

## Chapter ~~17~~18.44

### Telecommunications Facilities

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#### ~~17~~18.44.010 - Purpose

This Chapter establishes development standards consistent with Federal law to: regulate the placement and design of communication facilities ~~by Use Permit and Coastal Development Permit~~ so as to preserve the unique visual character of the City, promote the aesthetic appearance of the City, and to ensure public safety and welfare; pursue additional benefits from the facilities to the public by encouraging the leasing of publicly owned properties where feasible for the development of communication facilities; and to ~~acknowledge and provide the community benefit associated with full coverage (no service gaps) by the provision of advanced communication services~~ cell phone and telecommunication providers that require cell tower facilities within the City.

~~17~~(Ord. 930, § 2, passed 06-12-2017)

#### ~~18~~.44.020 - Definitions

The technical terms and phrases used in this Chapter are defined in Article 10 (~~Glossary & Index~~ Definitions) under “Telecommunications Facility.”

~~17~~(Ord. 930, § 2, passed 06-12-2017)

#### ~~18~~.44.030 - Applicability

The location, permit requirements, and other provisions of this Chapter shall apply to all communications facilities ~~located within the coastal zone. Subsections (A), (B), & (G) of Section 17.44.040 apply to the review and approval of Use Permits only. Subsections (C) & (H) of Section 17.44.040 apply to the review and approval of Coastal Development Permits only. Sections 17.44.050, 17.44.060, 17.44.070, & 17.44.080 apply to the review and approval of Use Permits and Coastal Development Permits within the City, except the following, which are exempt from this Chapter.~~ All communication facilities shall also comply with all applicable requirements of State and Federal law.

A. Replacement or modification of previously permitted facilities or equipment determined by the Director to be of a minor nature that does not increase the number or height of antennas or significantly change or enlarge the ancillary related equipment at the site.

B. An antenna that is 1 meter (39.37 inches) or less in diameter or diagonal measurement, that is designed:

1. To receive direct broadcast satellite service, including direct-to-home satellite service, as defined by Section 207 of the Telecommunications Act of 1996, Code of Federal Regulations Title 47, and any interpretive decisions thereof issued by the Federal Communications Commission; or
2. For subscribing to a multipoint distribution service.

C. A satellite earth station (SES) antenna of 2 meters (78.74 inches) or less in diameter or diagonal measurement, located in a commercial or industrial zoning district, that is designed to transmit or receive radio communications by satellite or terrestrial communications antenna. These antennas may require a Building Permit and approval of the placement by the Director to ensure maximum safety is maintained. In order to avoid tripping hazards and the

creation of an attractive nuisance, these antennas shall be placed whenever possible ~~17~~ on the top of buildings as far from the edge of rooftops as possible.

(Ord. 930, § 2, passed 06-12-2017)

#### **18.44.040 - Permit Requirements**

**A. Use Permit or Minor Use Permit.** Use Permit approval is required for all communication facilities subject to this Chapter, except for the following, which shall require Minor Use Permit approval. The Director shall ensure through the Minor Use Permit approval that each of the following facilities complies with all applicable requirements of this Chapter. The Director may also choose to defer action and refer any of the following facilities to the Commission for consideration as a Use Permit application:

1. An antenna that is installed, placed, and maintained under the roofline of an existing structure, or above, behind, and below an existing approved roof screen and does not extend above the highest point of the structure, or is camouflaged within an existing structure so as not to be visible from a public right-of-way or other property.
2. A communication facility in which the antenna is mounted on a mast less than 10 feet high, is not located on ~~an~~ historic structure, and is not visible from a public right-of-way.
3. An amateur and/or citizens band antenna operated by a person holding a license issued by the FCC in compliance with 47 C.F.R. Part -97, and used solely in connection with that license, and which shall be subject to the “minimum practicable regulation to accomplish the local authority’s legitimate purpose,” in keeping with the order of the FCC known as “PRB-1,” FCC 85-506, released September 19, 1985; provided, that there shall be no more than ~~one~~ antenna support structure on a single parcel and that the antenna structure complies with the height limits of the applicable zoning district.

