



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Nadine N. Nader

SUBJECT: SEE BELOW

DATE: November 16, 2006

Approved

Deanne Ashie

Date

11/16/06

SUBJECT: Council Policy Rescissions.

At the November 8, 2006 Rules Committee Meeting, the Committee accepted staff's report related to the rescission of several policies contained in the Council Policy Manual. This item is being cross-referenced for full Council adoption of rescinding the various policies as noted in the recommendation.

The report is attached for your reference.

Nadine Nader
NADINE N. NADER
Assistant to the City Manager

Attachment



Memorandum

TO: RULES COMMITTEE

FROM: Deanna J. Santana

SUBJECT: SEE BELOW

DATE: November 3, 2006

Approved:

Ray Winer

Date:

11/3/06

**SUBJECT: APPROVAL TO RESCIND POLICIES CONTAINED IN THE CITY
COUNCIL POLICY MANUAL**

RECOMMENDATION

Approve rescission of the following policies as contained in the Council Policy Manual and forward to Council for adoption of a resolution rescinding:

- (a) Policy 0-4, Section H: Consolidated Board and Commission Policies (Section H: Code of Ethics for Officials and Employees of the City of San Jose);
- (b) Policy 0-4, Section F: Child Care Reimbursement (Meetings and Travel Expense);
- (c) Policy 0-7: Affirmative Action Plan;
- (d) Policy 0-16: Sexual Harassment;
- (e) Policy 0-25: Local Preference Policy;
- (f) Policy 1-5: Fees for Publications, Materials, Printing, and Duplicating;
- (g) Policy 1-7: Child Care Reimbursement (Meeting and Travel Expenses);
- (h) Policy 1-9: Open Market Purchase of Used Vehicles;
- (i) Policy 1-10: Private Activity Bonds;
- (j) Policy 1-13: Use of Recourse and Non-Recourse;
- (k) Policy 2-5: Temporary Use of City Equipment by Community Organizations;
- (l) Policy 5-1: Funeral Escort Services;
- (m) Policy 5-4: Alternate Traffic Mitigation Measures;
- (n) Policy 6-1: Annexation of City of San Jose;
- (o) Policy 6-3: Emergency Zoning;
- (p) Policy 6-6: Interim Residential Uses of Excluded in Industrial Areas;
- (q) Policy 6-12: Water Pollution Control Plan Growth Management Policy
- (r) Policy 6-13: City-Initiated Planned Development Zoning;
- (s) Policy 6-21: Church Location Policy;
- (t) Policy 6-24: Evaluation Criteria for High Density Housing New Rail Transit;
- (u) Policy 7-9: Housing Property Acquisition Policy;
- (v) Policy 8-2: Criteria for the Installation of Through Streets;
- (w) Policy 8-9: Remedial Installation of Soundwalls (Formerly "Criteria for Installations of Sound Barriers");

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- (x) Policy 8-10: Multi-Family Housing Mortgage;
- (y) Policy 8-11: Use of Products Blown With Chlorofluorcarbon Compounds in City Building, Construction and Remodeling Projects; and,
- (z) Policy 9-7: Swimming Program Policy.

BACKGROUND

As part of the Sunshine Reform related to posting the City Council Policy Manual on the Internet, the Administration recommended a comprehensive review of all the policies concurrent with the Clerk's web posting process. This recommendation was based on an acknowledgement that the City Council Policy Manual contains policies that do not reflect current practices and/or are no longer current. The City Council approved the Administration's recommendation and directed the Rules Committee to oversee the Council Policy Manual revision process.

The Council Policy Manual has been in existence since August 3, 1970. The Council policies are intended to provide direction and/or guidance to staff on how the City Council wishes to have certain issues and procedures addressed. The City Manager is responsible for ensuring that the Administration adheres to the established Council Policies.

ANALYSIS

On October 11, 2006, the Rules Committee approved the framework for updating over 120 policies contained in the City Council Policy Manual. This framework provided for policies to fall into three categories:

Category 1: Revise Policy – This category includes policies that need moderate to significant revisions and may require multiple department participation, coordination of changes with other policies, or creation of a new policy. Old policies will be posted onto the City's website by the Office of the City Clerk, per direction of the City Council. Upon approval of this categorization each policy falling into this category will be noticed as such so that the public will know of the City's intention to revise the policy.

Category 2: Validate Policy – This category includes policies that have recently been updated, newly developed, or do not require any changes. These policies can be quickly scheduled for Council review and validation as policies to maintain, and will then each will be posted on the City's website by the Office of the City Clerk.

Category 3: Rescind Policy – This category includes a set of policies that were identified as outdated, obsolete, redundant, or superseded by other Council action or policy and should be forwarded to the Rules Committee for approval to rescind and deleted from the Council Policy Manual. It is proposed that these policies will not be posted on the City's website and are, therefore, included in the first set of policies for the Rules Committee to consider.

As part of that report, staff stated that it would bring forward a package of policies that fall into Category 3 by November 8, 2006. There are 26 policies that staff recommends be rescinded

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and Attachment A provides a brief description of the policy and the justification for rescission. Additionally, Attachment B is a packet of the actual policies, as contained in the Council Policy Manual, that are proposed for rescission.

POLICY ALTERNATIVES

The proposed action falls within the previously approved framework for updating the Council Policy Manual.

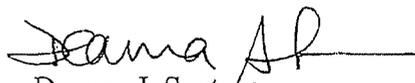
PUBLIC OUTREACH/INTEREST

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

There was no public outreach conducted to complete this report; however, public outreach components can be addressed as part of the discussion on each policy being considered for rescission.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, City Clerk's Office and related departments.


Deanna J. Santana
Deputy City Manager

For questions, please contact Deanna Santana, City Manager's Office at 408-535-8173.

Attachments:

- (A) Matrix Summarizing Proposed Policies for Rescission and Justification
- (B) Policies Proposed for Rescission

Policy #	Policy Title	Policy Description	Justification to Rescind
1	0-4 (Section H) Consolidated Board and Commission Policies (Section H: Code of Ethics for Officials and Employees of the City of San Jose)	The purpose of this Policy is to establish guidelines for use by and applicable to elected and appointed City officials, City officers, including Board and Commission members, and Civil Service employees in the discharge of their officially assigned duties and responsibilities. Individuals employed by the City under contractual agreement must also observe the provisions of this Policy statement for the term of their contract or otherwise as the contract may stipulate.	On June 28, 2006, the Council revised the Code of Ethics and motioned to apply it to all City Officials and Employees, including Boards and Commissions. The updated policy exists in the City Policy Manual (Policy 1.2.1 - Code of Ethics).
2	0-4 (Section F) Child Care Reimbursement (Meeting and Travel Expense)	This Policy was adopted to provide for reimbursement of child care expenses for members of the Council and Council-created and/or appointed Boards, Commissions and Committees who are required to attend regularly-scheduled or specially-called meetings, and require child care services during the time of these meetings, and to provide for reimbursement of child care expenses incurred while traveling on City business.	This Policy has not been used in many years and is no longer in practice. A funding source does not exist to support this Policy, nor has the City received any requests.
3	0-7 Affirmative Action Plan	The purpose of this Policy was to establish a Council Policy concerning the provision of equal employment opportunities to all persons by the City of San Jose	The Affirmative Action Plan expired on June 30, 2000 and was not renewed because of Prop 209 which prohibits the state, local governments, districts, public universities, colleges, and schools, and other government instrumentalities from discriminating against or giving preferential treatment to any individual or group in public employment, public education, or public contracting on the basis of race, sex, color, ethnicity, or national origin.
4	0-16 Sexual Harassment	The purpose of this Policy was to establish a Council Policy prohibiting sex discrimination through sexual harassment.	The Discrimination and Harassment Policy, Council Policy Manual 1.1.1, applies to "All City officers, employees, contractors, vendors, suppliers, and other persons who participate in City programs and services." The updated policy exists in the City Policy Manual (Policy 1.1.1 - Discrimination and Harassment) and is maintained by the Office of Employee Relations.
5	0-25 Local Preference Policy	This Policy directs staff to apply the 1% Sales Tax received by the City to Bid Tabulations.	This Policy is outdated and superseded by Municipal Code change, which established a Local and Small Business Preference in June 2004.

ATTACHMENT A

6	1-6	Fees for publications, materials, printing and duplicating	The purpose of this policy is to standardize the fees for publications, materials, printing and duplication throughout City departments.	This Policy is no longer needed as the annual budget process includes the approval of a citywide fee schedule.
7	1-7	Child Care Reimbursement (Meeting and Travel Expense) See Policy 0-4, Section F	The policy provides for reimbursement of child care expenses for members of the Council and Council-created and/or appointed Boards, Commissions and Committees who are required to attend regularly-scheduled or specially-called meetings, and require child care services during the time of these meeting. The policy also provides for reimbursement of child care expenses incurred while traveling on City business.	This Policy has not been used in many years and is no longer in practice. A funding source does not exist to support this policy, nor has the City received any requests.
8	1-9	Open Market Purchase of Used Vehicles	This Policy allows the Administration to purchase used vehicles from car rental companies or used car vendors to be used for undercover investigations by the Police Department. Undercover vehicles are purchased from rental car companies or used car vendors.	This Policy is redundant. Muni Code section 4.12.004.B which governs the procurement of supplies, equipment, and materials allows the Director of Finance to approve purchases, which are not practicable to quote, including vehicles for police related activities.
9	1-10	Private Activity Bonds	This Policy establishes the manner in which tax-exempt bonds would be issued to finance the restoration of historical commercial buildings or construction/restoration of industrial facilities	This Policy is outdated. Staff recommends that the overall concepts be incorporated into Council Policy 1-15 (Debt Management Policy) as appropriate.
10	1-13	Use of Recourse and Non-Recourse	The purpose of this Policy is to ensure all loans made by the Low and Moderate Housing Fund have collateral agreements securing the loans.	This Policy has been superseded by the Five-Year Housing Investment Plan and the Director of Housing's Delegation of Authority. Resolution provided actual Council authority where Council addressed this issue.
11	2-5	Temporary Use of City Equipment by Community Organizations	The purpose of this Policy is to establish guidelines for the temporary use of City-owned equipment and personal property in non-City administered or coordinated events to assure that each request is considered on a fair and equitable basis; that a public municipal purpose is served; and that the City's cost and liabilities are minimized. This policy is not applicable to library materials administered by the Library, sports and recreation equipment administered by PRNS, or other items of City-owned personal property which are maintained for the purpose of loan to the public as part of regular ongoing City services.	The Administration is restricted from allowing any usage of City-owned equipment to the general public unless it is for City-sponsored events, in which case the City would actively provide support services for the event. This is the current practice with respect to use of City equipment. This Policy only applies to "reviewing stands and/or platforms, and public address system" equipment. These equipment types are used typically in conjunction with city sponsored events. Their use beyond these events is charged in accordance with established fees and charges.

12	5-1	Funeral Escort Services	This Policy provides for funeral escort services at the increased rate per officer as specified in the prevailing fee resolution, up to a maximum of two officers, per each funeral. This policy also provides for necessary traffic control, additional motorcycle officers on the street over and above existing duty officers assigns.	The Policy is outdated because the Police Department does not provide funeral escort services. The below listed duty manual section specifically outlines the restrictions to department members pertaining to private funeral escorts. As noted there are now several companies that provide this service. Furthermore, those private companies are issued a permit from the Permit Unit. L 9011 PRIVATE FUNERAL PROCESSION PERMITS: Private funeral procession permits will be issued by the Permits Unit when applicants have met all the necessary requirements. Generally, the permitted is allowed limited powers in directing traffic at intersections to allow the funeral procession to proceed as an unbroken chain. Specific guidelines and limitations are available in the Permits Unit.
13	5-4	Alternate Traffic Mitigation Measures	This Policy allows for traffic capacity improvements to be provided in a parallel travel corridor where traffic congestion impact mitigation is not feasible at a certain intersection.	In June 2005, Council formally rescinded this policy as part of the adoption of the new Citywide Transportation Impact Policy (Council Policy 5-3).
14	6-1	Annexation of City of San Jose	This Policy encourages annexation and ultimate development of all land within the City's Sphere of Influence.	This Policy has been superseded by current General Plan Urban Service Area Policies and by the General Plan's Growth Management and Greenline/Urban Growth Boundary Major Strategies.
15	6-3	Emergency Zoning	This Policy establishes guidance for rezoning and emergency zoning with the goal of facilitating annexation.	This Policy is outdated and has been superseded by the San Jose 2020 General Plan as a guide to the zoning and pre-zoning of specific sites eligible for annexation.
16	6-6	Interim Residential Uses Excluded in Industrial Areas	This Policy excludes residential uses, including mobile home parks, from consideration as interim uses in the industrial areas of the City.	This Policy is outdated and has been superseded by current General Plan Policy regarding development in the Industrial General Plan designations. In addition, mobile home parks are no longer proposed as interim uses in industrial areas.
17	6-12	Water Pollution Control Plant Growth Management Policy	This Policy establishes the Council's intent to ensure adequate capacity of the Water Pollution Control Plant by monitoring treatment capacity, planning for future capacity and controlling development.	This Policy is superseded by the Sewage Treatment Policies of the General Plan.
18	6-13	City-initiated Planned Development Zoning	This Policy limits City-initiated Planned Development Zonings to three specific areas of San Jose: Downtown, the Meridian Avenue Main Branch Post Office Site and the Water Pollution Control Plant lease lands.	This Policy is outdated and has been superseded by the Downtown Zoning Districts. The Meridian Avenue Main Branch Post Office is no longer proposed for redevelopment.

