



Council Meeting: December 16, 2008

SUBJECT: More Aggressive Approach to Code Enforcement, follow-up to Study Issue and Report to Council 08-301

- **Resolution amending the Administrative Citation Fee Schedule and rescinding Resolution NO. 109-02;**
- **Ordinance amending SMC Section 1.05.060 (Hearing Request);**
- **Ordinance amending SMC Section 19.18.050 (Automobile/vehicle service and repair in residential districts)**

REPORT IN BRIEF

On October 14, 2008 Council considered an RTC on more aggressive approaches to code enforcement. Council directed staff to bring back three items for formal Council adoption. The first item is to increase fee amounts for violations. The attached Resolution amends the Administrative Citations Fee Schedule pursuant to Sunnyvale Municipal Code ("SMC") 1.05.040, *Amount of Fines*. Fines for the first violation will be increased from \$50.00 to \$100.00. Fines for a second violation within one year of the first violation will be \$200.00. Fines for any additional violation within one year of the first violation will be \$500.00.

Staff has also prepared an ordinance to modify provisions of SMC section 1.05.060, *Hearing request*. The modification is to change the time period to request a hearing to contest an administrative citation from thirty (30) days from the date of the administrative citation to fifteen (15) days from the date of the administrative citation.

The third item is an ordinance to modify provisions of SMC section 19.18.050, *Automobile/vehicle service and repair in residential districts*. This modification eliminates provisions that are challenging to enforce (regarding permitted timeframes) for automobile service and automobile repair. Planning Commission reviewed this ordinance modification at their meeting of November 24, 2008.

On November 24, 2008, the Planning Commission heard the proposed ordinance amendment of SMC 19.18.050 *Automobile/vehicle service and repair in residential districts* and unanimously approved the amendment.

BACKGROUND

On October 14, 2008 the City Council considered a Study Issue on "A More Aggressive Approach to Code Enforcement" (Report to Council 08-301). A majority of the study focused on the procedures used by the Neighborhood Preservation Division in seeking compliance with city codes. Council move to:

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 SMC Section *1.05.060 Hearing request* to reduce the administrative citation appeal period from thirty (30) days to fifteen (15) days.
3. Direct staff to work with the Office of the City Attorney to amend SMC Section *19.18.050 Automobile/vehicle service and repair in residential districts* to reflect Attachment "C" in the original report.

EXISTING POLICY

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.

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

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

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

1. Administrative Citations

Citation Statistics

Violations	Current	Maximum Allowable Limits Under State Law
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 has directed staff to increase the initial administrative 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 citation 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. Consistent with those limits Council directed the following changes 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. If no administrative citations have been issued within a twelve month period then an administrative citation starts at the \$100 fee amount.

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.

Administrative Citation Fee Schedules are printed on Administrative Citations, Neighborhood Preservation Program informational handouts, Administrative Citation Warning handouts that are included with compliance letters and citation warning letters, and in the Neighborhood Preservation section of the City of Sunnyvale web site.

See attachment "A" for a draft resolution establishing the new administrative citation fee schedule per Council's direction and rescinding Resolution NO. 109-02 (which established the existing fee schedule on March 2, 2002.)

2. Administrative Citation Appeal Deadline

Currently, SMC section *1.05.060 Hearing request* provides citation recipients thirty (30) days to submit a request for a hearing to appeal citations.

Reducing the appeal period is consistent with a more aggressive code enforcement approach because it may encourage violators to comply more quickly. Although most of the cities surveyed, 68%, have a 30 day 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 of Planning Commission decisions to the City Council.

See attachment "B" for a draft amendment to the ordinance per Council's direction.

3. Recommended changes to the ordinance pertaining to automotive repair in residential neighborhoods.

As part of the discussion, staff identified recent code sections that are difficult to enforce and recommended code changes regarding automobile/vehicle repair and service on residential properties. Council directed staff to return with an ordinance to modify some of the provisions that are challenging to enforce.

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 April 2007 ordinance, which added Section 19.18.050, was 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.

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 (72) 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.

See attachment "B" for a draft amendment to the ordinance per Council's direction.

FISCAL IMPACT

If the Council amends the Administrative Citation Fee Schedule the fiscal impact will be minimal, but possibly incremental additional income would be realized from increased fees.

