



**Council Meeting: September 18, 2012**

**SUBJECT: Explore Tools for Resolving Interior Hoarding Conditions at Residential Properties (Study Issue)**

**REPORT IN BRIEF**

The purpose of this Study Issue is to determine how Sunnyvale can effectively address interior hoarding conditions at residential properties. Staff conducted an extensive amount of research on-line and through a survey of the California Association of Code Enforcement Officers pertaining to how other jurisdictions in the State of California address interior hoarding conditions at residential properties. While virtually all agencies address large accumulations of junk and debris in public view, most do not address interior hoarding. Fourth Amendment rights and recidivism, which is believed to be impacted by a hoarder's existing mental health condition, were the primary reasons cited for not addressing interior hoarding conditions. Of the jurisdictions that do address the issue, none of them have an ordinance specific to hoarding. Most of these agencies work collaboratively with the occupant for several months (sometimes years) and are satisfied with achieving incremental stages of voluntary progress. Staff learned that issuing administrative citations or conducting interior abatements are not effective tools in addressing this type of mental health condition.

As a result of the research conducted for this study and a currently active case involving severe interior hoarding conditions at a residential property in Sunnyvale, Neighborhood Preservation established an ad hoc hoarding task force to address these conditions.

Staff recommends the continuance of an ad hoc task force made-up of key representatives from social service agencies, Building, Housing, the Office of the City Attorney, Neighborhood Preservation, and other select units within the Department of Public Safety, including The Crisis Intervention Team and Fire Prevention. The task force would work collectively, on an as needed basis, to address individual cases of known severe interior hoarding conditions in violation of provisions of the Sunnyvale Municipal Code. These include building, housing, fire, and nuisance codes. Social service agencies such as Adult Protective Services, Child Protective Services, and the Mental Health Department could also be called upon to assist. Staff also recommends that a City Web page be created which would provide the public with information and resources about hoarding.

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## **BACKGROUND**

On November 29, 2011, the Department of Public Safety presented Report to Council number 11-253 titled: Proposed Ordinance Allowing Neighborhood Preservation to More Effectively Address Blighted and Vacant Properties. As part of the discussion, Councilmember Moylan proposed, and Councilmember Lee seconded, a Study Issue to address interior hoarding conditions at residential properties. On February 3, 2012, the City Council ranked this proposed Study Issue number one for the Department of Public Safety.

## **EXISTING POLICY**

### **Land Use and Transportation**

Policy LT-4.1e Establish and monitor standards for community appearance and property maintenance.

### **Community Character**

Policy CC -1.6 Maintain City neighborhoods as safe, healthy places to live.

### **Housing**

Policy HE-2.1 Encourage property owners to maintain rental and ownership units in sound condition through the neighborhood preservation and rehabilitation programs.

## **DISCUSSION**

The Mayo Clinic defines hoarding as “the excessive collection of items, along with the inability to discard them. Hoarding often creates such cramped living conditions that homes may be filled to capacity, with only narrow pathways winding through stacks of clutter.”

Resolving exterior hoarding situations, as opposed to interior hoarding, is far more straightforward. Neighborhood Preservation proactively and aggressively addresses outside storage of junk and debris in public view. These cases are a top priority for staff. When property owners do not voluntarily abate these conditions, staff issues administrative citations, which are at the maximum allowable limit under state law. If compliance is still not met, staff will attempt to abate the property by obtaining a warrant. The cost of the abatement is charged to the property owner.

The resolution of interior hoarding conditions is more complicated and challenging. Severe interior hoarding conditions could be discovered through consensual inspections; reports made by Public Safety personnel, as part of an emergency response; or discovery by Neighborhood Preservation staff through exterior inspections. Often, people who have extreme interior hoarding conditions show signs of it on the exterior of their properties, such as the bulging of exterior doors and windows due to the weight of items pressed against them. Also, an accumulation of flies are often found near door frames and window casings.