**B. Exemptions from Use Permit requirements.** ~~The following communication facilities shall be exempt from Use requirements:~~

~~1. Replacement or modification of previously permitted facilities or equipment determined by the Director to be of a minor nature that does not increase the number or height of antennas or significantly change or enlarge the ancillary related equipment at the site.~~

~~2. An antenna that is one meter (39.37 inches) or less in diameter or diagonal measurement, that is designed:~~

~~a. To receive direct broadcast satellite service, including direct to home satellite service, as defined by Section 207 of the Telecommunications Act of 1996 Code of Federal Regulations Title 47, and any interpretive decisions thereof issued by the Federal Communications Commission; or~~

~~b. For subscribing to a multipoint distribution service.~~

~~3. A satellite earth station (SES) antenna of two meters (78.74 inches) or less in diameter or diagonal measurement, located in a commercial or industrial zoning district, that is designed to transmit or receive radio communications by satellite or terrestrial communications antenna. These antennas may require a Building Permit and approval of the placement by the Director to ensure maximum safety is maintained. In order to avoid tripping hazards and the creation of an attractive nuisance, these antennas shall be placed whenever possible, on the top of buildings as far from the edge of rooftops as possible.~~

**C. Coastal Development Permit.** ~~Unless preempted by federal law, a Coastal Development Permit is required for all communication facilities that constitute development as defined in Article 10 of this Development Code and are not otherwise exempt from CDP requirements pursuant to Section 30610 of the Coastal Act and Section 17.71.045 of this Development Code.~~

**D. Application requirements.** ~~In addition to the information required for Use Permit or Minor Use Permit application by Chapter ~~17.18~~ 70 (Permit Application Filing and Initial Processing) and information required for a Coastal Development Permit application by Chapter 17.71.045, the Use Permit, Minor Use Permit, or Coastal Development Permit application for a communication facility shall include:~~

1. ~~Consistent with all limitations imposed by Federal law, certification by a licensed engineer of existing adjacent facilities that is acceptable to the Director illustrates that the proposed facility will at all times meet standards set by the Federal Communication Commission (FCC) and comply with all applicable State and Federal health requirements and standards pertaining to electromagnetic and/or radio frequency radiation; and~~  
An analysis of the proposed facility in combination with all limitations imposed by Federal law, certification by a licensed engineer of existing adjacent facilities that is acceptable to the Director illustrates that the proposed facility will at all times meet standards set by the Federal Communication Commission (FCC) and comply with all applicable State and Federal health requirements and standards pertaining to electromagnetic and/or radio frequency radiation; and
2. A report, as required by the Police Department, to evaluate the potential for interference (e.g., HF, UHF, VHF, 800 MHz). The applicant shall be responsible for paying any costs incurred by the City, including the costs of retaining consultants, to review and analyze the report.
3. ~~A visual impact analysis: The applicant shall submit a visual impact analysis, which may include photomontage, field mock-up, or other techniques, which demonstrates the visual impacts of the proposed facility. Consideration shall be given to views from public areas. The analysis shall assess the cumulative impacts of the proposed facility and other existing and foreseeable telecommunication facilities in the area, and shall identify and include all feasible mitigation measures consistent with the technological requirements of the proposed telecommunication service. The analysis shall also consider the potential of future utility-undergrounding construction. All costs for the visual analysis, and applicable administrative costs, shall be borne by the applicant.~~  
A visual impact analysis: The applicant shall submit a visual impact analysis, which may include photomontage, field mock-up, or other techniques, which demonstrates the visual impacts of the proposed facility. Consideration shall be given to views from public areas. The analysis shall assess the cumulative impacts of the proposed facility and other existing and foreseeable telecommunication facilities in the area, and shall identify and include all feasible mitigation measures consistent with the technological requirements of the proposed telecommunication service. The analysis shall also consider the potential of future utility-undergrounding construction. All costs for the visual analysis, and applicable administrative costs, shall be borne by the applicant.
4. ~~A Master Plan of all existing facilities and planned future facilities within the City and surrounding area. The Master Plan shall consist of the following components:~~  
A Master Plan of all existing facilities and planned future facilities within the City and surrounding area. The Master Plan shall consist of the following components:
  - a. ~~A written description of the type of technology the company/carrier will provide to its customers over the next five years (i.e. Cellular, PCS, etc) and a description of consumer services to be offered (i.e. voice, video and data transmission);~~  
A written description of the type of technology the company/carrier will provide to its customers over the next five years (i.e. Cellular, PCS, etc) and a description of consumer services to be offered (i.e. voice, video and data transmission);
  - b. ~~A description of the radio frequencies to be used for each technology;~~  
A description of the radio frequencies to be used for each technology;
  - c. ~~A map of the City and surrounding area showing the five year plan cell sites and planned coverage;~~  
A map of the City and surrounding area showing the five year plan cell sites and planned coverage;
  - d. ~~A written list of existing, proposed and anticipated cell sites of the service provider over a five year period; and~~  
A written list of existing, proposed and anticipated cell sites of the service provider over a five year period; and
  - e. ~~A description of the location of the cells and the types of installations, including antennas and equipment.~~  
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5. ~~A radius map and a certified list of the names and addresses of all property owners within five hundred feet (500') of the exterior boundaries of the property involved, as shown on the latest assessment roll of the county assessor.~~  
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6. ~~A plot plan of the lot, right-of-way, premises or parcel of land, showing the exact location of the proposed facility (including all related equipment and cables), exact location and dimensions of all buildings, parking lots, walkways, trash enclosures, and property lines.~~  
A plot plan of the lot, right-of-way, premises or parcel of land, showing the exact location of the proposed facility (including all related equipment and cables), exact location and dimensions of all buildings, parking lots, walkways, trash enclosures, and property lines.
7. ~~Co location/Height Justification: The applicant must provide justification as to why the proposed height is necessary and why co-location on an existing site is not feasible or desirable (if applicable)~~  
Co location/Height Justification: The applicant must provide justification as to why the proposed height is necessary and why co-location on an existing site is not feasible or desirable (if applicable)
8. ~~Building elevations and roof plan (for building and/or rooftop mounted facilities) indicating exact location and dimensions of equipment proposed. For freestanding facilities, indicate surrounding grades, structures, and landscaping from all sides.~~  
Building elevations and roof plan (for building and/or rooftop mounted facilities) indicating exact location and dimensions of equipment proposed. For freestanding facilities, indicate surrounding grades, structures, and landscaping from all sides.
9. ~~Proposed landscaping and/or non-vegetative screening (including required safety fencing) plan for all aspects of the facility.~~  
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10. ~~Licenses: Documentation certifying the applicant has obtained all applicable licenses or other approvals required by the Federal Communication Commission to provide the services proposed in connection with the application.~~  
Licenses: Documentation certifying the applicant has obtained all applicable licenses or other approvals required by the Federal Communication Commission to provide the services proposed in connection with the application.

