations. Proactive enforcement includes the following:

- First priority violations approved by Council on September 26, 2006 - junk and debris stored in public view, overgrown vegetation, weeds, vehicles parked on unpaved surfaces and major auto repair in residential neighborhoods.
- Health and safety violations such as illegal construction in progress and fences threatening to fall in the public right-of-way.
- Sign violation cases - NP aggressively conducts proactive sign enforcement.
- Neighborhood Enhancement Program- a concentrated code enforcement effort in areas of the City with a disproportionate amount of code violations.
- Land-use permit condition cases reviewed.

NP Specialists investigate approximately 95% of complaints within three business days from the date the complaint is received and 99% within five business days. The investigation generally begins with a background search of the property to determine if there is a history of code violations. Depending on the nature of the complaint (e.g., construction without a permit) further research may also need to be conducted to determine if the property or business owner has obtained valid permits.

The Specialist will then conduct an on-site inspection of the property to verify the violation. If the violation is not viewable from the public right-of-way, (i.e., garage conversion), the Specialist will arrange an inspection appointment with the property or business owner to allow lawful entry into the property. If the property owner does not grant entry, staff will work with the Office of the City Attorney to pursue entry through the inspection warrant process.

After the violation is verified, the NP Specialist will notify the property or business owner of the violation by mailing a yellow tri-fold courtesy notice that provides a brief explanation of the violation and an initial compliance deadline. Additional educational information may also be included with the notice (e.g., Accessory Living Unit brochure, Temporary Signs brochure, Housing Rehabilitation Program brochure).

If compliance is not voluntarily achieved by the deadline stated in the courtesy notice, the NP Specialist will mail a final warning letter. This letter reiterates the violation, provides a final compliance deadline and warns the property or business owner that failure to comply with the code requirements could result in the issuance of administrative citations until compliance is met.

NP Specialists issue deadlines to property or business owners to correct the violation and the amount of time provided to correct the violation is determined by several factors such as the complexity, severity and nature of the violation; the estimated amount of time required to correct the violation; and the history of prior code violations at the property since chronic violators may receive reduced compliance deadlines.

On occasion, NP Specialists receive requests from property and business owners to extend a given deadline. Although extending deadlines is generally discouraged, the following are examples of circumstances where extensions may be granted; however compliance would still be sought:

- Financial or personal hardship
- Age or physical disability
- Property owner is living out of the area or is out of town
- Planning/building hearing or appeal process
- Contractor or architect's delay
- Adverse weather conditions
- Property owner is diligently working towards compliance
- No past violations at the property

There are also examples of circumstances where extensions would not be granted, standard deadlines may be reduced and citations may be issued without warning or issued earlier such as violations posing an immediate health and/or safety risk or a history of similar code violations at the property.

**Standard Notification Deadlines for Common Violations**

<b>Violations</b>	<b>Notification Deadlines to Property Owners</b>
Signs	one week, then 72-hour warning
Garbage containers	one week, then one additional week
Graffiti	one week, then one additional week
Vehicles – parked on unpaved surfaces	one week, then one additional week
Weeds	two weekends, then one additional weekend
Vegetation	two weekends, then one additional weekend
Junk and debris	two weekends, then one additional weekend
Illegal construction	two weeks to 60 days

If compliance is not met by the final deadline, the NP Specialist would issue an administrative citation. Generally, citations are issued on a weekly basis until compliance is met. Administrative citations start at \$50 for the first violation, \$100 for the second, \$200 for the third and \$500 for the fourth and subsequent violation(s). The use of administrative citations has proven a necessary and effective tool in achieving code compliance. Furthermore, they serve as a critical and effective tool in deterring future code violations.

In the rare occurrence that compliance is not achieved voluntarily or through the issuance of administrative citations, an abatement of the property may be conducted. Only five abatements have occurred in the last five years, since 2003. Abatements occur when the City hires a private company, often a contractor, to "clean-up" and remove nuisances from the property and the property owner is charged the full cost of these services. Administrative citations are almost always issued in cases of non-compliance, rather than abatements, because they are significantly more effective at achieving compliance and are also efficient (cost less in staff time to execute). Conditions warranting abatement would include excessive, severe and/or dangerous violations such as excessive storage of junk and debris stored in public view or overgrown vegetation causing a serious rodent problem in the neighborhood.

Another important aspect of the code enforcement process is the significant collaboration efforts with other City departments, particularly the Department of Public Safety (DPS). NP staff works with DPS on a regular basis to solve problems and make community improvements by addressing crime and code

violation cases simultaneously. An example of this effort includes a DPS initiated improvement project in the Ayala neighborhood where two people were murdered in 2007. DPS and NP successfully worked together with the area residents (primarily living in apartments and multiplexes) and property owners to abate nuisance vehicles, get rid of junk and debris, clean-up graffiti, etc. NP also works with DPS on the Neighborhood Enhancement Program. DPS helps resolve crime-related issues of import to the area residents and attends Neighborhood Enhancement meetings to answer residents' questions. NP and DPS work together in order to promote safe, clean and attractive neighborhoods. DPS also provides NP staff with assistance when working with hostile and threatening property owners or residents on code violation cases.

### **Statistics**

In the last four years, the NP program has substantially increased its caseload and increased the total number of administrative citations issued in cases of non-compliance.

#### **Cases Opened and Closed by Fiscal Year**

<b>Fiscal Year</b>	<b>Cases Opened</b>	<b>Cases Closed</b>
FY07-08	3,074	3,078
FY06-07	3,029	3,053
FY05-06	2,673	2,640
FY04-05	2,475	2,445

As indicated by the table above, the number of cases opened and closed (resolved) has increased by 26% in three years from FY04-05 to FY07-08. Much of this increase is attributed to proactive code enforcement. (In some years, more cases were closed than opened because they were opened in the prior year.)

### Citations Issued and Fine Amounts by Fiscal Year

<b>Fiscal Year</b>	<b>Citations Issued</b>	<b>Fine Amounts</b>
FY07-08	309	\$81,100
FY06-07	249	\$71,300
FY05-06	95	\$16,150
FY04-05	99	\$12,550

The table above shows the number of citations issued and total fine amounts by fiscal year. In just three years, from FY04-05 to FY07-08, the number of citations issued increased by 212% and the total fine amounts increased by 546%. The statistics below clearly demonstrate that the NP staff has been getting more and more assertive in their code enforcement efforts, particularly in cases of non-compliance.