If the Council amends the administrative citation hearing request appeal period the fiscal impact will be minimal.

If Council amends the Automobile/vehicle service and repair in residential districts 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.

Notice of the Planning Commission and City Council public hearings was published in *The Sun* newspaper.

On November 24, 2008, the Planning Commission heard the proposed ordinance amendment of SMC 19.18.050 *Automobile/vehicle service and repair in residential districts* and unanimously approved the amendment.

ALTERNATIVES

1. Adopt a resolution to amend the Administrative Citation Fee Schedule pursuant to SMC 1.05.040 *Amount of Fines* (Attachment "A") and rescind previous Resolution NO. 109-02.
2. Introduce an ordinance to change SMC section 1.05.060 *Hearing request* (Attachment "B") time period for administrative citation hearing request appeal period to fifteen (15) days.
3. Introduce an ordinance to modify SMC section 19.18.050 *Automobile/vehicle service and repair in residential districts* (Attachment "B") to eliminate provisions.
4. Adopt resolution to amend Administrative Citation Fee Schedule pursuant to SMC 1.05.040 *Amount of Fines* (Attachment "A") and rescind previous Resolution NO. 109-02, and introduce ordinances to change SMC section 1.05.060 *Hearing request* (Attachment "B") time period for administrative citation hearing request appeal period to fifteen (15) days, and introduce an ordinance to modify SMC section 19.18.050 *Automobile/vehicle service and repair in residential districts* (Attachment "B") to eliminate provisions, with modifications.
5. Take no action

RECOMMENDATION

Staff recommends Alternatives 1, 2 and 3 to adopt a resolution to amend the administrative citation fee schedule pursuant to SMC 1.05.040 *Amount of Fines* and rescind Resolution NO. 109-02, introduce an ordinance to amend SMC 1.05.060 *Hearing requests* and introduce an ordinance to amend SMC 19.18.050 *Auto/vehicle service and repair in residential areas*. These changes preserve the intent of the regulations to preserve the residential character of the neighborhoods, contribute to more aggressive code enforcement and eliminate potential challenges and practicality of enforcement.

On November 24, 2008, the Planning Commission heard the proposed ordinance amendment of SMC 19.18.050 *Automobile/vehicle service and repair in residential districts* and unanimously approved the amendment.

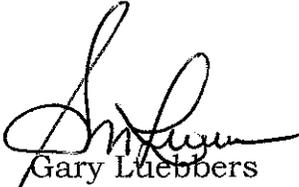
Reviewed by:



Hanson Hom, Director, Community Development

Prepared by: Dale Huber, Senior Neighborhood Preservation Specialist

Approved by:



Gary Luebbers
City Manager

Attachments

- A. Resolution Amending the Administrative Citation Fee Schedule and rescinding Resolution NO. 109-02.
- B. Draft Ordinance Amending Title 1 (Chapter *1.05.060 Hearing request*)
Draft Ordinance Amending Title 19 (Chapter *19.12 Automobile vehicle service and repair in residential districts*)
- C. Excerpts from the Minutes of the October 14, 2008 City Council Meeting, Motion RTC 08-301, Consider a More Aggressive Approach to Code Enforcement (Study Issue)
- D. Excerpts from the Minutes of the November 24, 2008 Planning Commission Meeting, Title 19 – Amendments to Automobile/Vehicle Service and Repair in Residential Districts.

ATTACHMENT "A"

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE ESTABLISHING AN ADMINISTRATIVE CITATION SCHEDULE OF FINES PURSUANT TO SECTION 1.05.040 OF THE SUNNYVALE MUNICIPAL CODE AND RESCINDING RESOLUTION NO. 109-02

WHEREAS, Chapter 1.05 of the Sunnyvale Municipal Code was enacted in 1996 to provide for the issuance of administrative citations to address any violations of the Code; and

WHEREAS, Section 1.05.040 of the Sunnyvale Municipal Code requires that a schedule of fines be established by resolution of the City Council; and

WHEREAS, Section 1.05.040 of the Sunnyvale Municipal Code requires the schedule of fines to specify any increase in the fine amount for repeat violations and late payments; and

WHEREAS, a schedule of fines was adopted on March 2, 2002, as Resolution No. 109-02 and is subject to review and updating on a periodic basis.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT:

1. The administrative citation schedule of fines as set forth in Exhibit "A" attached hereto is hereby adopted.
2. Resolution No. 109-02 is hereby rescinded.