**~~EC.~~ Master Use Permit.** A service provider who intends to establish multiple wireless ~~Telecommunications Facilities~~ telecommunications facilities within the City is encouraged to apply for the approval of all facilities under a Master Use Permit. Under this approach, all proposed facilities ~~requiring a Use Permit~~ may be acted upon by the City as a single ~~Use Permit~~ application, ensuring feasibility of long range company projections.

**~~FD.~~ Communications consultant may be required.** In the event that the City needs assistance in understanding the technical aspects of a particular proposal, the services of a communications consultant may be requested to determine the engineering or screening requirements of establishing a specific wireless communications facility. This service will be provided at the applicant's expense.

**~~GE.~~ Required findings for Use Permit approval.** The approval of a Use Permit or Minor Use Permit for a communication facility shall require that the review authority first make the following findings, in addition to those required for Use Permit approval by ~~Section 17~~§ 18.71.060 (Use Permit and Minor Use Permit):

1. The communication facility complies with all applicable requirements of this Chapter; and
2. The communication facility will not adversely impact the character and aesthetics of any public right-of-way.

**~~H.~~ Required findings for Coastal Development Permit approval.**

- ~~1. The approval of a Coastal Development Permit for a communication facility shall require that the review authority find that the communication facility complies with Section 17.71.045 (Coastal Development Permit) and that the communication facility complies with all requirements of this Chapter applicable to coastal development permits identified in Section 17.44.030 (Applicability).~~
- ~~2. The proposed communication facility shall comply with Sections 17.71.045 and Section 17.44.030 only to the extent necessary to find the development consistent with the policies of the certified LCP and consistent with the limitations imposed by Federal law.~~
- ~~3. Any decision to deny a permit for a communication facility shall be in writing and shall be supported by substantial evidence and shall specifically identify the reasons for the decision and the evidence that led to the decision.~~

~~17~~(Ord. 930, § 2, passed 06-12-2017)

**18.44.050 - Limitations on Location**

**A. Zoning district priorities.** A communication facility that requires a Use Permit shall be ~~not be~~ approved or located only within zoning districts other than the PF (Public Facility) zoning district; except that the review authority may approve a facility within a commercial or industrial district if it first determines that the applicant has demonstrated that all PF zoning district options are infeasible, and ~~that/or~~ there is no site within a PF district where the communication facility would provide adequate coverage.