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In dealing with interior hoarding situations, a city must use appropriate caution to respect residents' constitutional rights. There are important legal requirements that must be met before a city can enter a home for the purpose of inspection or abatement of nuisance conditions. The initial entry into the home may result from consent or exigent circumstances related to a medical call, welfare check, or fire. However, any follow-up inspections or inspections initiated by reports from neighbors or family members about a hoarding situation, and any removal or destruction of property from a home, absent consent, will require appropriate warrants and orders from the court.<sup>1</sup>

Nevertheless, there are existing legal tools that provide the means to address interior hoarding in appropriate cases. These include:

1. **Consent.** Some hoarders have allowed their living conditions to deteriorate as a result of mental illness, disability, Alzheimer's disease, or other issues. These individuals may be overwhelmed and do not have the physical or emotional resources to clean-up their home environment, but they may be willing to accept help if the City can mobilize appropriate resources through family members, non-profit agencies, and social services. An individual with Alzheimer's disease, for example, may need a conservator who can arrange a different living situation, such as a residential care facility.
2. **Inspection and Abatement Warrants.** In certain situations, the City may be able to get court permission to enter and clean-up the property by obtaining a warrant for inspection and abatement of hazardous conditions. This process could be used where there are immediate risks to health and safety, and other efforts to obtain the individual's cooperation have failed. The City would have to pay for the abatement up front, but may put a lien on the property to recover costs. The City may have to arrange to store any property that has potential value. Therefore, the clean-up would likely involve only the removal of obvious trash that is creating a safety hazard, such as garbage or piles of newspaper. The process will likely be extremely traumatic for the individual hoarder and will not solve the underlying mental health problems that have led to the hoarding. Furthermore, it is highly likely that the hoarding problem would recur.
3. **Civil Action for Nuisance.** Where more court oversight is needed, another option is to file an action for nuisance and obtain an injunction ordering the individual to clean-up the property, or authorizing the City to conduct an abatement under court-ordered parameters.
4. **Criminal prosecution.** Although criminal prosecution for violation of state or City codes is an option, it is usually not an effective method of securing compliance with an uncooperative individual who is likely elderly, disabled, impoverished, and/or suffering from serious mental illness.

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<sup>1</sup> The Fourth Amendment to the United States Constitution provides "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

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5. **Receivership.** In some cases, the best option would be to put the property into a receivership under Health & Safety Code §17980 et. seq. The City would ask the court to appoint a receiver who would take over the property and would have the power to make arrangements for repairs, clean-up, or sale. The receiver would work with the individual's family, non-profits, appropriate social services, court-appointed conservator of the person, etc., to resolve the situation. The City would put a lien on the property to recover costs.

In preparation for this report, staff made contact with 33 jurisdictions in the state of California to determine how other cities and counties address interior hoarding. Of the jurisdictions contacted, 58% stated that they do not abate interior hoarding conditions, 27% stated that they rarely abate, 12% stated that they do abate, and 3% stated that they indirectly abate through a court appointed receivership process.

Of the jurisdictions that abate interior hoarding conditions, none have established a specific ordinance prohibiting hoarding. Instead, they use building, housing, fire, and nuisance codes, or a combination thereof. Specific anti-hoarding ordinances are not necessary and provide no additional legal tools over existing codes.

Hoarding is commonly thought to be associated with mental illness, which is one reason most jurisdictions do not take a strict code enforcement approach. Instead, they work hand-in-hand with property owners. Also, they often attempt to put them in touch with social service agencies and resources dedicated to helping hoarders such as Clutterers Anonymous and the International Obsessive Compulsive Disorder Foundation. Both agencies provide support groups for hoarders in the South Bay. If Council approves the development of a Web page pertaining to hoarding, these agencies and several others would be listed.