Adopted by the City Council at a regular meeting held on December 16, 2008, by the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

EXHIBIT "A"

CHAPTER 1.05

ADMINISTRATIVE CITATION SCHEDULE OF FINES

SMC PROVISION	FINE*
All violations of the Sunnyvale Municipal Code enforced pursuant to Chapter 1.05 are governed by this schedule of fines	Fines shall be assessed as follows: (1) \$100 for the first violation. (2) \$200 for the second violation occurring within a 12 month period. (3) \$500 for the third and any subsequent violation occurring within a 12 month period.
* All fines are due within thirty (30) days of the citation date. A late fee of 10%/month simple interest will be assessed for all payments received after the due date.	

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING SMC SECTION 19.18.050 OF CHAPTER 19.18 (RESIDENTIAL ZONING DISTRICTS) OF TITLE 19 (ZONING) RELATED TO AUTOMOBILE/VEHICLE SERVICE AND REPAIR IN RESIDENTIAL DISTRICTS AND SECTION 1.05.060 OF CHAPTER 1.05 (ADMINISTRATIVE CITATIONS).

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

SECTION 1. SECTION 19.18.050 AMENDED. Section 19.18.050 of Chapter 19.18 (Residential Zoning Districts) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read, as follows:

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.

(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.~~

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

~~(e) 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.~~

~~(f) Automobile/vehicle repair as a commercial use is prohibited at all times.~~

SECTION 2. SECTION 1.05.060 AMENDED. Section 1.05.060 of Chapter 1.05 (Administrative Citations) of Title 1 (General Provisions) of the Sunnyvale Municipal Code is hereby amended to read, as follows:

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

(a) Any recipient of an administrative citation may contest that there was a violation or that he or she is the responsible party by completing a "Request for Hearing Form" and returning it to the city within ~~thirty~~ fifteen (15) days from the date of the administrative citation.

(b) – (d) [text unchanged]

SECTION 3. CEQA EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment.

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 5. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 6. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in *The Sun*, the official newspaper for publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on _____, 2008, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2008, by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

ATTEST:

APPROVED:

 City Clerk
 Date of Attestation _____
 SEAL

 Mayor

APPROVED AS TO FORM AND LEGALITY:

David E. Kahn, City Attorney

ATTACHMENT "C"

SUNNYVALE CITY COUNCIL AND
ONIZUKE LOCAL REDEVELOPMENT AUTHORITY MEETING
TUESDAY, OCTOBER 14, 2008
COUNCIL CHAMBERS, 456 W. OLIVE AVE.
SUNNYVALE, CALIFORNIA

PUBLIC HEARINGS/GENERAL BUSINESS

MOTION
RTC 08-301

Consider a More Aggressive Approach to Code Enforcement [Study
Issue]

3. RTC 08-301 Consider a More Aggressive Approach to Code Enforcement [Study Issue]

Neighborhood Preservation Manager Christy Gunvalsen presented the staff report.

Councilmember Howe asked how many citations are solved at either no citation or at \$50 presently. Neighborhood Preservation Manager Gunvalsen responded that more than 90 percent of cases they have are resolved without issuing any citations. Councilmember Howe asked how many citations are written without a financial as a percentage of the 10 percent and how many go to the \$50 stage. Neighborhood Preservation Manager Gunvalsen stated most of the violations are corrected after the first warning. Ninety percent are corrected after the warning process has been exhausted (i.e., after two warnings). Neighborhood Preservation Manager Gunvalsen guessed 75 percent are corrected after the first warning.

Councilmember Howe asked how many warnings go from a citation in the amount of \$50 to \$100, where there is a second monetary citation. Neighborhood Preservation Manager Gunvalsen estimated 25 percent of the 10 percent are issued a citation starting at \$100. Seventy-five percent are issued one citation and then comply; 25 percent are issued subsequent citations.

Neighborhood Preservation Manager Gunvalsen confirmed for Council that two sentences related to the two recommendations of auto and vehicle service repair on Attachment C were struck and would not be replaced in the ordinance. Neighborhood Preservation Manager Gunvalsen also confirmed that foreclosed property abatement liens by the City would be removed from the property during the transfer process to the bank.

