

Chapter 16.44 COMMUNICATIONS FACILITIES

16.44.010 Purposes.

This chapter provides standards for the location and installation of communication facilities. Communication facilities shall include cellular, personal communication services and networks, paging, dispatching, enhanced specialized and specialized mobile radio, television broadcast, radio broadcast, satellite, and all other wireless communications whether facilities are public or private unless specifically exempted herein.

In order to accommodate the communication needs of residents and businesses while protecting the public health, safety, aesthetics, and general welfare of the community, the Council finds that these regulations are necessary to:

- A. Facilitate the provision of communication services to the residents and businesses of the City;
- B. Minimize the adverse visual and aesthetic effects of communication facilities through careful design and siting standards;
- C. Maximize the use of existing and approved structures to accommodate new communication antennas in order to reduce the number of freestanding facilities needed to serve the community; and
- D. Encourage the use of freestanding stealth facilities where it is infeasible to use existing facilities. (Prior code § 16.44.010)

16.44.020 Criteria for minor and major communication facilities.

A. Locational Criteria.**1. General Site Preference.**

- a. Communication facilities shall be located in the following order of preference (i through v are classified as minor communication facilities, and vi through viii are classified as major communication facilities):
 - i. Existing structures (public or private) that allow a façade-mounted antenna;
 - ii. New or existing structures integrating a stealth design;
 - iii. Existing structures (public or private) that allow roof-mounted antennas;
 - iv. Co-location on existing communication facilities or light standards at a lower height;
 - v. New freestanding stealth facility (whether co-location or single carrier);
 - vi. Co-location on existing communication facilities or light standards at a higher height;
 - vii. New freestanding facility for co-location;
 - viii. New freestanding facility for single carrier.
- b. As part of the application process for communication facilities, whether for site plan review or a use permit, applicants shall be required to provide written documentation demonstrating a good faith effort in locating facilities in compliance with subsection (A)(1)(a) of this section (Order of preference for site selection).
- c. Setbacks shall apply to all communication facilities as set forth in this code, unless specifically exempted herein. Where a freestanding major or minor communication facility abuts a residential use in a nonresidential zone, the setback shall be equal to the height of the proposed facility plus 25 feet.

2. Minor Communication Facilities.

- a. Minor communication facilities using a stealth design and conforming to all applicable provisions of this code shall be allowed on residentially-zoned sites only with the following established uses:
 - i. Church sites,

- ii. Parks, golf courses, when compatible with the nature of the site (as determined by the City Parks Facility Planner/Landscape Architect),
 - iii. Government, school, utility, and institutional sites, or
 - iv. Existing apartment structures, retirement homes, convalescent hospitals, or other similar uses where the structure is at least 45 feet in height;
- b. May be established on property zoned for commercial or industrial land uses; or
 - c. Could be allowed within public rights-of-way, subject to the issuance of a revocable permit in compliance with Section ~~16.72.127~~ (Revocable permit).

3. Major Communication Facilities.

- a. Providers proposing to establish major communication facilities in the City are strongly encouraged to find sites that are separated from residential areas to the greatest extent feasible. Major facilities shall not be established in or within 500 feet of a residential zoning district.
- b. Major facilities shall not be located within 1,000 feet of an existing major communication facility except when co-located on the same structure unless the applicant can justify to the satisfaction of the Director, or his/her designee, which it is infeasible to locate on an existing major facility. Structural insufficiency or an existing carrier's reluctance to allow another provider to share their facility shall not constitute a justification.
- c. For the purposes of this section, distances shall be measured in a straight line without regard to intervening structures, from the nearest point of the proposed facility to the nearest applicable boundary line of a residential zone described in subsection (A)(3)(a) of this section, or to the nearest point of another major facility described in subsection (A)(3)(b) of this section.
- d. Major communication facilities shall be encouraged to locate on parcels within the IG (industrial general) zoning district. Major facilities locating within an IG zone shall be allowed by right with no height limitation or screening requirement.