### Common Violations Where Citations Were Issued

<b>Violation</b>	<b>Percentage of Total Citations Issued</b>
Building and/or Planning permit cases	44%
Signs	15%
Junk and debris	12%
Weeds/overgrown vegetation	11%
Vehicles parked on unpaved surfaces	7%
Trash and recycling containers	5%
Graffiti	.3%
Dilapidated fences	2%
Other	1%

The table above shows the common types of violations NP cited for in FY07-08. The most common type of violation cited was for Building and/or Planning permit cases such as fences, accessory structures, construction/remodels, etc. Many of the citations issued were repeat citations, for example, one property

owner may have been cited on five occasions for failure to obtain the required permits for a single-family home room addition.

### **Recent, operational changes**

At the beginning of 2008, Council expressed concern that the NP program's compliance (warning) period is too long, is prolonged on problem cases and that the citation process is not as effective as it could be. (NP has a performance measure that states, "Code enforcement cases are in compliance and closed within 30 days of receipt of complaint" and the goal is 85%. In FY07-08, 85.44% of all cases were in compliance and closed within 30 days and 2.6% of the cases were opened longer than three months.)

As a result of these concerns, significant and profound changes were made to the program. These changes include issuing citations earlier in the compliance process, providing less time for repeat and chronic violators to comply prior to receiving citations, incorporating a new citation-based performance measure into the budget, more closely monitoring compliance with land-use permit conditions, being more aggressive on political sign enforcement and conducting more outreach and education to the community about the NP program.

### *Administrative Citations*

Prior to 2008, NP staff generally issued three written warnings to code violators prior to issuing administrative citations, which was consistent with the City Council's belief in 2003 that citations should only be issued as a last resort, after repeated attempts at compliance had failed.

In 2008, the compliance period was shortened from three warnings to two prior to issuing citations. Staff believes that this significant process change could have its desired effect and result in expedited code compliance.

### *Repeat and Chronic Offenders*

Repeat and chronic offenders are given less time to comply, and in some cases are cited without warnings. There are people who perpetually have the same code violation on their property. Many chronic offenders simply wait to resolve the code violation until they receive a notice from NP. Now, if a property owner, for example, has stored junk and debris on their front lawn on several recent occasions, they may be warned only once or cited without warning.

### *New Citation-Based Performance Measure*

The City Manager recommended and Council approved a new performance measure to the NP budget starting FY08-09 as a direct result of Council's desire for more aggressive code enforcement. The measure states that citations are issued for cases of non-compliance within 45 days of receipt of complaint. The goal is 90%. This is a very aggressive measure and will also most likely result in citations being issued earlier in the compliance process.

### *Monitoring Compliance with Land-Use Permit Conditions*

Use permits and special development permits typically have land use conditions of approval as part of the approval process. Many of the land use conditions of approval for major projects have been proactively monitored for compliance by Neighborhood Preservation up to two years after the project is completed. This process has caused some problems because some of the conditions should have been met prior to the project being finalized. Requiring a property owner to comply with the conditions after the developer has completed the project has proven to be very challenging.

At the end of 2007 and the beginning of 2008, staff from NP, Building and Planning closely examined the existing process and looked at what each Division was and wasn't doing, reoccurring problems with compliance of conditions and general weaknesses of the process. The goal was to create a new, more effective process where developers would be held more accountable on the front end of projects since they are typically not involved after the projects are completed and have been in operation for several years.

In June of 2008, a more sophisticated process for compliance with land use permit conditions was approved and implemented. The new process includes land use permit conditions being put on building plans for the Building Inspector to review and approve during the construction phase of the project. And, the project Planner will conduct site inspections and approve land use conditions of major projects before a final occupancy permit is issued. Lastly, one to two years after the final occupancy permit has been issued, NP staff will review the land use permit conditions and conduct site inspections to ensure that conditions are met and being followed. If they are not met, NP staff will conduct standard code enforcement until compliance is met, which could result in the issuance of administrative citations.

This revised process is much more staff intensive for Building and Planning staff; however, there will now be more accountability up front from developers and property owners and less potential for problems due to non-compliance after projects are completed, resulting in potentially less code violation enforcement later.

### *Political Sign Enforcement*

Over 99% of political signs violations are resolved within 48 hours. In fact, in the history of the NP program, only one citation has ever been issued for a violation of the political sign ordinance. The citation was issued on May 20, 2008 for a size violation.

An overwhelming majority of political sign violations pertain to placement of temporary signs which are prohibited on public property such as utility poles

and public buildings. They are also not allowed in the landscaping strip between the sidewalk and the curb.

If the political sign is located on private property, the current enforcement practice is to mail a 72-hour compliance notice to the property owner and also to contact the candidate or campaign manager and ask them to remove the sign immediately.

Based on Council comments, staff recently changed the current practice in order to be more aggressive in its enforcement of political signs. Staff will continue to contact all candidates, or campaign managers, and ask them to remove the sign immediately but will also post the property where the sign violation is occurring and provide a 48-hour warning notice to remove the sign. The property owner will be cited per day if the sign is not removed within 48 hours.

#### *Outreach and Education*

The Community Development Department (CDD) will now include regular articles in the Quarterly Report in an effort to provide more education to the community about various subjects related to Planning, Building, Economic Development, Housing and Neighborhood Preservation. Many of these articles will be related to code enforcement. For example, NP included an article about graffiti in the Spring 2008 Quarterly Report and also the Summer 2008 Report included an article from Planning and Neighborhood Preservation about fence requirements. This outreach effort will keep the community informed about hot topics in CDD.

### **Neighborhood Enhancement Program overview, statistics and lessons learned**

#### *Overview*

The Neighborhood Enhancement Program (NEP) started in 2002 as a proactive and concentrated approach to code enforcement in an effort to improve the overall maintenance, appearance and safety of neighborhoods with a disproportionate amount of code violations.

Since its inception, the NEP has targeted one neighborhood (consisting of approximately 200 single-family homes) each year with a significant amount of code violations compared to the rest of the City. (The first NEP consisted of 95 households.)

At the beginning of each program, NP staff forms a partnership with area residents, through neighborhood meetings and one-on-one relationships, in an effort to provide education and assistance to property owners to correct code violations and improve the overall physical appearance of properties.

