



Memorandum

TO: Rules Committee

FROM: Deanna J. Santana

SUBJECT: SEE BELOW

DATE: May 4, 2007

APPROVED:

 **DATE: 5/4/07**

SUBJECT: Approval to validate selected policies contained in the City Council Policy Manual

RECOMMENDATION

Validation of the following policies as contained in the Council Policy Manual and forward to the full Council for adoption of a resolution:

Policy Number	Policy Name
a. Policy 0-6	Audits by City Auditor;
b. Policy 0-32	Disclosure and Sharing of Material Facts; and
c. Policy 4-3	Outdoor Lighting on Private Developments.

OUTCOME

The Rules and Open Government Committee will have the opportunity to review and validate three Council Policies.

BACKGROUND

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.

As part of the Sunshine Reforms related to posting of the City Council Policy Manual on the Internet, the Administration recommended a comprehensive review of all the policies concurrent with the Office of the City 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acknowledgement that the City Council Policy Manual contains policies that do not reflect current practices and/or are no longer current.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 and Open Government Committee (Rules Committee) to oversee the Council Policy Manual revision process.

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: (1) Revise, (2) Validate, and (3) Rescind. Each policy was placed in a category based on the following approach:

- Research of current/revised laws governing practices or City policies in conjunction with the City Attorney's Office.
- Review of superseding Council policies.
- Identification of any policy redundancy.
- Review of current applicability of policies as they relate to current City programs, process and procedures.

On November 8, 2006 the Rule Committee approved recession of 26 policies. Work is underway to start codifying the Council Policy Manual. Staff anticipates having policies available in Word format in 30-60 days.

On April 18, 2007, the Rules and Open Government Committee approved the process and methodology to validate 31 policies contained in the City Council Policy Manual. The Committee also validated the first group of 18 Council Policies. The remaining 13 policies are anticipated to require more Council discussion and will be brought back in groups of three.

Below is additional discussion of City Policy 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 City Council direction. 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. **Status:** Ongoing.

Category 2: Validate Policy – This category includes policies that have recently been updated, created, 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 be posted on the City Clerk's website. New policies or policies revised since January 2007 will not be brought forward for Council validation. **Status:** Ongoing.

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 have been forwarded to the Rules Committee for approval to rescind and delete from the Council Policy Manual. These policies will not be posted on the City's website. **Status:** Complete.

ANALYSIS

The remaining 13 policies recommended for Council validation are anticipated to require more Council discussion. The following matrix contains the next group of policies; and brief

descriptions and justification for Council validation. Additionally, Attachment A is a packet of the actual policies, as contained in the Council Policy Manual.

1. **Policy 0-6: Audits by City Auditor** - The Office of the City Auditor reports to the City Council. This policy establishes guidelines for the City Auditor in conducting examinations of City departments and contracting agencies. **Justification for Council Validation:** This Policy was last revised on October 22, 1991 and while it is current with Council direction, minor revisions (corrections to Municipal Code and City Charter section numbers referring to the Office) are needed; no material to the nature of the policy will be changed.
2. **Policy 0-32: Disclosure and Sharing of Material Facts** - The purpose of this Policy is to require the Mayor and Members of the City Council to publicly share substantive information that is relevant to a matter under consideration by the City Council which they have received from sources outside of the public decision-making process. **Justification for Council Validation:** The Policy was first adopted on April 25, 2006 and reflects current practice and Council direction. The Sunshine Reform Task Force supports in concept recent revisions to the City's process for disclosing and sharing material facts and conflicts of interest.
3. **Policy 4-3: Outdoor Lighting on Private Developments** - This Policy promotes energy efficient lighting for private development that benefits the continued operation of the Lick Observatory by reducing light pollution. **Justification for Council Validation:** This Policy was last updated in 2000 and reflects current practice and Council direction.

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater; (Required: Website Posting)
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. (Required: E-mail and Website Posting)
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. (Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)

This item does not meet any of the criteria above; however, a list of all current Council policies is available online on the City Clerk's website.