B. Height Criteria for Communication Facilities.

1. Minor Facilities.

- a. Structure- or roof-mounted minor facilities that do not incorporate a stealth design shall not exceed 10 feet in height above the roof ridge line regardless of the overall structure/structure height.
- b. Minor facilities that are stealth designed (freestanding or roof-mounted) shall not exceed 75 feet in overall height from finished grade.

2. Major Facilities. Major facilities shall not exceed 75 feet in overall height from finished grade.

C. Design Criteria.

- 1. Communication facilities shall not display signs or advertising devices other than certification, warning, or other required seals or signs. This shall not preclude mounting antennas on an existing billboard or other structure, which has an existing sign.
- 2. Accessory equipment associated with the operation of the facility shall be located within an enclosure, structure or underground vault that complies with the development standards of the zoning district in which the accessory equipment is located. Above ground support equipment, irrespective of its location, may require landscaping or other visual measures as a condition of approval to effectively mitigate visual and safety impacts at the discretion of the Director. Equipment requiring the use of flammable, combustible, or hazardous materials shall be installed and maintained in compliance with structure and fire codes. Any noise generating equipment shall comply with the noise standards of the City's General Plan.
- 3. Poles/towers shall not be illuminated by artificial means and shall not display strobe lights unless lighting is specifically required by the Federal Aviation Administration or other Federal or State authority for a particular tower. When incorporated into the approved design of the pole/tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.
- 4. Within 90 days of commencement of operations, applicants for communication facilities shall be required to provide evidence from a qualified engineer that shows that the operation of the facility is in

compliance with the standard established by the Federal Communications Commission (FCC) relative to electromagnetic fields (EMFs) and radio frequency radiation (RFR).

D. **Screening Criteria.** Communication facilities shall have subdued colors and nonreflective materials, which blend with surrounding materials and colors and be located in areas that would minimize their aesthetic intrusion on the surrounding community. When feasible, ground-mounted facilities shall be located in proximity to existing structures, vegetation/landscaping, or topography, which provide the greatest amount of screening. For structure-mounted facilities, screening shall be compatible with the existing architecture, color, materials and texture of the structure. (Ord. 015-09 C.S., eff. 12-3-09; Ord. 023-07 C.S. § 28; prior code § 16-320.020)

16.44.030 Review and approval process.

A. **Site Plan.** A site plan shall consist of elevation drawings indicating the height, diameter, color, setbacks, foundation details, landscaping, method of screening, and color photo simulations showing the before and after effects of the proposed facility on the subject site. Any existing poles, towers, and/or antennas shall also be shown.

B. Approval Process.

1. **Minor Communication Facilities.** Minor communication facilities shall be allowed if consistent with Section 16.44.020 (Criteria for minor and major communication facilities).
2. **Major Communication Facilities.** Major communication facilities shall be permitted in compliance with the permitting requirements in Table 2-2 (Allowable Land Uses and Permit Requirements). The Director may approve a site plan for minor modifications to an existing major communication facility for the purposes of co-location, which do not require an increase in height following the submittal and approval process described in subsection (B)(1) of this section (Minor communication facilities). (Prior code § 16-320.030)

16.44.040 Abandonment of communication facilities.

- A. The operator of a communications facility shall be required to remove all unused or abandoned equipment, antennas, poles, and/or towers if the facility has not been operational for a consecutive six (6) month period or a total of 12 months over a consecutive 30-month period. A facility is considered abandoned if it no longer provides communication services. The removal shall be in compliance with proper health and safety requirements and occur no later than 30 days following the end of the applicable cessation period.
- B. A written notice of the determination of abandonment shall be sent or delivered to the operator of the facility by the Department. The operator shall have 30 days to remove the facility or provide the Department with evidence that the use has not been discontinued. The Commission shall review evidence and shall determine whether or not the facility is abandoned. Facilities not removed within the required 30-day period shall be in violation of this section and operators of the facility and the owners of the property shall be subject to penalties for violations under the enforcement and penalty provisions of the Municipal Code.
- C. In the event that a communication facility is not removed within 90 days after the applicable cessation period ends, as described in subsection A of this section (Abandonment of communication facilities), the facility may be removed by the City and the costs of removal assessed against the property. (Prior code § 16-320.040)