**B. Co-location required.** A new communication facility shall be co-located with existing facilities and with other planned new facilities whenever feasible, and whenever determined by the review authority to be aesthetically desirable. A service provider shall co-locate a new communication facility with ~~non-~~ noncommunications noncommunications facilities (e.g., light standards, water tanks, and other utility structures) where the review authority determines that this ~~collocation~~ co-location will minimize the overall visual impact.

1. A service provider shall exhaust all reasonable measures to co-locate their communications facilities on existing towers or with or within existing ancillary support equipment facilities before applying for a new communication facility site.
2. Each service provider shall provide the City with evidence that they have contacted all other potential providers who have, or who are reasonably likely to be installing facilities within the vicinity of the proposed facility and have offered to participate in a joint installation project on reasonable terms.

3. In order to facilitate ~~collocation, Use Permit and Coastal Development~~ co-location, Use Permit conditions of approval for a new facility shall require each service provider to cooperate in the siting of equipment and antennas to accommodate the maximum number of operators at a given site where determined by the review authority to be feasible and aesthetically desirable.

**C. City-owned property.** ~~Consistent with all limitations imposed by Federal law, a~~ communication facility shall not adversely affect the public health, peace, safety or welfare. In order to best benefit the citizens of Fort Bragg from this necessary community impact, the Commission shall always consider City-owned sites as the highest priority for the location of communication facilities.

~~17~~(Ord. 930, § 2, passed 06-12-2017)

**18.44.060 - Facility Design and Development Standards**

Each proposed communication facility shall comply with the following standards; except that any standard may be modified or waived by the review authority upon a determination that effective signal reception and transmission will not occur if the facility complies with these standards:

**A. Facility placement.**

**1. Standards for all facilities.**

- a. A roof-mounted antenna on a structure that complies with applicable height limits shall be set back from the nearest roof edge the equivalent of the height of the tower or a minimum of 10 feet, whichever is greater.
- b. A ground-mounted communication facility (including towers and antennas) shall be located as far as possible from all property boundaries, and set back from the property line at a ratio of 1.5 horizontal feet for every ~~one~~ 1 foot of height, where feasible ~~unless a location closer to property boundaries reduces visual impacts as viewed from public vantage points.~~
- c. A tower or antenna shall be set back from any site boundary or public right-of-way by a minimum of 25 feet. No part of any tower shall extend into a required front setback or beyond a property line of the site.
- d. Communication facilities other than towers and antennas shall be located either within a structure, underground, in a rear yard (not visible from a public right-of-way) or on a screened roof top area. A ground-mounted facility that is located within a front or side setback or within a public right-of-way shall be underground so that the facility will not detract from the image or appearance of the City.

**2. Facilities within commercial and industrial districts.** Within an industrial zoning district, a minimum distance of 500 feet shall be provided between towers, and there shall be no more than ~~two~~ 2 towers on a single Assessor's parcel or developed site, unless the towers are located on a public facility ~~as described in A.1,~~ above consistent with Subsection (A)(1) of this Section.

**B. Height limitations.**

1. All ground-mounted communication equipment, antennas, poles, or towers shall be of a minimum functional height.
2. The height of a tower located on the ground shall not exceed 60 feet in the PF zoning district and 40 feet in a commercial or industrial zoning district. ~~Except in areas located between the first public road and the sea or within an area mapped as a Scenic View area on Map LC 3 of the General Plan, the~~ The review authority may grant an exception to allow towers of up to 80 feet where the review authority determines that the increased height is necessary for adequate coverage, and the tower will co-locate service providers.
3. The height of a communications facility located on a structure other than a dedicated support tower shall not exceed 20 feet above the highest point of the structure and shall at no time exceed the height allowed by the subject zoning district.

4. An antenna mounted on the side of a structure shall not extend above the structure's parapet so that it is visible from below against the sky.

**C. Colors and materials.** All antennas, poles, towers, or equipment, including ancillary support equipment, shall have a ~~non-reflective~~nonreflective finish and shall be painted or otherwise treated to match or blend with the primary background and minimize visual impacts. Antennas attached to a structure shall be painted or otherwise treated to match the exterior of the structure or the antenna's background color. All ground-mounted equipment shall be covered with a clear anti-graffiti type material of a type approved by the Director or shall be adequately secured to prevent graffiti.

