

<u>Article 16: Conditional Uses</u>	16-1
<u>16.100 Purpose and Applicability</u>	16-1
16.110 <u>Purpose</u>	16-1
16.120 <u>Applicability</u>	16-1
<u>16.200 Procedures</u>	16-1
16.210 <u>Pre-Application Conference</u>	16-1
16.220 <u>Appeals</u>	16-1
16.230 <u>Conditional Use Permit Issuance</u>	16-1
16.240 <u>Expiration</u>	16-1
16.250 <u>Revocation</u>	16-1
16.260 <u>Submittal Requirements and Criteria</u>	16-1
<u>16.300 Telecommunication Facilities</u>	16-2
16.310 <u>Purpose</u>	16-2
16.320 <u>Applicability</u>	16-2
16.330 <u>Non-Conforming Use and Development</u>	16-2
16.340 <u>Conditional Use Permit Required</u>	16-2
<u>16.350 Submittal Requirements</u>	16-3
16.351 <u>New Transmission Towers</u>	16-3
16.352 <u>Collated Facilities, Rooftop and Façade-Mounted Antennas</u>	16-4
<u>16.360 Conditional Use Criteria for Telecommunication Facilities</u>	16-5
<u>16.370 Development Standards</u>	16-6
16.371 <u>Transmission Tower and Tower-Mounted Antenna Development Standards</u>	16-6
16.372 <u>Façade and Rooftop-Mounted Antenna Development Standards</u>	16-9
<u>16.380 Removal of Facilities</u>	16-10
<u>16.390 Definitions</u>	16-10

Article 16: Conditional Uses

16.100 Purpose and Applicability

16.110 Purpose. The purpose of this section is to establish a review process for specific uses that that are essential or desirable to the public interest but which may not be readily compatible with surrounding neighborhoods. Conditional uses, as outlined in Schedule 12-2 of this Code, are not allowed as a matter of right within a zoning district; rather, the review body has the authority to consider a conditional use permit application and approve or deny, based on the Conditional Use Criteria.

16.120 Applicability

The provisions of this article shall apply to development requests involving any of the specific uses outlined herein, also identified in Article 12, Schedule 12-2 as *Uses Conditionally Permitted*.

16.200 Procedures

Prior to issuance of a conditional use or development permit, the applicant shall secure conditional use permit approval in accordance with this Article, following the procedure type specified in Article 12, Schedule 12-2.

16.210 Pre-application Conference. Prior to submitting an application for Conditional Use permit, the applicant shall request a pre-application conference with the Director as provided in Section 3.041 of this Code.

16.220 Appeals. The Final Action of the review body may be appealed as provided in Article 10 of this Code.

16.230 Conditional Use Permit Issuance. If the review body finds that all applicable criteria are satisfied or satisfied with conditions, it shall approve the conditional use. The conditional use permit shall be issued once construction and final inspections have been completed and approved.

16.240 Expiration. The land use decision shall expire in accordance with the provisions of Section 3.075 of this Code. The development permit shall expire in accordance with the provisions of Section 3.092 of this Code. The conditional use permit shall expire when the use has been discontinued for a period of six (6) consecutive months.

16.250 Revocation. If at any time any condition attached to a conditional use permit approval has been violated, the permit may be immediately revoked by the Director. Revocation of a conditional use permit shall require the use to cease and desist immediately. If revocation occurs, a new conditional use permit approval shall be required prior to resuming the use.

16.260 Submittal Requirements and Criteria. Submittal requirements and criteria necessary to secure conditional use permit approval are outlined for individual uses below.

16.300 Telecommunication Facilities

16.310 Purpose. The purpose of this section is to provide design and siting standards for telecommunication facilities, within the framework of the Federal Telecommunications Act, that:

- (1) Recognize the need of telecommunication providers to build out their systems over time;
- (2) Reduce visual impacts of towers and ancillary facilities through careful design, siting, and screening; and
- (3) Encourage the collocation of telecommunication facilities and maximize the use of any new transmission towers, or existing suitable structures, to reduce the need for additional towers.

16.320 Applicability. This section applies to telecommunication facilities, including cellular transmission towers, antennae, and ancillary facilities, including collocated facilities, as defined in Section 16.390 of this Code. This section does not apply to amateur radio antennas or facilities used exclusively for the reception of television signals.