In extreme cases, some jurisdictions abate interior hoarding conditions; however, these situations are rare. Staff recently met with two code enforcement officials with the City of San Jose who work to resolve interior hoarding conditions at select properties. Like all of the other agencies surveyed, San Jose does not have a specific anti-hoarding ordinance. The staff only works with property owners where very serious conditions exist. Like most jurisdictions that address interior hoarding, San Jose always attempts to achieve voluntary compliance first. This is done by working collaboratively with the property owner even though the process is time consuming and progress is often slow. San Jose has a population of almost one million people; however, they only abate one to two properties per year for extreme conditions of interior hoarding. And, the conditions at these properties are so severe and unsanitary on the inside and outside that they are often profiled by the media.

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A senior member of the Cupertino code enforcement staff stated that while they are very effective in resolving cases of exterior hoarding, they do not attempt to resolve interior hoarding conditions due to Fourth Amendment concerns. Similar to past practices in Sunnyvale, cities like Cupertino only address interior violations related to a lack of running water, heat, functioning toilet, structural deficiencies, etc. Tenants, due to unresponsive property owners, will sometimes report these types of violations.

In the course of studying this issue, staff came across a severe case of interior hoarding which expedited the development of an ad hoc task force to address it. If Council directs staff to continue with the establishment of an ad hoc hoarding task force, the group would work collaboratively, on a case-by-case basis, to address and resolve extreme interior hoarding conditions at residential properties. A county-wide regional task force on hoarding does not exist.

### **FISCAL IMPACT**

The cost of resolving interior hoarding conditions at residential properties is relatively unknown because it would depend upon the extent and nature of the code violations. It would also depend upon the willingness and cooperation of property owners to voluntarily correct the violations.

If a property owner is making progress, even if progress is slow, staff would most likely continue to work with him or her and involve the various stakeholders from the task force to assist them, using a multidisciplinary approach. However, if the property owner makes no progress and the property is abated, the owner would be charged the cost of the abatement. Generally, administrative citations would be issued for non-compliance prior to an abatement action. Staff expects to absorb the cost of working with severe interior hoarders within the existing budget.

The cost to develop a City Web page and promote it to the public would require minimal staff hours and would also be absorbed within the existing budget.

### **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.

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**ALTERNATIVES**

1. Continue with the creation of an ad hoc task force to address interior hoarding conditions at residential properties.
2. Create a City Web page which would provide the public with information and resources about hoarding.
3. Do not address interior hoarding conditions at residential properties.

**RECOMMENDATION**

Staff recommends alternatives 1 and 2.

1. Continue with the creation of an ad hoc task force to address interior hoarding conditions at residential properties.
2. Create a City Web page which would provide the public with information and resources about hoarding.

If Council approves the continuation of an ad hoc task force, it would first attempt to work collaboratively with the property owner, even if it means incremental progress is being made. If the property owner fails to work with staff and resolve the violations, progressive enforcement would commence, which could result in the issuance of administrative citations, property abatement, or deeming the structure unsafe for human habitation. Cases of severe interior hoarding in Sunnyvale are relatively unknown because, like most jurisdictions, the City has not pursued them.

Staff also recommends that a City Web page be created which would provide the public with helpful information and resources about hoarding. The information included on the Web page would be regularly publicized through social networking sites, the Sunnyvale Quarterly Report, the City Manager's blog, and other information sharing platforms.

Reviewed by:

Frank Grgurina, Director, Public Safety

Prepared by: Christy Gunvalsen, Neighborhood Preservation Manager

Approved by:

Gary M. Luebbbers  
City Manager

**ATTACHMENT**

- A. 2012 Study Issue Paper – Explore Tools for Resolving Interior Hoarding Conditions at Residential Properties

## 2012 Council Study Issue

**DPS 12-02 Explore Tools for Resolving Interior Hoarding Conditions at Residential Properties**

Lead Department Public Safety

History 1 year ago None 2 years ago None

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

This study issue was suggested by Councilmember Moylan at the November 29, 2011 City Council meeting. It was proposed after staff presented RTC number 11-253 "Proposed Ordinance Allowing Neighborhood Preservation to More Effectively Address Blighted and Vacant Properties." The proposed ordinance primarily addresses exterior adverse property conditions. As a result, Councilmember Moylan expressed his desire for code enforcement staff to study how NP staff could resolve interior health and safety hazardous conditions, specifically hoarding.