19	6-2	Church Location Policy	This Policy provides direction on the location of new church facilities.	This Policy is not consistent with and has been superseded by the provisions of the Religious Land Use and Institutionalized Persons Act (RLUIPA) which precludes local jurisdictions from treating religious assembly uses differently from other assembly uses. As such, the City has not utilized nor applied this Policy since the effective date of RLUIPA.
20	6-24	Evaluation Criteria for High Density Housing new rail transit	This Policy provides criteria for evaluating High Density housing near Rail Transit.	This Policy has been superseded by the Residential Design Guidelines provisions for Transit Oriented Development.
21	7-9	Housing Property Acquisition Policy	The purpose of this Policy is to minimize public cost and ensure feasibility for affordable housing projects; facilitate acquisition of sites suitable for development of affordable housing; disperse affordable housing throughout the City; preserve affordable housing funded by the federal government for the long term; and further other city goals related to affordable housing.	This Policy is superseded by the Five-Year Housing Investment Plan.
22	8-2	Criteria for the installation of through streets	This Policy establishes criteria for the installation of Through Streets.	There is no current need for this Policy as the determination of Through Streets is now determined through the General Plan and/or the City's approved Zoning process.
23	8-9	Remedial Installation of Soundwalls (formerly "Criteria for Installation of Sound Barriers")	This Policy sets guidelines for considering soundwalls along City streets and requires residents to fund costs of noise studies to determine if soundwalls are warranted based on City's noise impact criteria.	Reasons for rescinding this Policy include: 1. The policy creates an undue financial burden on residents requesting soundwalls along City streets; 2. The City does not have a program for building soundwalls due to limited funding and other priorities; and 3. Current practice is that staff manages an inventory of requested locations without requiring formal noise studies.
24	8-10	Multi-Family Housing Mortgage	The purpose of this Policy is to encourage development of affordable housing through the City's issuance of multifamily housing revenue bonds.	This Policy is outdated and was replaced with Council Policy 1-16 Policy for Issuance of Multifamily Housing Revenue Bonds which was revised on December 6, 2005.
25	8-11	Use of products blown with Chlorofluorcarbon Compounds in City Building, Construction and Remodeling Projects	It is the purpose of this Policy to ban foam products manufactured with chlorofluorocarbons (CFCs) in City buildings, construction and remodeling projects.	CFC's are no longer available and use of them is not allowed under federal law.
26	9-7	Swim Program Policy	This Policy provides PRNS with adequate time needed to plan a viable summer swim program.	This Policy is outdated and no longer needed. Staff will evaluate the need of a new aquatics policy with the development of the Aquatics Master Plan. A Council update on the Aquatics Master Plan is scheduled for December 2006.

TITLE CONSOLIDATED BOARD AND COMMISSION POLICIES	PAGE 41 OF 5	POLICY NUMBER 0-4
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CODE OF ETHICS FOR OFFICIALS AND EMPLOYEES OF THE CITY OF SAN JOSE

Previous Policy No. 0-15

Approved: March 23, 1982 - Resolution No. 55371

Amended: June 25, 1991 - Item 9j, Resolution No. 63171

Purpose and Scope: To establish policy and guidelines for use by and applicable to elected and appointed City officials, City officers, including Board and Commission members, and Civil Service employees in the discharge of their officially assigned duties and responsibilities. Individuals employed by the City under contractual agreement must also observe the provisions of this policy statement for the term of their contract or otherwise as the contract may stipulate.

Declaration of Policy: Elected and appointed officials and employees of the City of San Jose (hereinafter "City") at all levels are agents of the public purpose and conservators of the public trust. The proper operation of municipal government requires that they be independent, impartial and responsible in the fulfillment of the public trust placed on them. The citizens of San Jose expect and must receive the highest standard of ethics from all those in public service, regardless of personal consideration.

Responsibilities of Public Service: Persons in the public service are bound to uphold the Constitution of the United States and the Constitution of the State of California and to carry out the laws of the nation, state, and the City. They are bound to observe, in their official acts, the highest standards of integrity and to discharge faithfully the duties of their offices, recognizing that the lives, safety, health and welfare of the general public must be their primary concern. Their conduct in both their official and private affairs should be above reproach to assure that their public office is not used for personal gain.

General Rule with Respect to Conflicts of Interest: The State Political Reform Act of 1974 prohibits all City officials, officers and employees from making, participation in making, or attempting in any way to use his or her official position to influence a governmental decision in which the employee knows or has reason to know he or she has a financial interest.

Persons in the public service shall not make personal investments nor maintain any direct or indirect interest in enterprises, activities, or entities which they have or ought to have reason to believe may be involved in decisions or recommendations to be made by them or persons under their supervision, or which may otherwise create a substantial conflict between their private interests or may impair their independence of judgment in the discharge of their official duties. If, however, persons in the public service have financial interests in matters coming before them, or before the department in which they are employed, they shall disqualify themselves from making, participating in the making, or seeking to influence any decision respecting such matter.

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Code of Ethics for Officials and Employees of the City of San Jose - Continued

Acceptance of Favors and Gratuities: Persons in the public service shall not accept money or other consideration or favors from anyone other than the City for the performance of an act which they would be required or expected to perform in the regular course of their duties; nor shall such persons accept any gifts, gratuities or favors of any kind which might reasonably be interpreted as an attempt to influence their actions with respect to City business.

For purposes of this Policy, the term "gift" is used as defined in Municipal Code Chapter 10.36 and all exceptions in that Chapter also apply to this Policy except where otherwise provided in a more stringent departmental or administrative policy. Employees are advised to check with their departments for such a policy. The exceptions in Chapter 10.36, Section 10.36.380 are included below.

Gifts which are acceptable are as follows:

A. Gifts Less than \$15

Token gifts which have a value of no more than Fifteen Dollars (\$15.00), as long as the total value of all such token gifts received from any one donor do not exceed Fifteen Dollars (\$15.00) in any calendar year.

B. Informational Material

Informational material such as books, reports, pamphlets, calendars, or periodicals or reimbursement for any such expenses. Informational material does not include provision of educational trips including transportation, accommodation and food.

C. Hospitality

Gifts of hospitality involving food, beverages or lodging provided to any officer or employee by an individual in such individual's primary residence.

D. Reciprocal Gifts

Gifts exchanged between any officer or employee and an individual other than a local governmental lobbyist on holidays, birthdays, or similar occasions. This exception shall not apply to the extent that the gift received by the officer or designated employee exceeds in value gifts that he or she has given to the donor.

E. Meals and Beverages

Meals and beverages provided to an officer or employee in a business or a social setting.

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Code of Ethics for Officials and Employees of the City of San Jose - Continued

F. Honoraria and Awards

Honoraria and awards. As used in this Chapter, "honorarium" means a payment or gift for speaking at an event, participating in a panel or seminar, or engaging in any similar activity.

G. Panels and Seminars

Free admission, food, beverages, and similar nominal benefits provided to an officer or employee at an event at which the officer or employee speaks, participates in a panel or seminar or performs a similar service, and reimbursement or advance for actual intrastate travel or for necessary accommodations provided directly in connection with such event.

H. Admission Given by Sponsor of an Event:

Admission to ceremonial, political, civic, cultural or community functions provided by a sponsor of the event for the personal use of the officer or employee.

I. Employment Interview - Government Employer

Transportation, accommodation, food and directly related expenses advanced or reimbursed by a governmental agency in connection with an employment interview, when the interview is conducted at least 150 miles from San Jose and where the situs of the employment will be at least the same distance from the City.

J. Employment Interview - Private Employer

Transportation, accommodation, food and directly related expenses incurred in connection with an employment interview and a bonafide prospect of employment, when the expenses are advanced or reimbursed to an officer or employee by a potential employer, provided that the officer or employee has not made or participated in the making of a governmental decision materially affecting the financial interest of the potential employer during the twelve (12) months immediately preceding the time the expenses are incurred or the offer of employment is made, whichever is sooner.

K. Authorized Travel

Transportation, accommodation, food and directly related expenses for any officer or employee which has been authorized by a majority of the Council or Agency board or which is pursuant to a written City or Agency policy for intrastate or interstate travel regardless of the source of payment.

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Code of Ethics for Officials and Employees of the City of San Jose - Continued

L. City or Agency Business

Transportation provided to an officer or employee by a contractor or other person doing business with the City or Redevelopment Agency, provided that such transportation is related to City or Agency business which is within the scope of employment or the duties of such officer or employee, and further provided that such transportation is not in excess of 125 miles one way. Nothing of this Subsection shall be interpreted to limit the Council's or Agency Board's discretion to approve travel under Subsection K above.

M. Flowers

Flowers, plants or balloons which are given on ceremonial occasions, to express condolences or congratulations, or to commemorate special occasions.

N. Prizes

A prize awarded on the basis of chance, provided that there are at least one thousand (1,000) participants eligible to win the prize, a majority of whom are not public officials or government employees.

Section 10.36.360 also provides that prohibited gifts do not include any rebate or discount in the price of anything of value which is made in the regular course of business to members of the public without regard to official status or a rebate or discount which is made available to all officers and employees of the City and Redevelopment Agency on an equal basis. Further, campaign contributions which comply with the Municipal Code and Political Reform Act of 1974 as amended and any devise or inheritance are not prohibited gifts under Chapter 10.36 of the Municipal Code.

Use of Confidential Information: Persons in the public service shall not use confidential information acquired by or available to them in the course of their employment with the City for speculation or personal gain. Persons in the public service shall uphold the public's right to know, and in accordance with the Brown Act, uphold the public's right to know not only the decisions taken, but also the deliberations which shape public policies.

Use of City Employment and Facilities for Private Gain: Persons in the public service shall not use, for private gain or advantage, their City time or the City's facilities, equipment or supplies, nor shall they use or attempt to use their position to secure unwarranted privileges or exemptions for themselves or others.

Incompatible Employment: Persons in the public service shall not engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of their official duties or would tend to impair their independence of judgment or action in the performance of their official duties. All City employees considering outside

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Code of Ethics for Officials and Employees of the City of San Jose - Continued

employment must apply for an Outside Work Permit prior to acceptance of the employment offer. It shall be the Administration's responsibility to determine if the outside work is compatible in accordance with Section 3.04.1710 of the San Jose Municipal Code.

Discussion of Future Employment: All offers or discussions of offers to City employees of future employment outside the City service must be reported immediately to the employee's supervisor whenever such discussions occur with, or when such offer is made by, any person, firm or organization presently dealing with the City concerning matters directly within the employee's current areas of decision-making responsibilities. It shall be within the supervisor's discretionary powers to relieve said employee from further decision-making responsibilities in relationship to said person, firm or organization if he or she determines that the offer of employment or discussions of an offer of employment would impair the employee's independence of judgment or could be construed by others as a bid for favorable treatment.

Activities Incompatible with Official Duties and the Reporting of Improper Government Activities: Persons in the City service are strongly encouraged to fulfill their own moral obligations to the City by disclosing to the extent not expressly prohibited by law, improper governmental activities within their knowledge. No officer or employee of the City shall directly or indirectly use or attempt to use the authority or influence of such officer or employee for the purpose of intimidating, threatening, coercing, commanding, or influencing any person with the intent of interfering with that person's duty to disclose such improper activity.