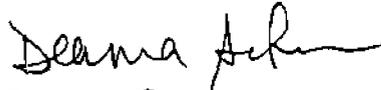
COORDINATION

This memorandum has been coordinated with the City Attorney's Office, City Clerk's Office and departments responsible for upholding each City Council Policy.

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BUDGET REFERENCE

Not applicable.



Deanna J. Santana
Deputy City Manager

For questions, please contact Vilcia Rodriguez, City Manager's Office at (408) 535-8253.

Attachments:

(A) Policies proposed for Validation

Attachment A

City of San José, California

COUNCIL POLICY

TITLE AUDITS BY CITY AUDITOR	PAGE 1 of 2	POLICY NUMBER 0-6
	EFFECTIVE DATE 9/4/73	REVISED DATE 10/22/91
APPROVED BY COUNCIL ACTION		
9/4/73, Item 37; 2/25/72; 10/22/91, Item 7e(6)		

BACKGROUND

The Office of the City Auditor was established as an independent audit function by the City Charter in May, 1965 (Charter Section 804, San Jose Municipal Code Sections 2.04.250 - 2.04.270). The function reports to the City Council.

PURPOSE

To establish guidelines for the City Auditor in conducting examinations of City Departments and contracting Agencies.

POLICY

1. In accordance with Section 804 of the City Charter, the Council has declared that the City Auditor shall have the following powers and duties:
 - a. Conduct or cause to be conducted annual post audits of all the fiscal transactions and accounts kept by or for the City. Such audits shall include but not be limited to the examination and analysis of fiscal procedures and the examination, checking and verification of accounts and expenditures. The audits shall be conducted in accordance with generally accepted auditing standards and accordingly shall include tests of the accounting records and other auditing procedures as may be considered necessary under the circumstances. The audits shall include the issuance of suitable reports of examination so the Council and the public will be informed as to the adequacy of the financial statements of the City.
 - b. Conduct performance audits, as assigned by Council and as determined by the City Auditor's Office. A "performance audit" means a post audit which determines with regard to the purpose, functions and duties of the audited agency, all of the following:
 - Whether the audited department, office or agency is managing its resources, including public funds, personnel, property, equipment and space in an economical and efficient manner.
 - Causes of inefficiencies or uneconomical practices, including inadequacies in management information systems, internal and administrative procedures, organizational structure, use of resources, allocation of personnel, purchasing policies and equipment.

- Whether the desired results are being achieved.
 - Whether objectives established by the Council or other authorizing body are being met.
- c. Conduct special audits and investigations as assigned by Council. "Special audits" and "investigations" mean assignments of limited scope, intended to determine:
- The accuracy of information provided to the Council.
 - The costs and consequences of recommendations made to the Council.
 - Other information concerning the performance of City Departments, Offices or Agencies as requested by the Council.
- d. The City Auditor shall have access to and authority to examine any and all documents including but not limited to books, accounts, internal memoranda, writings and tapes, reports, vouchers, correspondence files and other records, bank accounts, money and other property of any City department, office or agency, whether created by the Charter or otherwise with the exception of the office of any elected official.
- It is the duty of any officer, employee or agent of the City having control of such records to permit access to and examination thereof upon the request of the City Auditor or his or her authorized representative. It is also the duty of any such officer, employee or agent to fully cooperate with and to make full disclosure of all pertinent information to the City Auditor or said authorized representative.
- e. Prepare and submit to the Council in each calendar month a written report of the City Auditor's activities and findings in the immediately preceding calendar month, together with any recommendations to improve the administration of the City.
- f. Perform other auditing functions, consistent with other provisions of this Charter and prepare and submit such other reports as may be assigned by Council.
- g. Conduct the business of the Office of the City Auditor in accordance with Section 196 of the City Administrative Manual.

