



COUNCIL AGENDA: 09-11-07
ITEM: 3.12

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Peter Jensen

**SUBJECT: AMENDMENT TO COUNCIL
POLICY 2-4 (COUNCIL
OFFICE SPACE ACQUISITION AND
MODIFICATION) AND COUNCIL
POLICY 9-9 (SMOKING IN
BUILDINGS OWNED, LEASED, OR
OCCUPIED BY THE CITY)**

DATE: 8-20-07

Approved

Date

8/22/07

COUNCIL DISTRICT: City-wide
SNI AREA: N/A

RECOMMENDATION

- 1) Adoption of a resolution approving a revised Council Policy 2-4 for Council Office Space Acquisition and Modification.
- 2) Adoption of a resolution approving a revised Council Policy 9-9 for Smoking in Any Building Owned, Leased, or Occupied by the City.

OUTCOME

Acceptance of the first recommendation will update the Office Space policy to reflect General Services as the lead department in coordinating the acquisition and modification of City Council office space, as well as clarifying the roles of other City departments. The rules and procedures of the policy are essentially unchanged.

Acceptance of the second recommendation will update the Smoking policy to reflect the extension of smoking prohibitions from within 20 feet of buildings owned, leased, or occupied by the City to within 25 feet of such buildings. Smoking at the San José International Airport will continue to be governed by San Jose Municipal Code section 9.44.045 – Airport Smoking Regulations.

THE HONORABLE MAYOR AND CITY COUNCIL

8-20-07

Subject: AMENDMENT TO COUNCIL POLICY 2-4 (COUNCIL OFFICE SPACE ACQUISITION AND MODIFICATION) AND COUNCIL POLICY 9-9 (SMOKING IN BUILDINGS OWNED, LEASED OR OCCUPIED BY THE CITY)

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BACKGROUND

The Council Office Space Acquisition and Modification policy has been in effect since September 1977. This policy guides any purchases and alterations of office space which are deemed necessary for the efficient conduct of official duties.

The Smoking Policy for Any Building Owned, Leased, or Occupied by the City was originally adopted on October 9, 1984 because of growing concern regarding smoking in public places and its detrimental effect on the health of the public and City employees.

The General Services Department has the responsibility of managing the majority of City facilities and ensuring that these policies are followed.

ANALYSIS

Since Council Policy 2-4 (Council Office Space Acquisition and Modification) became effective in September of 1977, various changes in department names and responsibilities have taken place. It is now necessary to update the policy to align with these various changes. The rules and procedures of the policy will remain essentially the same. The attached strike-out version of the policy displays all of the changes, which are summarized below:

Background

- Deletes the reference to the City's Administrative Manual

Responsibility and Action

- Items 3, 4, 12, 13, and 15 are changed to place responsibility with the General Services Department, rather than Property and Code Enforcement
- Items 7 and 8 are changed to refer to the Budget Director, rather than the Budget Supervisor
- Items 13 and 14 are changed to place responsibility for work orders with General Services, rather than Public Works

Council Policy 9-9 (Smoking in Any Building Owned, Leased, or Occupied by the City) was first adopted in October 1984 and later revised in April 1993. With the growing desire to ensure that City facilities meet "green" building standards, it has come to staff's attention that the 2008 version of LEED-EB provides for a green building credit if smoking is prohibited within 25 feet. This is a new credit and has been factored into staff's early analysis of City Hall's LEED-EB potential. Including the 25 foot prohibition into the City Council Policy at this time will help to ensure that City Hall achieves this green building credit.

8-20-07

Subject: AMENDMENT TO COUNCIL POLICY 2-4 (COUNCIL OFFICE SPACE ACQUISITION AND MODIFICATION) AND COUNCIL POLICY 9-9 (SMOKING IN BUILDINGS OWNED, LEASED OR OCCUPIED BY THE CITY)

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Current state law prohibits smoking within 20 feet of main entrances, exits, and operable windows of any building owned, leased or occupied by the state, county or city. The law does not prevent local government entities from adopting and enforcing no smoking laws that go beyond 20 feet. The law also does not provide funding for enforcement and allows local governments to determine enforcement protocols and applicability. The revised Smoking Policy will apply to all City employees and members of the public, but a Smoking Ordinance would be required to take enforcement action against a member of the public who violates the Smoking Policy. However, it is anticipated that clear signage and placing ash cans at least 25 feet from affected entrances, exits and windows will make the policy self-enforcing.