Affirmative Action: Persons in the public service shall not, in the performance of their service responsibilities, discriminate against any person on the basis of race, religion, color, creed, age, marital status, national origin, ancestry, sex, sexual preference, medical condition, or handicap and they shall comply with the equal employment opportunity and affirmative action goals and objects of the City.

Penalties for Non-Compliance: In addition to any other penalty as provided by law, violations of this Code of Ethics may be used as a basis for disciplinary action or censure of a Council Member by the Council. Violations of this Code of Ethics by Board and Commission Members shall constitute official misconduct.

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CHILD CARE REIMBURSEMENT — MEETING AND TRAVEL EXPENSES

Previous Policy No. 1-7

Approved: December 12, 1989 — Item 7b(2)(d)

Background: The City practice has been that child care expenses were not reimbursable, unless specifically provided for in-state or federally-funded programs. At the April 1, 1980 meeting, the City Council requested a policy be established to allow child care expense reimbursement for the City Council and certain designated Boards and Commissions. The policy was amended in December, 1989 in conjunction with an amendment to Policy 9-5, Travel by Elected and Appointed Officials, which allows reimbursement of child care expenses while traveling. The primary change to Policy 1-7 was to change the hourly reimbursement rate.

Purpose: To provide for reimbursement of child care expenses for members of the City Council and Council-created and or appointed Boards, Commissions and Committees who are required to attend regularly-scheduled or specially-called meetings, and require child care services during the time of these meetings, and to provide for reimbursement of child care expenses incurred while traveling on City business.

Policy

1. Local Meetings: It is City policy to reimburse members of the City Council, Boards, Commissions and Committees for child care expenses actually and necessarily incurred as the result of attending a regularly-scheduled or specially-called meeting, including reasonable travel time, necessary to carry out their officially-designated duties.
2. Reimbursement of child care expenses shall be approved subject to the following criteria:
 - A. The need for child care service provided by other than a relative or a member of the immediate family must have existed.
 - B. Payment for child care service does not exceed \$5.00 an hour and is substantiated by evidence of payment.
 - C. Payments for child care services to any one member do not exceed \$100.00 in any calendar month.
 - D. Required documentation is submitted along with the request for reimbursement.
 - E. The member was not on travel status when the child care expenses were incurred.

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Child Care Reimbursement - Meeting and Travel Expenses - Continued

3. Travel on City Business: Where in-state or out-of-state travel creates the need for child care, the City will reimburse child care expenses. Expenses may be incurred locally or at the point of destination.
 - A. The reimbursement maximum may not exceed \$5.00 per hour, per child. The total daily maximum is \$80.00, unless special circumstances (e.g., more than one child) dictate otherwise.
 - B. The claim for reimbursement must be supported by signed child care provider receipts, which should be submitted with the completed "Statement of Travel Expenses."
 - C. Disclaimer: Reimbursement will likely be treated as income by the Internal Revenue Service. The City will not withhold any taxes from the reimbursement.

4. Reimbursement Changes: The reimbursement maximum may be annually increased, based on the San Jose Consumer Price Index (CPI), beginning July 1, 1991. The Child Care Coordinator shall advise the City Clerk of annual changes to the reimbursement maximum. The City Clerk will amend the Council Policy Manual as necessary.

COUNCIL POLICY

TITLE AFFIRMATIVE ACTION PLAN	PAGE 1 OF 1	POLICY NUMBER 0-7
	EFFECTIVE DATE March 15, 1976	REVISED DATE
APPROVED BY Council Action - May 21, 1973 - Resolution No. 44035.1		

BACKGROUND

The Affirmative Action Plan for the City of San Jose was officially adopted by Council Resolution No. 44035.1 on May 21, 1973. The Affirmative Action Plan prohibits discriminatory practices at all levels of City government, and strives for the elimination of barriers to employment of ethnic minority groups and women. The plan affirmed a City policy which provides for equal employment opportunities to all persons.

PURPOSE

To formally establish a Council Policy concerning the provision of equal employment opportunities to all persons by the City of San Jose.

POLICY

It is the policy of the City of San Jose that equal employment opportunities be provided at all times to all persons, regardless of race, color, religion, sex, or national origin; and that Administrative guidelines to define roles and responsibilities for effective administration of the City Affirmative Action Plan be established.

Consistent with this policy, a City Affirmative Action Officer shall be appointed by the City Manager; and under the direction of the Deputy City Manager, shall develop and administer a program to effectively accomplish the Affirmative Action goals described in the City's Affirmative Action Plan.

City of San Jose, California

COUNCIL POLICY

TITLE SEXUAL HARASSMENT	PAGE 1 OF 1	POLICY NUMBER 0-16
	EFFECTIVE DATE 9-1-81	REVISED DATE
APPROVED BY Council Action - September 1, 1981		

BACKGROUND

The City of San Jose has a continuing policy to provide equal employment opportunity to all persons regardless of race, color, religion, sex, national origin, age, sexual orientation, physical or mental handicap. As part of this policy, the City Council has declared that sexual harassment constitutes sex discrimination, and is thereby prohibited.

Sexual harassment, as defined by the Equal Employment Opportunity Commission, is any "unwelcome sexual advances, requests for sexual favors, and other verbal or physical contact of a sexual nature....when:

1. submission to such conduct is made either explicitly a term or condition of an individual's employment;
2. submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; or,
3. such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

PURPOSE

To formally establish a Council Policy prohibiting sex discrimination through sexual harassment.

POLICY

It is the directive of the San Jose City Council that management, administrative, supervisory personnel, and employees at all levels of City government share in the responsibility of ensuring a working environment free of sexual harassment.

CITY COUNCIL OF SAN JOSE

SEXUAL HARASSMENT POLICY

The City of San Jose has a continuing policy to provide equal employment opportunity to all persons regardless of race, color, religion, sex, national origin, age, sexual orientation, physical or mental disability.

Harassment on the basis of sex is a violation of Title VII of the Civil Rights Act of 1964. The City Council hereby declares that sexual harassment constitutes sex discrimination and is thereby prohibited.

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Employees at all levels of City government are responsible for maintaining a work environment free from any form of sexual harassment and will be held fully accountable for complying with this policy and for taking appropriate measures to insure that such conduct does not occur.

The City of San Jose, as a public employer and a provider of services, WILL NOT TOLERATE NOR CONDONE SEXUAL HARASSMENT IN ANY FORM from any employee, regardless of their employment status. Employees are encouraged to also report sexual harassment of City employees by persons who do business with the City.

APPROPRIATE MEASURES WILL BE TAKEN AGAINST ANY EMPLOYEE, PROVIDER OF SERVICES OR CONTRACTOR WHO VIOLATES THIS POLICY. With regards to City employees, appropriate disciplinary action will be taken to include oral or written reprimand, suspension, demotion, or termination.

This policy and any resulting procedures and training programs for its implementation provide a process for City employees who wish to work within the City's system to identify, prevent and remove sexual harassment from the work environment. However, City employees remain free to pursue any sexual harassment complaints with an outside independent agency.

Employees who feel they have been sexually harassed should bring the issue to the attention of their supervisor unless he or she is the party involved, in which case the matter should be taken up with their Department Head or the City Affirmative Action Officer. Retaliation or reprisals against witnesses or employees who file sexual harassment complaints will not be tolerated.

This policy will be inserted in the Personnel Administrative Manual and distributed to all City employees.

CITY OF SAN JOSÉ - MEMORANDUM

TO	Administrative Services Committee	FROM	Rodolfo G. Navarro, Director of AA/CC
SUBJECT	Sexual Harassment Policy	DATE	February 3, 1989

APPROVED

Bergiana Floberdy

DATE

*2/9/89*BACKGROUND

The Administrative Services Committee, at the Committee meeting of November 16, 1988, requested that Administration review and strengthen the City's existing Sexual Harassment Policy.

ANALYSIS

The City's Sexual Harassment Policy was adopted on September 1, 1981. This Policy was a direct duplication of the Equal Employment Opportunity Commission's (EEOC) 1980 Guidelines on Discrimination Because of Sex.

The Policy, however, merely defined sexual harassment and did not adequately address harassment of City employees by persons doing business with the City, nor specifically address disciplinary measures or discourage retaliation against witnesses or persons who file sexual harassment complaints.

The revised Policy addresses all the issues noted above and, in addition, accommodates employees by not requiring them to file a sexual harassment complaint with their supervisor when he or she is the harasser. Finally, the revised Policy gives employees the option of raising the issue internally or with an outside, independent agency.

In addition, Administration, with the cooperation of the City Policy Analyst and City Attorney, is revising the City Employment Discrimination Complaint Procedure to include a procedure for sexual harassment complaints.

During 1989, the Director of Affirmative Action/Contract Compliance will continue his Affirmative Action/Sexual Harassment presentations to all new employees and will, along with the Training and Staff Development Unit, conduct City-wide sexual harassment training.

COORDINATION

The revised Policy has been coordinated with City Department Heads, City Attorney and Policy Analyst.

BUDGET IMPACT

There is no budget impact to report.

Administrative Services Committee
February 3, 1989
Page 2 of 2

RECOMMENDATION

The Administration recommends that the revised Sexual Harassment Policy be adopted.



Rodolfo G. Navarro
Director of Affirmative Action/
Contract Compliance

RGN:rj
3268RJ/1

cc: Bob Beyer
Peter Hames
Norm Sato

Attachment



CITY OF SAN JOSE, CALIFORNIA

CITY COUNCIL POLICY

TITLE	PAGE	POLICY NUMBER
LOCAL PREFERENCE POLICY	1 OF 3	0-25
	EFFECTIVE DATE	REVISED DATE
	06/08/93	08/03/93

APPROVED BY COUNCIL ACTION

6/8/93, Item 9n, Resolution No. 64649; 8/3/93, Item 9d, Resolution No. 64808

BACKGROUND

1. When acting as a market participant, the City of San Jose can implement purchasing policies that it deems favorable; and
2. The City of San Jose supports and encourages the efforts of San Jose businesses; and
3. Adoption of a local preference policy would have beneficial economic effect on local businesses and on the City as a whole; and
4. On June 8, 1993 the City Council adopted a local preference policy on procurements for Suppliers, Materials and Equipment and for General Services; and
5. The City Council desires to revise the local preference policy to include procurements for Professional Services.

POLICY

I. GENERAL PROVISIONS

It is the Policy of the City of San Jose to:

- A. Encourage business activity in San Jose through its activities as a market participant through active outreach to San Jose businesses in the solicitation of all City bids, proposals and quotations; and
- B. Provide for a specific limited preference to local vendors in the evaluation of proposed contracts with the City on the procurement of:
 1. Supplies, materials or equipment;
 2. General Services; and
 3. Professional Services.

II APPLICATION

Except as provided in Section III, this Policy shall be applied as follows:

A. Procurement of supplies, materials and equipment:

1. **Formal Bids:** In the determination of the lowest responsive bidder for formal bids, a credit equal to the amount of sales tax revenue received by the City as a result of the purchase from a San Jose Vendor shall be applied to the amount of each San Jose Vendor's bid. For the purpose of this subsection, "San Jose Vendor" means a vendor who is considered located in the City of San Jose for the purpose of determining the payment of sales tax revenue to the City on purchases within the Tax Code Area Number designated by the State Board of Equalization for the City of San Jose.
2. **Tie Bids:** If the calculation made under subsection 1 above results in an exact tie, the award of the matter shall be determined by the City Council pursuant to Section 4.12.100 of the Municipal Code.
3. **Open Market Purchases:** In evaluation of quotes for purchases of supplies, materials or equipment received not pursuant to formal bidding procedures, determining the most advantageous price quotation to the City shall include application of the San Jose Vendor Credit as described in subsection 1 above.

B. Procurement of General Services and Professional Services

1. **Consideration as a Local Business Enterprise:** In determining the most advantageous proposal or price quotation to the City in the procurement of General Services or Professional Services, the status of the contractor as a Local Business Enterprise shall be considered. For the purpose of this subsection, "Local Business Enterprise" means a business enterprise, including but not limited to a sole proprietorship, partnership, or corporation, which has a legitimate business presence in the City of San Jose. Evidence of legitimate business presence in San Jose shall include:
 - a. Having a current San Jose business tax certificate; and
 - b. Having either of the following types of offices operating legally within the City of San Jose.
 - (1) the contractor's principal business office; or
 - (2) the contractor's regional, branch or satellite office with at least one full time employee located in San Jose.