Vice Mayor Hamilton requested clarification on recoverable fees by the City. Neighborhood Preservation Manager Gunvalsen responded that some cities have conducted monitoring of properties and have tried to put liens on the properties, but they have had to go through the court process. They may be forgiven by a judge, or the City may choose to absorb those costs. Vice Mayor Hamilton asked for clarification about whether the staff recommendation was just to leave this alone. Neighborhood Preservation Manager Gunvalsen affirmed that was correct.

Neighborhood Preservation Manager Gunvalsen explained the different ways in which staff handles graffiti issues including the standard practice. She explained when determining how to handle graffiti issues, the history of the property is taken into account and whether or not the property owner has been working with staff. Councilmember Swegles then asked if in the graffiti area, if it is not addressed in a quick manner, could it be a repeated situation or the amount of graffiti could be expanded. Neighborhood Preservation Manager Gunvalsen noted that the procedure could be changed to give the property owner one week's notice and then issue a citation if, at the end of the week, the graffiti had not been removed.

City Manager Amy Chan advised shortening the one-week notice would need Council direction and could be made part of the motion.

Mayor Spitaleri raised a concern citing senior citizens and asked if any contact is made once a senior citizen has been cited. Neighborhood Preservation Manager Gunvalsen responded that the City issues a courtesy notice, which explains what the violation is and a deadline. The notice always includes the Neighborhood Preservation Specialist's

name and contact information. The City also conducts "knock and talks" at people's property if they notice a violation and see a car in the property owner's driveway. They do not proactively try to call people if there are no issues, but if there are issues, staff will try to talk with the people one on one.

Mayor Spitaleri stated his concern that as the Sunnyvale population is growing older and getting more and more homebound, and having less capability to respond to a citation, so unless a person knocks on the door and tries to make contact with the property owner, the City may not be aware that the person may not be able to respond to the citation. Mayor Spitaleri asked how a senior citizen could be put in contact with the organizations that were mentioned in the staff report. Neighborhood Preservation Manager Gunvalsen responded that if the property owner calls the City and explains the particular hardship case, then staff will put the property owner in contact with the agencies as resources to assist them.

Mayor Spitaleri noted that he was thinking more of seniors with partial dementia or who have caregivers who may not speak English and how the program could be more proactive in intervention early on if the City knows the property owner is a senior.

City Manager Chan stated the challenge for staff is to know which residents are seniors or that they have a hardship. City Manager Chan advised workload on City Staff would significantly increase if the staff was charged with knowing which seniors needed help and which could easily respond to a warning notice.

Mayor Spitaleri suggested that at the time of issuing a second citation, the possibility of a proactive effort to get in touch with the property owner would be a good idea. Neighborhood Preservation Manager Gunvalsen advised staff covers more than 3,000 cases a year, and it would be very difficult for staff to attempt to make one-on-one contact with individuals to find out their particular situation and commented that it is very rare that somebody contacts staff to say he or she is unable to correct the code violation. If that does occur, the property owner has the option of appealing the citation through the administrative hearing process. The hearing officer can reduce the citation amount or rescind the citation entirely.

Mayor Spitaleri asked if there could be an aggressive program where on the second notice, someone would knock on the door and find out who was in the home. If staff saw the occupant was a senior, perhaps that could start the dialogue. City Manager Chan stated the question is resources. She stated that the Council may want to include that approach in a motion and direct staff to return to Council with a recommended increase in staffing.

Mayor Spitaleri noted he was looking for the same kind of program as PG&E has where the company can be notified if a senior is living in a particular household.

Councilmember Lee asked staff how long the Neighborhood Preservation Program has been in existence. Neighborhood Preservation Manager Gunvalsen believed the program had been in existence since the mid to late 1970s. City Manager Amy Chan estimated approximately 20 years.

Councilmember Swegles noted there is an organization called Rebuilding Together and asked when a second warning is issued, can staff include a Rebuilding Together brochure with it. Neighborhood Preservation Manager Gunvalsen explained that staff does send that information and gives property owners other types of resource.

information when the person contacts staff and explains the particular situation.

Councilmember Swegles then asked if the information could go to all residents – not commercial. City Manager Chan noted that as people call staff, they talk to them and find out what the issues are and then try to connect them with the resource that would help them the most.

