

RESOLUTION NO. 71752

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING AN UPDATED CITY COUNCIL LAND USE POLICY FOR WIRELESS COMMUNICATION FACILITIES**

**WHEREAS**, in response to the emergent need for transmission facilities for use by the wireless communication industry, the City Council of the City of San José ("City Council") adopted a land use policy for wireless communication facilities on January 22, 1991, which was subsequently revised on August 11, 1992, and August 20, 1996; and

**WHEREAS**, the needs of the wireless communication industry have continued to evolve as new technologies are developed and the public's use of wireless communication services grows; and

**WHEREAS**, several changes have been made to the City of San Jose's Zoning Ordinance relating to the regulation of new antenna installation, including an exception to the standard Zoning District height limitations, permitting antennas to be mounted on non-building structures, and amendments to the use allowances within each Zoning District; and

**WHEREAS**, the proposed updated City Council Land Use Policy for Wireless Communication Facilities contains guidelines for the review of new wireless permit applications consistent with and subservient to the procedures established within the current Zoning Ordinance, including the provision that freestanding antennas and any antenna in a conventional residential zoning district may be approved through the issuance of a Conditional Use Permit; and

**WHEREAS**, the City Council desires to approve the updated Council Policy for Wireless Communication Facilities.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:**

The updated Council Policy entitled, "Land Use Policy for Wireless Communication Facilities," which is attached hereto as Exhibit A and incorporated by reference as if fully set forth herein, is hereby approved and shall replace current Council Policy Number 6-20 that was approved by this Council on August 20, 1996.

**ADOPTED** this 16<sup>th</sup> day of September, 2003, by the following vote:

AYES: CAMPOS, CHAVEZ, CHIRCO, CORTESE, DANDO,  
GREGORY, LeZOTTE, REED, WILLIAMS, YEAGER;  
GONZALES

NOES: NONE

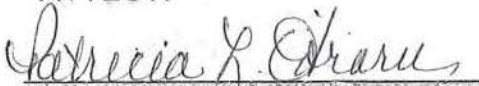
ABSENT: NONE

DISQUALIFIED: NONE



\_\_\_\_\_  
RON GONZALES  
Mayor

ATTEST:



\_\_\_\_\_  
PATRICIA L. O' HEARN  
City Clerk



# City of San José, California

## COUNCIL POLICY

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	EFFECTIVE DATE 1/22/91	REVISED DATE 9/16/03
APPROVED BY Council Action - January 22, 1991; August 11, 1992; August 20, 1996 (9d), September 16, 2003 (4.5)		

### BACKGROUND

San Jose residents, businesses and public safety personnel depend on wireless communications for convenience, economic activity and security. Wireless communications are a crucial part of our economic infrastructure, and our residents and businesses want more and better wireless services. As the Capital of the Silicon Valley, San Jose should have a high level of wireless service available to its residents and businesses in order to meet increasing demands for new and better services. San Jose has a strong interest in achieving and maintaining a high level of service and substantial competition among service providers.

In response to the emergent need for transmission facilities for use by the wireless communication industry, the City Council originally adopted a land use policy for wireless communication facilities on January 22, 1991. The policy was subsequently revised on August 11, 1992 and August 20, 1996. Title 20 of the San José Municipal Code defines these antennas as both structures and uses, and as such, they require the approval of a development permit. The needs of the wireless communication industry have continued to evolve as new technologies are developed and with the steady growth in the public's use of mobile phones and other forms of wireless communication services. Currently, several hundred wireless communication antennas of various types have been permitted throughout the City to meet the needs of several wireless service providers. These antennas are mounted on buildings, on freestanding monopoles, on the side or top of utility structures, or on poles attached to the roof of a building, with attendant cabinets or buildings to house associated electrical equipment. The largest number of new antenna installations are building-mounted, and are located in industrial and commercial areas. In residential areas, most structure-mounted antennas are placed within existing utility easements or at non-residential uses such as churches and schools. The City also continues to both issue and renew permits to allow monopole structures, mostly in industrial areas.