The first four NEPs were located in the Lakewood Village neighborhood and the most recent was located in the San Miguel neighborhood (Attachment B). All of the programs were successful because property owners corrected code violations and made significant additional improvements such as painted the houses, installed new fences, installed new landscaping, etc.

An example of the most recent efforts and successes of the NEP in the San Miguel neighborhood (consisting of 178 single-family homes) are that staff observed 429 code violations, averaging 2.4 violations per property. At the beginning of the program, only 21 properties had no code violations. By the end of the program, only 47 code violations were outstanding and 144 properties had no code violations. These successes were typical in all of the NEPs.

At the end of the program 155 properties were improved by correcting code violations. Examples of code violation cases resolved included the following:

- 50 cases of overgrown vegetation
- 29 cases of weeds
- 21 cases of vision triangle obstructions
- 21 cases of improperly stored vehicles
- 67 cases of trash containers stored in the front yard
- 8 cases of junk and debris
- 30 cases of outside storage
- 6 cases of un-permitted garage conversions
- 69 cases of illegal fences
- 9 cases of front yard paving violations
- 45 cases of park strip violations
- 27 un-permitted structures

Furthermore, examples of improvements made over and above correcting code violations included the following:

- 17 properties painted
- 6 fences removed
- 12 new fences installed
- 6 properties landscaped
- 2 new driveways installed
- 3 exterior façade improvements made

These accomplishments were achieved through one-on-one assistance and six group meetings with property owners to provide information on ways to correct code violations and improve properties. The following is the information that was provided at the group meetings:

- Guest speaker from Rebuilding Together, a non-profit volunteer agency, talked about how they help repair homes of low-income persons.

- Guest speaker from Kelly-Moore Paints provided instructions, helpful tips and discounts for painting the exterior of homes.
- Guest speaker from Parks and Recreation talked about weed control, planting drought tolerant and low maintenance plants, lawn care, planting new lawns, water and irrigation systems.
- Guest speaker from Housing talked about housing rehabilitation loans, paint grants for low-income residents and paint loans for residents who are disabled or over 60 years of age.
- Workshop on improving the appearance of properties and curb appeal strategies.
- Workshop conducted by Public Safety on security and crime prevention.
- Workshop on local resources to assist with landscaping, painting, maintenance, repair and concrete.
- Free donated paint and paint delivery.
- Photos of each property identifying code violations existing on the property.

In addition to the group meetings, one-on-one meetings were held with property owners to create strategies to correct code violations and improve the overall appearance of the properties.

Another important part of the NEP were the two dumpster clean-up events held exclusively for NEP residents. These events provided the opportunity for participants to clean-up their properties by disposing of junk and debris, overgrown vegetation, illegal construction, etc. at no cost to them. A total of 24.8 tons of debris was removed. The clean-up events create goodwill and help achieve cooperation from residents in resolving code violations.

### Neighborhood Enhancement Program Statistics

<b>Fiscal Year</b>	<b>Location</b>	<b>Number of Properties in Program</b>	<b>Number of Properties with Code Violations</b>	<b>Number of Properties Improved</b>
2007/08	San Miguel	178	157	161
2006/07	Lakewood	208	139	126
2005/06	Lakewood	201	132	149
2004/05 & 2003/04	Lakewood	187	120	122
2002/03	Lakewood	95	77	53

The table above shows the number of properties with code violations by fiscal year and location. The "Number of Properties Improved" column indicates the number of properties where code violations were resolved and/or made improvements over and above correction code violations such as painting the house, installing a new fence, installing new landscaping, etc. The average cost of the NEP for the past four years has been \$60,000. The NEP budget for FY08-09 is \$57,000.

### *Lessons Learned*

The NEP is regularly reviewed and approaches are adjusted and improved upon as necessary. The most valuable opportunities for improvement come from the opinions and suggestions of NEP area residents and property owners.

In early NEPs, staff attempted to resolve all code violations, rather than address code violations and other issues (i.e. inadequate street lighting, speeding) deemed most important to the NEP residents and property owners. As a result, the NEP was looked at as less of a partnership between the City and residents, which was not the desired intended effect, and more of a strict concentrated code enforcement action program. By attempting to resolve all code violations, it sometimes became difficult to get the residents and property owner's acceptance and buy-in to the program.

In an effort to continuously improve the program, and get more support from area residents and property owners, more emphasis will be placed on working with them to resolve code enforcement issues and other types of issues that they feel are high priorities. NP staff will continue to address all first priority code violations (which include junk and debris stored in public view, overgrown vegetation, weeds, vehicles parked on unpaved surfaces and major auto repair in residential neighborhoods) and health and safety issues. In addition, staff will address the property maintenance issues/code violations and other issues ranked high in priority as part of the neighborhood survey. By focusing on the issues that are most important to the area residents and property owners, in addition to first priority and health and safety issues, there may be more opportunities to expand the number of properties in the NEP and, thus, improve more properties.

**More aggressive options pertaining to administrative citations, administrative citation appeal deadline and graffiti**

*Administrative Citations*

**Citation Statistics**

<b>Violations</b>	<b>Current</b>	<b>Maximum Allowable Limits Under State Law</b>
1st	\$50	\$100
2nd	\$100	\$200
3rd	\$200	\$500
4th	\$500	\$500
Subsequent	\$500	\$500

The use of administrative citations has proven to be a necessary and effective tool in achieving code compliance. They also serve as a critical and effective tool in deterring future code violations.

Council could approve changes to the administrative citation fee schedule to increase the initial citation amount from \$50 to \$100. Current policy allows staff to increase the citation fee amount to the next highest amount, depending on the amount of the last citation issued within the last 36 months. i.e., if the property owner was issued a citation for \$100 24 months ago; staff issues a \$200 for subsequent violations occurring within a 36 month period.

State law (Government Code section 53069.4) limits the administrative fines and penalties that cities may levy. Council could approve the following change to the City's fee schedule: \$100 for the first violation; \$200 for the second violation within one year of the first citation; and \$500 for any additional violation within one year of the first citation. This change guarantees that the City's fee schedule conforms to the maximum allowable limits under state law. Moreover, most surrounding jurisdictions have adopted similar fee schedules in order to comply with the state law requirements.

Furthermore, staff recently surveyed 23 cities and discovered that 17 of those cities, 74%, had citation amounts of \$100, \$200 and \$500 or higher. Higher citation amounts are not consistent with state law however.