2. Evaluation of Local Business Enterprise: In the determination of the most advantageous proposal or most advantageous price quotation, consideration of performance and price shall take precedence over status as a Local Business Enterprise.
 - a. With regard to evaluation of proposals received in response to Requests for Proposals for General Services, status as a Local Business Enterprise will be considered as a factor if there are reasonably similarly advantageous proposals after considerations of technical performance and cost have been evaluated.
 - b. With regard to evaluation of quotes for services on open market purchases and open purchase orders, the status of Local Business Enterprise will be evaluated by applying a 1% credit to the cost quote for Local Business Enterprises.
 - c. With regard to evaluation of proposals received in response to requests for proposals or requests for qualifications for Professional Services, status as a Local Business Enterprise will be considered as a factor, if there are reasonably similarly advantageous proposals after considerations of professional expertise, technical performance and cost have been evaluated.

III EXCEPTIONS

This Policy shall not apply to the following types of procurements:

- A. Procurements where legal constraints on the expenditure of funds prohibit the application of a local preference policy.
- B. Procurements on behalf of the San Jose-Santa Clara Water Pollution Control Plant.

IV IMPLEMENTATION

This Policy shall be implemented as follows:

- A. This Policy shall be effective for all procurements which are solicited on or after August 3, 1993.
- B. The City Manager shall cause all solicitations for procurements subject to this Policy to contain a notification to the recipients that a Local Preference Policy is available together with sufficient information about how to claim a preference.
- C. It shall be the burden of the person submitting a bid, quotation or proposal to provide sufficient information to claim the preference. All such information shall be submitted together with the bid, quotation or proposal.

City of San Jose, California

COUNCIL POLICY

TITLE	FEES FOR PUBLICATIONS, MATERIALS, PRINTING AND DUPLICATING	PAGE	POLICY NUMBER
		1 OF 2	1-5
APPROVED BY		EFFECTIVE DATE	REVISED DATE
Council Action - April 26, 1983, Quarterly Budget Review, Item #8A(2)		4/26/83	

BACKGROUND

The previous Council Policy #1-5, titled "Charges to the Public for Special Reports" and revised as of November 16, 1972, has been rescinded in its entirety and is replaced with the following policy titled "Fees for Publications, Materials, Printing and Duplicating".

PURPOSE

The purpose of this policy is to standardize fees for publications, materials, printing, duplicating or copying throughout City departments.

POLICY

1. Documentation Published for the Purpose of Public Distribution

(Example: Annual Program Budget, Capital Improvement Program, General Plan, and Council Agenda Items)

Fees per copy of such documents should be 50% of the unit cost* for publishing the item.

2. Documents Published for Limited User Groups

(Example: Municipal Code, Police Manual, Parks and Recreation Training Materials, film catalogs, Fire Inspection Manual)

Fees per copy of such documents should be 100% of the unit cost* for publishing the item provided that such cost does not create a prohibitive fee.

3. Documents for Specific Users

(Example: Police reports, fire reports, traffic reports, maps, plans, photos, tapes)

Fees per copy of such documents should be 100% of the unit cost* for publishing the item.

*Unit Cost

Unit cost should be determined as follows:

$$\frac{\text{Total Publishing Cost (Printing, processing, handling)}}{\text{No. of copies Published}} = \text{Unit Cost}$$

TITLE	FEEES FOR PUBLICATIONS, MATERIALS, PRINTING AND DUPLICATING	PAGE	2	OF	2	POLICY NUMBER	1-5
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4. General Duplicating

Fees for duplicating, xeroxing, photocopying or otherwise reproducing of readily available materials which do not require file search or other efforts to find and assemble should be charged in accordance with Items 1, 2, and 3 above. Additional fees for special search should also be charged in accordance with Items 1, 2 and 3 above, except that requests governed by the California Public Records Act should be charged in accordance with the Act. (See Item 5 below.)

5. Public Records Request

(Example: City file documents)

Guidelines for providing information in accordance with the California Public Records Act should be as directed by the City Attorney. Fees for complying with requests under the California Public Records Act should be determined on a case-by-case basis with input from the Attorney's Office. All direct costs as allowed by the Act should be recovered.

6. Responsibility for Determining Cost

Each department responsible for publishing and distributing the documents in question shall be responsible for determining the unit cost and the fee to be charged per document. This fee shall be established under Resolution No. 54673 and shall be re-evaluated on an annual basis.

PROCEDURE

Departments responsible for publishing and distributing documents shall determine the unit cost and the fee to be charged per document and shall submit revised publication and duplicating fees to the Office of Management and Budget by September 1 of each year.

890m/16m

City of San Jose, California

COUNCIL POLICY

TITLE CHILD CARE REIMBURSEMENT (MEETING AND TRAVEL EXPENSES)	PAGE 1 OF 2	POLICY NUMBER 1-7
	EFFECTIVE DATE 5/6/80	REVISED DATE 12/12/89

APPROVED BY

Council Action: May 6, 1980, Item 11c
December 12, 1989, Item 7b(2)(d)

BACKGROUND

The City practice has been that child care expenses were not reimbursable, unless specifically provided for in State or Federally-funded programs. At the April 1, 1980 meeting, the City Council requested a policy be established to allow child care expense reimbursement for the City Council and certain designated Boards and Commissions.

The policy was amended in December, 1989 in conjunction with an amendment to Policy 9-5, Travel by Elected and Appointed Officials, which allows reimbursement of child care expenses while traveling. The primary change to Policy 1-7 was to change the hourly reimbursement rate.

PURPOSE

To provide for reimbursement of child care expenses for members of the City Council and Council-created and or appointed Boards, Commissions and Committees who are required to attend regularly-scheduled or specially-called meetings, and require child care services during the time of these meetings.

To provide for reimbursement of child care expenses incurred while traveling on City business.

POLICY: LOCAL MEETINGS

It is City policy to reimburse members of the City Council, Boards, Commissions and Committees for child care expenses actually and necessarily incurred as the result of attending a regularly-scheduled or specially-called meeting, including reasonable travel time, necessary to carry out their officially-designated duties.

Reimbursement of child care expenses shall be approved subject to the following criteria:

1. The need for child care service provided by other than a relative or a member of the immediate family must have existed.
2. Payment for child care service does not exceed \$5.00 an hour and is substantiated by evidence of payment.
3. Payments for child care services to any one member do not exceed \$100.00 in any calendar month.

FILE	CHILD CARE REIMBURSEMENT	PAGE	2 OF 2	POLICY NUMBER	1-7
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4. Required documentation is submitted along with the request for reimbursement.
5. The member was not on travel status when the child care expenses were incurred.

POLICY: TRAVEL ON CITY BUSINESS

Where in-state or out-of-state travel creates the need for child care, the City will reimburse child care expenses. Expenses may be incurred locally or at the point of destination.

1. The reimbursement maximum may not exceed \$5.00 per hour, per child. The total daily maximum is \$80.00, unless special circumstances (e.g., more than one child) dictate otherwise.
2. The claim for reimbursement must be supported by signed child care provider receipts, which should be submitted with the completed "Statement of Travel Expenses."

DISCLAIMER

Reimbursement will likely be treated as income by the Internal Revenue Service. The City will not withhold any taxes from the reimbursement.

REIMBURSEMENT CHANGES

The reimbursement maximum may be annually increased, based on the San Jose Consumer Price Index (CPI), beginning July 1, 1991. The Child Care Coordinator shall advise the City Clerk of annual changes to the reimbursement maximum. The City Clerk will amend the Council Policy Manual as necessary.

City of San Jose, California

COUNCIL POLICY

TITLE	OPEN MARKET PURCHASE OF USED VEHICLES	PAGE	POLICY NUMBER
		1 OF 2	1-9
APPROVED BY	Council Action 10-2-84-7M	EFFECTIVE DATE	REVISED DATE
		10/2/84	

BACKGROUND

During the last two years, used sedans have been acquired by the Purchasing Division of the General Services Department from car rental agencies such as Hertz, Avis, and National. In 1983, bids were obtained from these vendors for various makes and models of vehicles. However, the formal bidding process does not lend itself to this type of purchase. When the bid is requested, the vendor does not know the specific vehicle that will be available at the time the City is ready to make the purchase. Since the condition, mileage, and special features of each vehicle are not known, the bid tends to be higher than the actual selling price would be without a bid. For the same reason, the prices for the same make and model from different vendors are not truly comparable. For these reasons, the formal bidding process is not an effective process for purchasing sedans and Police undercover vehicles from car rental agencies.

PURPOSE

The purpose of this policy is to provide for the open market purchase of used vehicles from car rental agencies as provided for in Part IV of Ordinance No. 21605.

The open market purchase of used vehicles from car rental agencies is a means in which to acquire mechanically sound, better outfitted and less distinguishable vehicles at a less-than-new price. The City can negotiate a more favorable price from car rental agencies when each vehicle requirement is known.

POLICY

The following policy governing the open market purchase of used vehicles from car rental agencies is hereby established:

1. Obtaining formal bids from car agencies for the acquisition of used vehicles would not be useful or produce any advantage for the City and, therefore, is considered to be an Idle Act as defined in Ordinance No. 21605. The procurement of such vehicles may be made by the Department of General Services as an open market purchase as described in Section 4.12.135 and such purchases shall be reported to Council quarterly in accordance with section 4.12.210 of said ordinance.
2. Executive sedans will be standard mid-size sedans, either 2-door or 4-door, and not specialized models. They will be equipped according to the desires of the individual to whom they will be assigned and according to availability from the car agency. Police undercover vehicles will be configured as the situation requires.

COUNCIL POLICY — Cont'd.

TITLE	OPEN MARKET PURCHASE OF USED VEHICLES	PAGE 2 OF	2	POLICY NUMBER 1-9
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3. Vehicles will have mileage no greater than 30,000 miles.
4. The Purchasing Division will survey the market and determine which vendors are the most appropriate and economical sources. The Vehicle Maintenance Division will arrange for individuals scheduled to receive a City vehicle to make their selection from one of the vendors selected by Purchasing. Each vehicle selected will be inspected by the Vehicle Maintenance Division to ensure proper mechanical condition and freedom from defects. The General Services Department will review this policy and procedure annually and report any recommended changes to Council.

DR:vv
2024m/16m

City of San Jose, California

COUNCIL POLICY

TITLE PRIVATE ACTIVITY BONDS	PAGE 1 OF 1	POLICY NUMBER 1-10
	EFFECTIVE DATE 10/09/84	REVISED DATE
APPROVED BY Council Action - October 9, 1984, Item 10b		

BACKGROUND

The City has previously established a Marks Historical Act Program (Resolution No. 54611 - 6/9/81) and an Industrial Development Authority (Resolution No. 20448 - 1/16/81). These programs are designed to assist private developers secure tax-exempt financing for projects which the City Council determines to have a public purpose. The Marks Program assists in the rehabilitation of buildings having historical value. The Industrial Development program assists with the establishment or rehabilitation of job-producing business firms.

PURPOSE

To establish the manner in which tax-exempt financing for restoration of historical commercial buildings or construction or restoration of industrial facilities will be acceptable to the City Council.

POLICY

It is the policy of the City of San Jose that tax-exempt debt in support of Marks Rehabilitation or Industrial Development projects will be arranged only as privately placed notes. Under no circumstances will the City allow retail sale of standard bonds through an underwriter when the proceeds of those bonds are intended to finance a private commercial or industrial enterprise.

The City Manager or his designate will apprise applicants seeking tax exempt debt financing assistance from the City of this policy as early in the application process as possible.

This policy will apply only to those bonds sold pursuant to the provisions of the Marks Historical Rehabilitation Act of 1976 (CHS 37600) and the California Industrial Development Financing Act of 1980 (CHS 91500). It shall not apply to the issuance of single or multi-family housing bonds, airport revenue bonds, or other bonds defined as industrial development bonds by the U.S. Internal Revenue Service.

City of San José, California

COUNCIL POLICY

TITLE USE OF RECOURSE AND NON-RECOURSE PROVISIONS TO ADEQUATELY SECURE CITY OF SAN JOSE AFFORDABLE HOUSING LOANS	PAGE 1 of 2	POLICY NUMBER 1-13
	EFFECTIVE DATE 5/26/92	REVISED DATE
APPROVED BY COUNCIL ACTION	5/26/92 -- Item 9b, Resolution No. 63743	

BACKGROUND

Existing Council policy requires that the City of San Jose affordable housing loans be at a dollar amount which does not exceed 90% of the market value of the real property of the subject affordable housing project unless such a condition is unavoidable and the project could not otherwise proceed. Where such unique factors of the project at hand cause the City's loan to be at a Loan to Value (LTV) greater than 90%, the City Council must be so advised. Their decision to approve such a loan should then consider the level of public purpose achieved by the project which outweighs any risk of having the City's position be at an LTV of 90% or greater.