Several changes have been made to the City's Zoning Ordinance pertinent to the regulation of new antenna installations. These changes include provisions for an exception to the standard Zoning District height limitations, the permitting of antennas mounted on non-building structures (such as high-voltage power line support towers), and amendments to the use allowances within each zoning district. The latter change was made as part of the City's comprehensive update of the Zoning Ordinance effective on February 19, 2001. Under the current Ordinance, building- or structure-mounted wireless communication antennas are generally considered permitted land uses in the commercial, industrial, open space and agricultural zoning districts and would require a permit

<sup>1</sup>This Policy focuses on two-way wireless communication facilities. It does not address amateur radio stations, radio or television *transmission-only* facilities or satellite dish *receive-only* facilities.



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adjustment or site development permit. Freestanding antennas and any antenna in a conventional residential zoning district may be approved only through the issuance of a Conditional Use Permit. Previously, the Council Policy did not allow antennas in proximity to existing residential uses, so antennas have been permitted on residentially-zoned land only when the actual land use was non-residential.

The City has found that potential land use impacts can result from the development of wireless communication devices, particularly visual clutter and interface issues associated with proximity to residential neighborhoods. In addition, implementation of the City's policies and requirements for undergrounding will further increase the visibility of monopoles after other utility poles and lines are eliminated.

## PURPOSE

The City supports the extension of communication services to its businesses and residents, but desires that the necessary communication facilities be implemented in a way that minimizes visual clutter and other land use impacts and provides future opportunities for reducing impacts as changes in technology or development patterns make this possible. The wireless industry is encouraged to continue to make major capital investments in San Jose, and the City will work with the wireless industry to facilitate the continued improvement in wireless services while dealing with and solving problems associated with development of the wireless infrastructure. To this end, the City allows wireless communication antennas through a discretionary permit process to ensure that the development conforms to City requirements and is compatible with its surrounding neighborhood. The City's land use permitting process for wireless installations is contained within the City's Zoning Ordinance. The Zoning Ordinance establishes procedures that allow for the approval of wireless installations through either an administrative or public hearing process. This Policy provides guidelines for the review of new wireless permit applications consistent with and subservient to the procedures established within the Zoning Ordinance. To facilitate the evaluation process for individual permit applications, the following criteria are based on the land use designations in the adopted San José 2020 General Plan and are established to clearly identify the project characteristics necessary for approval.

## POLICY

### 1. *Overview*

New wireless communication antennas should be sited so as to minimize visual impacts. Integration of antenna installations within new or existing buildings is the preferred approach. New freestanding monopoles should not be implemented where building-mounted<sup>2</sup> or collocated facilities are feasible and would reduce visual impacts.<sup>3</sup> When due to technological requirements or site availability constraints a monopole is the only feasible alternative, wireless communication service providers are encouraged to design new monopoles to accommodate future collocated facilities of lesser height where radio frequency coverage objectives or quality are not unreasonably compromised, and to cooperate in efforts to collocate new antennas on existing facilities. All new monopoles should be time-conditioned to allow periodic evaluation of opportunities for collocating additional antennas on the approved facility and an assessment of technological changes that may allow reduction in the height of the pole or otherwise reduce its impacts.

<sup>2</sup>For purposes of this Policy, "building-mounted" refers to the mounting of antennas on buildings and on other appropriate structures.

<sup>3</sup>Collocated facilities are defined as facilities belonging to two separate service providers mounted on a single monopole.



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## ***2. Inappropriate Land Use Designations for Wireless Communication Antennas***

Wireless communication antennas which are either freestanding or attached to buildings are discouraged from all residential designations, except Residential Support for the Core, High-Density Residential or Transit Corridor Residential which provide for the integration of commercial and residential uses in an urban setting. Antennas located on residentially-designated properties solely developed with non-residential uses such as parks, schools, public utilities, and churches may be acceptable subject to review in accordance with the City's Zoning Ordinance. Monopoles are discouraged from all Areas of Historic Sensitivity, all Rural Scenic Corridors and Trails and Pathways designations. Locations which could intrude on other uses within these designations are also discouraged.

## ***3. Criteria for Siting Wireless Communication Antennas***

The following policies are intended to address the potential land use impacts that can result from the development of wireless communication devices, particularly visual clutter and interface issues associated with proximity to residential neighborhoods. Technological constraints and the service needs of the wireless industry should also be considered in the application of these policies.

