



**Council Meeting: November 29, 2011**

**SUBJECT: Proposed Ordinance Allowing Neighborhood Preservation to More Effectively Address Blighted and Vacant Properties**

**REPORT IN BRIEF**

The Neighborhood Preservation (NP) program is under the auspices of the Special Operations Division in the Department of Public Safety (DPS). NP is responsible for preserving and improving the quality of residential and non-residential properties and neighborhoods through enforcement of the Sunnyvale Municipal Code (SMC).

In order to ensure the continued effectiveness of the NP program, it's necessary to regularly evaluate and make appropriate changes to internal and external code enforcement practices, services, procedures, policies, systems, and priorities. These changes can be minor in nature, such as revising the sign code brochure, or more complex such as drafting new ordinances for City Council consideration.

NP staff recently conducted a thorough evaluation of the SMC and reviewed ordinances of over 50 cities in California as part of this non-routine. This was done to determine if new ordinances could better address a wider variety of problem properties, including properties with unique conditions not specifically addressed by the SMC.

Staff recommends the Council adopt four proposed amendments (Attachment A) to SMC 9.26.030 (Nuisances described-Authority to Abate) so that NP staff could more effectively address blighted and vacant properties and properties with unique problems. The amendments would be added under the description of nuisances below.

*9.26.030. Nuisances described-Authority to abate.*

*Each of the following conditions constitutes a nuisance, and whenever an enforcement officer determines that any of such conditions exist upon any premises, he or she may require or provide for the abatement thereof pursuant to this chapter and make the costs of abatement a lien upon the property.*

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## **BACKGROUND**

In 2008, a major review and evaluation of the NP program was conducted in an effort to determine if more aggressive practices and techniques should be implemented to address problem properties.

On October 14, 2008, NP staff presented the Report to Council “A More Aggressive Approach to Code Enforcement (Study Issue)” (08-031). This study issue resulted in some of the following notable changes to the NP program, consistent with a more aggressive approach to code enforcement:

- The code enforcement warning process was shortened.
- Chronic violators are provided less time to correct code violations and, in some cases, are issued administrative citations without warning.
- Administrative citations increased from \$50 to \$100 for the first violation, from \$100 to \$200 for the second violation, and from \$200 to \$500 for the third and subsequent violations. Administrative citations are at the maximum allowable limit under state law.
- The administrative citation appeal deadline was shorted from 30 days to 15 days.

The more aggressive momentum rapidly intensified when NP was transferred from the Community Development Department (CDD) to DPS in December 2009. NP was able to leverage a wider variety of resources and develop new strategies and practices consistent with more aggressive code enforcement. The results have been significant. More property owners are complying earlier in the compliance process, several long-standing blighted properties have been cleaned-up, and more cases were resolved in FY 2010-2011 than ever before in the history of the program. Although these changes have helped to expedite the resolution of code violations, NP is not able to address some properties with unique conditions using the existing ordinances.

## **EXISTING POLICY**

### **Land Use and Transportation Element**

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

#### **Action Statements**

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

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

**Policy B.1** Encourage property owners to maintain rental and ownership units in sound condition through the City’s neighborhood preservation and housing rehabilitation programs.

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**Policy B.2** Provide community outreach and comprehensive neighborhood improvement programs within Sunnyvale's Neighborhood Enhancement areas to improve housing conditions and the overall quality of life.

**Goal F** Maintain sustainable neighborhoods with quality housing, infrastructure and open space that fosters neighborhood character and the health of residents.

**Policy F.4** Continue to implement a citizen-oriented, proactive education program regarding neighborhood preservation. Encourage resident involvement in identifying and addressing neighborhood needs in partnership with the City.

**Socio-Economic Element**

**Policy A.5** Maintain City neighborhoods as safe, healthy places to live.

**DISCUSSION**

Blighted, nuisance, vacant, abandoned, and neglected properties have significant adverse effects on neighborhoods including crime, reduced property values, the broken window theory, and deterring nearby property owners from reinvesting in their own properties.

NP proactively works to improve residential and non-residential blighted and nuisance properties by diligently enforcing City ordinances and through the continued leveraging of DPS resources. NP is a dynamic program and staff regularly and proactively looks for new and better ways to conduct code enforcement and improve problem properties and neighborhoods.

The intended outcome of this non-routine was to critically evaluate existing ordinances to determine if they are sufficient in addressing blighted properties and properties with unique problems or circumstances. More specifically, it considers properties that are unsightly, abandoned, pose an access problem for emergency personnel and occupants due to a severe lack of basic maintenance, or have other problems negatively affecting the neighborhood that are not expressly covered by existing ordinances. Staff also evaluated ordinances of other cities to determine best practices.

