



# City of Sunnyvale

## Agenda Item-No Attachments (PDF)

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### REPORT TO COUNCIL

#### **SUBJECT**

Introduce an Ordinance to Amend Sunnyvale Municipal Code Chapter 8.16 (Solid Waste Management and Recycling), Chapter 10.04 (General Provisions), and Title 12 (Water & Sewers).

#### **BACKGROUND**

This report recommends minor updates to the Municipal Code to reflect the creation of the Environmental Services Department (ESD). ESD was created in 2011 by transferring the following four Divisions from the Public Works Department: 1) Water & Sewer Systems, 2) Solid Waste, 3) Water Pollution Control Plant, and 4) Regulatory Programs. Certain sections of the Municipal Code that still refer to the Public Works Department need to be amended to reflect these changes.

In addition, ESD staff has identified various clean-up amendments that are needed in areas of the Municipal Code pertaining to solid waste, water, and utility billing. The proposed amendments introduce new definitions, amend current definitions, clarify who is liable for solid waste service charges, authorize ESD staff to direct traffic, and clarify the purpose of the Water Division and related billing matters.

#### **EXISTING POLICY**

GOAL EM-12 SAFE and HEALTHY SOLID WASTE COLLECTION

Ensure that Municipal Solid Waste is collected in a safe and healthy manner.

#### **ENVIRONMENTAL REVIEW**

This action is not a project for purposes of the California Environmental Quality Act (CEQA). It does not involve any commitment to any specific project which may result in a potentially significant impact to the environment. (CEQA Guideline 15378 (b)(4))

#### **DISCUSSION**

The changes being recommended in the proposed Ordinance remove obsolete provisions and terms, and clarify and update terms and procedures used to administer the relevant Chapters in the Municipal Code, particularly related to the creation of the Environmental Services Department. The following are highlights of additional substantive updates to the Code:

#### **Chapter 8.16 (Solid Waste Management and Recycling)**

Staff recommends reorganizing Chapter 8.16 for better clarity, updating references to the Environmental Services Department, and other minor amendments. In addition, staff recommends the following substantive changes to this Chapter:

#### **8.16.010, 020 - Independent commercial recycling services**

Although "independent commercial recycling services" are referred to in Section 8.16.010 and

defined in 8.16.020, the existing code does not actually contain any specific regulations related to independent recycling services. Therefore, the references to independent commercial recycling services appear to be superfluous and have been removed.

*8.16.120 (Collection rates - liability - penalty for non-payment) (recodified as 8.16.100). Adds language, "The presence of active water service shall be the primary method of determining occupancy and liability of solid waste collection rates."*

The City of Sunnyvale bills for three utility services, water, wastewater, and solid waste on one combined bill. Sunnyvale Municipal Code 8.16.120 discusses the City Council's finding that the collection of solid waste from all places in the City benefits all occupants, therefore all occupants are made liable for the collection and disposal of solid waste. This addition to the language is to document the long-standing determination method for billing at least the minimum charge for solid waste service if there is an active water account at the property.

*8.16.110 (Exclusions) (recodified as 8.16.160)-- New provision added, "(g) Upon request by the city, any person claiming to be exempt under the provisions of this section shall submit credible evidence such as contracts, invoices, sales orders, statements signed under penalty of perjury, or other documentation sufficient to verify that such person qualifies for the exemption. The failure to provide such evidence may be used as evidence of a violation."*

Staff would make use of this provision to verify a statement by a hauler claiming one of the exemptions. For example, a company claiming the "Contractors" exclusion in 8.16.160(e) might be asked to provide a copy of the vehicle registration card for the collection truck being used. Similarly, a contract and payment records might be requested of a hauler claiming the "Collection of Source Separated Recyclable Materials" exclusion in 8.16.160(c) to verify that the hauler is, in fact buying recyclable materials, not charging for their removal.

8.16.180 (Impounding receptacles) (recodified as 8.16.170): Adds language to subsection (d) to codify current administrative practices for recovering the cost of SMaRT Station disposal. Other new language addresses a potential situation where the City may impound a debris box, then discover that it contains hazardous waste. These provisions will allow the City to recover from a non-compliant hauler the cost of disposing of the contents of the debris box, including any hazardous wastes it contains.

#### **Chapter 10.04 (Vehicles and Traffic - General Provisions)**

Staff recommends revising this chapter to authorize trained employees of ESD to direct traffic by voice, hand or other signal while doing work in the field.

#### **Chapter 12.20 (Water Department)**

Because the "Water Department" no longer exists as a separate City department, staff recommends replacing the existing provisions in Chapter 12.20 with provisions that describe the purpose and intent of water regulations, and impose responsibility for compliance on every property owner, tenant and customer supplied with water service.

#### **Chapter 12.24 (Water & Sewers - Water System Regulations)**

12.24.130. The proposed update adds a provision stating that accuracy standards for testing water meters as established by the American Water Works Association (AWWA) are acceptable. The AWWA defines and publishes standards for various meters and meter sizes. AWWA is accredited by the American National Standards Institute (ANSI) as an approved standards developing organization for the water industry. They publish ANSI/AWWA standards that are industry-recognized practices for water utility management and operations.