The City's affordable housing loans are typically secured by a Deed of Trust recorded against the project's real property and a Promissory Note signed by the borrower. The Promissory Note typically provides for full recourse against the borrower in the event that a default on the City's loan would eventually lead to an action of foreclosure. The City thus, in a judicial foreclosure proceeding, might then have access to the residual proceeds of the sale of the subject real property as well as other capital assets of the borrower to satisfy the full amount of the City's lien. In some situations, it is impractical for the City to seek recourse provisions from borrowers, and a non-recourse loan must be considered. Since non-recourse notes will only provide for repayment of liens from the assets of the real property, other forms of collateral, such as personal equity, deeds of trust on other real property assets held by the borrower, etc., must be sought by the City to secure such loans where the LTV would otherwise be 90% or greater.

The appropriate type of security and loan documentation for recourse and non-recourse conditions is noted below for the most common situations upon which City affordable housing loans are likely to be requested. The City's policy for recommending and approving future affordable housing loans will be based on these forms of borrowing entities and conditions for suitable collateral where non-recourse provisions are not practical. Limited Partnerships formed to invest in Low Income Housing Tax Credit investments are the most notable case where recourse provisions are problematic. Recourse debt constrains the use of tax benefits and creates liability that is typically unacceptable to such a Limited Partnership. Other suitable variations outside of these most typical cases may be recommended to the City Council for approval by the Director of Housing as appropriate. In most cases, the conditions warranting the use of recourse and non-recourse provisions change as the project moves from the land acquisition loan phase, through construction, to the point of permanent financing.

PURPOSE AND SCOPE

The purpose of this Policy is to ensure that adequate security is obtained by the City of San Jose on its loans for affordable housing projects by the use of recourse and non-recourse provisions. The appropriate use of recourse and non-recourse provisions for security of the City's loans will depend on several factors including but not limited to the nature of the borrower, the amount and position of the City's lien, and the level of affordability and degree of public purpose achieved by the City's loan.

POLICY

It is the policy of the City of San Jose that all loans made from the Redevelopment 20% Housing Fund provide for the following conditions and collateral agreements as appropriate to adequately secure such loans.

TYPICAL BORROWING ENTITIES AND CONDITIONS

Borrowing Entity Form	Type of Loan	Recourse or Non-recourse	Conditions and Other Forms of Collateral
Non-Profit Housing Corporation	Land Acquisition	Recourse	First Deed of Trust (DOT) and Loan to Value (LTV) \leq 100% based on a verified appraisal. Affordability restrictions are recorded on the property.
	Construction	Recourse	DOT may be subordinated with right to cure defaults. LTV $>$ 100% only with other security and/or regulatory agreement from public lender
	Permanent Financing	Recourse	DOT may be subordinated with right to cure. LTV $>$ 100% only with other public lender regulatory agreement and high public purpose
Limited Partnership with Non-Profit General Partner	Land Acquisition	Recourse	1st DOT and LTV \leq 100% based on a verified appraisal. Affordability restrictions recorded on the property
	Construction	Recourse	DOT may be subordinated with right to cure. LTV \leq 90% based on verified appraised value. Additional collateral agreement required to achieve a 90% LTV for the City loan
	Permanent Financing	Non-Recourse	DOT may be subordinated with right to cure. LTV \leq 90% based on verified appraised value. Additional collateral agreement required to achieve a 90% LTV for the City loan
Limited Partnership with For-Profit General Partner and For-Profit Developers	Land Acquisition	Recourse	1st DOT and LTV \leq 100% based on a verified appraisal. Affordability restrictions recorded on the property
	Construction	Recourse	DOT may be subordinated with right to cure. LTV \leq 90% based on verified appraised value. Additional collateral agreement required to achieve a 90% LTV for the City loan
	Permanent Financing	Non-Recourse	DOT may be subordinated with right to cure. LTV \leq 80% based on verified appraised value. Additional collateral agreement required to achieve a 80% LTV for the City loan

City of San Jose, California

COUNCIL POLICY

TITLE TEMPORARY USE OF CITY EQUIPMENT BY COMMUNITY ORGANIZATIONS	PAGE 1 OF 3	POLICY NUMBER 2-5
	EFFECTIVE DATE July 10, 1979	REVISED DATE Feb. 17, 1981
APPROVED BY Council Action - July 10, 1979, Item 11e, and February 17, 1981 - Item 9d.		

BACKGROUND

Community organizations, civic groups, and individuals frequently request the temporary use of City-owned equipment for events which are not coordinated or administered by the City. When such requests are granted, City employees must often transport, install, and later dismantle the equipment because of its size or its technical nature. The City is exposed to considerable potential liability if a member of the public is injured through the use of City-owned equipment. In addition, the equipment itself is exposed to damage, vandalism, or loss. Finally, the City is constrained by law from allowing City-owned personal property to be used for any activity which does not serve a public municipal purpose.

PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the temporary use of City-owned equipment and personal property in non-City administered or coordinated events to assure: (1) that each request is considered on a fair and equitable basis; (2) that a public municipal purpose is served; and, (3) that the City's costs and liabilities are minimized. This policy is not applicable to library materials administered by the Library Department, sports and recreation equipment administered by the Parks and Recreation Department, or other items of City-owned personal property which are maintained for the purpose of loan to the public as part of regular, ongoing City services.

POLICY

It is the policy of the City of San Jose that only the following items of City-owned equipment or personal property shall be loaned for use in non-municipal events:

1. Reviewing stands and/or platforms.
2. Public address systems.

It is further the policy of the City that such equipment shall be loaned for temporary use only in activities or events that:

1. Are open to the public.
2. Are of civic, cultural, social, recreational, educational or community value to the citizens of San Jose.
3. Are not of a partisan political nature.

COUNCIL POLICY — Cont'd.

TITLE	TEMPORARY USE OF CITY EQUIPMENT BY COMMUNITY ORGANIZATIONS	PAGE	2	OF	3	POLICY NUMBER	2-5
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Additionally, it is City policy that requests for temporary use of City-owned equipment will be considered only from local municipalities and other governmental agencies and from community and civic organizations which meet the following criteria:

1. The organization is a non-profit organization.
2. The organization is not a political party.
3. A majority of the officers and members of the organization are residents of San Jose.
4. The organization is non-discriminatory in membership and participation.
5. The organization can demonstrate in a reasonable manner that rental of similar equipment on the private market is beyond its financial means or would represent a significant hardship.
6. The organization must agree in writing to:
 - a. Hold the City and its employees harmless from all liability for personal or property damage occurring as a result of using the City-owned equipment.
 - b. Accept full responsibility for the reasonable care, maintenance and prompt return of the borrowed City equipment.
 - c. Reimburse the City for damages to the borrowed City equipment resulting from negligence or misuse while in their custody.

PROCEDURES

The following procedures will be used in considering requests for temporary use of City-owned equipment:

1. No request for temporary use of City equipment will be approved until the City Council, the City Manager, or the appropriate department head has concluded that the benefits to the community from such use outweigh the City's costs and potential liability.
2. The request must be made in writing by a responsible officer of the requesting organization.
3. If the request is made in connection with civic or cultural events for which City funds are budgeted, then the City Manager or his designee may decide on the request.

COUNCIL POLICY — Cont'd.

TITLE	TEMPORARY USE OF CITY EQUIPMENT BY COMMUNITY ORGANIZATIONS	PAGE 3 OF 3	POLICY NUMBER 2-5
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4. If the requesting organization will absorb all transportation, put-up and take-down costs, and obtain liability insurance, if necessary, to protect the City, then the City Manager or his designee may decide upon the request.
5. If the temporary use would involve unbudgeted personnel costs and/or reasonable chance of potential liability to the City, then only the City Council can approve the request. The City Council will obtain the City Manager's recommendation in such cases.
6. The appropriate City departments will develop rules and regulations for the temporary use of City-owned equipment and personal property administered by the respective departments.
7. Applications for use of temporary equipment for parades, festivals, celebrations, rallies and similar public events shall be filed in accordance with Council Policy 5-2, Parades and Celebrations.

City of San Jose, California

COUNCIL POLICY

TITLE FUNERAL ESCORT SERVICE	PAGE 1 OF 1	POLICY NUMBER 5-1
	EFFECTIVE DATE 5/25/70	REVISED DATE 6/29/82

APPROVED BY Council Action - June 10, 1968, Ordinance 14161; May 25, 1970, Resolution 37608; July 17, 1979, Resolution 51871; September 2, 1980, Resolution 53774; June 29, 1982, Resolution 55676.

BACKGROUND

The Finance Committee of the City Council at the meeting of April 29, 1970, reviewed the policy and cost of providing Police funeral escort services. It was determined that the City would continue to provide Police escorts for funerals since it is a traffic control problem, and recover applicable cost for this service. Ordinance No. 14161 passed June 12, 1968 also established that the fee for funeral escorts will be fixed from time-to-time by resolution.

PURPOSE

This policy will continue the present funeral escort services at the increased rate per officer as specified in the prevailing fee resolution, up to a maximum of two officers, for each funeral. This will provide the necessary traffic control, in addition to performing a public relations function by the Police Department, and will also provide the benefit of providing additional motorcycle officers on the street over and above the existing duty officers assigned. The rate per officer as specified in the prevailing fee resolution will recover the applicable cost for this service.

POLICY

It is the policy of the City of San Jose to provide motorcycle Police escorts for funerals, as requested. A fee as specified in the prevailing fee resolution is to be charged for up to a maximum of two officers for each escort. Additional officers, if required at the time of the escort, will be supplied from the "on-duty" officers at no charge based on the criteria of one officer for each ten cars in the procession. The number of officers requested for processions of more than twenty cars will be determined by the officer in charge of the escort.

The Police Officers will perform the funeral escort services primarily on an "off-duty" basis. In the event that sufficient "off-duty" officers are not available, "on-duty" officers will be assigned. The "on-duty" officers would be considered to be performing part of their normal traffic control function, would not be placed in an "off-duty" status, and would be compensated at their regular hourly rate only. The "off-duty" officers would be compensated for each escort, regardless of the amount of time required, at the rate specified in the prevailing fee resolution.

The funeral homes will be invoiced at the prevailing fee per officer, with a maximum charge for two officers per procession, regardless of the number of officers, or whether "on-duty" or "off-duty" officers were used. The cost for each officer providing such escort service is the prevailing rate as specified by resolution, plus an additional fee per officer for overhead and motorcycle maintenance costs as specified by resolution.

City of San Jose, California

COUNCIL POLICY

TITLE ALTERNATE TRAFFIC MITIGATION MEASURES	PAGE 1 OF 4	POLICY NUMBER 5-4
	EFFECTIVE DATE 6/23/87	REVISED DATE
APPROVED BY Council Action - June 23, 1987, Item 12b4		

BACKGROUND

It is the policy of the City of San Jose to require minimum performance of City streets during peak travel periods to be at a level of service "D", as defined in the General Plan and Council Policy No. 5-3, as revised August 26, 1980. Under certain conditions, a mitigation measure to meet the requirements of this Transportation Level-of-Service Policy may, in and of itself, result in an unacceptable secondary impact on an existing residential neighborhood. In 1986, the General Plan was amended to enable the City Council to adopt a Council Policy which establishes alternate mitigation measures for projects whose required traffic mitigation would result in a substantial adverse impact on an affected neighborhood. This policy implements that General Plan amendment and defines those secondary impacts which are unacceptable. The conditions set forth in this policy must be met in order for the application of alternate mitigation measures to satisfy the intent of the Transportation Level-of-Service Policy.

PURPOSE

The purpose of this policy is to establish the Council Policy for application of alternate mitigation measures permitted by the adopted General Plan. It prescribes the specific conditions under which alternate mitigation measures satisfy the intent of the Transportation Level-of-Service Policy of the General Plan of the City of San Jose and the requirements set forth in Council Policy No. 5-3, as revised August 26, 1980.