16.330 Nonconforming Use and Development. The following shall apply to telecommunication facilities in lieu of Article 15 of this Code.

- (1) Nonconforming Lots. Lots which are non-conforming due to area, width, depth, width-to-depth ratio and required frontage may be used for the development of a telecommunication facility.
- (2) Nonconforming Facilities. Any pre-existing telecommunication facility that has been rendered a non-conforming use or development due to the adoption of this ordinance may remain in use, so long as it remains otherwise lawful. Alterations to a non-conforming facility shall not be permitted except as outlined in Sections 16.340 and 16.360(9). If a nonconforming telecommunication facility is abandoned as defined in Section 16.390, it shall be immediately removed, and any replacement facility shall be constructed in full compliance with this code.
- (3) Nonconforming Facility Destroyed by Calamity. Any replacement of a nonconforming telecommunication facility that is destroyed by fire, flood, wind, earthquake or other natural calamity shall be performed as a new facility in full accordance with the provisions of this code.

16.340 Conditional Use Permit Required. New telecommunication facilities are conditionally permitted uses in zones as identified in Article 12, Schedule 12-2 of this Code. No person, group, firm, business or organization shall begin onsite construction or erect any new telecommunication facility without first obtaining the necessary approvals and compliance with all required conditions and standards of development, by following the procedures outlined in this Article. Further, no existing telecommunication facility may be modified without first obtaining the

necessary approvals and compliance with all required conditions and standards of development, unless the modification includes one of the following:

- (1) Removal of existing antennas or other equipment from cellular transmission towers, light poles, etc.;
- (2) Reduction in height of an existing cellular transmission tower;
- (3) Routine repair and maintenance of existing towers, antenna(e) and other facilities that does not increase height or profile;
- (4) Installation or modification of a telecommunication facility located completely within an existing permanent permitted structure.
- (5) Other modification to an existing telecommunication facility that will reduce its visual impact, as determined by the Director.

16.350 Submittal Requirements. The Community Development Department shall make available application forms for Conditional Use Permits. Applications for Conditional Use Permit approval shall include a completed application form and application fee along with the following items.

16.351 New Transmission Towers.

- (1) A Major Site Plan Map, prepared in accordance with Section 19.072 (2) of this Code.
- (2) A landscape plan, drawn to scale, showing proposed landscaping, including type, spacing and size. In addition, the plan shall indicate which of the following two options the applicant will utilize to ensure that plant species will survive and be kept healthy throughout the year:
 - (a) An irrigation plan showing the connection to the public water main and location of stub-outs to separate landscape areas, or
 - (b) A letter from a certified Landscape Architect, outlining the method proposed to ensure that plant species will survive and be kept healthy throughout the year.
- (3) A vicinity map depicting the proposed coverage area.
- (4) A vicinity map showing potential site candidates within the search area.
- (5) An inventory within search area depicting the height and location of non-habitable structures, including utility / light poles, towers, and appurtenances that could accommodate collocation of the proposed antennae.
- (6) Evidence demonstrating collocation has been explored and is impractical on existing structures and transmission towers within the search area for reasons

of aesthetics, safety, available space, failing to meet service coverage, or technical issues.

- (7) A graphic simulation showing the appearance of the proposed tower and accessory structures from a minimum of five locations within the impacted vicinity, including but not limited to the following: on-site, the nearest residential area, the nearest collector or arterial street, the Rogue River or nearest public park (whichever is closest), and ½ mile from the site (any direction.) At the discretion of the Director, additional simulation graphics may be required.
- (8) Detailed elevation drawings of the proposed tower, antenna and accessory structures, including building materials and colors. For stealth designs, include material samples, manufacturer information, examples and photos of other installations using the stealth technique and equipment.
- (9) A description of the proposed tower and reasons for the tower design and height, including a description of the general capacity of the tower in terms of the number and type of antenna it is designed to accommodate.
- (10) If the proposed tower exceeds the height limit of the zone, include an analysis to show that the tower is the minimum height necessary to achieve the coverage objective.
- (11) A signed agreement stating that the applicant will allow collocation with other users, provided all safety and structural requirements are met. This agreement shall also state that any future owners or operators will allow collocation on the tower. If the applicant does not own the facility or structure, then written consent to allow the owner to grant access to other users for the same structure or facility shall be required.
- (12) Identification of any other antenna sites owned or operated by the applicant that provide service coverage within the Grants Pass Urban Growth Boundary.
- (13) A copy of the applicant's current Federal Communications Commission (FCC) license to operate within the geographic service area, and a copy of a completed Federal Aviation Administration (FAA) *Determination of No Hazard to Air Navigation* form for the tower.
- (14) Any additional documentation required to address the specific criteria for approval of the conditional use permit, as found in Section 16.360 of this Code.