The Mayo Clinic defines hoarding as *"the excessive collection of items, along with the inability to discard them. Hoarding often creates such cramped living conditions that homes may be filled to capacity, with only narrow pathways winding through stacks of clutter."*

The Mental Health Association of San Francisco describes it as *"Compulsive hoarding and cluttering is the acquisition of, and failure to discard, possessions which appear to be useless or of limited value. Compulsive hoarding and cluttering can lead to safety and health hazards."*

The Sunnyvale Municipal Code already allows NP staff to address interior structural violations (such as construction work done without permits) and substandard housing conditions (such as a lack of running water or electricity). However, existing codes and resources do not allow NP staff to abate, or foster the abatement of, internal nuisances or conditions of blight associated with hoarding.

As part of this study, NP would research what other jurisdictions are doing to resolve interior hoarding conditions, and also review other options such as establishing or participating in a regional hoarding task force. NP would also work with the Office of the City Attorney regarding the legalities of resolving interior hoarding cases. Entry into a private residence involves significant legal review to ensure compliance with the 4th Amendment to the Constitution. The 4th Amendment prohibits unreasonable search and seizure. Entry into a private residence without identified exceptions requires judicial review and the issuance of a warrant upon a finding of probable cause.

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

**Socio-Economic Element**

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

**3. Origin of issue**

**Council Member(s)** Moylan and Lee

**4. Staff effort required to conduct study** Moderate

**Briefly explain the level of staff effort required**

Research other public agencies in California to determine if and how they address interior hoarding situations. Explore the use of non-profit agencies specializing in helping hoarders clean-up their homes. Research the possibility of developing or joining a regional task force made up of non-profits, social service agencies, and cities and counties, created specifically to resolve interior hoarding situations. Determine the legal parameters of conducting interior inspections when interior hoarding situations are reported or suspected, in addition to search and seizure laws pertaining to the actual clean-up and removal of personal possessions.

**5. Multiple Year Project?** No **Planned Completion Year** 2012

**6. 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?** none

**Is a Council Study Session anticipated?** No

**7. Briefly explain if a budget modification will be required to study this issue**

**Amount of budget modification required**

**Explanation**

**8. Briefly explain potential costs of implementing study results, note estimated capital and operating costs, as well as estimated revenue/savings, include dollar amounts**

**Are there costs of implementation?** Yes

**Explanation**

The cost is unknown until the study is complete. There are several different approaches that will be explored including developing or joining a regional hoarding task force and creating a program specific to Sunnyvale to resolve interior hoarding cases. Each approach will have a different set of costs associated with it. The majority of costs associated with any of these approaches would most likely be NP and OCA staff time. It's also anticipated that the actual clean-up of properties would be charged to the property owners.

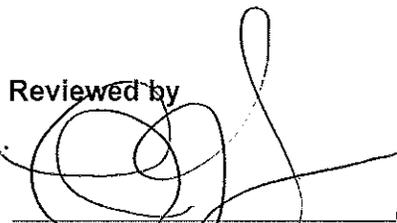
**9. Staff Recommendation**

**Staff Recommendation** Support

**If 'Support', 'Drop' or 'Defer', explain**

Members of the community have recently expressed concern about interior hoarding and its potential impact on surrounding properties. This study would explore the extent of the issue and

Identify the potential for the City to play a positive role in reducing related health and safety hazards posed by hoarding to the community.

Reviewed by   
\_\_\_\_\_  
Department Director      12/5/11  
Date

Approved by   
\_\_\_\_\_  
City Manager      12/6/11  
Date