

**DRAFT REPORT FOR PLANNING COMMISSION**  
**November 24, 2008****Council Meeting: December 16, 2008****SUBJECT: Title 19 - Amendments to Automobile/Vehicle Service and Repair in Residential Districts****REPORT IN BRIEF**

Staff has prepared an ordinance to modify provisions for automobile/vehicle service and repair in residential districts. This modification is to eliminate provisions that are challenging to enforce (regarding permitted timeframes) for automobile service and automobile repair.

**BACKGROUND**

In October the City Council considered a Study Issue on "A More Aggressive Approach to Code Enforcement" (RTC 08-301). A majority of the study focused on the procedures used by the Neighborhood Preservation Division in seeking compliance with city codes. As part of the discussion, staff identified recent code sections that are difficult to enforce 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.

**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.

**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**

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 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.

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.

**FISCAL IMPACT**

If Council 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.

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

**ALTERNATIVES**

1. Introduce ordinance
2. Introduce ordinance with modifications
3. Take no action

**RECOMMENDATION**

Staff recommends Alternative 1, introduce an ordinance to modify 19.12. These changes preserve the intent of the regulations to preserve the residential character of the neighborhoods and eliminate potential challenges and practicality of enforcement.

Reviewed by:

Hanson Hom, Director, Community Development

Prepared by: Dale Huber, Senior Neighborhood Preservation Specialist

Approved by:

Amy Chan

City Manager

**Attachments**

- A. Draft Ordinance Amending Title 19 (Chapter 19.12 Automobile Vehicle Service and Repair in Residential Districts)

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

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING SECTION 19.18.050 OF CHAPTER 19.18 (RESIDENTIAL ZONING DISTRICTS) OF TITLE 19 (ZONING) OF THE SUNNYVALE MUNICIPAL CODE RELATED TO AUTOMOBILE/VEHICLE SERVICE AND REPAIR IN RESIDENTIAL DISTRICTS**

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) 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.~~

**Deleted:** (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.¶

**Deleted:** d

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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. 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 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 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

\_\_\_\_\_  
Mayor

Date of Attestation \_\_\_\_\_  
SEAL

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
David E. Kahn, City Attorney