16.352

Collocated Facilities, Rooftop and Façade-Mounted Antennas.

- (1) A Minor Site Plan Map, prepared in accordance with Section 19.072 (1) of this Code.
- (2) Detailed “before” and “after” elevation drawings of the proposed antenna and

structure to which it is attached, including materials and colors. For stealth designs, include material samples, manufacturer information, examples and photos of other installations using the stealth technique and equipment. At the discretion of the Director, additional simulation graphics may be required.

- (3) A copy of the applicant's current Federal Communications Commission (FCC) license to operate within the geographic service area.
- (4) Any additional documentation required to address the specific criteria for approval of the conditional use permit, found in Section 16.360 of this Code.

16.360

Conditional Use Criteria for Telecommunication Facilities. The following conditional use criteria shall be satisfied for a new telecommunications facility to be approved. The review body may impose conditions necessary to ensure the criteria are satisfied. If the criteria cannot be satisfied outright or through the imposition of conditions, the application shall be denied.

- (1) The proposal causes minimal visual impact when viewed from adjacent properties, public rights-of-way, public parks and the Rogue River.
- (2) Potential land use conflicts have been mitigated through specific conditions of development.
- (3) If the proposal is located within a residential zone, the applicant has demonstrated that there are no reasonably feasible sites located within allowable commercial or industrial zones that would provide the desired coverage area.
- (4) To the extent possible, identified significant resources, such as intermittent and perennial creeks, stands of pine, fir and oak trees, wildlife habitats, historic sites, and prominent land features have been preserved and designed into the project. Alternatives shall be considered and the proposal shall represent the most effective design to preserve these resources.
- (5) The proposal is in compliance with applicable State and Federal laws.
- (6) If the proposal is for a new transmission tower, the applicant has sufficiently demonstrated that collocation has been explored and is impractical on existing structures and transmission towers for reasons of aesthetics, safety, available space, failing to meet service coverage, or technical issues.
- (7) The proposal is in compliance with applicable Environmental Standards defined in Article 24 and Special Purpose District standards defined in Article 13.
- (8) The proposal will not adversely impact the City's storm drainage system. Provisions have been made to prevent the excessive flow of water across property lines, sidewalks and other public rights-of-way.

- (9) The proposal is in compliance with applicable Development Standards of Section 16.370 of this Code. If the proposal is for a collocated facility on a pre-existing tower that is not in compliance with these standards, then the Review Body shall determine the amount and type of improvements to be made in order to bring existing non-compliant aspects of the tower and tower compound into greater compliance.

16.370 Development Standards. Unless otherwise noted, variances are prohibited for the following standards.

16.371 Transmission Tower and Tower-Mounted Antenna Development Standards.
Collocated facilities mounted to structures other than existing buildings shall also be subject to these standards, as applicable.

- (1) Status of Use. No permit may be issued for the location of a new transmission tower within a General Commercial zone if the lot contains single-family or duplex development. A collocated antenna may be added to a previously-existing tower or other structure that does not meet this requirement, subject to the remaining provisions of this Code. Applicants are encouraged to consider siting the facility on publicly-owned property.
- (2) Height. Transmission tower height, including tower-mounted antennas, shall be limited to the maximum height of the applicable zone unless the review body finds that additional height is necessary to achieve a carrier's coverage objective and that visual impact has been mitigated to the greatest extent possible.
- (a) In no case shall a transmission tower or attached antenna located in an industrial zone exceed a height of 125 feet.
- (b) In no case shall a transmission tower or attached antenna located in a commercial zone exceed a height of 100 feet.
- (3) Setbacks.
- (a) The minimum setback standard of the applicable zoning district shall apply to the tower compound.
- (b) The tower footprint shall be set back at least an amount equal to the tower height from any property line, street or alley directly adjacent to a residential zone.
- (c) Where there is no adjacent residential zone, the minimum setback standard of the applicable zoning district shall apply to the tower footprint.
- (d) The tower compound shall not encroach into a required zone buffer setback.
- (e) The tower footprint shall be set back a minimum of 150 feet from the

mean high water mark of the Rogue River.