16.44.050 Satellite antennas, amateur radio communication facilities and citizen band (CB) radio antennas.

This section provides standards for the location and installation of satellite antennas, amateur (noncommercial) radio communication facilities, and citizen band radio antennas, which shall be located, constructed, installed and maintained in the following manner:

- A. **Exempt.** The following noncommercial, receive only antennas for the sole use of a resident occupying a residential structure shall not be regulated by this section:
1. A ground or structure-mounted, radio or satellite dish antenna which does not project above the roof ridge line and does not have a diameter greater than one (1) meter (39 inches); and
 2. Roof-mounted radio or television aerials not exceeding 75 feet in overall height.

B. **Satellite Antennas.** Satellite antennas, including portable units and dish antennas, shall be designed, installed and maintained in compliance with the Federal Communications Commission (FCC) and the California Public Utilities Commission (CPUC) as follows, when these provisions are not in conflict with applicable State and Federal regulations:

1. Antennas shall not be located within required front or side yard setback areas. In addition, no portion of an antenna shall extend beyond the property lines.
2. The antennas and supporting structure shall be painted a single, neutral, nonglossy color (e.g., earth-tones, gray, black, etc.) and, to the extent possible, compatible with the appearance and character of the surrounding neighborhood.
3. Electrical and antenna wiring shall be placed underground whenever possible.
4. In residential zoning districts, antennas shall be subject to the following standards:
 - a. Antennas shall be located only within the rear yard of the site, at least five (5) feet from the rear lot line and at least 15 feet from any street side property line;
 - b. The diameter of the ground-mounted antenna (dish) shall not exceed 10 feet;
 - c. The height of the antennas shall not exceed 20 feet at the highest point of the antenna;
 - d. Antennas shall not project or overhang into areas in which antennas are not allowed to locate;
 - e. Only one (1) antenna with a diameter greater than one (1) meter (39 inches) may be allowed on a site; and
 - f. The antennas shall be used for private, noncommercial, purposes only.
5. In nonresidential zoning districts, antennas may be roof- or ground-mounted which do not exceed 14 feet in diameter.

C. **Single Pole/Tower Amateur Radio Communication Facilities.** Single pole/tower amateur radio communication facilities shall be designed, constructed, installed and maintained in the following manner:

1. The maximum overall height (including antennas) shall not exceed 75 feet, measured from finished grade;
2. Where a parcel has one (1) pole/tower structure greater than 40 feet in overall height (including antennas), a second pole/tower structure shall be allowed with an overall height not to exceed 40 feet (including antennas);
3. A boom or other active element/accessory shall not exceed 35 feet in length (wire type antennas, no larger than 10 gauge in size, with two (2) or less elements and no boom are exempt from this limitation);
4. The pole/tower and/or antennas may be roof- or ground-mounted;
5. The pole/tower and/or antennas may not be located in any required front or side yard setback areas;
6. The pole/tower and/or antennas shall be located at least five (5) feet from the rear lot line and at least 15 feet from any street side property line;
7. The pole/tower and/or antennas shall not project or overhang into areas in which they are not allowed to locate;
8. The pole/tower and/or antennas shall be a natural metal finish or painted a single, neutral, nonglossy color (e.g., earth-tones, gray, black, etc.) and, to the extent possible, compatible with the appearance and character of the surrounding neighborhood;
9. The pole/tower and/or antennas shall be used for private, noncommercial, purposes only; and
10. Operators shall be responsible to operate in compliance with all applicable regulations, specifically those regulations related to radio interference with electronic devices as set forth by the Federal Communications Commission (FCC).

D. **Citizen Band (CB) Radio.** Citizen band radio antennas shall be designed, constructed, installed and maintained in the following manner except for antennas mounted on vehicles or to hand held units:

1. **Standards.**
 - a. Citizen band radio antennas shall not exceed 20 feet above the highest point of a structure, or

structure on which it is mounted, and in no case shall it exceed 60 feet in overall height; and

b. Citizen band radio antennas shall comply with requirements provided in subsections (C)(4) through (10) of this section (Single pole/tower amateur radio communication facilities).

