

Wireless Facility Permit Application

Staff will assign **FILE #**

INSTRUCTIONS. Use this form to apply for an Administrative Permit from the Planning Division to operate a wireless facility in the City of San José where the project entails modifying an existing wireless tower and base station pursuant to 47 U.S.C. Section 1455(a) ("Section 6409(a)") and Federal Communications Commission Report and Order FCC-14-153 ("Wireless Infrastructure Order"). See page 3 for definitions, requirements, and documents to include with your application.

OPTION FOR BUILDING-MOUNTED WIRELESS COMMUNICATIONS ANTENNA. If the project qualifies as a building-mounted wireless communications antenna per Municipal Code Section 20.200.1420, you may instead use a [Permit Adjustment Application \(www.sanjoseca.gov/planningapplications\)](http://www.sanjoseca.gov/planningapplications), which is a simpler and potentially faster process.

APPOINTMENT REQUIRED. You must submit the application package in person at the Planning and Development Services Offices, 3rd floor, City Hall. Schedule your appointment online at www.sanjoseca.gov/planningappointments or call 408-535-3555.

Use the computer-fillable form at www.sanjoseca.gov/planningapplications or print clearly using ink.

PROPERTY INFORMATION

ASSESSOR'S PARCEL NUMBER:

PROJECT ADDRESS:

CONTACT INFORMATION

APPLICANT NAME:

NAME OF FIRM IF APPLICABLE:

APPLICANT MAILING ADDRESS:

APPLICANT PHONE:

APPLICANT EMAIL:

FOR MULTIPLE PROPERTY OWNERS, LEASED PROPERTY, OR PROPERTY WITH EASEMENTS,
USE THE AFFIDAVIT OF PROPERTY OWNERSHIP FORM AT www.sanjoseca.gov/planningapplications

PROPERTY OWNER NAME IF DIFFERENT FROM APPLICANT:

PROPERTY OWNER MAILING ADDRESS:

PROPERTY OWNER PHONE:

PROPERTY OWNER EMAIL:

DECLARATION under penalty of perjury: I agree to maintain and operate the subject project of this application in full conformance with all requirements and standards specified by San José Municipal Code Title 20.

• **APPLICANT SIGNATURE**

DATE (MM/DD/YYYY)

• **PROPERTY OWNER SIGNATURE** ONLY IF DIFFERENT FROM APPLICANT

DATE (MM/DD/YYYY)

continued >

OFFICE USE ONLY

DATE:

ZONING:

PD ZONING FILE #:

PAID: \$

BY:

QUAD #:

PERMIT FILE #:

DENIED APPROVED SUBJECT TO CONDITIONS:

INDEMNIFICATION AGREEMENT FOR WIRELESS FACILITY APPLICATIONS

Applicant submitted an application to the City of San José Planning Division on (enter date): _____ for the following development approval/s:

_____ (the "Project").

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Applicant hereby expressly agrees in connection with the processing of Applicant's Project application(s) to each and every one of the following terms and conditions:

- 1. Applicant agrees, as part of and in connection with each and any of the application(s), to defend, indemnify, and hold harmless the City of San José ("City") and its officers, contractors, consultants, attorneys, employees and agents from any and all claim(s), action(s), or proceeding(s) (collectively referred to as "proceeding") brought against City or its officers, contractors, consultants, attorneys, employees, or agents to challenge, attack, set aside, void, or annul:
a. Any approvals issued in connection with any of the above described applications by City; and/or
b. Any action taken to provide related environmental clearance under the California Environmental Quality Act of 1970, as amended by City's advisory agencies, boards or commissions; appeals boards or commissions; Planning Commission, or City Council.

Applicant's indemnification includes, but is not limited to, damages, fees and/or costs awarded against or incurred by City, and costs of suit, claim or litigation, including without limitation attorneys' fees and other costs, liabilities and expenses incurred in connection with such proceeding, whether incurred by Applicant, City, and/or parties initiating or involved in such proceeding.

- 2. Applicant agrees to indemnify City for all of City's costs, fees, and damages incurred in enforcing the indemnification provisions of this Agreement.
3. Applicant agrees to defend, indemnify and hold harmless City, its officers, contractors, consultants, attorneys, employees and agents from and for all costs and fees

incurred in additional investigation or study of, or for supplementing, redrafting, revising, or amending, any document (such as an environmental impact report, negative declaration, specific plan, or general plan amendment) if made necessary by said proceeding, and if Applicant desires to pursue such City approvals and/or clearances, after initiation of the proceeding and that are conditioned on the approval of these documents.

- 4. In the event that Applicant is required to defend City in connection with such proceeding, City shall have and retain the right to approve:
a. The counsel to so defend City; and
b. All significant decisions concerning the manner in which the defense is conducted; and
c. Any and all settlements, which approval shall not be unreasonably withheld.