Disclosure and Sharing of Material Facts**Policy Number 0-32****PURPOSE**

The purpose of this policy is to require the Mayor and Members of the City Council to publicly share substantive information that is relevant to a matter under consideration by the City Council which they have received from sources outside of the public decision-making process.

SCOPE OF APPLICATION

This Policy applies to each Member of the City Council which includes the Mayor.

POLICY

1. Each Member of the City Council has a duty and responsibility to publicly disclose all substantive information and material facts related to an item on the City Council Agenda to the City Council after the information and material facts are obtained or received from sources outside of the public decision-making process.
2. The information shall be disclosed prior to the City Council taking any action on the item. All written information which is required to be disclosed in accordance with this Policy shall be provided to the City Clerk who will make the information publicly available. Oral information shall be communicated to the City Council no later than public discussion of the matter under consideration by the City Council after a good faith determination by the Member of the City Council that the information obtained is required to be disclosed in accordance with this Policy.
3. Substantive information and material facts means important information or important facts that are relevant and necessary for a Member of the City Council to make an informed and knowledgeable decision on a pending legislative matter or an item of business before the City Council.

A fact is "material" if it is one which would likely to affect the judgment or decision of a Member of the City Council or likely to influence a Member of the City Council on an item of business on the City Council Agenda. Further, a fact is "material" if its omission or the failure to disclose the fact will substantially mislead any Member of the City Council from making an informed and knowledgeable decision about a pending legislative matter or an item of business before the City Council.

CITY OF SAN JOSE, CALIFORNIA

CITY COUNCIL POLICY

TITLE	PAGE	POLICY NUMBER
OUTDOOR LIGHTING ON PRIVATE DEVELOPMENTS	1 of 4	4-3
	EFFECTIVE DATE	REVISED DATE
	March 1, 1983	6/20/2000

APPROVED BY COUNCIL ACTION

March 1, 1983, Item 10D; Reso. 56286; 6/20/2000, Item 9m.

BACKGROUND

The City of San Jose has pioneered the use of outdoor lighting that saves energy and preserves the night sky for astronomical research, while creating appropriate levels of lighting for nighttime activities. The City, beginning in 1980, began converting all public street lighting outside of Downtown to low-pressure sodium lights, which are energy-efficient, cost-effective and minimize interference with astronomical research at Lick Observatory. See Policy No. 4-2 Revised 1/12/82 for the City's Street Light Conversion Policy. The benefits the community has derived from low-pressure sodium lighting on public streets and property warrant the use of low-pressure sodium lights on private developments. To further these goals, the City Council, on March 1, 1983 approved Resolution No. 56286 adopting as City policy the requirement that low-pressure sodium illumination be used in the outdoor areas of new private developments. The regulation of outdoor lighting fixtures has resulted in energy conservation which furthers the goals of the Sustainable City Major Strategy of the San Joes 2020 General Plan. The year 2000 revision clarifies the policy intent and its application.

PURPOSE

The purpose of this policy is to promote energy-efficient outdoor lighting on private development in the City of San Jose that provides adequate light for nighttime activities while benefiting the continued enjoyment of the night sky and continuing operation of the Lick Observatory by reducing light pollution and sky glow.

POLICY

General Statement of Policy

- The use of low-pressure (LPS) sodium lighting for outdoor, unroofed areas shall be required for all private development in the City of San Jose as a condition of approval on all Land Use Development Permits. Below are the parameters for such lighting:
- No light source shall be directed skyward.
- All light sources that produce more than **4,050 lumens** shall be **fully shielded** (full cutoff) to prevent light aimed skyward.
- All light sources that produce less than **4,050 lumens** must be at least **partially shielded**.
- Lighting fixtures that illuminate pedestrian walkways may use light sources other than LPS, but only when such fixtures are **fully shielded**.
- Seasonal decorative lighting is allowed to be unshielded only if using very low-wattage fixtures with a cumulative luminosity that does not negatively affect other properties of the night sky. The Director of Planning reserves the right to limit any lighting that adversely affects other properties or the night sky.
- All outdoor lighting fixtures, including display lighting, shall be turned off within one hour of the close of business, unless needed for safety or security, in which case the lighting shall be reduced to the minimum level necessary.
- Lighting Fixtures and architectural detailing that use luminous tube lighting (neon, argon or krypton) should be limited to yellow, orange and red colors to minimize interference with the Observatory.
- When luminous tube lighting is used in signage, is subject to the provisions of the sign Ordinance.
- Properties with existing non-conforming lighting shall be required to conform to this Policy as a part of any permit for reuse, expansion of use, or change in use.

