



# City of Sunnyvale

## Agenda Item-No Attachments (PDF)

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### REPORT TO COUNCIL

#### **SUBJECT**

Adopt a Resolution Amending Section 7.12 (Administrative Citations), Late Payments for Neighborhood Preservation and Fire Prevention Code Violations, and Licensing/Permitting Non Compliance Penalties in the Fee Schedule and Provide an Overview of Neighborhood Preservation Process Improvements

#### **BACKGROUND**

On July 28, 2020, staff presented a Report to Council (RTC No. 20-0512) to place assessments on the property tax roll for unpaid administrative citations. After much discussion, Council approved staff's recommendation to place unpaid administrative citations on the County Tax Roll; however, several councilmembers expressed concern that the late payment penalty accrual rate of 10% per month is too high.

Council also expressed concerns about citations issued to property owners for violations of the Sunnyvale Municipal Code (SMC) if those owners are unwilling or unable to correct code violations where there are extenuating circumstances such as advanced age.

#### **EXISTING POLICY**

Sunnyvale Municipal Code Section 1.05.110(d) - Recovery of administrative citation fines and costs, Special Assessment Procedure.

#### **General Plan**

Chapter 4, Community Character, Policy CC-1.6 Maintain City neighborhoods as safe, healthy places to live.

Chapter 6, Safety and Noise, Policy SN-4-2 Provide for assessment of changing community needs and expectations.

#### **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15378 (b) (4) in that it is a governmental fiscal activity that does not involve any commitment to any specific project which may result in a potential significant impact on the environment.

#### **DISCUSSION**

##### *Amendment to the Late Payment Penalty*

Each year, Council considers a resolution directing staff to proceed with the Special Assessment Procedure for placing delinquent administrative citations and any associated late payment penalties

on the tax roll. SMC Chapter 1.05 allows enforcement of unresolved and outstanding code violations through the issuance of administrative citations. Despite the efforts of City staff to collect on these citations after repeated attempts through billing and notification, some remained unpaid.

Council has the authority to either place these debts on the property tax roll or attempt to collect the delinquent funds by other means, such as a collection agency or sending additional delinquent notices; however, the latter approaches have proven mostly ineffective. Since 2010, when the City Council adopted the special assessment procedure in SMC Section 1.05.110 (Ordinance No. 2923-10), the City has achieved a high collection rate by placing delinquent accounts on the Santa Clara County property tax roll. Under this procedure, the County collects the assessment along with the owner's annual property taxes and remits payment to the City. If the owner fails to pay, the unpaid balance becomes a tax lien on the property that must be paid whenever the property is sold. The County also has the power to collect unpaid taxes through foreclosure, although this is rare.

The current late payment penalty rate of 10% per month is high compared to other nonpayment penalties imposed by the City. While it is likely that the high penalty percentage may be a factor in the City's positive collection rate, it does result in high assessment rates for nonpayment. By the time Council is provided with the annual assessment list for unpaid citations, the balance is often 50% to 100% of the original fine amount. Amending the Master Fee Schedule to reduce the late payment penalty rate of 10% per month to 1% per month would provide for more reasonable assessments moving forward.

Approximately ten years ago, Fire Prevention (FP) adopted an administrative citation process that mirrored Neighborhood Preservation's (NP) process and therefore also imposes a late payment penalty rate of 10% per month. Although FP rarely issues administrative citations, if Council amends the fee schedule for NP, it is recommended that they do the same for FP to maintain consistency. Additionally, the same penalty is in place for Licensing/Permitting Non Compliance Penalties. Staff is recommending to make all three late payment provisions consistent.

### *Improved Enforcement Process*

At the July 28, 2020 City Council meeting, Council expressed concerns about the NP enforcement process involving property owners who may have uncorrected code violations due to hardships such as advanced age, disability, mental illness, or limited financial resources. After the meeting, staff met to discuss a variety of enforcement improvement concepts to address these concerns. The Department of Public Safety recognized that assisting property owners with flexibility and by offering alternative resources is an appropriate step in the compliance process.