POLICY

It is the policy of the City of San Jose to consider, under specified circumstances, alternate mitigation measures to satisfy the Transportation Level-of-Service requirements specified in the adopted General Plan and in Council Policy No. 5-3, as revised August 26, 1980. Alternate mitigation measures may be permitted only when the mitigation measures identified for a development project are unacceptable, provided that the development project is otherwise acceptable.

Prior to the application of alternate mitigation measures, the development project should be revised to avoid the need for unacceptable mitigation measures. Such revisions may include project phasing, a lowering of residential densities and/or a reasonable reduction of floor area ratios (FAR), consistent with applicable General Plan policies and zoning ordinance provisions.

1. Definition of Unacceptable Mitigation

For the application of this policy, "Unacceptable Mitigation" is defined as the following:

- A. Removal of existing on-street parking ("red-curbing") or street widening on streets with existing front-on residential units or on streets with primary driveway access for existing side-on residential units; or
- B. Removal of existing on-street parking or street widening on streets that have front-on properties with a General Plan land use designation of Neighborhood Business District.

"Street widening" for the purposes of this policy is defined as acquisition of right-of-way beyond adopted plan lines where there are existing curb/gutter sidewalk improvements.

2. Definition of Alternate Mitigation

If the removal of on-street parking or street widening in front of existing residential units or in a designated Neighborhood Business District cannot be avoided as mitigation for a development project in order to satisfy the Transportation Level-of-Service Policy, then the following alternate mitigation measures may be imposed in lieu thereof:

- A. Improvements to adjacent or nearby intersections which would increase the local transportation capacity and likely result in the diversion of trips to the improved intersections;
- B. Monetary payment to the City to wholly, or partially, fund signal synchronization, signal phasing or some other specified improvement to increase the local transportation capacity.

3. Exclusions from Alternate Mitigation

Under the following specified circumstances, alternate mitigation measures may not be applied to development projects:

- A. In cases where no identified mitigation measures or alternate mitigation measures are available to alleviate traffic impacts;
- B. In cases where the removal of parking or street widening is necessary to correct an identified safety problem not created as a result of the proposed development project;

- C. In cases where the removal of parking or street widening applies to an unimproved half-street;
- D. In cases where the removal of parking or street widening is necessary to increase the traffic capacity at an intersection addressed by an adopted Area Development Policy (such as a screenline intersection for the Evergreen Area Development Policy); alternate mitigation measures cannot be used to supercede the requirements of an Area Development Policy;
- E. In cases where the removal of parking or street widening is required for streets within the development project site or for street frontage abutting the project site.

4. Notification Procedures

It is the intent of this policy to ensure that the removal of parking or street widening in front of existing residential units or in designated Neighborhood Business Districts does not occur without the opportunity for affected property owners to communicate their concerns or objections to the City at the earliest possible point in the development review process.

When alternate mitigation measures are precluded by virtue of the five criteria listed under "Exclusions from Alternate Mitigation", owners of property fronting on those streets proposed for mitigation measures defined under "Definition of Unacceptable Mitigation" will be notified in writing by the Director of Planning. Such notification should occur as follows:

- A. In cases where a new Negative Declaration is required for the project, the Negative Declaration noticing will be expanded to the affected property owners;
- B. In cases where an Environmental Impact Report (EIR) is required for the project, the noticing for the EIR public hearing will be expanded to the affected property owners;
- C. In cases where environmental review has previously been completed, noticing will be provided to the affected property owners at least fifteen (15) calendar days prior to the hearing on the project.

5. Identification of Other Undesirable Mitigation Measures

Upon receipt of any communication regarding the desirability of a proposed traffic mitigation measure other than those described above as "unacceptable", the Director of Planning will make a reasonable attempt to consider such communication, in the context of this policy, in his decision to issue environmental clearance and in his recommendation for the proposed development project.

6. Annual Review of this Policy

An annual review of this policy should be undertaken in order to monitor its effectiveness and to make revisions to the policy as deemed necessary. A report to the City Council evaluating this policy should be completed immediately preceding the Annual Review of the General Plan.

City of San Jose, California

COUNCIL POLICY

TITLE ANNEXATION BY CITY	PAGE 1	OF 1	POLICY NUMBER 6-1
	EFFECTIVE DATE October 19, 1970		REVISED DATE
APPROVED BY Council Action - October 19, 1970			

BACKGROUND

The Joint City County Planning Committee unanimously adopted the Urban Development Goals of the City of San Jose on October 30, 1969. Stated in these goals was the annexation policy of the City of San Jose.

The City Council adopted this policy, as outlined in the City Manager's Report dated October 14, 1970, in the Council meeting of October 19, 1970.

POLICY

It is the policy of the City of San Jose to encourage all land within the City's sphere of influence to be ultimately annexed and developed by the City as follows:

1. Those unincorporated areas within the City's sphere of influence which are generally within reach of essential City services and which have or are within reach of all basic utilities are encouraged for immediate annexation.
2. Those areas lacking one or more of the basic utilities and the essential City services shall be considered for annexation only on an exception basis, when in the interests of the City of San Jose.

City of San Jose, California

COUNCIL POLICY

TITLE EMERGENCY ZONING	PAGE 1 OF 1	POLICY NUMBER 6-3
	EFFECTIVE DATE July 26, 1971	REVISED DATE
APPROVED BY Council Action - July 26, 1971		

BACKGROUND

In order to facilitate the planning and development of parcels undergoing annexation proceedings, it has become desirable to establish a formal Council policy for rezoning and emergency zoning.

PURPOSE

The General Plan is the first guide as to the zoning of any area for either rezoning or emergency zoning for parcels being considered for annexation. Previously adopted rezoning would also be the first determinant for any emergency zoning. Emergency zoning to R-1-B-6 is possible if such zoning is in conformance with the General Plan and is in the urbanized area defined in the Urban Development Policy.

A parcel surrounded by developed property can be granted residential emergency zoning; however, a tentative map must still be approved by the Planning Commission before development can proceed.

POLICY

Property annexed to the City of San Jose will be emergency zoned as follows:

- 1) Emergency zoning shall conform to adopted rezoning.
- 2) In the Urban Area, R-1-B-6 emergency zoning may be approved, provided it conforms to the residential densities shown in the General Plan.
- 3) Property in the Urban Area (as defined by the Urban Development Policy of the City of San Jose as adopted on October 19, 1970) with special circumstances, such as being completely surrounded by developed property not conforming to the General Plan, may be given emergency Zoning which does not conform to the General Plan but is of similar land use as the surrounding and adjacent developed property.

Otherwise,

- 4) Property with county zoning conforming to the San Jose General Plan shall be given equivalent city zoning.
- 5) Property with county zoning not conforming to the San Jose General Plan shall be zoned A or R-1-B-3.
- 6) Property with County agricultural zoning shall be zoned agricultural in the City of San Jose.

City of San Jose, California

COUNCIL POLICY

TITLE INTERIM RESIDENTIAL USES EXCLUDED IN INDUSTRIAL AREAS	PAGE 1 OF 1	POLICY NUMBER 6-6
	EFFECTIVE DATE 10-29-73	REVISED DATE
APPROVED BY COUNCIL ACTION OCTOBER 29, 1973		

BACKGROUND

In the past, the City has been asked to review proposals for mobile home parks as interim uses in San Jose's industrial areas, including industrial reserves. A report was submitted to the City Council based on the Industrial Development Commission's "Interim Uses in Industrial Areas", recommending exclusion of residential use from consideration as interim uses in industrial areas. The City Council approved this recommendation on October 29, 1973.

POLICY

It is the policy of the City Council to exclude residential uses, including mobile home parks, from consideration as interim uses in industrial areas of the City.

City of San Jose, California

COUNCIL POLICY

TITLE WATER POLLUTION CONTROL PLANT GROWTH MANAGEMENT POLICY	PAGE 1 OF 1	POLICY NUMBER 6-12
	EFFECTIVE DATE 1/20/81	REVISED DATE
APPROVED BY Council Action - January 20, 1981		

BACKGROUND

On January 20, 1981, the City Council adopted a growth management policy for the San Jose-Santa Clara Water Pollution Control Plant (WPCP). This policy establishes the Council's intent to ensure that adequate plant capacity will be available in future years to accommodate the sewage treatment needs of San Jose.

POLICY

The City Councils of San Jose and Santa Clara are firmly committed to cost-effective water pollution control in the South Bay. In accordance with this commitment, the City Council of San Jose has adopted the following policy:

1. To provide the treatment capacity for tributary agencies which has been agreed upon contractually, while at the same time not violating the requirements of the State discharge permit nor exceeding the capacity of the WPCP.
2. To implement a water conservation program which would limit excessive wastewater production in the WPCP service area.
3. To control land use, planning, and the issuance of building permits so that plant capacity is not exceeded.
4. To restore plant capacity for sewage treatment needs through 1985.
5. To monitor and control wastewater production and treatment, and implement a program to provide the additional treatment capacity required through 1990.

A Growth Management System was developed by the Administration in the latter part of 1980 to deal with the treatment plant capacity issue. This system will be utilized to determine the impact and acceptability of new development proposals, based on added sewage flows, by all jurisdictions in the San Jose-Santa Clara WPCP service area.

COUNCIL POLICY

TITLE CITY-INITIATED PLANNED DEVELOPMENT ZONING	PAGE 1 OF 1	POLICY NUMBER 6-13
	EFFECTIVE DATE 3/16/82	REVISED DATE

APPROVED BY Council Action - March 16, 1982 - Ordinance 20906

BACKGROUND

For some time the City Council and the Planning Commission have desired more effective yet flexible control of development. Regulating development in accordance with the General Plan is sometimes made difficult by the relatively poor match between the zones established by the Zoning Code and the land use/density designations of the General Plan.

Planned development zoning is the most flexible zoning tool available to the City. It allows for a zone "tailor-made" to a specific situation. It affords the City Council as much control as it desires, while at the same time allowing the developers as much flexibility as the City Council deems appropriate.

Once Planned Development zoning had been adopted for a specific area or property, any new development project would be subject to a Planned Development Permit, which does not require a City Council hearing. This would save processing time since major issues related to allowable uses and development standards would be resolved by the PD zone, and any person wishing to develop in that area could proceed directly to the permit stage, thereby securing a speedier approval of a project.

PURPOSE

The purpose of this Council Policy is to limit the initial use of the City-initiated Planned Development Zoning Ordinance to three specific areas.

POLICY STATEMENT

The initial use of Ordinance 20906 covering City-initiated Planned Development Zoning is limited to the following three areas:

1. The downtown area
2. The Meridian Avenue Main Branch Post Office site
3. The Water Pollution Control Plant lease lands.

If the Council, the Administration, or the Planning Commission wishes to propose a more extended use of this Zoning Code change, they are to make such proposals during the General Plan Review process.

City of San Jose, California
COUNCIL POLICY

TITLE CHURCH LOCATION POLICY	PAGE 1 OF 1	POLICY NUMBER 6-21
	EFFECTIVE DATE 3/19/91	REVISED DATE
APPROVED BY Council Action: 3/19/91, Item 7g(4)		

BACKGROUND

Churches may be allowed in any zoning district with the issuance of a Conditional Use Permit, as explained in Section 20.44 or the zoning regulations of the City of San Jose.

PURPOSE

It is the purpose of this policy to specify the minimum development standards for all new church development in the City of San Jose.

POLICY

1. The proposed church and associated church uses should be located in an area that will not negatively impact the residential living environment.
2. The minimum lot size for construction of a new church facility should be one acre.
3. A 25 foot minimum building setback should be required along all property lines, particularly adjacent to residential uses. In zoning districts requiring larger setbacks, the larger setbacks will be required.
4. All setback areas along street frontages should be landscaped. In no case should front landscape areas be less than 15 feet deep. A minimum of five feet of landscaping should be provided along interior property lines. Other landscaping should be distributed within all parking areas.
5. Churches should not be located in areas with a General Plan designation of Campus Industrial.
6. Churches should not be considered as a first priority for development in industrially designated areas.
7. Churches should not be located on sites where it has been predetermined that an intensification beyond the existing development is not possible.
8. Approval of churches proposed in existing commercial areas should be evaluated primarily on the ability to provide the required on-site parking.