Director Hom stated property owners could be referred to some of the City's local programs. There is a list of resources – depending on the violation – that the City can customize referrals to, as necessary. Director Hom stated that staff can let property owners know of other organizations that are not sponsored by the City. Councilmember Swegles requested a copy of that list and pointed out that an article in the quarterly could be included that would make more people aware of the resources available. Director Hom added the current fact sheet could be updated to list the different resources available, which would include Rebuilding Together and the type of assistance they offer.

Public hearing opened at 9:45 p.m.

Jim Griffith, Sunnyvale resident and was an HOA president for 11 years, expressed concern with Alternative 2, reducing the administration citation appeal period from 30 days to 15 days. Griffith pointed out that many people travel or might need more time to go through the process. Griffith stated 30 days was enough, but 15 may be too short and he would like to have people have the opportunity to work through the legal process.

Councilmember Howe asked staff if, during the appeal process, enforcement and issuing citations continue. Staff confirmed that it does. Neighborhood Preservation Manager Gunvalsen clarified that changing the appeal period would expedite the process. Councilmember Howe inquired if there is a notice on each citation stating that additional citations will be issued. Neighborhood Preservation Manager Gunvalsen read the wording verbatim. Councilmember Howe then asked if a date could be included on the citation stating when the property owner would receive another citation. Neighborhood Preservation Manager Gunvalsen stated staff generally handwrites "Citations will be issued on or after 'x' date if the violation is continued."

Vice Mayor Hamilton asked Griffith if he thought the whole process should be completed within 30 days. Griffith stated he did not think so and that the window of appeal was the only thing he was concerned about. Griffith pointed out that staff was talking about things mailed, not hand delivered, so that also would add to the complexity.

Vice Mayor Hamilton asked staff if a property owner needs to make a phone call within 15 days if an appeal is to be made. Neighborhood Preservation Manager Gunvalsen stated the property owner needs to mail the notice Request for Hearing back to the City. It must be postmarked within 30 days currently.

Councilmember Moylan noted Jim Griffith's concern applied to a small number of people, yet 10 percent would be 300 people – almost one each day.

Public hearing closed at 9:53 p.m.

Mayor Spitaleri asked staff if, based on the problem area, there is flexibility on how many days are given to the property owner to correct the situation. Neighborhood

Preservation Manager Gunvalsen responded there is flexibility.

MOTION: Councilmember Howe moved and Mayor Spitaleri seconded to approve staff's recommendation with the following exceptions: Alternative #1 – Council directs staff to work with the Office of the City Attorney to amend the Administrative Citation Fee Schedule except the fee for first violation shall remain at \$50, reduce the administration citation appeal period from 30 days to 15 days, and amend the automobile/vehicle service ordinance; Council directs staff to write a study issue paper to explore different alternatives for the City to assist with graffiti abatement on private property; additionally directs abatement of repetitious graffiti have a timeframe of three days instead of seven days.

Councilmember Howe offered to cosponsor a study issue with Mayor Spitaleri on how elderly notification for emergency situations could be integrated, concerning all City services.

Vice Mayor Hamilton stated she will be opposing this motion. Vice Mayor Hamilton state she liked the higher fees and would like to see the City put more resources into Neighborhood Preservation to try to rectify the situation. She stated a revenue source is needed to do so and encouraged her colleagues to agree with her.

Councilmember Whittum stated he would be holding out for the higher fines and he liked the shorter time limit on the graffiti. He also liked the three days; however, he preferred to keep the staff recommendation on the fines as stated by the Vice Mayor, due to lack of funds for Neighborhood Preservation. Councilmember Whittum stated their services were needed, and if higher fines helped to resolve their needs, the more the better.

MOTION FAILED.

VOTE: 3-4 (Vice Mayor Hamilton and Councilmembers Lee, Swegles, and Whittum dissented)

MOTION: Vice Mayor Hamilton moved and Councilmember Lee seconded to approve Councilmember Howe's previous motion with the one exception that Council approve staff recommendation on Alternative #1, including the other changes and including the shortened timeframe on the graffiti; Council directs staff to work with the Office of the City Attorney to amend the Administrative Citation Fee Schedule, reduce the administration citation appeal period from 30 days to 15 days, and amend the automobile/vehicle service ordinance; Council directs staff to write a study issue paper to explore different alternatives for the City to assist with graffiti abatement on private property; and Council directs abatement of repetitious graffiti have a timeframe of three days instead of seven days.