### **a. Visual Impacts.**

**Alternatives Analysis:** In siting new wireless antennas, service providers should explore alternatives to new monopoles that reduce visual impacts. New antenna installations by definition include height additions to existing monopoles and the issuance of a new permit for an existing antenna with a passed permit, as well as entirely new installations. An alternatives analysis should be prepared for any proposed antenna installation that does not make use of a building-mounted or structure-mounted antenna design architecturally integrated with the supporting building or structure. The alternatives analysis should identify all technically feasible potential location sites which reasonably meet the service provider's radio frequency coverage objectives, particularly building-mounted sites, within the project vicinity, provide analysis as to the feasibility of those alternatives and compare the level of visual impact with that of the proposed project. At a minimum, this analysis should identify the location of all existing monopoles within a quarter mile of the proposed site; provide an explanation of why collocation has not been proposed at each of these sites; and assess the potential for building-mounted alternatives.

**Building-Mounted Antennas:** Antennas mounted on buildings or other structures should be located to minimize visual impacts and should be architecturally integrated into the structure. The construction of new architectural elements (e.g. new roof structures or parapets, clock towers, or church steeples) should be considered as a means of providing additional height and of camouflaging antennas and may be permitted through an Adjustment Permit procedure. In some cases existing roof elements may provide adequate visual screening for the installation of a new antenna. Although not the preferred approach, it is acceptable to install a single set of antennae (as an installation for one carrier) without new architectural screening. It is not appropriate, however, to install antennae for multiple carriers without some form of architectural screening. To provide increased opportunities for building mounted antennas, through the City's standard development review process, new construction, particularly of buildings of suitable height and width, should be designed to facilitate the future installation of architecturally-integrated, building-mounted antennas. Ancillary equipment shall be adequately screened.

**Freestanding Monopoles:** New freestanding monopoles should be located and designed to minimize public visibility and "stealth" pole designs should be utilized. "Stealth" poles would include, but not



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be limited to, smooth taper monopoles that accommodate flush-mounted antennas or incorporate antennas inside the pole structure itself. Ancillary equipment should be adequately screened and landscaped to minimize potential for graffiti vandalism.

**Collocation of Facilities on a Single Monopole and Utility Structure Mounted Antennas:** Sharing of a single monopole by two or more communication companies or placement of new antenna on existing utility structures within or outside of the public right-of-way or on a Joint Pole Authority (JPA) structure (including 60kV power line poles) can reduce the overall visual impact of the development of wireless antenna networks. When antenna are installed on a utility structure within the public right-of-way, the antenna will need to meet the residential setback requirements and other standards of this Policy. In all cases, antenna installations and associated equipment enclosures will need to conform the standards of the pertaining zoning district including setbacks requirements.

**Equipment Enclosures:** Equipment areas should be screened as appropriate based upon site conditions by new or existing landscape materials or built structures. Fence enclosures for the equipment areas are not required where all the equipment is enclosed in a single structure that is architecturally compatible with surrounding development. Otherwise, solid fences or walls may be required to reduce visual clutter. Equipment enclosures need to conform to the setback requirements of the underlying zoning district.

**Lighting:** No lighting of antennas is allowed except during maintenance activities or as required for safety by the FAA or other regulatory agency.

**Landscaping:** New landscaping or other visual amenities should be considered to offset the overall visual impact of new freestanding monopole and collocation projects. New landscaping proposed for such purpose should be provided in the form of screening trees located near the antenna location, or as canopy trees for nearby parking areas. Where it is not feasible to provide additional landscaping in proximity to a proposed antenna location, or substantial landscaping already exists on-site, other means of balancing the project's visual impacts shall be considered, such as the provision of additional street trees in the project vicinity or an in-lieu contribution to Our City Forrest.

#### **b. Height.**

Antenna installations should conform to the San José 2020 General Plan and Zoning Ordinance height restrictions. The height of antennas mounted on top of buildings and the height of new architectural elements designed to camouflage the antennas should be in proportion to the height of the building.

#### **c. Setbacks from Residential Uses.**

Freestanding monopoles should be located no closer to a parcel developed for use as a single-family or multi-family residence than 35 feet or a distance equal to 1 foot for every 1 foot of structure height, whichever is greater. Substantial landscaping (10 feet minimum), generally including trees, should be provided adjacent to the residential property line, to buffer the adjoining residential uses.