COUNCIL POLICY

TITLE EVALUATION CRITERIA FOR HIGH DENSITY HOUSING NEAR RAIL TRANSIT	PAGE 1 OF 3	POLICY NUMBER 6-24
	EFFECTIVE DATE 08/20/91	REVISED DATE
APPROVED BY Council Action: 8-20-91 - Item 91		

BACKGROUND

In 1989 the City Council established the San Jose Housing Initiative, an innovative program to encourage the production of high density housing and supportive mixed uses near public transit corridors. This program targets a strategic area in San Jose which includes a portion of the Guadalupe Light Rail Corridor, the Downtown and several major arterials radiating from Downtown. The objectives of the Housing Initiative are: produce high density housing for all income levels, encourage public transit use, locate housing near job centers, optimize the service capacity of existing infrastructure, and encourage more efficient use and reuse of land.

In furtherance of these goals, the City Council sets forth the following evaluation criteria. These criteria are necessary to ensure that new high density housing developments built near public transportation facilities are compatible with surrounding uses and are consistent with the goals of the Housing Initiative. These criteria may be applied to projects located near other rail facilities in the absence of more specific studies to guide development.

PURPOSE

It is the purpose of this policy to define a set of criteria for use in the evaluation of proposed high density residential projects near rail transit. The application of these criteria facilitate the development of high quality housing which is compatible with surrounding uses. The construction of such housing contributes to the achievement of the goals of the Housing Initiative.

SCOPE

The evaluation criteria described in this policy apply to all housing proposals above the density of 12 units/acre located within the Housing Initiative study area or near other rail stations. These criteria should be followed in areas where there is no master or specific plan to guide more intensive uses.

POLICY

I Site Location

- A. Relationship to Public Transit Facilities: high density residential projects should be located as close to transit stops as possible.

- B. Relationship to Single Family Residential Development: High density residential projects should be compatible with existing neighborhoods. A compatible interface between high density housing and single family development should be achieved through architectural design, landscaping, appropriate siting of the proposed high density project, or other techniques. To the extent feasible, higher density projects (30 or more dwelling units per acre) should generally be separated from existing single family development by an intermediate land use or by an adequate physical barrier (e.g., a major arterial or creek).
- C. Displacement: Careful attention should be given to the current use on the site of the proposed project. If the proposed project would displace a viable non-residential use, it may be in the City's broader economic interests to preserve the existing use.
- D. Historic Resources: All proposed projects should be reviewed to determine any potential impacts to historic resources. This includes the treatment of historic structures as well as the relationship of the proposed project to an historic neighborhood. Proposed projects should reinforce the historic character of the area. On-site historic resources should be incorporated into the proposed projects as positive elements. Proposed housing should have little or no negative impacts on historic resources.
- E. Existing Infrastructure and Services: Proposed projects should be sited to take advantage of existing infrastructure, services, and amenities (e.g., roads, transit facilities, parks and shopping). Conversely, if existing infrastructure and services, including public open space, are identified as insufficient to serve the proposed project, the developer should provide compensatory on-site facilities and services to the extent feasible.

II RELATIONSHIP TO SURROUNDING PROPERTIES AND ACTIVITIES

- A. Functional Compatibility: The proposed project must functionally relate to surrounding land uses and to nearby transit facilities. If the existing adjacent land uses are in transition, then Planning staff should make assumptions regarding future uses and determine whether or not the proposed project would be compatible with the future uses.
- B. Physical Compatibility: The proposed project must relate well physically to the surrounding area in terms of scale, massing, location of building entrances, accessibility of public open space, and other considerations. Projects located near major streets, freeways or railroad lines should include measures to mitigate the noise impacts of these uses.

III ON-SITE PROJECT REQUIREMENTS

- A. Development Density: The proposed project should be developed at the highest density possible consistent with the criteria listed above as well as other City policies and guidelines including the Residential Design Guidelines and the Commercial Design Guidelines.
- B. Project Quality: All projects should be of high quality design that maximizes site utilization within the context of the surrounding area. Projects should conform to the Residential Design Guidelines and Commercial Design Guidelines unless specific variations are identified in these criteria or in an area plan.
- C. Transit Orientation: Proposed projects should be designed to provide direct pedestrian access to transit stops, facilitating the convenient use of public transit.
- D. Mixed-Use Development: Mixed-use development is encouraged wherever possible.

City of San José, California

COUNCIL POLICY

TITLE HOUSING PROPERTY ACQUISITION POLICY	PAGE 1 of 4	POLICY NUMBER 7-9
	EFFECTIVE DATE 4/21/92	REVISED DATE
APPROVED BY COUNCIL ACTION 4/21/92 - Item 9f, Resolution No. 63674		

I PURPOSES OF THE POLICY

- A. Minimize public cost and help ensure feasibility of housing proposals that will:
 - 1. Meet the City's and Redevelopment Agency's replacement housing and last resort housing obligations.
 - 2. Further achieve new construction and/or substantial rehabilitation of housing affordable to low and moderate income households.
 - 3. Further the achievement of higher density, mixed income housing along transportation corridors or areas close to job centers.
 - 4. Meet the needs of special priority populations (e.g., disabled, homeless).
 - 5. Further City revitalization efforts.
- B. Facilitate acquisition of sites suitable for relocation of housing located on publicly-owned property.
- C. Further the achievement of low income housing in non-impacted areas throughout the City.
- D. Further the preservation of long-term affordability of existing Federal or State subsidized very low and low income rental housing units that might otherwise be lost because of conversion to market rate rents.
- E. Otherwise further the goals of the General Plan and other policies with respect to affordable housing.

II SCOPE OF POLICY

The acquisition policy would apply to any improved or unimproved real property acquired in whole or in part with City funds or monies deposited into the Redevelopment "20% Housing" fund. The property disposition provisions apply to improved or unimproved property owned or to be acquired by the City.

III PROPERTY ACQUISITION

A. Minimum Criteria for Property Selection

1. General

- a. The property location and proposed reuse must be consistent with the purposes of this Policy and the objectives of the General Plan and other adopted plans and policies.
- b. The property must be capable of being developed for housing in a timely fashion (completion of the housing no more than 5 years after property acquisition).
- c. The property acquisition price must be at, or below, the price for comparable properties, if consistent with applicable Federal or State law.
- d. A minimum of initial and total City/Redevelopment Low and Moderate Income Housing Setaside property acquisition fund outlay would be required.
- e. The housing intended to be located on the property can reasonably be expected to comply with the provisions of Article XXXIV of the California Constitution.
- f. Acquisition and disposition of the property would require a minimum of relocation of existing tenants and owner occupants.

2. Existing Rental Housing Properties

Group 1 Properties - Federal or State Subsidized Projects. There must be evidence that acquisition, rather than other measures such as extension of existing Federal subsidy contracts with the present owner, is the most cost effective means to the City for achieving long term affordability for low and very low income households.

Group 2 Properties - Properties Proposed for Acquisition - Rehabilitation. The property must be part of a specific neighborhood improvement effort. In addition, there must be evidence that all of the following conditions are met:

- (1) The proposed acquisition/rehabilitation will further the achievement of the City's neighborhood revitalization strategy;
- (2) Substantial improvement in housing quality will result;
- (3) All of the assisted dwelling units will be affordable to low and very low income households; and

- (4) The purchase, plus rehabilitation and relocation, will achieve long term affordability for less of a required City subsidy than for comparable newly-constructed housing.

B. Priorities

Priority consideration will be given to sites that could be utilized for:

1. Housing that would meet the City's or Redevelopment Agency's replacement and last resort housing obligations and would be integrated as a small percentage of a larger housing development.
2. Low and very low income housing which would be located in areas of the City not impacted with such housing.
3. Single room occupancy (SRO) housing which would meet City approved criteria and is intended to replace SRO's removed from the Downtown Core or Frame Areas.
4. Mixed income housing.

C. Process

1. Two different methods of acquisition may be employed. The City may assist in funding a property acquired by another entity. Normally, this is the preferred method.

As a last resort the City may directly acquire and dispose of a property. Examples are assemblage of several small sites into one useable parcel and exercising a right of first refusal to acquire surplus site offered by another public agency.

2. Two alternative processes may be utilized, regardless of acquisition method utilized.
 - a. Proposals would be solicited from property owners or developers, then would be ranked in accordance with this policy. Proposed purchases or funding commitments to developers would be recommended for City Council approval.
 - b. Proposals from sellers or developers may be accepted on a continuous basis. The proposals would be reviewed for reasonableness and consistency with City policy prior to recommendations for Council approval. This process is intended to be used where:

- (1) The property is being offered by an agency or corporation established by the Federal Government or the State of California;

- (2) The property is being offered by a local government agency other than the City or the Redevelopment Agency;
- (3) Real property is being offered pursuant to a foreclosure sale;
- (4) Parcels of two acres or less that are suitable for meeting replacement or last resort housing requirements or would further the City's neighborhood rehabilitation program; or
- (5) Sites would provide unusual opportunities for the City because of below market price, or unusually desirable location for housing.

IV PROPERTY DISPOSITION PROCESSES

- A. The property disposition processes shall apply to any parcel acquired or otherwise controlled by the City and which is suitable for or intended for housing use or reuse. Exceptions may be approved if required by legal conditions governing disposition of a specific City-owned parcel.
- B. Normally a request for proposals process shall be utilized except as follows:
 1. An open listing or sealed bid process may be used for disposition of small scale parcels (normally two acres or less) or for properties containing 1 to 4 dwelling units.
 2. The property may be disposed of on a negotiated basis to qualified developers who own or have control of adjacent sites and will develop housing consistent with this and other City housing policies.
- C. Property disposed of pursuant to state law permitting disposition at a below market price shall be restricted primarily to low and moderate income housing use.

V EXCEPTIONS TO POLICY

At the recommendation of the Director of Housing, projects that fall outside of this policy shall only be considered for funding if the Director of Housing determines that:

- A. Such projects meet the housing goals of the City; and
- B. Such projects are exceptionally economically feasible.

City of San Jose, California
COUNCIL POLICY

TITLE CRITERIA FOR THE INSTALLATION OF THROUGH STREETS	PAGE 1 OF 1	POLICY NUMBER 8-2
	EFFECTIVE DATE April 17, 1972	REVISED DATE
APPROVED BY Council Action - April 17, 1972		

BACKGROUND

A through street is established to provide a preferred route for through traffic by controlling vehicles entering from the side streets. Additional controls such as center and lane lines are also provided to serve as guides along the preferred route. The purpose of through streets is to collect traffic from parallel or adjacent local streets which are not designed to accommodate such traffic, and thus provide for the safe and expeditious flow of traffic.

PURPOSE

To establish Council policy governing criteria for the installation of through streets.

POLICY

It is the policy of the City Council of San Jose that a through street be established when the street is a natural traffic artery of at least 1/2 mile in length into which through traffic may be routed to provide access to business and residential areas. A system of properly established through streets shall provide an orderly flow of traffic with minimum conflicts. All through streets shall be adopted in accordance with Section 21354 of the California Vehicle Code.

CRITERIA

A through street may be established when any one of the following conditions exist on the proposed through street:

1. 3,000 vehicles per day;
2. 2,000 vehicles per day, and
 - a. Is a regularly scheduled bus route, or
 - b. Is a natural route which is an extension of a through street;
3. 500 vehicles per day if it is a rural highway;
4. 50% or more of the intersections between the limits of the proposed street have traffic signals, stop or yield controls in place, or meet the criteria for same;
5. It is a divided street;
6. It is part of a designed collector street system serving a developing area with a future traffic estimate of over 3,000 vehicles per day;
7. Temporary detours caused by construction.

City of San Jose, California

COUNCIL POLICY

TITLE REMEDIAL INSTALLATION OF SOUNDWALLS	PAGE 1 OF 4	POLICY NUMBER 8-9
	EFFECTIVE DATE 8/24/83	REVISED DATE 09/03/91

APPROVED BY
Council Action - 6/7/83, Item 13A; 1/22/91, Item 7g(4); 5/7/91, Item 7g(2);
9/3/91, Item 7g(4)

BACKGROUND

Since November 19, 1974, the City has required noise attenuation measures for all new residential development. The City's noise level objectives for residential development, as adopted in the City's General Plan, are 60 Ldn (average day/night noise level in decibels) as the exterior noise level quality and 45 Ldn as the indoor noise quality level.

Prior to 1974, different standards were in effect for residential development concerning noise attenuation. In some residential areas developed prior to 1974, noise generated from traffic on City streets exceeds the City's current noise level objectives. Residents of these areas have requested that the City install soundwalls adjacent to the City streets in order to attenuate the noise levels.

PURPOSE

The purpose of this policy is to establish criteria and procedures for evaluating requests for the remedial installation of soundwalls by the City of San Jose.

