



Agenda Item:

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## **COUNCIL COMMUNICATION**

### **City Manager's Office**

#### **GENERAL INFORMATION**

Agenda Date: 04/25/2005  
05-228

Communication No.:

Agenda Item Type: Ordinance  
No.:

Roll Call

Submitted by: William G. Stowe, Public Works Director

#### **SUBJECT—**

Municipal Solid Waste Collection Exception Ordinance Revisions

#### **SYNOPSIS—**

On April 11, 2005, by Roll Call No. 05-925, the City Council received, and referred to the Legal Department for clarification and required ordinance revisions, a recommendation to except certain residential premises from City solid waste collection. An ordinance revision has now been drafted to, upon request of the owner, grandfather in a complex of two or more abutting (common border) residential dwellings that are commonly owned. Properties are not eligible for this grandfather exception unless they were receiving private solid waste collection service as of January 1, 2005. The exception would remain in effect until such time as a residential premise changes ownership from the abutting premises. It then becomes subject to City solid waste collection. Further, staff has defined the terms, "complex of residential buildings" and "multiple-family dwelling," and has clarified the definitions of residential premises and multifamily residential premises.

Absent adoption of the above-described ordinance revisions, the Public Works Director will move forward with strict interpretation of the existing ordinance.

#### **FISCAL IMPACT—**

Qualifying property owners/managers currently requesting the exception would result in an estimated unrealized revenue of \$20,000-\$25,000 per year.

## **RECOMMENDATION—**

Approval

## **BACKGROUND—**

In mid-2004, billing system enhancements relating to the Solid Waste Enterprise accounts allowed staff to accurately identify residential properties that, pursuant to the Municipal Code, require solid waste collection services and billing by the City. *Residential premises* are to be served by City solid waste collection service and are defined in Chapter 98 of the Municipal Code as single-family dwellings or any multiple-family dwelling up to and including four separate living units or family quarters. Garden-type apartments and row-type housing units are included as *residential premises* regardless of the total number of apartments or units included in a given housing development. Contrarily, premises with five or more units, such as a five-plex, are defined as *multifamily residential premises*, and are only to be serviced by commercial waste haulers.

For the last year, staff has worked to bring hundreds of townhome, duplex, three-plex, and four-plex accounts into compliance with the Municipal Code by initiating solid waste collection and billing for these types of residents. In working through compliance enforcement, concerns have been raised by affected property owners relative to abutting residential premises that are commonly owned. Ordinance revisions have now been developed to grandfather in abutting, commonly owned residential premises until such time as ownership of the property changes. The terms, “complex of residential buildings” and “multifamily dwelling,” have been defined, and the definitions of residential premises and multifamily residential premises have been clarified.

The revisions included in the proposed ordinance allow for an exception on a grandfather basis for abutting, commonly owned residential premises utilizing private collection service as of January 1, 2005. The grandfathering provisions are intended to delay the impact of transitioning to City solid waste collection until such time as property ownership changes, protecting the current owners from the unforeseen impact on their business. If, however, one of the residential premises changes ownership from the abutting premises, it becomes subject to City solid waste collection.

The current definition of residential premises has been revised to delete the term, “family quarters,” because “family quarters” is neither necessary nor defined.

Current definition: *Residential premises* means and includes single-family dwellings and any multiple-family dwelling up to and including four separate living units or family quarters. Garden-type apartments and row-type housing units shall be considered residential premises regardless of the total number of such apartments or units which may be included in a given housing development.

Proposed definition: *Residential premises* means and includes single-family dwellings and any multiple-family dwelling up to and including four separate living units. Garden-type apartments and row-type housing units shall be considered residential premises regardless of the total number of such apartments or units which may be included in a given housing development.

To define the term, *multiple-family dwelling*, as used in the definition of residential premises, a proposed definition has been included to read: *multiple-family dwelling* means a single building designed for or occupied by two or more families as a place of residence.

The current definition of *multifamily residence* has been revised to delete the terms, “apartment building,” “condominium,” and “complex of such buildings,” to avoid future misunderstanding regarding solid waste collection service by the City.

Current definition: *Multiple-family residential premises* means a multiple-family dwelling building, an apartment building, a condominium, or a complex of such buildings, containing five or more individual living units.

Proposed definition: *Multifamily residential premises* means a multiple-family dwelling containing five or more individual living units.

To define the term, “complex of residential buildings,” for purposes of establishing the grandfathering exception, a proposed definition has been included to read: *complex of residential buildings* means two or more abutting buildings that are either residential premises or multifamily premises that share a common ownership and are not separated by a public street or alley.

The proposed ordinance revisions, as outlined above, are intended to minimize the impact on business operations for current owners of adjacent residential properties with private solid waste service as of January 1, 2005. Such arrangements would cease upon a change in ownership, wherein the new owner would have advance notice of the requirement of City solid waste collection service.