At the August 26, 2008 Council Study Session, a Councilmember asked staff to calculate the cost of issuing administrative citations and if citations could be recorded against the property.

The actual cost of issuing citations is relatively low considering that citations take approximately 15 minutes to write and mail; however, if a citation is appealed, an administrative hearing is scheduled which requires staff resources to prepare a report, attend the hearing, and perform follow-up actions. Finance staff is also involved because they process citation invoices and payments and forward unpaid citations to a collection agency.

Since an overwhelming majority of people comply without being cited, and some citations are issued very early in the compliance process and some after several months of non-compliance, it may be more informative to know the actual cost of closing a case. In FY07-08, the average cost of closing a case was \$163 and the average time to close a case was 2.5 hours. For FY08-09, the budgeted cost of closing a case is \$180 and the budgeted time to close a case is 2.7 hours.

Regarding recording citations as a lien against the property, Finance staff is currently analyzing the pros and cons of implementing a lien process versus the current process of sending unpaid citations to a collection agency. If it is determined that a lien process, or other process, would be more efficient (would result in a better collection rate, would not cost a significant amount of staff resources to administer, etc.) then a policy change would be made or an ordinance would be drafted for Council's consideration.

At the Study Session, a councilmember also asked if lower citation amount options are provided to senior citizens since many are on fixed incomes and another Councilmember asked staff to look into volunteer options for seniors to assist them with complying with code requirements.

NP does not issue lower citation amounts to seniors; however, if a person requests an extension to comply with the given deadline because of a physical disability or limitation, for example, staff would consider doing so if the person was not a chronic or repeat violator. It would be difficult for staff to determine if the violator is a senior on a fixed income unless he/she offers the information to staff. But even then, it would be very difficult to verify their financial position.

Regarding the Councilmember's question about volunteer options for seniors to assist them with complying with code requirements, in the event that a property owner relays to staff that he or she is unable to meet code compliance due to health issues or income restrictions, NP provides information about the following agencies:

- Rebuilding Together - a nonprofit agency whose volunteer programs provide repair services to elderly, disabled and low-income homeowners.

- Heart of the Valley, Services for Seniors, Inc. - a nonprofit agency committed to facilitating and supporting independent living for seniors residing by offering services performed by volunteers. These services include anything from mowing lawns and removing junk and debris to washing dishes and folding laundry.
- City of Sunnyvale Housing Rehabilitation Loans and Paint Grants – available to low income households that are 80% or less of area median income.
- Sunnyvale residents are also referred to the Sunnyvale Senior Center and the Council on Aging Silicon Valley where they can further obtain resources based on their specific needs.

Neighborhood Preservation makes every effort to assist property owners in achieving code compliance and offering alternative resources is a crucial step in achieving this goal.

Finally, a person who appeals a citation may testify to the hearing officer that they were unable to comply because of a disability, for example. The hearing officer may opt to reduce or rescind the citation based upon special circumstances.

#### *Administrative Citation Appeal Deadline*

Currently, section 1.05.060 of the Sunnyvale Municipal Code provides citation recipients 30 days to submit a request for hearing to appeal citations. Council could direct staff to work with the Office of the City Attorney to revise the ordinance to reduce the appeal period from 30 days to 15 days.

Reducing the appeal period is consistent with a more aggressive code enforcement approach because it may encourage people to comply more quickly. Although most of the cities surveyed, 68% have a 30 appeal period, 32% of the cities had a ten or 15 day appeal period. Some of the cities that have a shorter appeal period are known to be more aggressive in their approach to code enforcement, such as Sacramento, whose appeal period is ten days. Furthermore, the 15 day appeal period is consistent with the appeal period for Administrative Hearing decisions to the Planning Commission and appeal Planning Commission decisions to the City Council.

#### *Graffiti*

Graffiti is a growing concern in almost every community in the country. Graffiti may be associated with gang activity, or as an indication of neglect in the community. Graffiti is also caused by “taggers” who develop a personalized symbol and try to place it on as many places as possible.

Graffiti affects property values, quality of life and damages the City's reputation for livability. When graffiti is allowed to remain, it invites more graffiti and may lead to an increase in vandalism and other criminal activity. Studies have shown that removal of graffiti within 24 to 48 hours results in a nearly zero rate of reoccurrence.

The Departments of Public Works (DPW) and Parks and Recreation handle graffiti on public property and Neighborhood Preservation handles graffiti on private property. Whether on public or private property, removal costs the property owner and the City time and money. Graffiti may be removed by several methods such as covering it with a similar colored paint, washing it with solvents or spraying it with a high pressure washer.

DPW is currently researching the costs and practicality of providing graffiti removal kits to residents to remove graffiti from suitable areas such as utility poles and boxes, bus stops, etc. The main benefit of providing these kits to residents who wish to take part in the program is that graffiti may be removed more quickly, resulting in fewer instances of reoccurrence. Also, some of the foreseeable problems of providing graffiti removal kits to private residents is the cost of the kits (ranging anywhere from \$20 to \$40 each), the toxicity of the chemicals in the kits, the methods for distributing the kits and training people on how to use them. Also, DPW discourages residents from abating graffiti themselves on utility boxes or on the public right-of-way because of potential problems, such as damaging public facilities.

Under the current NP program, private property owners are held responsible for graffiti removal and are cited if it's not removed by the given deadline. NP recently surveyed other cities about their graffiti removal practices. Approximately 60% of the 23 cities surveyed hold property owners exclusively responsible for the abatement of graffiti. However, the remaining 40% of cities surveyed provide some level of assistance such as having city staff, or an agent hired by the city, remove the graffiti if the property owner signs a waiver; having city staff remove graffiti only if it is in public view; using volunteers to remove graffiti if the property owner provides the paint; providing free paint in one of four colors to property owners; providing free paint and color matching to property owners; holding hearings for property owners who believe they have been burdened by a disproportionate amount of graffiti, and if the hearing officer agrees, then City staff abates the graffiti; providing graffiti removal free of charge one time in a six month period; or having city staff remove graffiti free of charge if it is determined to be obscene, racial or gang related. Furthermore, the City could develop a list of names of people who remove graffiti and then provide the list to property owners. The property owners could then hire these people directly to remove graffiti.