- (f) A reduction to any minimum setback requirement outlined above shall require a Major Variance.
- (4) Separation Between Transmission Towers. No transmission tower may be constructed within 2,000 feet of an existing transmission tower. Tower separation shall be measured by following a straight line from the footprint of the proposed tower which is closest to the footprint of any pre-existing tower. For purposes of this paragraph, an existing tower shall also include any transmission tower for which an application has been filed and not denied. Transmission towers constructed or approved prior to adoption of this section may be modified to accommodate additional providers consistent with provisions for collocation in this section. The review body may allow or require the tower separation standard to be modified if one of the following applies:
 - (a) A reduced separation will better camouflage the proposed facility,
 - (b) The proposed tower does not exceed the maximum height limit of the zone, or
 - (c) The applicant has sufficiently demonstrated that technical or capacity issues require an additional tower to be located within 2,000 feet of an existing tower. The submittal of radio frequency propagation maps or other technical studies may be required.
- (5) Collocation. New towers shall be structurally designed to accommodate collocation of additional providers either outright or through future modification to the tower, unless the review body determines that collocation would have an adverse visible impact, and that the visual impacts cannot be mitigated through measures which may include stealth design.
- (6) Attachment Profile. Attachment profiles shall be the minimum necessary to achieve adequate coverage. The review body may require stealth design techniques to mitigate visual impacts of attachment profiles.
- (7) Tower Lighting. Towers and attached antennas shall be limited in height such that they are not subject to FAA, Oregon Aeronautics or any other aviation authority requirement for lighting or marking with special colors for aircraft visibility. Towers and attached antennas shall not be permitted on a site unless they can comply with this requirement on the site.
- (8) Security Lighting. Security lighting shall be downcast shielded and mounted at a height and limited in intensity so that the light source is not directly visible from other properties. Security lighting shall have a maximum mounting height of 10 feet.
- (9) Tower Design. Towers shall be monopole type only. Guyed thin-lattice towers are permitted only when the review body finds them to be less visible

than a monopole. *See Figures 16-1 and 16-2 (for reference only.)*

- (10) Color and Finish. Towers, including tower-mounted antennae, shall be of a matte, non-glare finish, and shall consist of neutral colors or such shades as are appropriate and compatible with the surrounding environment, as determined by the review body.
- (11) Buffering. Existing vegetation shall be preserved to the maximum extent possible. In addition, the following requirements shall apply to a tower compound that is visible from the public right-of-way or adjacent properties. Structures within the tower compound, including fencing, shall be painted dark brown or green, or a similar shade that is compatible with the surrounding environment, as determined by the review body. If it is determined that dark colors could result in permanent damage to certain equipment due to overheating, the equipment may remain unpainted but shall be sufficiently screened from view. As an alternative to painting equipment, a wood or masonry site-obscuring fence of no less than 6 feet in height may be installed completely around the outside of the tower compound. In addition to painting or site-obscuring fencing, a landscape strip must be placed completely around the outside of the tower compound, except as required to access the facility. The landscape strip shall comply with the following:
 - (a) Landscaping shall consist of evergreen vegetation with a minimum planted height of 6 feet, placed densely so as to form a screen.
 - (b) Landscaping shall be compatible with existing nearby landscaping.
 - (c) One of the following two options shall be utilized to ensure the long-term survival and health of plant species:
 - (i) An irrigation system connected to the public water main, or
 - (ii) An approved letter from a certified Landscape Architect, outlining the method proposed to ensure long-term survival and health of plant species.
 - (d) Plant species must be kept healthy and well-maintained throughout the year.
- (12) Signs. No signs, striping, graphics or other attention-getting devices are permitted on the transmission tower or within the tower compound, except for warning and safety signage with a surface area of no more than 3 square feet. Such signage shall be affixed to a fence or accessory structure and the number of signs is limited to no more than 2.
- (13) Ancillary Facilities. Ancillary facilities within the tower compound shall include only building facilities that are necessary for transmission function and associated ground stations, and shall not include broadcast studios (except for emergency broadcast), offices, vehicle storage areas, nor other similar uses not necessary for the transmission or relay function. No unenclosed storage

of materials is allowed. Back-up emergency generators are permitted and shall be of the design / construction to include sound-insulating housing to minimize noise output.

