

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PETALUMA AMENDING THE TEXT OF CHAPTER 14.44 OF THE PETALUMA MUNICIPAL CODE TO ADD A DEFINITION FOR SMALL CELL FACILITIES AND IMPLEMENTING ZONING ORDINANCE, ORDINANCE 2300 N.C.S., CHAPTER 7 SECTION 7.090 – TELECOMMUNICATIONS FACILITIES TO ADD A DEFINITION AND TABLE COLUMN FOR SMALL CELL FACILITIES**

**WHEREAS**, California Public Utilities Code Section 7901.1 gives the City the right to control, in a reasonable manner, the time, place, and manner, when applied equally, where telecommunications facilities can be located; and

**WHEREAS**, Petaluma Municipal Code Chapter 14.44 and the Implementing Zoning Ordinance Chapter 7.090 both govern telecommunications facilities within Petaluma; and

**WHEREAS**, as telecommunications facilities are increasingly used, there is a request for the addition of Small Cell facilities within Petaluma from existing telecommunications companies to offload data from existing telecommunications infrastructure; and

**WHEREAS**, the City, at this time, and within its absolute right as owner of its personal property, declines to add small cell telecommunications facilities to existing City infrastructure; and

**WHEREAS**, by precedent set in a Public Utilities Commission case (*GTE Mobilnet of Cal. Ltd. P'ship v. City & Cty. of San Francisco*, 440 F. Supp. 2d 1097 (N.D. Cal. 2006)), Small Cell Facilities may be located on existing privately-owned infrastructure in the right-of-way; and

**WHEREAS**, under California Public Utilities Code Section 7901, the City may not ban such small cell facilities; and

**WHEREAS**, in order to protect the general welfare of citizens of Petaluma, updates will be made to the Petaluma Municipal Code and Implementing Zoning Ordinance to limit the siting of small cell facilities within the scope of existing laws; and

**WHEREAS**, Section 25.010 of the City of Petaluma Implementing Zoning Ordinance (IZO) provides in pertinent part that no amendment that regulates matters listed in Government Code Section 65850, which matters include the use of buildings and structures, shall be made to the IZO unless the Planning Commission and City Council find the amendment to be in conformity with the General Plan and consistent with the public necessity, convenience and general welfare in accordance with Section 25.050(B) of the IZO; and

**WHEREAS**, the City Council found that due to the negligible environmental impacts anticipated from enactment of the edits to Chapter 14.44 of the Petaluma Municipal Code Ordinance 2634 N.C.S. was exempt from CEQA pursuant to Sections 15061(b)(3), 15183 and 15301;

**WHEREAS**, the text amendments contained in Exhibit A to this resolution to modify the City’s Municipal Code Chapter 14, Section 14.44 and Implementing Zoning Ordinance, Chapter 7, Section 7.090 – Telecommunications Facilities implements, consistent with applicable state laws, the precise requirements, including location, for Small Cell facilities; and

**WHEREAS**, on June 12, 2018, the Planning Commission held a duly noticed public hearing in accordance with Chapter 25 of the Implementing Zoning Ordinance to consider the amendments.

**WHEREAS**, after the conclusion of said public hearing, the Planning Commission adopted Resolution No. 2018-XX, recommending that the City Council adopt the amendments; and

**WHEREAS**, on XXXX XX, 2018, a public notice of the XXXX XX, 2018 public hearing before the City Council to consider the amendments was published in the Argus-Courier; and,

**WHEREAS**, on XXXX XX, 2018, the City Council of the City of Petaluma held a duly noticed public hearing to consider the amendments; and

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PETALUMA AS FOLLOWS:**

Section 1.     **FINDINGS.** The City Council of the City of Petaluma hereby finds:

1. In accordance with Sections 25.010 and 25.050(B) of the City’s Implementing Zoning Ordinance, Ordinance no. 2300N.C.S., (“IZO”), the proposed amendments to the IZO in Chapter 7, Section 7.090 –Telecommunications Facilities contained in Exhibit A are in general conformity with the Petaluma General Plan 2025 in that these changes do not change the general character and impacts of current zoning regulations. In accordance with Section 25.050(B) of IZO, the proposed amendments are consistent with the public necessity, convenience and welfare in that they:
  - a. Ensure Petaluma’s land use and zoning regulations provide safe and appropriate locations where installation of Small Cell Facilities are appropriate;
  - b. Comply with California Public Utilities Code sections 7901 and 7901.1 which regulate telecommunication facilities; and
  - c. Provide for buffers to assure that Small Cell facilities are a safe distance from residential land uses.
2. The text amendments contained in Exhibit 1 to this ordinance, which exhibit is hereby made a part of this resolution for all purposes, are exempt from CEQA pursuant to Sections 15061(b)(3), 15183 and 15301 of the CEQA Guidelines in that Small Cell facilities will be limited in a consistent manner and permitted in locations consistent with the Telecommunications chapter and state law without creating any additional impacts.

Section 2.     Section 14.44 – Telecommunications Facility and Antenna Requirement of the

Petaluma Municipal Code is hereby amended to read as follows:

**14.44.020 Definitions**

S. "Telecommunication facility" means a facility that transmits and/or receives electromagnetic signals. It includes antennas, microwave dishes, horns, and other types of equipment for the transmission or receipt of such signals, telecommunication towers or similar structures supporting said equipment, equipment buildings, parking area, and other accessory development.

1. "Telecommunications facility - exempt" includes but is not limited to, the following unless located within a recognized Historic District:
  - a. A single ground or building mounted receive-only radio or television antenna including any mast, for the sole use of the tenant occupying the residential parcel on which the radio or television antenna is located; with an antenna height not exceeding twenty-five feet;
  - b. A ground or building mounted citizens band radio antenna including any mast, if the height (post and antenna) does not exceed thirty-five feet;
  - c. A ground, building, or tower mounted antenna operated by a federally licensed amateur radio operator as part of the Amateur Radio Service, if the height (post and antenna) does not exceed thirty-five feet;
  - d. A ground or building mounted receive-only radio or television satellite dish antenna, which does not exceed thirty-six inches in diameter, for the sole use of the resident occupying a residential parcel on which the satellite dish is located; provided the height of said dish does not exceed the height of the ridgeline of the primary structure on said parcel.
  - e. All citizens band radio antenna or antenna operated by a federally licensed amateur radio operator as part of the Amateur Radio Service which existed at the time of the adoption of this chapter (September, 1996).
  - f. Mobile services providing public information coverage of news events of a temporary nature.
  - g. Hand-held devices such as cell phones, business-band mobile radios, walkie-talkies, cordless telephones, garage door openers and similar devices as determined by the planning director.
  - h. City government owned and operated receive and/or transmit telemetry station antennas for supervisory control and data acquisition (SCADA) systems for water, flood alert, traffic control devices and signals, storm water, pump stations and/or irrigation systems, with heights not exceeding thirty-five feet.
2. "Telecommunications facilities -major" are all telecommunication facilities not clearly set forth and included in the definition of exempt, minor or mini facilities.
3. "Telecommunication facility - mini" is an attached wireless communication facility consisting, but not limited to, the following unless located on a structure recognized as a historic landmark:
  - a. A single ground or building mounted receive-only radio or television antenna including any mast, for the sole use of the tenant occupying the parcel on which the radio or television antenna is located; with an antenna height not exceeding fifty feet;
  - b. A ground or building mounted citizens band radio antenna including any mast, if the height (tower, support structure, post and antenna) does not exceed seventy feet;
  - c. A ground, building, or tower mounted antenna operated by a federally licensed amateur radio operator as part of the Amateur Radio Service, if the height (post and antenna) does not exceed seventy feet.

