

**Council Meeting: September 28, 2010****SUBJECT: Amendment to Sunnyvale Municipal Code Section
10.16.120 Related to Nuisance Vehicles****REPORT IN BRIEF**

The purpose of this report is to seek Council's approval to amend the City of Sunnyvale Municipal Code Section, 10.16.120 in an effort to reduce the number of vehicles stored on city streets. The Municipal Code needs to be updated to address new technology in vehicles, to ensure neighborhood aesthetics are maintained, and to ensure the intent of the Code is clear.

BACKGROUND

The City of Sunnyvale Municipal Code prohibits vehicles, including boats and trailers, from being parked or left on a city street for more than seventy-two consecutive hours. Public Safety, the Office of the City Manager and Council regularly receive complaints from residents frustrated with owners who store their vehicles on city streets. As an example, in calendar year 2009, Public Safety responded to more than 3500 complaints of vehicles being stored or abandoned on city streets. Although most vehicle owners comply with the Code, a small percentage of vehicle owners circumvent the Code by moving their vehicle one mile as required under the current Code Section, and park the vehicle in essentially the same place after driving a short distance. This happens with boats and trailers as well. Although moving the vehicle a short distance technically meets the requirements of the current Code, the intent is to prohibit long-term storage of vehicles on city streets. Residents have become increasingly frustrated with the impact on the availability of parking and the aesthetic impact these chronic violators have in their neighborhoods. Public Safety is left with little recourse, other than to repeatedly send a Vehicle Abatement Officer to deal with the same vehicle or trailer in response to neighborhood complaints. In these cases, staff time spent on the repeat complaints can be significant, with little chance for resolution.

EXISTING POLICY**Land Use and Transportation Sub-Element**

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 Statement: C1.1.1 Prepare and update land use and transportation policies, design guidelines, regulations and engineering specifications to reflect community and neighborhood values.

Action Statement: C3.4.6 Manage on-street parking to assure safe, efficient traffic flow.

Legislative Management Sub-Element

Policy 7.3B.3 Prepare and update ordinances to reflect current community issues and concerns in compliance with state and federal laws

DISCUSSION

Staff surveyed 11 local jurisdictions to benchmark Municipal Code Ordinances and enforcement procedures. Many of the local jurisdictions eliminated the requirement of moving vehicles a designated distance. This was done because electronic odometers cannot be read without the ignition key, and it is not applicable in the case of trailers. Additionally, moving the vehicle or trailer a short distance and re-parking it in essentially the same place is inconsistent with the intent of their Ordinance.

Public Safety and the Office of the City Attorney collaborated to propose the following three changes (See Attachment A):

1. Eliminate the requirement to move the vehicle or trailer one mile. The intent is that the vehicle is being utilized regularly or stored appropriately on private property.
2. Eliminate the language related to reading or using the odometer as a primary source in determining whether a vehicle has been moved.
3. Adopt new language, which allows Public Safety to effectively enforce the on-street storage of vehicles and trailers by defining successive acts of parking as a single act.

The changes recommended in this report are specific to on-street parking of vehicles and trailers. They do not affect existing regulations under Municipal Code Section 19.46.140 related to recreational vehicle, boat, and trailer storage on private residential property.

FISCAL IMPACT

None

PUBLIC CONTACT

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

ALTERNATIVES

1. Amend Sunnyvale Municipal Code Section 10.16.120 to remove the requirement that a vehicle be moved at least one mile to comply with this Section; remove the language referencing the reading of the mechanical odometer. Clarify the intent to limit parking to 72 consecutive hours by adding language to define successive acts of parking to be presumed to be a single act of parking within the meaning of this Section.
2. Make no changes at this time.

RECOMMENDATION

Staff recommends Alternative #1: Amend Sunnyvale Municipal Code Section 10.16.120 to remove the requirement that a vehicle be moved at least one mile to comply with this Section; remove the language referencing the reading of the mechanical odometer. Clarify the intent to limit parking to 72 consecutive hours by adding language to define successive acts of parking to be presumed to be a single act of parking within the meaning of this Section.

Reviewed by:

Don Johnson, Director, Department of Public Safety
Prepared by: Kelly Fitzgerald, Deputy Chief, Special Operations

Reviewed by:

David A. Kahn, City Attorney

Approved by:

Gary M. Luebbbers
City Manager

Attachments

- A. Amended Language to Sunnyvale Municipal Code Section 10.16.120

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING SECTION 10.16.120 OF CHAPTER 10.16 (PARKING REGULATIONS) OF TITLE 10 (VEHICLES AND TRAFFIC) OF THE SUNNYVALE MUNICIPAL CODE RELATING TO PARKING LIMITS

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

SECTION 1. SECTION 10.16.120 AMENDED. Section 10.16.120 of Chapter 10.16 (Parking Regulations) of Title 10 (Vehicles and Traffic) of the Sunnyvale Municipal Code is hereby amended to read as follows:

10.16.120. Use of streets or public parking facilities for storage of vehicles prohibited.

It is unlawful for any person who owns or has possession, custody or control of any vehicle, including a boat or trailer, to park or leave such vehicle upon any street, alley, or public parking facility for a period of seventy-two consecutive hours or more. ~~The intent of this section is to limit parking of vehicles, boats and trailers to seventy-two consecutive hours. For the purposes of this section, a vehicle~~ A vehicle or trailer shall be considered to have been parked or left standing for seventy-two or more consecutive hours if it has remained inoperable or has not been moved ~~at least one mile during the seventy-two hour period.~~ An inoperable vehicle is a vehicle that cannot be moved under its own power or a vehicle which cannot operate legally and safely on the highways of the state. Pushing or moving a vehicle a short distance or attempting to rub away the tire marking will not be considered compliance with this section. ~~The mileage reflected on the odometer of the vehicle shall be presumed to be an accurate indication of the distance that the vehicle has or has not been moved. Obstruction of the odometer of the vehicle will result in a presumption that the vehicle has not been moved.~~ Additionally, successive acts of parking shall be presumed to be a single act of parking within the meaning of this section when the vehicle is moved merely for the purpose of avoiding the parking limitations prescribed by this section.

SECTION 2. 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 3. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid by a court of competent jurisdiction, 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 adopted this

ordinance, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause or phrase be declared invalid.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 5. 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 of a notice once in The Sun, the official newspaper for publication of legal notices of the City of Sunnyvale, 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 _____, 2010, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2010, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

City Clerk
Date of Attestation: _____

Mayor

SEAL

APPROVED AS TO FORM AND LEGALITY:

David E. Kahn, City Attorney