



# City of Sunnyvale

## Agenda Item

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24-0125

Agenda Date: 2/15/2024

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### 2024 COUNCIL STUDY ISSUE

#### **NUMBER**

CDD 22-05

**TITLE** Consider Modifications to the Sunnyvale Municipal Code Related to Undergrounding Utilities

#### **BACKGROUND**

**Lead Department:** Community Development Department

**Support Departments:** Office of the City Manager  
Office of the City Attorney  
Department of Public Works

**Sponsor(s):** Councilmembers: Melton, Klein

**History:** 1 year ago: Ranked, Below the Line  
2 years ago: Ranked, Below the Line

#### **SCOPE OF THE STUDY**

##### **What precipitated this Study?**

In 2021 the Council considered a housing project that used the State Density Bonus Law to request relief from the City's utility undergrounding requirement as an incentive or concession to reduce the cost of the project. During the public hearing on the item, a few Councilmembers inquired about and expressed concerns over this request. At a subsequent meeting, a Study Issue was sponsored to update the existing requirements and explore modifications to the regulations to emphasize and bolster the safety aspects related to undergrounding utilities to avoid these types of incentive or concession requests in the future.

##### **What are the key elements of the Study?**

There are several reasons jurisdictions require the undergrounding of utilities; the two primary purposes are safety and aesthetics. While costly, undergrounding utilities often reduces fire hazards, accidents, safety risks, and power outages while also improving road safety by lessening the chances of motorists striking poles. In Sunnyvale, it is rare that a development project uses the Density Bonus Law to avoid this requirement; however, it does happen occasionally. The Study would evaluate whether there are significant, quantifiable, direct, and unavoidable impacts to public health and safety related to overhead utility lines that can only be feasibly mitigated by undergrounding, and if so, whether the City could adopt undergrounding regulations that could be legally used as a basis for denying a request for an incentive or concession under the Density Bonus Law.

This Study may include:

- Evaluation of the current regulations to:
  - Strengthen the language to better reflect the safety aspects of undergrounding utilities, which may include the addition of findings regarding safety.

- Evaluate the existing language in state housing laws regarding incentives and concessions programs.
- Review of current practices and how undergrounding waivers, concessions and deferrals are evaluated, determined, processed, and tracked.
- Discussions with other jurisdictions to compare undergrounding requirements.
- Community outreach.
- Hiring a consultant with specialized knowledge on the topic who can aid the City in better understanding the safety impacts/risks.
- Preparation of a draft ordinance if municipal code changes are identified.

**Estimated years to complete Study:** 1-2 years

### **FISCAL IMPACT**

#### **Cost to Conduct Study**

Level of staff effort required (opportunity cost):	Major
Funding Required for Non-Budgeted Costs:	\$50,000
Funding Source:	Will seek budget supplement

Funding would be used to hire a specialist on the topic to help the City understand the safety impacts/risks with not undergrounding utilities.

#### **Cost to Implement Study Results**

Unknown. The Study would include assessment of potential costs, including capital and operating, as well as revenue/savings.

### **EXPECTED CITY COUNCIL, BOARD OR COMMISSION PARTICIPATION**

Council-Approved Work Plan: No  
Council Study Session: Yes  
Reviewed by Boards/Commissions: Planning Commission

### **STAFF RECOMMENDATION**

Support. This policy issue merits discussion at the 2024 Study Issues Workshop.

Understanding the safety risks and impacts that surround undergrounding of utilities is important and making modifications to the Sunnyvale Municipal Code to mirror the information gained would be a responsible approach by the City. However, it is important to note that the language surrounding concessions and waivers associated with the State Density Bonus in the Housing Accountability Act does state that a reasoning as to when a jurisdiction can say no to a concession/waiver should be infrequently used. Therefore, while an important Study, the City may still have to allow these concessions in some cases if the results of the research do not point to a serious safety risk if utilities are not undergrounded in the City.

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Reviewed by: Chip Taylor, Director, Department of Public Works  
Reviewed by: Connie Verceles, Deputy City Manager  
Approved by: Kent Steffens, City Manager