- d. A ground or building mounted receive-only radio or television satellite dish antenna, with diameter exceeding thirty-six inches but less than eight feet in diameter, for the sole use of the resident occupying a residential parcel on which the satellite dish is located; provided the height of said dish does not exceed the height of the ridgeline of the primary structure on said parcel.
- e. Exempt telecommunication facility located within a recognized historic district.
- f. City owned and operated antennae used for emergency response services, public utilities, operations and maintenance if the height does not exceed seventy feet.

If a facility does not meet these criteria then it is considered either an "exempt", "minor" or "major" telecommunication facility.

4. "Telecommunication facility - minor" means any of the following:

- a. Antenna which meet the definition of "mini" with the exception of the height limit.
- b. Telecommunication facilities less than thirty-five feet in height and that adhere to Section 14.44.090 of Chapter 14.44 of the Petaluma Municipal Code.
- c. A single ground or building mounted whip (omni) antenna without a reflector, less than four inches in diameter whose total height does not exceed thirty-five feet; including any mast to which it is attached, located on commercial and/or industrial zoned property.
- d. A ground or building mounted panel antenna whose height is equal to or less than four feet and whose area is not more than four hundred eighty square inches in the aggregate (e.g., one foot diameter parabola or two feet by one and one-half foot panel) as viewed from any one point, located on commercial or industrial zoned property. The equipment cabinets shall be designed, placed and screened to be unobtrusive and effectively unnoticeable.
- e. More than three antennas, satellite dishes (greater than three feet in diameter), panel antennas, or combination thereof, are proposed to be placed on the commercial or industrial parcel, including existing facilities.
- f. Building mounted antennas which, in the opinion of the planning director, are unobtrusive or undetectable by way of design and/or placement on the building, regardless of number, when located on commercial or industrial zoned property.
- g. Telecommunication facilities less than fifty feet in height, in compliance with the applicable sections of this chapter, located on a parcel owned by the city of Petaluma and utilized for public and/or quasi-public uses where it is found by the planning director to be compatible with the existing city uses of the property.
- h. Telecommunication facilities, including multiple antennas, in compliance with the applicable sections of this chapter, located on an industrial parcel and utilized for the sole use and purpose of a research and development tenant of said parcel, where it is found by the planning director to be aesthetically compatible with the existing and surrounding structures.
- i. Telecommunication facilities located on a structure recognized as a historic landmark.

If a facility does not meet these criteria then it is considered a "major" telecommunication facility.

- 5. "Telecommunication facility - co-located" means a telecommunication facility comprised of a single telecommunication tower or building supporting one or more antennas, dishes, or similar devices owned or used by more than one public or private entity.
- 6. "Telecommunication facility - commercial" means a telecommunication facility that is operated primarily for a business purpose or purposes.

7. "Telecommunication facility - multiple user" means a telecommunication facility comprised of multiple telecommunication towers or buildings supporting one or more antennas owned or used by more than one public or private entity, excluding research and development industries with antennas to serve internal uses only.
8. "Telecommunications facility - noncommercial" means a telecommunication facility that is operated solely for a non-business purpose.
9. "Telecommunications facility – small cell" means a telecommunications facility that is pole mounted to existing public utility infrastructure.

AND

**14.44.095 Small Cell facilities—Basic Requirements.**

Small Cell facilities as defined in Section [14.44.020](#) of this chapter may be installed, erected, maintained and/or operated in any commercial or industrial zoning district where such antennas are permitted under this title, upon the issuance of a minor conditional use permit, so long as all the following conditions are met:

- A. The Small Cell antenna must connect to an already existing utility pole that can support its weight.
- B. All new wires needed to service the Small Cell must be installed within the width of the existing utility pole so as to not exceed the diameter and height of the existing utility pole.
- C. All ground-mounted equipment not to be installed inside the pole must be undergrounded, flush to the ground, within three (3) feet of the utility pole.
- D. Each pole is to have its own, dedicated power source to be installed and metered separately.
- E. Each Small Cell is to be no less than 1,500 feet away from the nearest Small Cell facility.
- F. Aside from the transmitter/antenna itself, no additional equipment shall be visible.
- G. No Small Cell shall be within 200 feet of any residence.
- H. An encroachment permit must be obtained for any work in the right-of-way.