Building- or structure-mounted antennas should be located a minimum of 35 feet horizontally from any property with a single-family attached or detached residential use. Similarly, a minimum 35-foot horizontal setback should be provided from any adjacent property with a multi-family residential use. A similar setback separation is desirable for an installation within a multi-family residential development, but in situations where superior alternatives are not available, it may be permissible to place a building-



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mounted or structure-mounted antenna within 35 feet of a multi-family residential structure. Installation of an antenna may be particularly appropriate within or adjacent to higher density mixed-use residential projects (development consistent with Residential Support for the Core, Transit Corridor Residential and High-Density Residential General Plan designations) that incorporate non-residential uses. If possible, antennas should be incorporated into the design of non-residential structures (e.g. commercial components, clock towers) located within the overall development.

These setback requirements do not apply to associated equipment enclosures which should comply with standard zoning setback requirements. In situations where superior alternatives are not available, antennas may be mounted on an existing utility structure within a utility corridor, such as a P.G. & E. high-tension (200kV or higher) line corridor, where the antenna would be located at least 20 feet horizontally from a single-family residential property line.

#### **d. Performance Standards.**

Antenna installations should conform to the performance standards of the underlying zoning district. In particular, associated equipment, including power-generating equipment, will need to meet the pertaining noise and air-quality standards and permitting requirements established within the City's Zoning Ordinance.

#### **e. Parking.**

Wireless communication facilities should not reduce existing parking on the site unless the zoning district parking requirements can still be met.

#### **f. Vacant Sites.**

Monopoles developed on vacant sites should be removed and where possible should be replaced with building-mounted antennas when the site is developed provided that the new development would allow relocation of the existing antennas at a similar height and disposition.

### **5. Environmental Review**

An Application for Environmental Clearance is required for wireless communication antennas that are determined not to be exempt from environmental review. An Environmental Clearance Application (Initial Study) should be submitted as part of the application for any new stand-alone monopole installation, any installation including power generation equipment or any installation involving designated historic structures. The Initial Study should analyze the potential for visual, noise, air-quality and other environmental impacts for the project. Antenna that qualify for administrative review are typically exempt from environmental review and an Environmental Clearance Application is not necessary.

### **6. Permit Expirations**

The City may include a time limit condition in use Permits to provide for the future review of the subject antenna installation. Changing development patterns in the area (e.g., a prevailing change from commercial or industrial to residential uses on surrounding properties OR the development of taller buildings or structures in the near vicinity that provide superior collocation opportunities), rapidly changing technologies and/or the availability of improved technologies, may prompt the City upon such review to determine that opportunities

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have become available to replace the existing antenna with a new antenna that has improved visual and land use characteristics. The typical time limit duration is for a five-year period, but based upon project specific circumstances, a longer or shorter duration may be more appropriate. An extended permit duration of up to ten years can be considered appropriate for smooth taper monopoles placed in light or heavy industrial areas. A time limit typically will not be applied to an antenna installation that includes adequate architectural screening (e.g. enclosure within a church steeple or clock tower structure) or that is mounted on an existing utility structure. A permit may include provisions for a time extension, but such an extension should also be reviewed for possible impact-reducing improvements to the project. Applications for extension or renewal of time-conditioned permits should be scheduled for hearing prior to the expiration of the original permit. In the event that a permit expires and an applicant has failed to file for a renewal of that permit, the antenna developed under the permit no longer has legal status and should be removed by the property owner in order to comply with the City's ordinances.

When use of an antenna is discontinued, prior to or subsequent to the expiration of a permit, the antenna should be removed by the property owner.

#### **7. Other Considerations**

- a. The Director of Planning, Building, Code Enforcement or the decision making body, may impose other appropriate conditions on a project-by-project basis as required to ensure land use compatibility. The criteria in this policy represent minimum standards for wireless communication antennas.
- b. The City should periodically obtain information from the communications industry regarding changes in technology and new communication services that may affect the City's wireless communication networks and access for people with disabilities.

CC6-20 (Rev. 09-16-03)