The attached strike-out version of the policy displays all of the changes, which are summarized below:

Background

- Deletes the reference to outdated studies and findings

Purpose

- Provides a clearer definition of the coverage area

Policy

- Adds reference to prohibited areas, including:
 - within 25 feet horizontally or vertically of any entrances, exits, operable windows, or air intake openings of any building owned, leased or occupied by the City
 - in any vehicle owned, leased or rented by the City
- Includes the disposal of tobacco products as a prohibited activity
- Adds definition of “smoking”
- Updates reference to Municipal Code that governs smoking at the San Jose International Airport

This policy revision will have no effect on the smoking policy at the San José International Airport, which will continue to be governed by San José Municipal Code section 9.44.045 – Airport Smoking Regulations. This section of the Municipal Code was recently reviewed and revised by the City Council on April 17, 2007.

EVALUATION AND FOLLOW-UP

Approving these policy revisions will not affect any performance measures nor will it require further follow-up or report back to Council.

THE HONORABLE MAYOR AND CITY COUNCIL

8-20-07

Subject: AMENDMENT TO COUNCIL POLICY 2-4 (COUNCIL OFFICE SPACE ACQUISITION AND MODIFICATION) AND COUNCIL POLICY 9-9 (SMOKING IN BUILDINGS OWNED, LEASED OR OCCUPIED BY THE CITY)

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PUBLIC OUTREACH

Although this item does not meet any of the below criteria, the item will be posted on the City's Agenda Webpage for the 8/28/07 Council Meeting.

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**

- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**

- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

COORDINATION

This report has been coordinated with the Airport Department, the City Attorney's Office, and the City Manager's Office.

CEQA

Not a project.



PETER JENSEN
Director, General Services Department

Attachment

For questions please contact Randy Turner, Deputy Director of General Services, 938-2021.



City of San Jose, California
COUNCIL POLICY

TITLE COUNCIL OFFICE SPACE ACQUISITION AND MODIFICATION	PAGE 1 OF 3	POLICY NUMBER 2-4
	EFFECTIVE DATE Sept. 1977	REVISED DATE 09/11/2007
APPROVED BY		

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BACKGROUND

This policy is meant to specify the constraints or routine to be observed by the Mayor or Councilmembers (as individuals or as a body) to acquire or modify space for the conduct of official duties.

Deleted: Administrative procedures for the use, alteration, and management of municipal facility space are published in the City's Administrative Manual (Section 151). These procedures apply to all departments and employees of the City. They do not

PURPOSE

The purpose of this policy statement is to establish rules and procedures for the acquisition or modification of space required for the conduct of official duties.

POLICY

1. There is hereby established a Council Policy for the acquisition or modification of office space for the conduct of the representative and legislative business of the City.
2. This policy applies to the Mayor and members of the City Council as a body and as individuals in the performance of official duties.
3. All Mayoral and Council requests for office space acquisition or modification shall be made and processed in accordance with the following procedure.
4. No office space acquisition or modification shall be initiated, nor public monies expended therefore, except through approval and appropriation action by the City Council.
5. Disbursement of public money for approved acquisition and modification of office space shall be made from an appropriation in the General Fund for construction improvement, maintenance, and repair of municipal buildings; and such expenditures shall be separately recorded as expenditures of the Mayor and City Council.

DEFINITIONS

The term "office space" as used in this policy statement is defined as enclosed areas designated for the conduct of City Council business. Such space includes the offices of the Mayor and individual Councilmembers, their aides and assistants, and supporting clerical personnel; lobbies, waiting rooms, anterooms, and passages; conference rooms and Council Chambers. For the purposes of this policy, "space acquisition" is the process for obtaining the authorization to occupy and use office space. "Space modification" is the process of physically changing the structural configuration, dimensions, or appearance of office space; or of installing or removing utility or communications devices.

COUNCIL POLICY – Cont'd.

TITLE COUNCIL OFFICE SPACE ACQUISITION AND MODIFICATION	PAGE 2 OF 3	POLICY NUMBER 2-4
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RESPONSIBILITY

ACTION

- | | | |
|--|---|--|
| Elected Official
(Mayor or Council-member) Initiating Request | 1. Submit memorandum to Mayor and City Council as a request for Council approval. | |
| City Council | 2. Consider and act on request as follows:
a. Refer to Administration for cost and budget analysis;
OR
b. Deny. | Deleted: council |
| City Manager | 3. Refer assignment to Director of <u>General Services</u> for processing and to the Director of Finance for establishing cost centers for space acquisition or modification for the Mayor and City Council, if none exist. | Deleted: Property and Code Enforcement |
| Director of <u>General Services</u> | 4. Obtain estimate of cost of modification, related to relocations, and utility installations. | Deleted: Property and Code Enforcement |
| | 5. Submit cost estimates, proposed work completion schedule, and workload impact statement to City Manager. | Deleted: from Department of Public Works |
| Director of Finance | 6. Establish Cost Centers for <u>office space acquisition and office space modification</u> for Mayor and City Council, if none exist. | |
| City Manager | 7. Refer to Budget <u>Director</u> . | Deleted: Supervisor |
| Budget <u>Director</u> | 8. Prepare and attach a budget and appropriation impact analysis; return to City Manager. | Deleted: Supervisor |
| City Manager | 9. Return to City Council with recommendation for scheduling or further consideration. | |
| City Council | 10. Consider and act on proposal and recommendation:
a. Approve work and expenditure of funds;
OR
b. Approve work subject to appropriation action;
OR
c. Deny. | |
| | 11. Refer approved proposals to the Administration. | |
| City Manager | 12. Refer approved requests to <u>the General Services Department</u> . | Deleted: Property and Code Enforcement |

COUNCIL POLICY – Cont'd.