*12.24.230. Meter resetting charge will now be a fee set by Council rather than \$1.*

The meter resetting charge should be part of the regular rate process, not established by Municipal Code. In 1996, the voters of California approved Proposition 218, a ballot measure that resulted in amendment of the state's constitution, Articles 13C (Voter Approval for Local Levies) and 13D (Assessment and Property-Related Fee Reform). In order to be in compliance with the law, all property-related fees must be based on cost of service. To ensure the financial condition of the City's three utility enterprises - water, wastewater, and solid waste, staff proposes annual adjustments to utility rates. Water customers are noticed of rate changes 45 days before the public hearing, and then presented to City Council for approval.

Chapter 12.28 (Backflow Testing). Staff is proposing several substantive amendments to Chapter 12.28 that deal with backflow prevention and cross-connection in order to protect the water system against contamination.

### **General technical revisions**

In accordance with Section 7584, Title 17, California Code of Regulations, the City, is required to adopt operating rules and ordinances that implement a cross-connection program. This cross-connection program must establish the water purveyor's role and responsibility in enforcing and implementing cross-connection program policies and regulations. As such, the technical changes proposed ensure that the City implements the highest level of protection against the contamination or pollution of the City's potable water supply.

### **Consumer or Owner Responsibility**

Under current Municipal Code, the consumer of the water is held responsible for testing and maintaining backflow prevention devices. Especially in commercial properties, the property is often occupied by a tenant. The proposed language changes this to place the responsibility for the backflow prevention device on the owner of the property.

In order to comply with Section 7605(a)(c), Title 17, California Code of Regulations, the City, is mandated to ensure that all backflow prevention devices are tested on an annual basis by the water user. In the City's case, either the owner or consumer can act as the water user, which varies depending on lease agreements between the consumer and owner dictating terms of who has responsibility for maintaining plumbing systems. In order for City staff to ensure that State Board testing requirements are met, the City needs the ability to either require the owner or consumer to comply with the State Board cross-connection program requirements.

### **12.28.290 Non-compliance-Protection required for service connection**

In order for City staff to ensure compliance with Title 17, California Code of Regulations, City staff needs the ability to enforce the City of Sunnyvale Cross-Connection Control Program Policies and Regulations Manual. The enforcement element of the cross-connection program ensures that water users obtain Backflow Inspection Permits, and this permitting process ensures that water users

adhere to Section 7584, Title 17, California Code of Regulations.

#### **12.28.400 City requirements for approved backflow prevention assembly testers and installers**

In order to comply with Section 7605(b), Title 17, California Code of Regulations, the City, is mandated to ensure that backflow assembly testers and installers have the technical competency to test or install backflow prevention devices per State Board regulatory standards set forth in Title 17. As such, in order to protect public health and comply with Title 17 requirements, the City has implemented a rigorous approval process that ensures all backflow testers and installers meet established criteria set forth in the City of Sunnyvale Cross-Connection Control Program Policies and Regulations Manual.

#### **Chapter 12.50 (Procedures for Processing Delinquent Utility Accounts)**

##### **12.50.040 (when utility service may be discontinued)**

*The Code is being modified to provide that service won't be cut off until 25 days after the billing statement or 15 days after the date of the decision after a hearing, whichever is later.*

Current Municipal Code states that water service may be discontinued 15 days after the outcome of the administrative hearing. This proposed change modifies the language to concur with the bill's due date so that water service would not be discontinued before the bill's due date.

##### **12.50.060 (discontinuation of service)**

*Customers now will get notice 10 days prior to termination of service not 48 hours.*

The California Civil Code was amended by Senate Bill 120 to expand the noticing requirement of residential single-family and multi-family customers. Individually metered residential properties in detached single-family, multi-unit or mobile homes must be noticed 10 days prior to the interruption of water service. Master metered residential or mobile homes must be noticed 15 days prior to the interruption of water service.

##### **12.50.070 Deposits**

Changing from "shall" to "may" allows the deposit requirement to be reviewed administratively, allowing for long-standing customers who have been "grandfathered in" and may not hold a deposit on an account.

##### **12.50.080-12.50.090 Property Owner Responsibility**

California law (1996) does not allow a public utility company to hold an owner responsible for a tenant's unpaid bill. The Code is being updated to reflect State law requirements.

#### **FISCAL IMPACT**

There is no fiscal impact associated with the Ordinance update.

#### **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 website.

### **ALTERNATIVES**

1. Introduce the proposed Ordinance to Amend Sunnyvale Municipal Code Chapter 8.16 (Solid Waste Management and Recycling), Chapter 10.04 (General Provisions), and Title 12 (Water & Sewers).
2. Provide other direction to staff

### **STAFF RECOMMENDATION**

Alternative 1: Introduce the proposed Ordinance to Amend Sunnyvale Municipal Code Chapter 8.16 (Solid Waste Management and Recycling), Chapter 10.04 (General Provisions), and Title 12 (Water & Sewers).

Prepared by: Mansour Nasser, Water & Sewer Division Manager

Reviewed by: John Stufflebean, Director, Environmental Services Department

Reviewed by: Kent Steffens, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

1. Chapter 8.16 - Solid Waste
2. Chapter 10.04 - General Provisions
3. Chapter 12 - Water & Sewers