

CITY OF BASTROP, TX
ORDINANCE NO. 2023-40

WIRELESS TRANSMISSION FACILITIES

AN ORDINANCE OF THE CITY OF BASTROP, TEXAS, AMENDING THE BASTROP CODE OF ORDINANCES CHAPTER 13 UTILITIES, ADDING ARTICLE 13.14, ESTABLISHING REGULATIONS FOR WIRELESS TRANSMISSION FACILITIES (ANTENNA TOWERS); AND PROVIDING FOR FINDINGS OF FACT, REPEALER, SEVERABILITY, CODIFICATION, EFFECTIVE DATE, PROPER NOTICE AND MEETING

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City Council of the City of Bastrop (City Council) has general authority to adopt an Ordinance or police regulation that is for the good government, peace, or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, there is a growing need and demand for wireless communication services; and

WHEREAS, the City Council seeks to promote the health, safety, and general welfare of the public by regulating the siting of wireless communication facilities; and

WHEREAS, the City Council finds that establishing regulations and standards for location, structural integrity, and compatibility of wireless transmission facilities will minimize the impacts of wireless communication facilities on surrounding areas; and

WHEREAS, the City Council seeks to respond to the policies embodied in the Telecommunications Act of 1996 in such a manner as not to unreasonably discriminate between providers or to prohibit or have the effect of prohibiting personal wireless service in the City; and

WHEREAS, pursuant to Texas Local Government Code Chapters 51, 211, 214, and 217 and the Telecommunications Act of 1996, the City Council has the authority to establish regulations and standards for location, structural integrity, and compatibility of wireless transmission facilities; and

WHEREAS, pursuant to Section 3.14 of the City of Bastrop Charter, the City Council may adopt ordinances to regulate land use and development; and

WHEREAS, the City Council has determined that it is necessary and proper for the good government, peace, or order of the City of Bastrop to adopt an ordinance establishing regulations for wireless transmission facilities; and

WHEREAS, the City Council finds the attached amendments reasonable and necessary.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Bastrop, Texas:

Section 1. Findings of Fact: The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

Section 2. Amendment: Article 13.14– Wireless Transmission Facilities of the City of Bastrop Code of Ordinances is hereby amended, and after such amendment, shall read in accordance with *Attachment “A”*, which is attached hereto and incorporated into this Ordinance for all intents and purposes. Any underlined text shall be inserted into the Code and any struck-through text shall be deleted from the Code, as shown in each of the attachments.

Section 3. Repealer: To the extent reasonably possible, ordinances are to be read together in harmony. However, all ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated.

Section 4. Severability: Should any of the clauses, sentences, paragraphs, sections, or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

Section 5. Codification: The City Secretary is hereby directed to record and publish the attached rules, regulations, and policies in the City’s Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.


Section 6. Effective Date: This Ordinance shall take effect upon the date of final passage noted below, or when all applicable publication requirements, if any, are satisfied in accordance with the City’s Charter, Code of Ordinances, and the laws of the State of Texas.

Section 7. Proper Notice & Meeting: It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

READ & ACKNOWLEDGED on First Reading by the City Council of the City of Bastrop, on this, the 24th day of October, 2023.

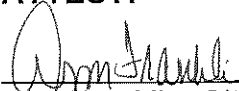
PASSED & APPROVED on Second Reading by the City Council of the City of Bastrop, on this, the 7th day of November, 2023.

APPROVED:

by: 

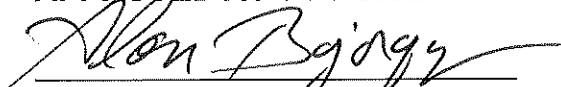
Lyle Nelson, Mayor

ATTEST:



Ann Franklin, City Secretary

APPROVED AS TO FORM:



Alan Bojorquez, City Attorney

City of Bastrop

Code of Ordinances Chapter 13

ARTICLE 13.14 – Wireless Transmission Facilities

SEC. 13.14.001 – Popular Name.

This Chapter shall be commonly cited as the "Wireless Transmission Facilities ("WTF") Ordinance."

SEC. 13.14.002 – Purpose & Intent.