- (14) Access. Recorded easements are required for access through neighboring properties. All interior service driveways, including portions through neighboring properties, shall be constructed with asphalt, concrete or other paving surface authorized by the Development Code.

16.372

Façade and Rooftop-Mounted Antenna Development Standards.

- (1) Status of Use. No permit may be issued for the location of a new facade or rooftop-mounted antenna within a residential or General Commercial zone if the lot contains single-family or duplex development. Applicants are encouraged to consider siting the facility on publicly-owned property.
- (2) Height. Façade-mounted antennas may not extend above the building face to which they are attached. Rooftop-mounted antennas may extend up to 15 feet above the parapet or tallest element of the building (not including features otherwise exempt from height requirements.) The total combined height of a building and attached antenna shall not exceed the maximum height of the zone in which it is located, unless the applicant demonstrates to the satisfaction of the review body that the following criteria are satisfied:
 - (a) The increase in height above the maximum allowed height for the zone is the minimum increase necessary to achieve the coverage objective; and
 - (b) The negative visual impacts on adjacent properties can be minimized by screening or disguising the facility.
- (3) Screening. Façade-mounted antennas may be incorporated into a building façade only by using stealth techniques, subject to approval by the review body. Rooftop-mounted antennas shall be sufficiently screened to minimize visibility from public right-of-way and adjacent properties, subject to approval by the review body. One or a combination of the following techniques shall be utilized:
 - (a) For flat-roofed buildings, equipment shall be setback a minimum of 2 feet from the edge of the roof for every 1 foot in height of the antenna or equipment. If the building does not have a flat roof, or if this standard is otherwise modified by the review body, at least one additional technique shall be utilized.
 - (b) Screen from view using a parapet or rooftop equipment screen. Per Section 20.220, parapets in certain zones shall be in compliance with the Commercial Design Standards of Article 20.
 - (c) Employ stealth design to match the architecture of the building.

- (4) Equipment Shelters. It is preferred that equipment shelters be located internal to the building. Roof-mounted equipment shelters are subject to the screening requirements above.

16.380 Removal of Facilities. All structures, towers, antennas and associated equipment that have been unused for a period of six (6) consecutive months are hereby declared abandoned. Abandoned facilities shall be removed by the property owner within ninety (90) days of the date of abandonment. Upon written application, prior to the expiration of the six-month period, the Director shall, in writing, grant a six month extension for reuse of the facility. Additional extensions beyond the first six-month extension may be granted by the Director subject to any conditions required to bring the project or facility into compliance with current law(s) and make it compatible with surrounding development.

16.390 Definitions. The words and phrases as used in this Section shall have the following meanings:

Abandoned Facility: A transmission tower and/or ancillary facilities whose use has been discontinued for a period of at least six (6) consecutive months.

Ancillary Facilities: The structures and equipment required for operation of the telecommunication equipment, including but not limited to antennae, repeaters, equipment housing structure, and ventilation and other mechanical equipment.

Antenna(e): An electrical conductor or group of electrical conductors that transmit or receive radio waves.

Attachment: An antenna or other piece of related equipment affixed to a transmission tower or other structure.

Attachment Profile: The horizontal distance between the outer-most edge of a transmission tower (or other structure) and the outer-most edge of an attachment.

Collocated Facility: A new attachment, antenna, or tower placed on existing suitable structures, or the addition of new ancillary facilities to an existing transmission tower facility site. Façade- and rooftop-mounted antennas are types of collocated facilities.

Coverage Area: The geographical area around a telecommunications facility site in which a wireless telecommunication provider offers wireless service for their own phone subscribers.

New Facility: The installation of a new transmission tower. New attachments are not new facilities.