The research showed that the four proposed amendments to the SMC could potentially augment existing ordinances to address varying types and degrees of blight. If the Council adopts the four proposed amendments, or a variation thereof, some property owners could be required by NP staff to make substantial improvements to their nuisance and blighted properties, or discontinue specific uses such as parking numerous business vehicles throughout the neighborhood, resulting in staff's resolution of several long-standing problems throughout the community.

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**FISCAL IMPACT**

No fiscal impact is expected.

**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 section 9.26.030 of Chapter 9.26 (Abatement of Nuisances) to provide that the following conditions are a nuisance:
  - a. Any building or structure that is abandoned, partially destroyed, or left in an unreasonable state of partial construction with no active building permits.
  - b. Vacant buildings, structures, or properties that pose a threat to the health, safety, or general welfare of the community; are poorly maintained; are dilapidated; are unsecured; attract illegal activity, trespassers or malicious mischief; or that constitute an attractive nuisance, fire hazard, or other dangerous condition.
  - c. Boarded-up structures or buildings not having exterior grade plywood, or similar high quality materials, painted to match the existing and predominant color of the structure and installed to fit the exact doorway or window openings, so as to diminish the effects on surrounding properties.
  - d. Any condition of blight, nuisance condition, or use of property so out of conformity with the general standards or maintenance of nearby properties as to cause substantial diminution of the enjoyment, use, or property values of nearby properties, as determined by the enforcing officer.
2. Adopt a modified version of one or more of the proposed amendments.
3. Do not adopt any of the proposed amendments.

**RECOMMENDATION**

Staff recommends alternative 1. Amend section 9.26.030 of Chapter 9.26 (Abatement of Nuisances) to provide that the following conditions are a nuisance:

- a. Any building or structure that is abandoned, partially destroyed, or left in an unreasonable state of partial construction with no active building permits.

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- b. Vacant buildings, structures, or properties that pose a threat to the health, safety, or general welfare of the community; are poorly maintained; are dilapidated; are unsecured; attract illegal activity, trespassers or malicious mischief; or that constitute an attractive nuisance, fire hazard, or other dangerous condition.
- c. Boarded-up structures or buildings not having exterior grade plywood, or similar high quality materials, painted to match the existing and predominant color of the structure and installed to fit the exact doorway or window openings, so as to diminish the effects on surrounding properties.
- d. Any condition of blight, nuisance condition, or use of property so out of conformity with the general standards or maintenance of nearby properties as to cause substantial diminution of the enjoyment, use, or property values of nearby properties, as determined by the enforcing officer.

Staff recommends the adoption of all four of the proposed amendments so that NP staff can more effectively address blighted and vacant properties and properties with unique problems throughout the City.

Reviewed by:

Dayton Pang, Interim Director, Public Safety

Prepared by: Christy Gunvalsen, Neighborhood Preservation Manager

Reviewed by:

David A. Kahn, City Attorney

Approved by:

Gary M. Luebbbers

City Manager

**Attachment**

A. Draft Ordinance

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING SECTION 9.26.030 OF CHAPTER 9.26 OF TITLE 9 OF THE SUNNYVALE MUNICIPAL CODE PERTAINING TO ABATEMENT OF NUISANCES**

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

SECTION 1. SECTION 9.26.030 AMENDED. Section 9.26.030 of Chapter 9.26 (Abatement of Nuisances) of Title 9 (Public Peace, Safety or Welfare) of the Sunnyvale Municipal Code is hereby amended to read as follows:

**9.26.030. Nuisances described—Authority to abate.**

Each of the following conditions constitutes a nuisance, and whenever an enforcement officer determines that any of such conditions exist upon any premises, he or she may require or provide for the abatement thereof pursuant to this chapter and make the costs of abatement a lien upon the property.

(a) – (w) [Text unchanged]

(x) Any building or structure that is abandoned, partially destroyed, or left in an unreasonable state of partial construction with no active building permits.

(y) Vacant buildings, structures, or properties that pose a threat to the health, safety, or general welfare of the community; are poorly maintained; are dilapidated; are unsecured; attract illegal activity, trespassers or malicious mischief; or that constitute an attractive nuisance, fire hazard, or other dangerous condition.

(z) Boarded-up structures or buildings not having exterior grade plywood, or similar high quality materials, painted to match the existing and predominant color of the structure and installed to fit the exact doorway or window openings, so as to diminish the effects on surrounding properties.

(aa) Any condition of blight, nuisance condition, or use of property so out of conformity with the general standards or maintenance of nearby properties as to cause substantial diminution of the enjoyment, use, or property values of nearby properties, as determined by the enforcing officer.

(ab) Any other condition on or use of property which is in fact a menace to the public peace, health, or safety.

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, such decision or

**ATTACHMENT A**

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 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 once in The Sun, the official 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 \_\_\_\_\_, 2011, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on \_\_\_\_\_, 2011, 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