POLICY

A. Criteria for Considering the Remedial Installation of Soundwalls

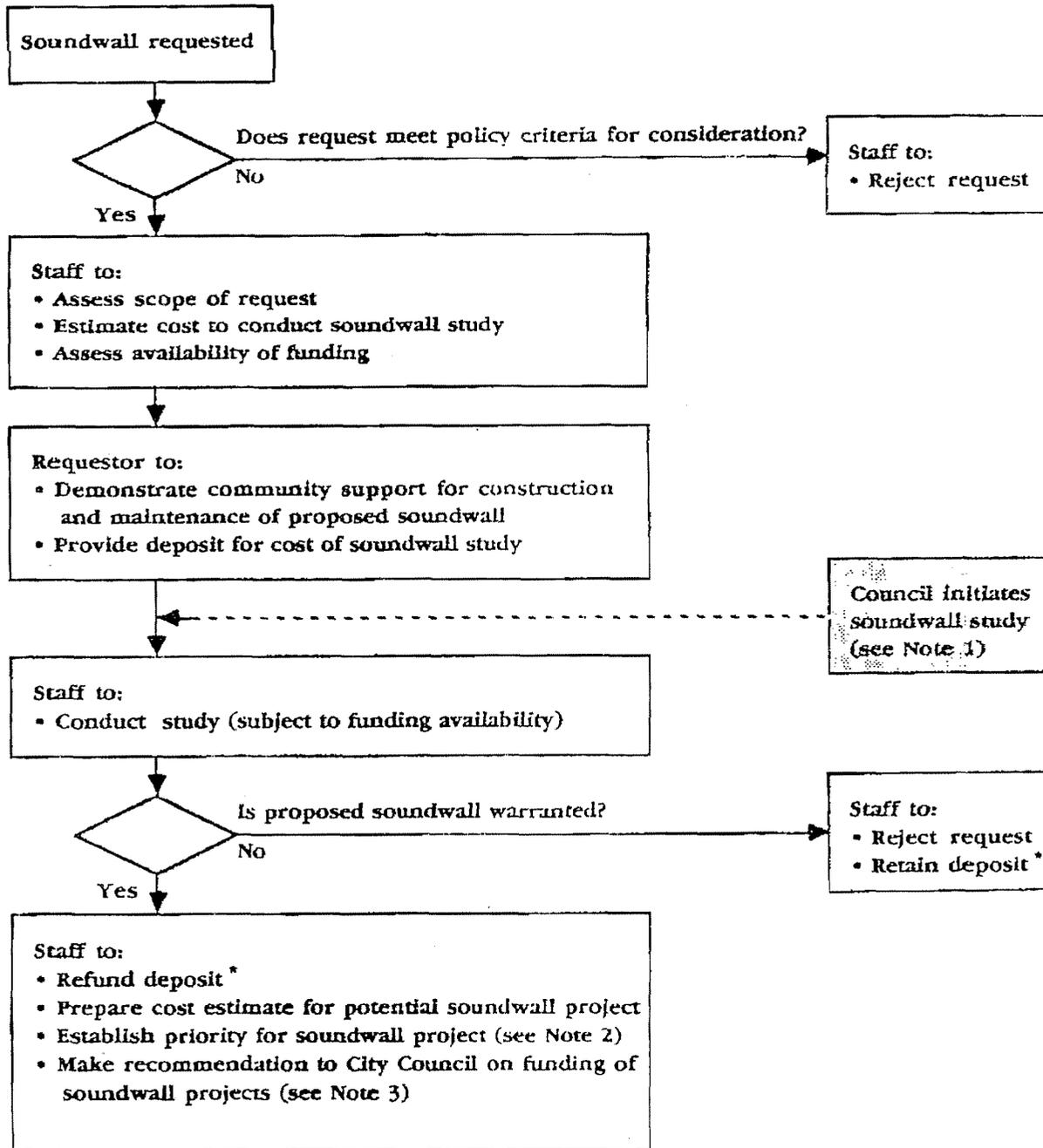
1. The source of noise must be generated by traffic from a street maintained by the City. Requests for soundwalls to attenuate noise from facilities maintained by other jurisdictions, such as State freeways and County expressways, shall be directed to those agencies.
2. Only residential developments approved for construction prior to November 19, 1974 shall be considered. It is assumed that all residential developments constructed after this time comply with the City's noise level objectives.
3. The exterior noise level at a given site must exceed 60 Ldn. Soundwalls shall be intended to attenuate outdoor noise levels audible from the ground level of a property. Attenuation of interior noise levels shall be considered the responsibility of the property owner.
4. Soundwalls shall not interfere with the reasonable access to a property nor have a detrimental impact to public safety. Soundwalls shall not be installed on streets where the residences face the street. Soundwalls shall consist of standard building materials and shall not exceed a height of 12 feet.
5. Proposed soundwall locations shall be on private property and shall be maintained by the adjoining property owner.

TITLE	PAGE	POLICY NUMBER
REMEDIAL INSTALLATION OF SOUNDWALLS	2 OF 2	8-9

- B. Procedure for Considering Requests for the Remedial Installation of Soundwalls
1. Requests for soundwalls shall be coordinated by the Department of Public Works.
 2. A soundwall installation request shall include the following:
 - a. Written concurrence from affected property owners indicating support of proposed soundwall location and acknowledgement of maintenance responsibility.
 - b. Written report prepared by a registered professional acoustic engineer which describes the noise levels at the site and recommends the type and extent of improvement needed to comply with the City's noise level objectives. The City shall arrange for the preparation of the acoustic report subject to a deposit of funds for the cost of the report by the requesting party.

If the acoustic report determines that the requested soundwall meets the criteria of the soundwall policy, the City shall refund the cost of the study to the requesting party as follows: at the completion of the study, if funds are available through a budget allocation approved by the City Council for sound studies; or if such funds are not available, at the time the City Council allocates funds for the construction of the requested soundwall.
 3. As an alternative to Paragraph 2 above, the City Council may, on its own initiative, request that the staff conduct a soundwall study using funds budgeted for that purpose.
 4. The Department of Public Works shall maintain a list of validated requests for soundwalls and shall submit the list with cost estimates for consideration by the City Council for funding soundwall construction projects through the Capital Improvement Program.

**FLOW CHART OF PROCEDURE
FOR IMPLEMENTING THE CITY POLICY
ON THE REMEDIAL INSTALLATION OF SOUNDWALLS**



* not applicable to Council initiated studies

PROCEDURE FOR IMPLEMENTING THE CITY POLICY
ON THE REMEDIAL INSTALLATION OF SOUNDWALLS

Notes

1. Procedure for Council Initiated Soundwall Studies

Councilmember to present item to the City Council for direction to staff to conduct a soundwall study at a specified location using funds budgeted for soundwall studies in the Traffic Capital Improvement Program. A Council initiated study may include any or all of the following informational items:

- Indication of probable warrant for soundwall (e.g., high traffic volumes and/or existence of soundwalls at adjacent developments)
- Indication of community support for construction and maintenance of proposed soundwall (e.g., community petition).
- Indication of hardship or difficulty for community to provide a deposit for the cost of a soundwall study.
- Estimation of cost to conduct soundwall study (to be provided by staff).

2. Priority Setting Criteria for Soundwall Projects

Potential soundwall projects will be placed on a priority list in order of highest priority index. The priority index is calculated using the following formula:

$$\text{Priority Index} = \frac{(\text{Noise Level} - 60)^2 \times \text{Number of Living Units}}{\text{Cost } (\$1,000)}$$

3. On an annual basis, during the month of January, staff will report to the City Council on the list of potential soundwall projects and will make a recommendation regarding the funding of soundwall projects through the Capital Improvement Program.

City of San Jose, California

COUNCIL POLICY

TITLE MULTI-FAMILY HOUSING MORTGAGE REVENUE BONDS	PAGE 1 OF 1	POLICY NUMBER 8-10
	EFFECTIVE DATE 8/16/83	REVISED DATE
APPROVED BY Council Action - August 16, 1983, Agenda Item 10A		

BACKGROUND

In an effort to assure the continued availability of affordable housing for its citizens, the City of San Jose will issue mortgage revenue bonds to finance multi-family rental projects. Federal law requires that projects financed in this manner must consist of residential units, and at least 20% of the units in each project must be occupied by persons of low income. The bonds which finance these projects are secured entirely through the issues, which generally provide bond insurance. The issues are not general obligations of the City and no City revenues secure the issues.

PURPOSE

It is the purpose of this policy to provide a viable rent structure which will encourage private developers to provide both rental housing and "affordable housing" in the City of San Jose.

POLICY

It is the policy of the City of San Jose to encourage the development of rental housing in all price ranges by issuing mortgage revenue bonds to finance multi-family rental projects. Twenty percent (20%) of the units in any multi-family rental project receiving revenue bond assistance from the City of San Jose must comply with the HUD Section 8 New Construction Rent Limitations as adjusted annually. This 20% restriction would remain in effect for the term of the Federal requirement that these units be rented to low-income tenants.

This policy shall apply to all multi-family rental projects for which Resolutions of Intent are issued after the effective date of this Policy.

City of San José, California

COUNCIL POLICY

TITLE USE OF PRODUCTS BLOWN WITH CHLOROFLUORCARBON COMPOUNDS IN CITY BUILDING, CONSTRUCTION AND REMODELING PROJECTS	PAGE 1 of 1	POLICY NUMBER 8-11
	EFFECTIVE DATE 5/5/92	REVISED DATE
APPROVED BY COUNCIL ACTION		
5/5/92 - Item 11a(1)(a)		

BACKGROUND

The City of San Jose has developed a five-phase plan for reducing the omissions of chlorofluorcarbons (CFCs) and other ozone-depleting compounds (ODCs) within the City. On April 10, 1990, the City Council approved the first phase of this plan, banning the sale, transfer, or delivery of any ODC for use as a coolant in any automobile or motor vehicle air-conditioning unit or system in a container designed to hold less than ten pounds, and establishing a comprehensive permitting process that promotes CFC recycling during the servicing, repairing, dismantling or disposing of automotive or motor vehicle air-conditioning units or systems. The second phase of the plan targets the use of blown foam materials that contain CFCs in building and remodeling projects, and the use of polystyrene products blown with CFCs for certain food containers.

In furtherance of the City's plan for reducing CFC and ODC emissions, the City Council sets forth the following policy to ban the use of rigid foam insulation, flexible foam insulation, and foam sealant products that are blown with CFC compounds in City building, construction and remodeling projects. This policy is necessary to ensure that products containing CFC and ODC compounds are not used in City building, construction and remodeling projects.

PURPOSE AND SCOPE

It is the purpose of this policy to ban foam products manufactured with CFCs in City building, construction and remodeling projects. A related ordinance adopted by the City on this same date addresses use of these products in non-City building, construction and remodeling projects.

POLICY

It is the policy of the City of San Jose to prohibit the use of rigid foam insulation, flexible foam insulation and foam sealant products that are blown with chlorofluorcarbon compounds in City building, construction and remodeling projects. This ban includes all projects funded or financed in whole or in part by the City.

City of San Jose, California

COUNCIL POLICY

TITLE SWIM PROGRAM POLICY	PAGE 1 OF 1	POLICY NUMBER 9-7
	EFFECTIVE DATE 3/23/82	REVISED DATE
APPROVED BY Council Action - 2/4/82, Committee of the Whole; 3/23/82, Item 12A		

BACKGROUND

Since the passages of Proposition 13 and the decline in State "bail-out" funds the Parks and Recreation Department has had difficulty in planning their summer swim program. A successful program requires personnel recruitment, publicity and distribution of information through the elementary and junior high schools prior to term endings in mid-June. Because the budget is usually approved during the last week in June, the Parks and Recreation Department was never sure of the amount of funding the swim program would receive.

PURPOSE

The purpose of this policy is to provide the Parks and Recreation Department adequate time needed to plan a viable summer swim program.

POLICY

Each year the Parks and Recreation Department will submit a swim program budget including estimated revenue and expenditures to the City Manager by February 1st, with City Council action no later than April 1st, on the extent of the funding of the next summer's swim program.

This policy will provide the Parks and Recreation Department with adequate time to accomplish the following:

- a) Early recruitment, screening, testing and hiring of swim staff.
- b) Time to promote and publicize program through the use of the various new media.
- c) Time to distribute program brochure and registration information to all elementary and junior high schools within the service area of our program.