All of these programs have an associated cost to the City. Council could direct staff to write a Study Issue Paper to explore different alternatives for the City to assist with regarding graffiti abatement on private property.

**Recommended changes to the ordinance pertaining to automotive repair in residential neighborhoods**

The residential automotive repair ordinance was amended by Council on April 3, 2007. The prior ordinance, 19.12, simply defined automobile repair as *"Automobile/vehicle repair" means conducting major repairs including the maintenance, servicing, engine overhaul, bodywork, customizing or painting of any vehicles.* Vehicle repair, as defined above, was not allowed in any residential zoning districts.

The intent of the new ordinance is to prohibit repair for profit, limit opportunities for service and repair, discourage disruption of the residential character of neighborhoods and allow major service to occur only under specific circumstances.

Council may want to consider making changes to the current ordinance (Attachment C) due to potential challenges and practicality of enforcement. Staff believes that if these recommended changes are made, the intent of the ordinance would remain unchanged, thus the residential character of the neighborhoods would still be preserved.

Regarding *"Minor service and repair shall not occur for more than seventy two hours"*: An overwhelming majority of people who complain about auto repair are complaining because major repair, not minor repair, is occurring in public view or is occurring for profit; both are prohibited. Furthermore, it would be extremely difficult for staff to enforce the seventy-two hour restriction for minor repair simply because staff would not be able to determine when the repair starts or stops, and for how many hours it occurred at one time.

Regarding *"Major service and repair is allowed (ii) if not within an enclosed structure, then shielded from public view during daytime hours only (seven a.m. to ten p.m.) for a maximum of three months"*: It would be extremely difficult for staff to determine if major repair was occurring at all because staff would not be able to see the vehicle since it would be shielded from public view. Furthermore, if staff was granted access to the backyard by the property owner where the major work was allegedly occurring, it would also be very difficult to determine the duration of time the major work was occurring. And, it is unlikely that a judge would grant an inspection warrant to access the property, in the event that the property owner would not grant access, because it would be difficult to prove that a violation is occurring because it is not visible from public view. Staff recommends deleting this provision entirely because of the

enforcement challenges. The proposed change further limits major auto repair, but it would still be allowed within an enclosed structure.

### **Options for how to handle code violations on vacant and/or foreclosed properties**

Foreclosures of residential properties are affecting most communities. Communities, particularly in southern California, are struggling to deal with the effects of foreclosures which may include lack of property maintenance, abandoned properties and vandalism.

Properties are considered to be in foreclosure if owners receive either a notice of default, or notice of repossession by the mortgage lender or a notice that the property is to be sold at auction. There are tools available to identify when a property goes into foreclosure, though the length of time a property is in foreclosure can vary from weeks to months, and sometimes longer.

To help cities deal with the residential real property foreclosure situation State Senate Bill (SB) 1137 was approved and became effective on July 8, 2008. Some of the relevant provisions of SB 1137 include fines and penalties for a foreclosed property. A government entity can only impose fines on the legal owner of property. The timing, amount and frequency of the imposed fines are spelled out in the Senate Bill. Daily fines up to \$1,000 per day can be imposed.

NP is addressing the foreclosure situation in a manner similar to a majority of cities throughout California. NP issues weekly citations up to \$500 per citation, consistent with our current policy, to the legal owner of the property, if the property is not being maintained and there is a violation of the Sunnyvale Municipal Code. Violations may include, but are not limited to weeds, overgrown vegetation, junk and debris or unsafe conditions such as broken windows or doors.

On occasion, a property has maintenance issues during the periods where the property is in default or in repossession. Issuing warning notices and administrative citations to the existing property owner, warning that the property needs to be maintained, tends to only alert the property owner to their responsibilities. The property owner has little incentive to spend time or money to maintain the property when the property is in foreclosure. When a mortgage lender takes possession of a foreclosed property, sometimes they employ people to address the property maintenance issues. This occurs less often when brokers own the property. The mortgage lender will sometimes contract out to a property maintenance company to do basic repairs, clean-up and generally maintain the property. When the mortgage lender selects a real estate agent to sell the property, there may be yet another party to work with to help maintain the property.

The period when a property is in default or repossession is when the property maintenance may be at its worst, but it's a temporary situation. Sunnyvale Municipal Code provides for options to abate or impose fines; however, the abatement process can take several months. A restriction is that the City cannot impose civil penalties in addition to the abatement charges or fines.

The abatement costs can be recovered by placing liens on the property. The timing at which liens are placed with the County during the foreclosure process is important, as the liens are reviewed while the property is being transferred to the mortgage lender or purchaser. However, the cost of the abatement, in addition to the staff costs associated with placing a lien on the property, may not be recoverable because many liens are absolved by the courts, thus leaving the City responsible for absorbing all of these costs. Additionally, the subject of the lien, for abatements or administrative citations, can be questioned such as the specific costs, conditions, terms and notification of the abatement. Furthermore, the process and act of abatement can introduce other liabilities. The City can also issue administrative citations; however, it may be difficult to locate the property owner and get them to pay the fines through a collection or lien process.

Since the recent dramatic increase in residential property foreclosures, cities and code enforcement agencies have been communicating and exchanging ideas on how to deal with foreclosures to prevent associated blight. One result of various agencies working together is that there are now databases of contact names and numbers for the many different lenders responsible for foreclosure properties. In October, staff will be attending a statewide seminar on how to deal with foreclosures. Also, some cities are working with HUD to receive allocated money to mitigate foreclosures that have already happened and federal clarification on the allocations is pending; however, these cities tend to be large in population and have serious foreclosure problems.

Other programs have been created to assist first time buyers or renters to purchase foreclosures, resulting in a reduction of the amount of time a foreclosed property sits vacant. Staff has found that some cities have created municipal codes specifically to address vacant residential properties. Some cities post the property informing the community that a foreclosure is in process and that the city is monitoring the property; however, this could attract "squatters" and vandals. Other cities have also explored charging monitoring fees for vacant buildings, cost recovery programs for city expenses and time to monitor foreclosures, establishing fees for substandard housing inspection or establishing registration and security/maintenance fees for abandoned properties. In one case, a city contracted with a company to maintain the front yard and applied the costs to the lien. This alternative provides more recognition by the community that the property is being maintained during the foreclosure process. Abatement costs or the cost recovery aspects of the

preceding approaches are often difficult, time consuming, take additional resources and are not guaranteed.