Pre-existing Towers and Pre-existing Antennas: Any tower or antenna constructed or approved pursuant to City standards in effect prior to the effective date of this ordinance.

Search Area: The geographic area in which a wireless telecommunication provider is

considering the construction of a new or collocated facility that can achieve the desired coverage area.

Shadow: A geographic area that has less than adequate telecommunication service coverage.

Stealth: The technique of designing telecommunication facilities to mimic the appearance of the surrounding environment. Stealth designs shall specifically mimic vegetative, geologic, architectural, light pole or flagpole features typical of the specific sights. Location, color and screening alone are not considered stealth techniques.

Telecommunication Facilities: Facilities designed and used for the purpose of transmitting, receiving, and relaying voice and data signals from various wireless communication devices.

Tower Compound: The area that encompasses the tower footprint, ancillary facilities, fencing and screening.

Tower Footprint: The area described at the base of a transmission tower as the perimeter of the transmission tower including the transmission tower foundation and any attached or overhanging equipment, attachments, or structural members but excluding ancillary facilities and guy wires and anchors.

Tower Height: The vertical distance measured from the highest point on the transmission tower or other structure, including any antennae, to the ground directly below this point.

Transmission Tower: The structure on which transmitting or receiving antennae are located. For purposes of this Section, ham radio transmission facilities are not considered “transmission towers”.

- a) Guyed Tower: A transmission tower which is supported by the use of cables (guy wires) which are permanently anchored.
- b) Lattice Tower: A transmission tower characterized by an open framework of lateral cross members which stabilize the pole.
- c) Monopole Tower: A single upright pole, engineered to be self-supporting, that does not require lateral cross-supports or guy wires.