2. **Prohibition of Certain Citizen Band Radios.** It shall be a violation of this Development Code to use citizen band radio equipment not authorized by the Federal Communications Commission or the unauthorized operation of citizen band radio equipment on a frequency between 24 MHz and 35 MHz and subject to a penalty in compliance with Division 16.224 (Enforcement).

3. **Exempt Stations.** A station that is licensed by the Federal Communications Commission pursuant to Section 301 of the Communications Act of 1934 in any radio service for the operation at issue shall not be subject to this chapter. A citizens ban radio equipment on board a “commercial motor vehicle,” as defined in Section 31101 of Title 49, United States Code, shall require probable cause to find that the commercial motor vehicle or the individual operating the vehicle is in violation of Federal Communications Commission citizens band radio regulations.

4. **Appeal.** Any person subject to this chapter may submit to the Federal Communications Commission an appeal of the decision on the grounds that the City enacted the ordinance codified in this chapter outside the auto route provided by Section 302 of the Communications Act of 1934. A person shall submit his/her appeal on a City decision to the Federal Communications Commission, if at all, not later than 30 days after the date on which the City’s decision becomes final, but prior to seeking judicial review of the decision. (Prior code § 16- 320.050)

16.44.060 Existing nonconforming communication facilities.

Nonconforming communications facilities shall not be precluded from making minor modifications (e.g., co-location) that do not require an increase in height. The Director may approve a site plan for a minor modification in compliance with Chapter 16.104 (Changes to an Approved Project). Other modifications to a nonconforming communication facility shall require approval of an administrative use permit (Chapter 16.168). (Prior code § 16-320.060)

16.72.125 Encroachment permit.

- A. **Permit.** All excavations, construction, maintenance, and/or repairs in a public street, alley, or other public place in the City shall require an encroachment permit from the Director.
- B. **Excavations.**
1. **Notice of Intention to Excavate.** The person, firm, or corporation intending to excavate shall file a written notice of intention with the Director. The notice shall describe the specific location and area proposed for excavation.
 2. **Refilling the Excavation.** Following completion of the excavation, the excavation site shall be refilled with materials prescribed by the Director and compacted in compliance with the City's standard plans and specifications.
 3. **Barrier.**
 - a. From the commencement of the excavation until the excavation has been completed and properly refilled and compacted, a substantial barrier shall be positioned around the excavation site. Lights shall be placed at the end and along the barrier no more than 50 feet apart; the lights shall be on from sunset to sunrise. The material of the barrier and the lighting shall be approved by the Director.
 - b. It is unlawful to interfere with a barrier or to travel on any street paving or repairs protected by a barrier.
- C. **Time for Completion of Work.** Work on the permitted activity shall proceed with due diligence, and limit any obstruction of the street, alley or other public place. If there is a lack of progress or, in the opinion of the Director, a failure to comply with the terms of the encroachment permit, the Director shall notify the permittee of the requirement to complete the work in a timely manner. Failure to comply with the notice shall result in the Director having the work completed at the expense of the permittee. The notice shall be either personally served or served by leaving it at the residence or place of business of the permittee, or if the permittee or their address is unknown or the address outside the City, the notice may be served by depositing it in the United States post office, postage prepaid, addressed to the permittee.
- D. **Supervision and Inspection.** All permitted activities, including excavations and refilling of excavations, made or done under this section shall be under the supervision and direction of the Director.
- E. **Pipes and Mains.** It is unlawful and a misdemeanor for any person, firm, or corporation to lay any gas or water surface pipe or main pipe, or private sewer, or any drain or other conduit in any street or other public place which is less than two (2) feet below the established grade of the gutter of the street or alley, or less than two (2) feet below the surface of any other public place in the City.
- F. **Fees.**
1. The permittee shall pay the City an encroachment permit fee and reimburse the City for the costs of inspection, as required by the Council's fee resolution.
 2. Everyone, including any Department of the City or other governmental agency or authority, is required to:
 - a. Obtain an encroachment permit to excavate to do work in the public streets or alleys; and
 - b. Pay the associated fee.

(Ord. 015-09 C.S., eff. 12-3-09)