TITLE COUNCIL OFFICE SPACE ACQUISITION AND MODIFICATION	PAGE 3 OF 3	POLICY NUMBER 2-4
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RESPONSIBILITY

ACTION

Director of ~~General~~
Services

13. a. Issue work orders to initiate approved and funded actions;

OR

- b. Hold conditionally approved request for inclusion in budget request for following fiscal year.

Deleted: Property and Code Enforcement

Deleted: to Public Works

14. Accomplish work specified in work orders.

Deleted: Public Works

Property and Code Enforcement

15. Report project completion and cost report to the City Manager.

Deleted: Notify Director of Property and Code Enforcement when work is completed.

City Manager

16. Submit project completion and cost report to City Council.

City of San Jose, California
COUNCIL POLICY

TITLE COUNCIL OFFICE SPACE ACQUISITION AND MODIFICATION	PAGE 1 OF 3	POLICY NUMBER 2-4
	EFFECTIVE DATE Sept. 1977	REVISED DATE 09/11/2007
APPROVED BY		

BACKGROUND

This policy is meant to specify the constraints or routine to be observed by the Mayor or Councilmembers (as individuals or as a body) to acquire or modify office space for the conduct of official duties.

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COUNCIL POLICY – Cont'd.

<small>TITLE</small> COUNCIL OFFICE SPACE ACQUISITION AND MODIFICATION	<small>PAGE</small> 2 OF 3	<small>POLICY NUMBER</small> 2-4
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RESPONSIBILITY

ACTION

- | | |
|---|--|
| Elected Official
(Mayor or Council-
member) Initiating
Request | 1. Submit memorandum to Mayor and City Council as a request for Council approval. |
| City Council | 2. Consider and act on request as follows:
a. Refer to Administration for cost and budget analysis;
OR
b. Deny. |
| City Manager | 3. Refer assignment to Director of General Services for processing and to the Director of Finance for establishing cost centers for space acquisition or modification for the Mayor and City Council, if none exist. |
| Director of General
Services | 4. Obtain estimate of cost of modification, related to relocations, and utility installations.

5. Submit cost estimates, proposed work completion schedule, and workload impact statement to City Manager. |
| Director of Finance | 6. Establish Cost Centers for office space acquisition and office space modification for Mayor and City Council, if none exist. |
| City Manager | 7. Refer to Budget Director. |
| Budget Director | 8. Prepare and attach a budget and appropriation impact analysis; return to City Manager. |
| City Manager | 9. Return to City Council with recommendation for scheduling or further consideration. |
| City Council | 10. Consider and act on proposal and recommendation:
a. Approve work and expenditure of funds;
OR
b. Approve work subject to appropriation action;
OR
c. Deny. |
| | 11. Refer approved proposals to the Administration. |
| City Manager | 12. Refer approved requests to the General Services Department. |

COUNCIL POLICY – Cont'd.

TITLE COUNCIL OFFICE SPACE ACQUISITION AND MODIFICATION	PAGE 3 OF 3	POLICY NUMBER 2-4
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RESPONSIBILITY

ACTION

Director of General
Services

13. a. Issue work orders to initiate approved and funded actions;
OR
b. Hold conditionally approved request for inclusion in budget request for following fiscal year.
14. Accomplish work specified in work orders.
15. Report project completion and cost report to the City Manager.

City Manager

16. Submit project completion and cost report to City Council.

City of San Jose, California
COUNCIL POLICY

TITLE SMOKING POLICY FOR ANY BUILDING OWNED, LEASED OR OCCUPIED BY THE CITY	PAGE 1 OF 2	POLICY NUMBER 9-9
	EFFECTIVE DATE 10/09/84	REVISED DATE 09/11/2007
APPROVED BY		
COUNCIL ACTION 10/9/84, Item 103; 4/27/93, Item 9		

Deleted: IN CITY-OWNED PUBLIC FACILITIES

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BACKGROUND

The City Council initially adopted this policy because of growing concern regarding smoking in public places and its detrimental effect on many people. Research findings show that tobacco smoke is a major contributor to indoor air pollution. Studies have also shown that smoking and breathing of secondhand smoke constitute a significant health hazard, especially to those suffering from cardiovascular disease, impaired lung function, asthma, hay fever, certain eye disorders and those with allergic reaction to tobacco smoke. In addition to direct health hazards, smoking contributes to institutional costs in other ways including cleaning and maintenance costs and costs associated with health care and medical insurance.