NP will continue to monitor and exchange information with other cities on how to handle residential property foreclosures. If viable, feasible, and practical solutions are discovered, then a policy change would be recommended or an ordinance would be drafted for Council's consideration.

At the August 26, 2008 Council Study Session, a question was asked about what NP can do about abandoned and boarded up properties where the property owner does not maintain the landscaping.

A particular property was mentioned where the windows had been boarded up. Weeds were also removed on two occasions through the NP abatement process and the costs were put on the property owner's tax bill. The windows were boarded up through the abatement process for two reasons, to prevent the property owner from renting out the property because the conditions are so poor and to keep people from trespassing/"squatting" in the home. The City posted the property unfit for human occupancy. NP staff periodically issues administrative citations to the property owner when the weeds are high. The property owner typically complies after he receives one or more citations.

NP staff has the authority to abate and issue citations to property owners who fail to maintain their properties, as with the case above; however, the City has not considered receivership as a viable option, where the City would pursue legal ownership of the property through the court system, due to the immense legal and administrative costs. Furthermore, the receivership process could take several years through the court system with no guarantee that the courts would ultimately grant ownership to the City. Staff also explored the option of buying the property from the property owner; however, he was not interested.

Another Councilmember asked at the Study Session if the City can turn the water back on at foreclosed properties so that the neighbors can water the property and keep the landscaping alive and then apply the costs as a lien against the home.

The Sunnyvale Municipal Code requires that occupied premises subscribe to and pay for utility services, however there is no requirement for unoccupied premises. From the Utilities' perspective, the majority of foreclosures in Sunnyvale are immediately acted upon by the lender, with a lender's agent generally taking over the services to prepare the house for sale. If there was a concern for public health, the City could, as part of the abatement of the nuisance, require that utility services be restored and these charges could then be recovered through a lien on the property. However, it could be very difficult to make an argument that dead landscaping constitutes a public health issue.

Alternately, the Council may choose to appropriate funds to manage properties to keep them from becoming blighted that could include the provision of utility services. Those funds would be provided through an appropriation to the NP program, which would be subsequently billed for utility services provided, but those costs could not be recovered. Finally, current administrative practice would allow another neighbor or responsible party to hold the utility account. They would, however, be responsible for payment of the bills, regardless of their relationship to the property.

#### *Landscape Enforcement*

At the Council Study Session, an issue was raised about enforcement of dead landscaping on vacant commercial properties. The following are two ordinances that pertain to this issue: *19.38.070 (b)(2) After landscaping is installed, it shall be maintained in a neat, clean and healthful condition and 19.38.070 (b)(2)(A) Landscaping removed due to disease or death of plants shall be replaced to match the approved landscape plan.*

One potential challenge of enforcement is that if the property is in the process of changing ownership, it may be very difficult to determine who the actual property owner is at a given time. Also, if the property owner is known, and the property is going to be redeveloped, the property owner may resist replanting vegetation if the landscaping plan will change as a result of the redevelopment.

NP staff responds to all complaints about dead landscaping or lack of landscape maintenance and will conduct progressive code enforcement, including the use of administrative citations, until compliance is met.

#### **Abandoned sign enforcement**

A Councilmember recently inquired about abandoned signs or missing sign faces, wanting to know if there is an ordinance pertaining to abandoned signs, and if there is, if it's enforced.

The applicable code is *19.44.110 (f) Construction and Maintenance of Signs. Each sign shall be maintained in a safe, unbroken and structurally sound manner. Damaged or missing sign faces shall be repaired or replaced. Each sign structure that shall become abandoned, and each commercial sign and its supporting structure that shall become obsolete, shall be removed within ninety days of written notice from the city directing that it shall be so removed.*

NP staff would proactively pursue compliance with the above ordinance if a sign is broken or damaged, causing a potential safety issue (i.e. has exposed wiring). Furthermore, if staff were to receive complaints about damaged, missing or abandoned signs, staff would pursue code enforcement action until compliance was met.

### **More aggressive approaches positives and negatives**

More aggressive approaches to code enforcement, such as increasing citation amounts and issuing citations earlier in the compliance process than before, will most likely have both positive and negative results.

The positive results might be quicker compliance, fewer repeat offenders and a higher level of satisfaction with the NP program from those who report violations and neighbors of violators.

The negative results might be more complaints from citation recipients, and thus less satisfaction with the NP program; more complaints to the Council, City Manager, CDD Director and NP Manager; and more administrative citation appeals.

Staff believes that the positives far outweigh the negatives and supports the more aggressive approach.

### **FISCAL IMPACT**

If Council amends the Administrative Citation Fee Schedule, reduces administrative citation appeal period from 30 days to 15 days and amends the automobile/vehicle service ordinance, the fiscal impact would be minimal.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, in the Council Chambers lobby, in the Office of the City Clerk, at the Library, Senior Center, Community Center and Department of Public Safety; posting the agenda and report on the City's Web site; and making the report available at the Library and the Office of the City Clerk.

### **ALTERNATIVES**

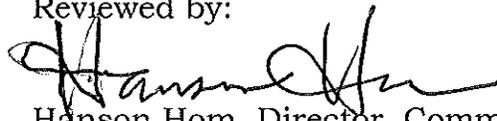
1. Direct staff to work with the Office of the City Attorney to amend the Administrative Citation Fee Schedule as follows: \$100 for the first violation; \$200 for the second violation within one year of the first citation; and \$500 for any additional violation within one year of the first citation.
2. Direct staff to work with the Office of the City Attorney to amend 1.05.060 to reduce the administrative citation appeal period from 30 days to 15 days.
3. Direct staff to work with the Office of the City Attorney to amend *19.18.050 Automobile/vehicle service and repair* (Attachment C).

4. Direct staff to write a Study Issue Paper to explore different alternatives for the City to assist with regarding graffiti abatement on private property.
5. Do not adopt any of these recommendations.
6. Modify any suggested alternatives stated above.

**RECOMMENDATION**

Staff recommends alternatives 1, 2, 3 and 4. If approved, staff will return with the necessary ordinance revisions to implement these recommendations within 90 days.