Councilmember Lee offered a friendly amendment and asked that the amount of the violations be printed in the warning on the new forms given to property owners, to advise of the cost if there is non-compliance.

Vice Mayor Hamilton accepted the friendly amendment.

RESTATED MOTION: Vice Mayor Hamilton moved and Councilmember Lee seconded to approve Councilmember Howe's previous motion with the one exception that Council approve staff recommendation on Alternative #1, including the other changes and

including the shortened timeframe on the graffiti; Council directs staff to work with the Office of the City Attorney to amend the Administrative Citation Fee Schedule, reduce the administration citation appeal period from 30 days to 15 days, and amend the automobile/vehicle service ordinance; Council directs staff to write a study issue paper to explore different alternatives for the City to assist with graffiti abatement on private property; and Council directs abatement of repetitious graffiti have a timeframe of three days instead of seven days;
and print the list of the violation costs in the warning notice.

VOTE: 7-0

PLANNING COMMISSION MINUTES OF NOVEMBER 24, 2008**2008-1165 - Title 19 - Amendments to Automobile/Vehicle Service and Repair in Residential Districts DH**

Dale Huber, Acting Neighborhood Preservation Manager, presented the staff report. He said that in October 2008 he and Christy Gunvalsen, Neighborhood Preservation Manager (on leave), met with the City Council to consider a Study Issue regarding more aggressive code enforcement. He said one of the issues that came up during the Study Session was that some of the municipal code provisions are hard to enforce. He said Council suggested that staff work with the City Attorney's Office to amend the ordinance regarding automobile/vehicle repair and service on residential properties. He explained the amendments being proposed. He said staff's recommendation is that the Planning Commission recommend to City Council to introduce the ordinance.

Comm. Klein said when this subject was previously presented to the Planning Commission there was a lot of discussion about the definition of major and minor service. Mr. Huber said the definitions are covered in the Definitions section of Title 19 of the Municipal Code. Mr. Huber said the definitions were very confusing for Neighborhood Preservation staff and in 2007 the definitions for major and minor were added. Comm. Klein said when the Commission first reviewed this report there were questions about people repairing vehicles outside of garages and the repairs being shielded from public view. Comm. Klein confirmed with staff that the way the ordinance is written that no major work would be allowed outside of a garage. Comm. Klein asked if there has been any public comment regarding this change. Mr. Huber said that there has been no feedback from the public regarding the removal of the "shielded from public view" language and no Neighborhood Preservation cases regarding this issue.

Chair Rowe asked staff about the service and repairs being limited to daytime hours with those hours being 7 a.m. to 10 p.m. She asked if construction hours were shorter. Mr. Huber said that construction hours are defined separately. Chair Rowe said she thinks 10 p.m. is late to be working on an automobile as repair work can be noisy. Mr. Huber commented that staff did discuss the issue and felt that people are allowed to do other work around their homes until 10 p.m., i.e. carpentry, and staff did not want to single out the repair and service work.

Chair Rowe opened the public hearing.

There were no public comments.

Chair Rowe closed the public hearing.

Comm. Klein moved for Alternative 1 to recommend to Council to introduce the ordinance. Comm. McKenna seconded the motion.

Comm. Klein said that this is a fairly simple update to fix an ordinance. He said the minor changes should make enforcement easier for the City staff. He said he does think there might be some feedback at a later date with someone not having access to a garage and wanting to do major work. He said the clarification about the definitions of major and minor is helpful and the wording in the ordinance works well. He said he thinks the allowed hours are fine.

Comm. McKenna complimented staff on recognizing that this could be a problem in neighborhoods and requiring that the repairs be done in an enclosed structure. She said that she lives in a neighborhood where someone built an airplane in their garage (adding the wings later) and no one ever knew about it until the plane was removed. She said that she thinks this is a wonderful, creative solution to address the problem.

ACTION: Comm. Klein made a motion on 2008-1165 to recommend to City Council to introduce the ordinance. Comm. McKenna seconded. Motion carried unanimously, 7-0.

APPEAL OPTIONS: This recommendation will be forwarded to City Council for consideration at the December 16, 2008 City Council meeting.