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PURPOSE

The purpose of this policy statement is to regulate smoking in any building owned, leased or occupied by the City, protect and enhance indoor air quality, and contribute to the health and well-being of the public and City employees.

Deleted: City-owned public facilities

Deleted: to

POLICY

It is the policy of the City of San José to provide a smoke free environment for the public and its employees in any building owned, leased, or occupied by the City. Smoking is prohibited:

1. in any building owned, leased, or occupied by the City;
2. within 25 feet horizontally or vertically of any entrances, exits, operable windows, or air intake openings of any building owned, leased, or occupied by the City;
3. in any vehicle owned, leased, or rented by the City;
4. including the disposal of any tobacco product within 25 feet horizontally or vertically of any entrances, exits, operable windows, or air intake openings of any building owned, leased, or occupied by the City

Deleted: City-owned public facilities

Deleted: in all City-owned public facilities except as listed below

Deleted: Rooms specially designated as smoking areas which are fully enclosed in a manner to preclude smoke from entering any other enclosed area.

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"Smoking" is defined as inhaling, exhaling, burning, or carrying a lighted cigarette, cigar, pipe or other apparatus used to smoke tobacco or any other organic or non-organic material.

Deleted: Designated smoking areas may be approved by the Director of Convention and Cultural Facilities within the Convention Center Exhibit Halls and the Civic Auditorium upon the request of an event sponsor.

No signage is required to effectuate any of these prohibitions.

Except as otherwise prohibited by law or this Council Policy, smoking is permitted in any outdoor area of any building owned, leased, or occupied by the City.

COUNCIL POLICY – Cont'd.

TITLE	PAGE	POLICY NUMBER
<u>SMOKING POLICY FOR ANY BUILDING OWNED, LEASED OR OCCUPIED BY THE CITY</u>	2 OF 2	9-9

Deleted: IN CITY OWNED PUBLIC FACILITIES

Smoking at the San Jose International Airport shall be governed by San Jose Municipal Code section 9.44.045 – Airport Smoking Regulations.

Deleted: Ordinance No. 24003

This policy is effective as of September 11, 2007, and supersedes all previous City smoking policies.

City of San Jose, California
COUNCIL POLICY

TITLE SMOKING POLICY FOR ANY BUILDING OWNED, LEASED OR OCCUPIED BY THE CITY	PAGE 1 OF 2	POLICY NUMBER 9-9
	EFFECTIVE DATE 10/09/84	REVISED DATE 09/11/2007
APPROVED BY		
COUNCIL ACTION 10/9/84, Item 103; 4/27/93, Item 9j		

BACKGROUND

The City Council initially adopted this policy because of growing concern regarding smoking in public places and its detrimental effect on many people. Research findings show that tobacco smoke is a major contributor to indoor air pollution. Studies have also shown that smoking and breathing of secondhand smoke constitute a significant health hazard, especially to those suffering from cardiovascular disease, impaired lung function, asthma, hay fever, certain eye disorders and those with allergic reaction to tobacco smoke. In addition to direct health hazards, smoking contributes to institutional costs in other ways including cleaning and maintenance costs and costs associated with health care and medical insurance.

PURPOSE

The purpose of this Policy is to regulate smoking in any building owned, leased or occupied by the City, protect and enhance indoor air quality, and contribute to the health and well-being of the public and City employees.

POLICY

It is the policy of the City of San José to provide a smoke free environment for the public and its employees in any building owned, leased, or occupied by the City. Smoking is prohibited:

1. in any building owned, leased, or occupied by the City;
2. within 25 feet horizontally or vertically of any entrances, exits, operable windows, or air intake openings of any building owned, leased, or occupied by the City;
3. in any vehicle owned, leased, or rented by the City;
4. including the disposal of any tobacco product within 25 feet horizontally or vertically of any entrances, exits, operable windows, or air intake openings of any building owned, leased, or occupied by the City.

“Smoking” is defined as inhaling, exhaling, burning, or carrying a lighted cigarette, cigar, pipe or other apparatus used to smoke tobacco or any other organic or non-organic material.

No signage is required to effectuate any of these prohibitions.

Except as otherwise prohibited by law or this Council Policy, smoking is permitted in any outdoor area of any building owned, leased, or occupied by the City.

COUNCIL POLICY – Cont’d.

TITLE SMOKING POLICY FOR ANY BUILDING OWNED, LEASED OR OCCUPIED BY THE CITY	PAGE 2 OF 2	POLICY NUMBER 9-9
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Smoking at the San Jose International Airport shall be governed by San Jose Municipal Code section 9.44.045 – Airport Smoking Regulations.

This Policy is effective as of September 11, 2007, and supersedes all previous City smoking policies.