NP receives and investigates complaints from the public primarily related to SMC violations on private property, both residential and non-residential. NP staff respond to, investigate, and enforce violations through a progressive enforcement process. The primary objective of the NP program is to resolve code violations through education and voluntary compliance.

Citations are only issued after repeated attempts at voluntary compliance have failed. In FY 2019/20, of the 2,520 code enforcement cases opened, 175 administrative citations were issued for non-compliance. Staff collected \$59,500 in NP fines. In most cases, citations were issued on a weekly basis until compliance was met. Administrative citations start at \$100 for the first violation, \$200 for the second, \$500 for the third and subsequent violations. Generally, staff stopped issuing citations

when they reached \$4,800, which equates to 11 citations. At that point, other remedies are reviewed and considered such as property abatement. At all stages of the compliance process, NP staff tries to work cooperatively with property owners to gain voluntary compliance.

In response to concerns expressed at the July 28, 2020 City Council meeting, NP has implemented the following process improvement strategies:

- When citations reach \$1,800 (five citations), NP staff will review the details of each case with the Special Operations Captain who will provide input on the next steps of the compliance process.
- A variety of community-based organizations are contacted or provided to property owners who are not meeting compliance due to hardships. These include: Sunnyvale Community Services (helps prevent homelessness and hunger), Heart of the Valley - Services for Seniors, Rebuilding Together (provides repair services for elderly, disabled, and low-income seniors), Council on Aging Silicon Valley, Sunnyvale faith-based organizations, Neighborhood Associations who may be willing to assist, and Santa Clara County Adult Protective Services. City resources also include DPS officers trained in Crisis Intervention, Senior Center Case Managers, and the Housing division (for access to rehabilitation loans and grant programs).

### **FISCAL IMPACT**

Approximately \$73,300 is collected annually for administrative citations and late payment penalties excluding what is collected through the County tax roll collection. Both the change in enforcement practice, and the reduction in the penalty amount will reduce revenues to the General Fund. The FY 2020/21 Budget includes an average of \$70,000 per year in fine and penalty revenue for a total of \$1.4 million over twenty years. Since it is difficult to anticipate how many citations will be issued and if they will be paid, the total fiscal impact is unknown.

### **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. Adopt a resolution amending Section 7.12 (Administrative Citations) of the Fee Schedule to reduce the late payment penalty rate of 10% per month to 1% per month for Neighborhood Preservation and Fire Prevention Code Violations and Licensing/Permitting Non Compliance Penalties (Attachment 1 to the report) and find that the Action is Exempt from CEQA pursuant to CEQA Guidelines section 15378 (b) (4).
2. Adopt a resolution amending Section 7.12 (Administrative Citations) of the Fee Schedule to reduce the late payment penalty rate of 10% per month to a percentage per month to be determined by City Council for Neighborhood Preservation and Fire Prevention Code Violations and Licensing/Permitting Non Compliance Penalties (Attachment 1 to the report) and find that the Action is Exempt from CEQA pursuant to CEQA Guidelines section 15378 (b) (4).
3. Do not adopt the resolution.

## **RECOMMENDATION**

Alternative 1: Adopt a resolution amending Section 7.12 (Administrative Citations) of the Fee Schedule to reduce the late payment penalty rate of 10% per month to 1% per month for Neighborhood Preservation and Fire Prevention Code Violations and Licensing/Permitting Non Compliance Penalties (Attachment 1 to the report) and find that the Action is Exempt from CEQA pursuant to CEQA Guidelines section 15378 (b) (4).

Prepared by: Christy Gunvalsen, Neighborhood Preservation Manager

Reviewed by: Tim Kirby, Director, Department of Finance

Reviewed by: Phan S. Ngo, Director, Department of Public Safety

Reviewed by: Teri Silva, Assistant City Manager

Approved by: Kent Steffens, City Manager

## **ATTACHMENTS**

1. Resolution Amending the Fee Schedule