Figure 16-1. Lattice Towers

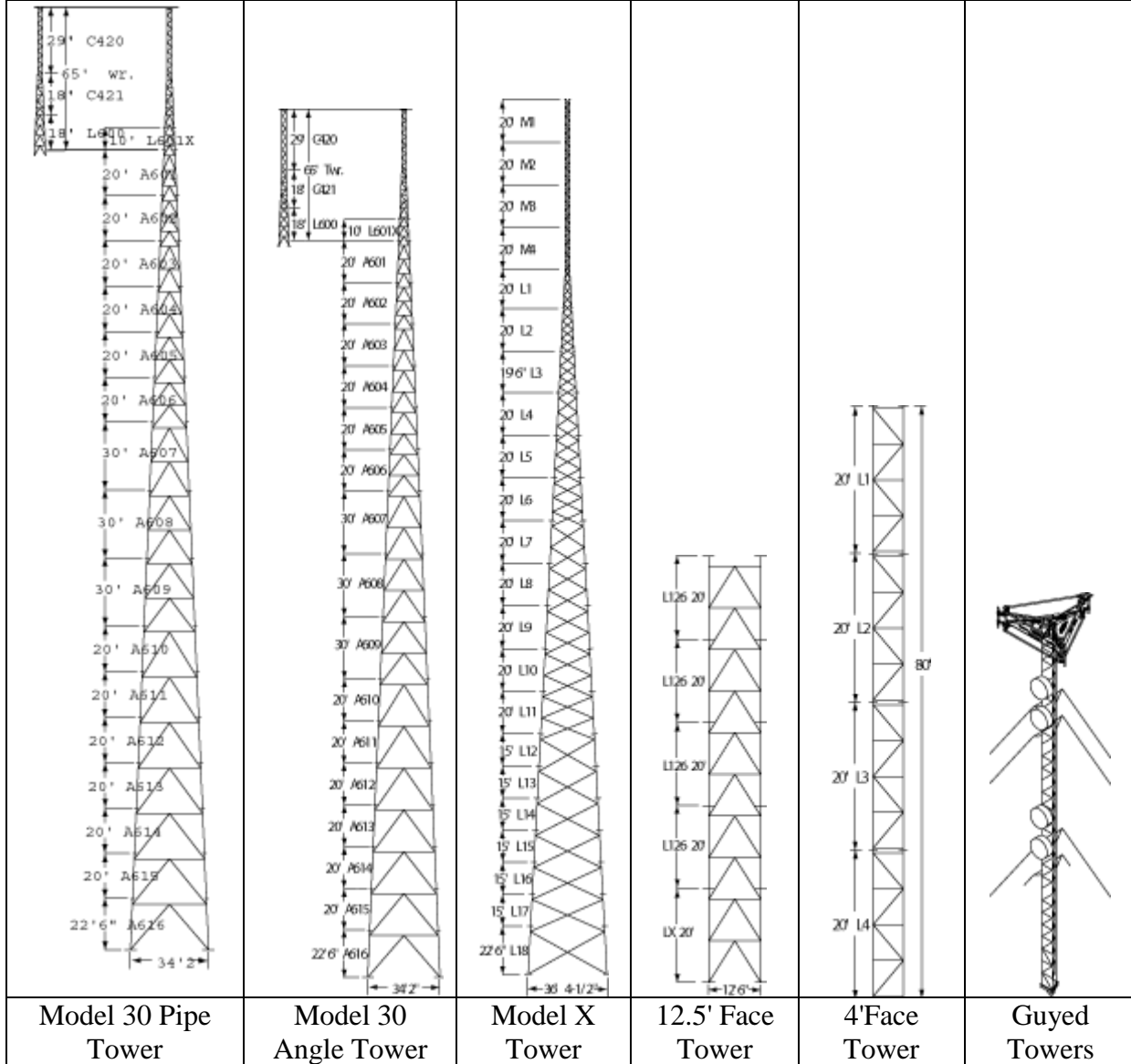
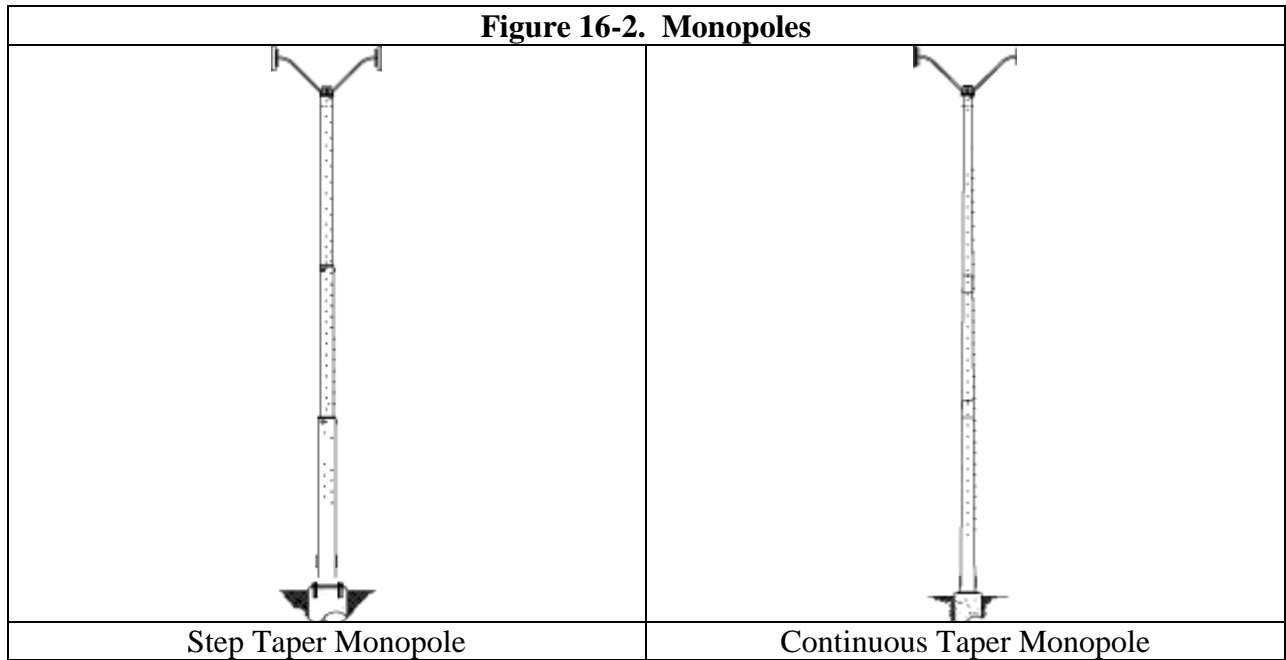


Figure 16-2. Monopoles



REVISIONS

DATE	ORD #
4/16/08	5442