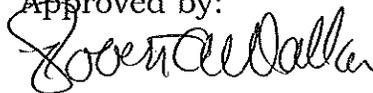
Reviewed by:



Hanson Hom, Director, Community Development

Prepared by: Christy Gunvalsen, Neighborhood Preservation Manager

Approved by:



Amy Chan  
City Manager

**Attachments**

- A. Study Issue Paper - A More Aggressive Approach to Code Enforcement
- B. Map of San Miguel Neighborhood Enhancement Program Area
- C. Proposed Ordinance Amendment - Automobile/vehicle service and repair

# **Attachment A**

## Proposed 2008 Council Study Issue CDD-45 A More Aggressive Approach to Code Enforcement

<b>Lead Department</b>	Community Development
<b>Element or Sub-element</b>	Housing & Community Revitalization
<b>New or Previous</b>	New
<b>Status</b> Above the line	<b>History</b> 1 year ago None      2 years ago None

### 1. What are the key elements of the issue? What precipitated it?

The Neighborhood Preservation Program approach to code enforcement emphasizes a philosophy of education and voluntary compliance. This approach is based on a systematic process of education, assistance, and, when necessary, progressive enforcement as approved by the City Council on March 26, 2002. Administrative citations with fines per the Sunnyvale Municipal Code are only issued after a voluntary approach has failed to gain compliance. Staff typically issues several notices or warnings prior to issuing administrative citations in cases of non-compliance.

The vast majority of enforcement cases are resolved without the need to issue administrative citations, so the current approach has been largely successful. However, for problematic cases or unresponsive violators, the length of time and staff hours required to achieve compliance can result in a prolonged process, causing complainants to become frustrated and discouraged. This is because the practice of staff is to provide several notices with followup, and an extension of the compliance deadline is sometimes granted if a compelling reason is presented. Only after the conclusion of these steps and compliance has not been achieved is an administrative citation issued.

This study issue will focus on evaluating possible policy and regulatory changes to create a more expedient and effective Neighborhood Preservation Program for resolving problematic cases. The first step will be to review the nature of the problematic cases and identify the various reasons and barriers that affect timely compliance. Based on this review, staff will research and identify more aggressive compliance strategies that may require a change in Council policy or City regulations.

Staff will examine policies, programs and techniques that have been successfully used in other cities to achieve effective code enforcement. Staff will also work with the City Attorney's office to explore legal issues and possible ordinance amendments as appropriate. One option would be to increase the fine amounts through an amendment of the administrative citation schedule of fines. Another regulatory option would be to review the Zoning Code and other city regulations to strengthen the administrative authority for enforcing potential problems after a project is completed. The goal is to identify aggressive compliance strategies with the desired outcome that problematic code violation cases will be resolved more expeditiously.

Related measures which are more operational in nature, but could be integrated into the

study issue analysis include:

- Implementing process improvement strategies to create a more expedient code enforcement approach for problem cases;
- Developing guidelines for issuing citations or other possible punitive measures earlier in the compliance process;
- Exploring proactive measures to enforce targeted geographical areas in the city that are experiencing excessive code violations; and
- Reviewing the staffing and process for enforcement of conditions of approval for projects.

**2. How does this relate to the General Plan or existing City Policy?**

**Goal C: Ensure A High Quality Living And Working Environment.**

**Policy C.2** Continue to encourage and assist property owners to maintain existing developments in a manner that is aesthetically pleasing, free from nuisances, and safe from hazards.

**Policy C.3** Improve and continue to implement a citizen-oriented, proactive education program regarding neighborhood preservation.

**Action Statements**

**C.3.a** Continue to implement the Neighborhood Preservation Program.

The Neighborhood Preservation Program consists of three key elements: (1) public education, (2) proactive staff action, and (3) neighborhood specific programs. The City periodically reviews existing codes, ordinances, and use permit conditions to determine their current applicability to neighborhood and community preservation issues. The Neighborhood Preservation Program is coordinated with other programs, to avoid duplication of activity and to maximize efficiency.

**3. Origin of issue**

**Council Member(s)**

**General Plan**

**City Staff**

Director of Community Development

**Public**

**Board or Commission** none

**4. Multiple Year Project?** No **Planned Completion Year** 2008

**5. Expected participation involved in the study issue process?**

**Does Council need to approve a work plan?** No

**Does this issue require review by a Board/Commission?** No

**If so, which?**

**Is a Council Study Session anticipated?** Yes

**What is the public participation process?**

Community outreach to neighborhood groups might be beneficial for receiving input on possible policy and program options.

**6. Cost of Study**

**Operating Budget Program covering costs**  
 245 Neighborhood Preservation Program  
**Project Budget covering costs**  
**Budget modification \$ amount needed for study**  
**Explain below what the additional funding will be used for**

**7. Potential fiscal impact to implement recommendations in the Study approved by Council**

**Capital expenditure range** None  
**Operating expenditure range** \$500 - \$50K  
**New revenues/savings range** \$500 - \$50K

**Explain impact briefly**  
 If a revised or strengthened code enforcement program results in additional staffing needs, then an additional allocation for staff support will be needed. This cost can be partially offset if fees for citations are also increased.

**8. Staff Recommendation**

**Staff Recommendation** None

**If 'For Study' or 'Against Study', explain**  
 Staff believes that if the City Council would like to see a more aggressive code enforcement program, then this study issue should proceed to evaluate the larger policy and regulatory issues that need to be explored to move forward in this direction.

**9. Estimated consultant hours for completion of the study issue**

Managers	Role	Manager	Hours			
Lead		Gunvalsen, Christy	Mgr CY1:	80	Mgr CY2:	0
			Staff CY1:	0	Staff CY2:	0
Interdep		Boco, Robert	Mgr CY1:	30	Mgr CY2:	0
			Staff CY1:	0	Staff CY2:	0
Interdep		Ryan, Trudi	Mgr CY1:	20	Mgr CY2:	0
			Staff CY1:	0	Staff CY2:	0
<b>Total Hours CY1:</b>			<b>130</b>			
<b>Total Hours CY2:</b>			<b>0</b>			

**Note: If staff's recommendation is 'For Study' or 'Against Study', the Director should note the relative importance of this Study to other major projects that the Department**

**Addendum**

**A. Board / Commission Recommendation**

**Issue Created Too Late for B/C Ranking**

<b>Board or Commission</b>	<b>Rank</b>	<b>Rank</b>	<b>Rank</b>
	<b>Rank</b>	<b>1 year ago</b>	<b>2 years ago</b>
Arts Commission			
Bicycle and Pedestrian Advisory Committee			
Board of Building Code Appeals			
Board of Library Trustees			
Child Care Advisory Board			
Heritage Preservation Commission			
Housing and Human Services Commission			
Parks and Recreation Commission			
Personnel Board			
Planning Commission			
<b>Board or Commission ranking comments</b>			

**B. Council**

**Council Rank** 5  
**Work Plan Review Date** (blank)  
**Study Session Date** 8/19/2008  
**RTC Date** 10/14/2008  
**Actual Complete Date** (blank)  
**Staff Contact** Gunvalsen, Christy

is currently working on or that are soon to begin, and the impact on existing services/priorities.