City shall also have and retain the right to not participate in the defense, except that City agrees to reasonably cooperate with Applicant in the defense of the proceeding. If City chooses to have counsel of its own defend any proceeding where Applicant has already retained counsel to defend City in such matters, the fees and expenses of the additional counsel selected by City shall be paid by City. Notwithstanding the immediately preceding sentence, if City's Attorney's Office participates in the defense, all City Attorney fees and costs shall be paid by Applicant.

- 5. Applicant's defense and indemnification of City set forth herein shall remain in full force and effect throughout all stages of litigation including any and all appeals of any lower court judgments rendered in the proceeding.

After review and consideration of all of the foregoing terms and conditions, Applicant, by signature below, hereby agrees to be bound by and to fully and timely comply with all of the foregoing terms and conditions.

● APPLICANT SIGNATURE

DATE [mm/dd/yyyy]

PRINT NAME

TITLE, IF ANY

An Administrative Permit may be issued for proposals that meet all requirements below and as specified in San José Municipal Code Title 20, including Section 20.80.1915. See www.sanjoseca.gov/municipalcode.

REQUIREMENTS

CONSTRUCTION MATERIALS

Concealment. To the maximum extent possible, wireless facilities must be concealed, by being enclosed or screened, with materials and colors to match existing fencing, screening, or landscaping. For guidance, please refer to the City Council [Land Use Policy for Wireless Communication Facilities \(www.sanjoseca.gov/DocumentCenter/Home/View/385\)](http://www.sanjoseca.gov/DocumentCenter/Home/View/385).

Graffiti resistance. Wireless facilities must be constructed and treated with materials that discourage or repel graffiti.

POWER GENERATOR EQUIPMENT, IF ANY

If the project includes power generation equipment, you must submit a [Backup/Standby Generator Facility Permit Application](http://www.sanjoseca.gov/planningapplications), at www.sanjoseca.gov/planningapplications, including the Noise Report and Air Quality Analysis. Documentation must show how the power generator equipment meets all of the following criteria:

Gas shutoff valve. The wireless facility contains an automatic excess flow gas shutoff valve or other comparable equipment.

Noise Standards. The sound pressure level generated by any use or combination of uses on a property, based upon a noise analysis by an acoustical engineer, must not exceed the decibel levels indicated below:

- » Property line abuts a residential use: 55 Decibels
- » Property line abuts a non-residential use: 60 Decibels

Exhaust standards. These standards apply to the cabinet exhaust system and port:

- » Maximum exposed exhaust stream temperature: 158 degrees Fahrenheit
- » A warning label to indicate the danger of exposure to the exhaust temperature is affixed to the exhaust port
- » Backup batteries shall be programmed to vary their duration of operation with the length of power outage up to a maximum of 30 minutes. As technology allows and without increasing the size of the cabinets, cabinets shall be retrofitted with higher capacity batteries capable of providing full service operation for a maximum of 2 hours at full (6.1 fW) load.

APPLICATION PACKAGE

The permit application must identify the application as a Section 6409(a) Wireless application.

Application package must include this form plus:

- Permit Fee Payment - See www.sanjoseca.gov/planningfees.
- 3 sets - Photographs of the existing wireless tower and/or base station and surrounding site, mounted on 8.5x11" paper with photographs labeled.
- 3 sets - Site Plans and Drawings, minimum sheet size is 11x17"; if larger than 11x17", you must provide an additional set reduced to the 11x17" size.
- 3 sets of the following documents:
 - a. Legal description of the property
 - b. Assessor's Parcel Map marked with project location.
 - c. A signed declaration by the Applicant certifying the Baseline Condition as to height and the current site boundaries.
 - d. Completed [Environmental Evaluation Form](http://www.sanjoseca.gov/planningapplications), at www.sanjoseca.gov/planningapplications, or copy of approved environmental clearance document such as an Environmental Impact Report or Mitigated Negative Declaration issued by the City for the project.
 - a. For the Existing Wireless Tower or Base Station, a copy of the original development permit, or development approval that went through site review, and any amendments or modification to such permit or approval.
 - b. Other information deemed necessary by the Director of Planning for review of the application for compliance with Municipal Code Section 20.80.1915.

Site Plans - Draw to scale; maximum sheet size accepted is 24x36". Label all sheets "Site Plan" with date and page numbers, and provide:

- Location map, parcel lot lines, and site dimensions; indicate uses of adjoining properties
- Setbacks, with dimensions, as defined by zoning regulations
- Location/dimensions of existing project facility
- Depiction of the Wireless Tower or Base Station after collocation or modification, showing dimensions overlain on the current site.
- Detailed written description of the proposed modifications to the existing facilities and any construction that will be performed in connection with the proposed collocation or modification, including any excavation.
- Street names and existing and proposed driveways
- Existing and proposed landscape areas and drainage

Drawings - Depict the proposed wireless tower and/or base station, drawn to scale, and show all dimensions. Drawings should include Floor Plan, Elevations, Construction Details, and Sign Details.

Questions?

Speak with a planner at 408-535-3555. Visit www.sanjoseca.gov/planning for phone service hours.