Exceptions

The Director of Planning shall consider exceptions to the use of low-pressure sodium lighting for outdoor areas only during a development permit process for the property. All exceptions shall require a photometric study of the proposal, a referral to the Lick Observatory, and must be the subject of a public hearing. Any alterations or changes to the lighting plan of a development permit that involve the use of illumination fixtures other than LPS must likewise be granted by the Director and be the subject of a public hearing. Any member of the public may appeal decisions about exceptions to this Policy before the Planning Commission.

The Director of Planning may grant exceptions to LPS only for uses within a nighttime environment where it is deemed appropriate. Parking lots and driveways shall not be considered for exemption from the low-pressure sodium lighting requirement regardless of nighttime environment. The City of San Jose has several different types of nighttime environments:

- Intrinsically dark environments such as county and regional parks, rural areas, areas adjacent to optical astronomical observatories, and areas with minimal or no outdoor lighting shall be lit at the minimum level necessary and shall not be considered for exemptions from the LPS requirement.
- Suburban and rural residential areas shall remain areas of low-ambient light levels and also shall not be considered for exception from the LPS requirement.
- Urban residential areas are areas of medium –ambient light levels and shall not be considered from exception from the LPS requirements, except in limited circumstances for recreational facilities, as specified below.
- For urban areas of mixed residential and commercial use, exceptions may be granted by the Director of Planning only for the specific uses specified below.

Within the nighttime environments where higher levels of light could be considered, only specific land uses may qualify for exception from the LPS requirement. Exceptions using other outdoor light illumination fixtures including incandescent, metal halide, high-pressure sodium, fluorescent, and mercury vapor, are limited to the following circumstances:

- *Pedestrian-Oriented Nighttime Districts:* For pedestrian-oriented nighttime activity areas with vertical mixed residential and commercial use of business districts adjacent to residential areas, including areas of Neighborhood Business Districts, exceptions to the use of LPS lighting shall be considered only where other lighting is crucial to the success of pedestrian-oriented businesses.

- Outdoor lighting shall be **fully shielded** regardless of the lumen output and reduced to the minimum level necessary by 10:00 p.m. or within an hour of the close of business, whichever is later.
- *Outdoor recreational facilities:* For field sports such as football, baseball, softball or soccer, partially shielded light fixtures may be used during such recreational events. Recreational uses such as tennis, volleyball, handball, and racquetball shall use fully shielded fixtures. Lighting for outdoor recreational activity must be extinguished by 11:00 p.m., or when the activity is concluded, but only if the event began before 10 P.M.
- *Outdoor automobile sales areas and outdoor material handling areas:* This exception will only be considered in areas where color rendition is critical to preserve the effectiveness of these specified activities. Non-LPS lighting must be **fully shielded** and extinguished by 10:00 P.M. or within one hour of the close of business, whichever is later.

The Downtown Core, as defined in the General Plan, is exempt from the provisions of this Policy, as are any areas that the Council has exempted up until the date of this revision. To allow time for further review of associated issues, the current exemption for outdoor automobile sales areas shall continue for one year from the date the City Council approved revisions to this Policy on June 20, 2000.

Definitions

Fully Shielded: For the purposes of this policy, fully shielded shall mean an outdoor light fixture shielded in such a manner that all light emitted by the fixture, either directly from the lamp or indirectly from the fixture, is projected below a horizontal plane extending from the bottom of the light fixture.