**Reviewed by**

\_\_\_\_\_  
**Department Director**

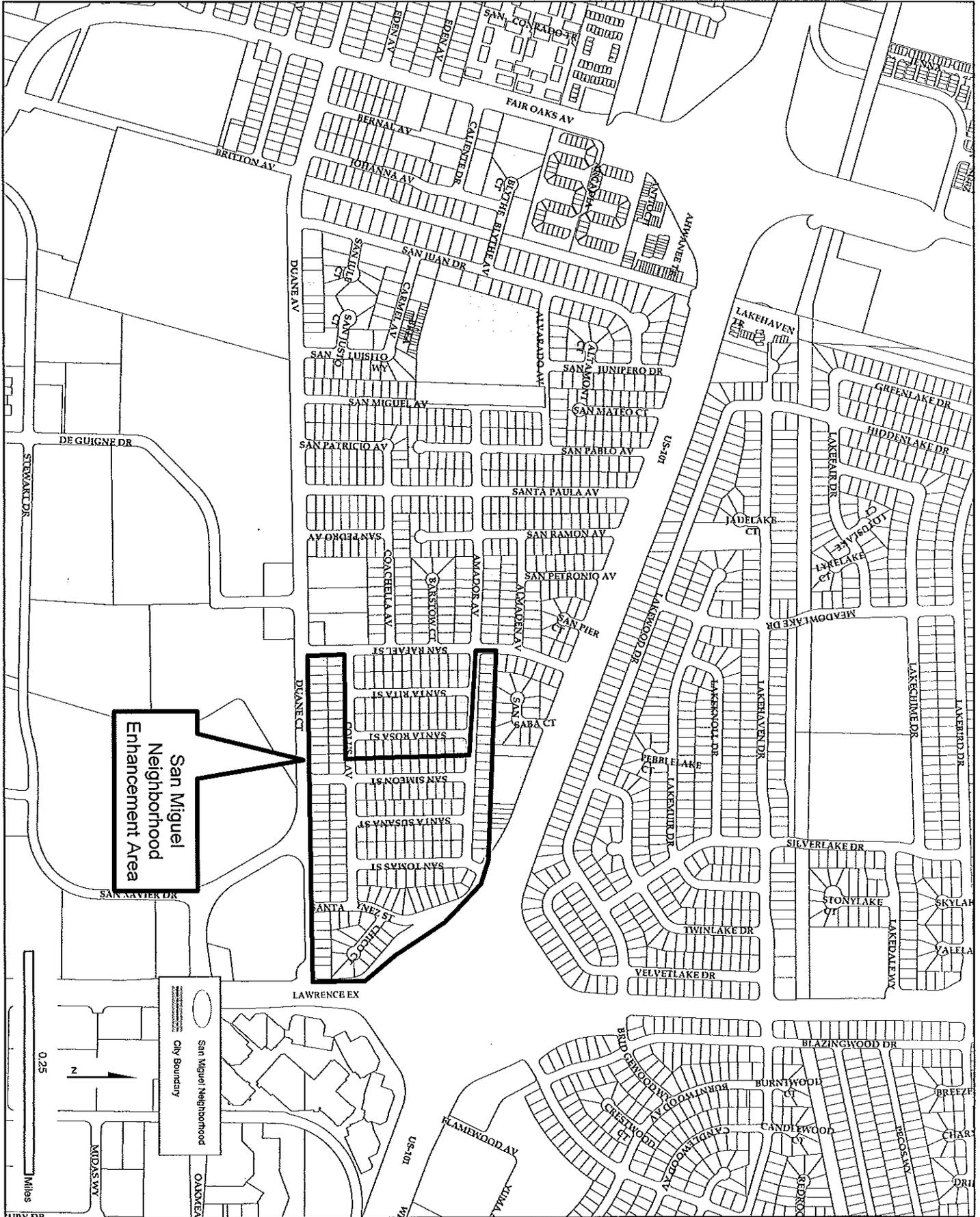
\_\_\_\_\_  
**Date**

**Approved by**

\_\_\_\_\_  
**City Manager**

\_\_\_\_\_  
**Date**

## **Attachment B**



**San Miguel  
 Neighborhood  
 Enhancement Area**

San Miguel Neighborhood  
 City Boundary

## **Attachment C**

## Proposed Ordinance Amendment

19.18.050. Automobile/vehicle service and repair in residential districts.

*(a) Automobile/vehicle service and repair in residential areas may be allowed only if the following conditions are met:*

*(1) The automobile/vehicle service and repair is being conducted during daytime hours (seven a.m. to ten p.m.);*

*(2) All automobiles/vehicles must be registered to a bona fide resident of the property or immediate family members (parents, children or siblings of someone living in the home); and*

*(3) No more than two vehicles may be serviced or repaired at the same time; and*

***(4) All major service and repair must be conducted within an enclosed structure.***

~~*(b) Minor service and repair shall not occur for more than seventy-two hours.*~~

~~*(c) Major service and repair is allowed either:*~~

~~*(i) Within an enclosed structure indefinitely; or*~~

~~*(ii) If not within an enclosed structure, then shielded from public view during daytime hours only (seven a.m. to ten p.m.) for a maximum of three months.*~~

***(b) Vehicle painting, except for minor touch-ups, is prohibited at all times.***

***(c) All performance standards in the Sunnyvale Municipal Code or applicable state laws related to the prevention of nuisances must be observed for any major or minor automobile/vehicle service and repair. Performance standards include, but are not limited to, the regulation of noise, odor, smoke and the disposal of hazardous materials such as oil and gas.***

***(d) Automobile/vehicle repair as a commercial use is prohibited at all times. (Ord. 2831-07 § 3).***