Section 3. Section 7.090 of the Implementing Zoning Ordinance is amended to read as follows:

**7.090 - Telecommunications Facilities**

The following requirements apply to Telecommunications Facilities as defined by the City's Telecommunications Ordinance (Municipal Code 14.44).

- A. Definitions. The types of facilities regulated by this section are defined in the City's Telecommunications Ordinance (Municipal Code 14.44).
- B. Telecommunications facilities are allowed only as described in Table 7.090(B).

Table 7.090B

Zoning District	Type of Telecommunications Facility				
	Exempt	Mini	Minor	Major	Small
OSP	A	A	CUP	CUP	CUP
AG	A	A	-	-	-
RR	A	A	-	-	-
R1	A	A	-	-	-
R2	A	A	-	-	-
R3	A	A	-	-	-
R4	A	A	-	-	-
R5	A	A	-	-	-
C1	A	A	CUP	CUP	CUP
C2	A	A	CUP	CUP	CUP
MU1A	A	A	CUP	CUP	CUP
MU1B	A	A	CUP	CUP	CUP
MU1C	A	A	-	-	-
MU2	A	A	CUP	CUP	CUP
BP	A	A	CUP	CUP	CUP
I	A	A	CUP	CUP	CUP
CF	A	A	CUP	CUP	CUP

- C. Where a telecommunications facility is permitted by Table 7.090B, the approval(s) required prior to the commencement of the operation of a Telecommunications Facility areas prescribed in subsections 1-4 below.
  - 1. Exempt Facility. An Exempt facility is an Accessory Use and no special permit is required, except when an Exempt facility is located in a Historic District an Exempt facility located in a Historic District or on the site of a designated landmark is considered a Mini Facility subject to administrative Historic and Cultural Preservation approval as prescribed in Section 15.050.
  - 2. Mini Facility. A Mini Facility is an Accessory Use subject to administrative site plan and architectural review approval as prescribed by Section 24.010. When a Mini facility is located in a Historic District or on the site of a designated landmark, the following special permits are required:
    - a. A Minor conditional use permit as prescribed in Section 24.030; and
    - b. Administrative Historic and Cultural Review as prescribed in 15.030.
  - 3. Minor Facility. A Minor facility requires approval of a minor conditional use permit as prescribed in Section 24.030 and administrative site plan and architectural review approval as prescribed in Section 24.010. When a Minor facility is located in a Historic District or on the site of a designated landmark, approval of a major conditional use permit as prescribed in Section 24.030 and Historic and Cultural Preservation Committee approval as prescribed in Section 15.030 are required.
  - 4. Major Facility. A major facility requires approval of a major conditional use permit as prescribed in Section 24.030 and Planning Commission approval as prescribed in Section 24.101.
  - 5. Small Facility. A Small Cell facility requires approval of a minor conditional use permit as prescribed in Section 24.030 and administrative site plan and architectural review approval as prescribed in Section 24.010. An encroachment permit for right-of-way work is also required. The right-of-way shall carry the designation of the zone adjacent to the right-of-way, for purposes of Table 7.090(B) designation.
- D. A Telecommunication facility shall comply with the development standards (Tables 4.6 – 4.13) for the zoning district in which the facility is located, the City’s Telecommunications Ordinance, and all other applicable City requirements.

Section 4. Except as amended herein, the City of Petaluma Municipal Code and the Implementing Zoning Ordinance, Ordinance No. 2300 N.C.S. remain unchanged and in full force and effect.

Section 5. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction or preempted by state legislation, such decision or legislation shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Petaluma hereby declares that it would have passed and adopted this ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional, unlawful or otherwise invalid.

Section 6. Effective Date. This ordinance shall become effective thirty (30) days after the date of its adoption by the Petaluma City Council.

Section 7. Posting/Publishing of Notice. The City Clerk is hereby directed to publish or post this ordinance or a synopsis for the period and in the manner provided by the City Charter and other applicable law.