Partially Shielded: For the purposes of this policy, partially-shielded light fixtures means an outdoor light fixture shielded in such a manner that not more than 10% of the light emitted directly from the lamp or indirectly from the fixture is projected at angles above a horizontal plane extending from the bottom of the fixture.

4,050 Lumens: The acceptability of a particular light fixture is decided by its lumen output. The lumen output of a lighting fixture are specified by the manufacturer. Some typical examples of fixtures that produce 4,050 lumens are 200 Watt standard incandescent, 150 Watt Tungsten-Halogen (quartz), 50 Watt High Pressure Sodium, 50 Watt Cool White Fluorescent, and 30 Watt Low Pressure Sodium.

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RESOLUTION OF THE COUNCIL OF THE
CITY OF SAN JOSE ADOPTING AS CITY
COUNCIL POLICY THE REQUIRED USE OF
LOW PRESSURE SODIUM FOR OUTDOOR
ILLUMINATION ON NEW DEVELOPMENT.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE:

WHEREAS, the City Planning Commission, after due consideration of testimony taken at public hearing, unanimously recommended that the City Council adopt a policy requiring the use of low-pressure sodium in outdoor areas as a condition of Land Use Permits for private property development; and

WHEREAS, the City Council has considered the public safety aspects, the energy efficiency aspects, aesthetic considerations and the effect of various light sources on cumulative sky glow;

NOW, THEREFORE:

SECTION 1. The Council of the City of San Jose makes the following findings:

1. The use of low-pressure sodium lighting in outdoor areas of private development projects will not be detrimental to the public health, safety or welfare. Said lighting is extensively used presently on public streets and public land within the City of San Jose.
2. The City recognizes that this type of light is very energy efficient and cost effective.
3. Said light source aids the astronomy community and Lick Observatory in particular, in its research, in that said light source contributes less to sky glow than other types of commonly used outdoor lighting.
4. It is in the best interest of the City to have a uniform outdoor lighting policy for new private development that requires illumination that is energy efficient and does the least to contribute to sky glow.

SECTION 2. In accordance with the findings set forth hereinabove, this Council hereby resolves to pass upon, as policy, the requirement that low-pressure sodium illumination be used in the

outdoor areas of new private developments, more specifically as set forth in Exhibit A, attached herewith.

ADOPTED this 1st day of March,
1983, by the following vote:

AYES: ALVARADO, BEALL, ESTRUTH, FLETCHER, HAMMER, LEWIS, RYDEN, WILLIAMS
AND McENERY

NOES: NONE

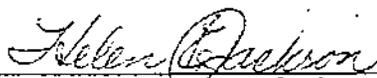
ABSENT: SAUSED0

ABSTAIN: IANNI



THOMAS McENERY Mayor

ATTEST: HELEN E. JACKSON



City Clerk

EXHIBIT "A"

CITY OF SAN JOSE, CALIFORNIA

COUNCIL POLICY

TITLE: OUTDOOR LIGHTING
ON PRIVATE DEVELOPMENTS

BACKGROUND

Starting in 1980, the City instituted a street lighting program utilizing only low-pressure sodium lights, except for the downtown area. Low-pressure sodium lighting has shown to be energy efficient and cost effective. In addition, low-pressure sodium lights are not detrimental to public safety or the scientific research at Lick Observatory. The benefits the community has derived from low-pressure sodium lighting on public streets and property now warrant the use of low-pressure sodium lights on private developments.

POLICY

The use of Low-Pressure Sodium lighting for outdoor unroofed areas shall be required for all private developments in the City of San Jose as a condition of approval on Land Use Development Permits. No light source shall be directed skyward.

Exemptions to this policy can be made by the appropriate approving body for the use of other types of illumination for the following purposes: critical materials handling areas, pedestrian paths, low-level lighting in residential parking areas, sport fields, outdoor sales areas, advertising devices, and other unusual situations where color rendition is critical.