**D. Screening, landscaping.** All ground-mounted equipment, antennas, poles, or towers shall be sited to be screened by existing development, topography, or vegetation. Ground-mounted facilities shall be located within structures, underground, or in areas where substantial screening by existing structures or vegetation can be achieved. Additional new vegetation or other screening may be required by the Director or by the Commission. The applicant shall use the smallest and least visible antennas possible to accomplish the owner/operator's coverage objectives.

**E. Additional screening and landscaping.** As part of project review, the Director, the Commission, or the Council (on appeal) may require additional screening and/or landscaping, undergrounding, an alternative color scheme, or relocation of a tower or ancillary equipment to a less obtrusive area of the site where it would have a less prominent visual presence due to slope, topography, size, or relationship to public ~~right~~rights-of-way.

**F. Power lines.** All power lines to and within a communication facility site shall be underground.

**G. Backup power supplies.** A backup power supply (i.e., generator) ~~located in an industrial zoning district~~ shall be enclosed within a structure and operated in compliance with Subsection (D) of this Section 17.44.060.D (Screening, landscaping). In any zoning district, ancillary power supplies and fuel storage tanks to support backup power supplies shall require Use Permit approval.

~~**H.** All building and roof-mounted wireless telecommunications facilities and antennae shall be designed to appear as an integral part of the structure where feasible and located to minimize visual impacts.~~

~~**I.** The placement of new antennae and facilities shall not be physically obstructive or visually intrusive and shall be designed to be visually compatible with the character of the surrounding area.~~

17(Ord. 930, § 2, passed 06-12-2017)

#### **18.44.070 - Operation and Maintenance Standards**

**A. Contact and site information.** The owner or operator of any facility shall submit and maintain current at all times basic contact and site information. The applicant shall notify the City of any changes to the information submitted within 30 days of any change, including change of the name or legal status of the owner or operator. This information shall include the following:

1. Identity, including name, address, and telephone number, and legal status of the owner of the facility including official identification numbers and FCC certification, and if different from the owner, the identity and legal status of the person or entity responsible for operating the facility;
2. Name, address, and telephone number of a local contact person for emergencies;
3. Type of service provided; and
4. Identification signs, including emergency phone numbers of the utility provider, shall be posted at all communication facility sites.

**B. Facility maintenance.** All communication facilities and related equipment, including lighting, fences, shields, cabinets, and poles shall be maintained in good repair, free from trash, debris, litter, graffiti, and other forms of vandalism, and any damage from any cause shall be repaired as soon as reasonably possible so as to minimize occurrences of dangerous conditions or visual blight. Graffiti shall be removed by the service provider from any

facility or equipment as soon as practicable, and in no instances more than 48 hours from the time of notification by the City.

**C. Landscaping maintenance.** All trees, foliage, and other landscaping elements on a communication facility site, whether or not used as screening, shall be maintained in good condition at all times in compliance with the approved landscape plan. The facility owner or operator shall be responsible for replacing any damaged, dead, or decayed landscaping as promptly as reasonably possible. Amendments or modifications to the landscape plan shall require approval by the Director. The Commission may also require a landscape maintenance agreement.

**D. Noise.** Each communication facility shall be operated so as to minimize the generation of noise that is audible from off the site. Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 10:00 p.m. and 7:00 a.m. At no time shall equipment noise from any source exceed an exterior noise level of 60 dB at the property line.

**E. Site inspection required.** Each owner or operator of a facility shall routinely and regularly inspect each site to ensure compliance with the standards identified in this Chapter.

**F. Exterior lighting.** ~~Lighting of antenna structures~~ Any exterior lighting shall be manually operated and their electrical support equipment is prohibited, except as used only during night maintenance or emergencies, unless otherwise required by any order or regulation of the applicable Federal Communications Commission (FCC) law or the Federal Aviation Administration (FAA)-FCC rules. The lighting shall be constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. Light fixtures shall be low wattage, hooded, and downward directed.

~~17(Ord. 930, § 2, passed 06-12-2017)~~

**18.44.080 - Discontinuance and Site Restoration**

All equipment associated with a communication facility shall be removed within 30 days of the discontinuance of the use and the site shall be restored to its original pre-construction condition, subject to the approval of the Director. The service provider shall provide the City with a notice of intent to vacate a site a minimum of 30 days before site vacation. This removal requirement, and appropriate bonding requirements, shall be included in the terms of a lease for a facility on public property. A private lease for a facility located on private property is encouraged to include terms for equipment removal, since the property owner shall be ultimately responsible for removal of the equipment.

~~(Ord. 930, § 2, passed 06-12-2017)~~