The purpose and intent of this Chapter is to:

- a) Promote the health, safety, and general welfare of the public by regulating the siting of wireless communication facilities; and
- b) Minimize the impacts of wireless communication facilities on surrounding areas by establishing standards for location, structural integrity, and compatibility; and
- c) Encourage the location and collocation of wireless communication equipment on existing structures thereby minimizing new visual, aesthetic, and public safety impacts, effects upon the natural environment and wildlife, and to reduce the need for additional antenna-supporting structures; and
- d) Accommodate the growing need and demand for wireless communication services; and
- e) Encourage coordination between suppliers of wireless communication services in the City; and
- f) Respond to the policies embodied in the Telecommunications Act of 1996 in such a manner as not to unreasonably discriminate between providers of functionally equivalent personal wireless service or to prohibit or have the effect of prohibiting personal wireless service in the City; and
- g) Establish predictable and balanced codes governing the construction and location of wireless communications facilities, within the confines of permissible local codes; and
- h) Establish review procedures to ensure that applications for wireless communications facilities are reviewed and acted upon within a reasonable period of time; and
- i) Protection of the unique natural beauty and small-town character of the City while meeting the needs of its citizens to enjoy the benefits of wireless communications services.

SEC. 13.14.003 – Scope

This Chapter shall apply to all property within the incorporated municipal boundaries (i.e., “city limits”).

SEC. 13.14.004 – Definitions

General

Words and phrases used in this Chapter shall have the meanings set forth in this section. Terms that are not defined below, but are defined elsewhere in the Code of Ordinances, shall be given the meanings set forth in the Code of Ordinances. Words and phrases not defined in the Code of Ordinance shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and vice versa); and words in the masculine gender shall include the feminine gender (and vice versa). The word "shall" is always mandatory, while the word "may" is merely directory. Headings and captions are for reference purposes only.

Specific

Ancillary Structures: forms of development associated with a wireless communications facility, including but not limited to foundations, concrete slabs on grade, guy wire anchors, generators, and transmission cable supports; however, specifically excluding equipment enclosures.

Anti-Climbing Device: a piece or pieces of equipment which are either attached to antenna-supporting structure, or which are free-standing and are designed to prevent people from climbing the structure. These devices may include but are not limited to fine mesh wrap around structure legs, “squirrel-cones”, the removal of climbing pegs on monopole structures, or other approved devices, but excluding the use of barbed wire.

Antenna: any apparatus designed for the transmitting and/or receiving of electromagnetic waves that includes but is not limited to telephonic, radio or television communications. Types of antennas include, but are not limited to, omni-directional (whip) antennas, sectorized (panel) antennas, multi or single bay (AM/FM/TV/DTV), yagi, or parabolic (dish) antennas.

Antenna Array: a single or group of antennas and their associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support.

Antenna-Supporting Structure: a vertical projection composed of metal, or other substance, with or without a foundation that is for the express purpose of accommodating antennas at a desired height above grade. Antenna-supporting structures do not include any device used to attach antennas to an existing building unless the device extends above the highest point of the building by more than ten (10) feet.

Attached Wireless Transmission Facility (Attached WTF): a WTF that is attached to a Monopole, Self-Enclosed Monopole, building, or other permanent structure with any accompanying pole or device that attaches it to the building, transmission cables, and an equipment enclosure, which may be located either inside or outside of the existing building. An attached wireless communications facility is considered to be an accessory use to the existing principal use on a site.

Breakpoint Technology: the engineering design of a Monopole wherein a specified point on the Monopole is designed to have stresses at least five percent (5%) greater than any other point along the Monopole, including the anchor bolts and baseplate, so that in the event of a weather-induced failure of the Monopole, the failure will occur at the breakpoint rather than at the baseplate or any other point on the Monopole.

City: The City of Bastrop, an incorporated municipality located in Bastrop County, Texas. Unless otherwise stated, the term includes both the city limits and the ETJ.

City Manager: The City's chief administrative officer, as appointed by the City Council. The term also includes the Assistant City Manager, or the City Manager's designee.

Collocation: the locating of wireless communications equipment (antenna) from more than one provider on a single mount or support structure. The term collocation shall not be applied to a situation where two or more wireless communications service providers independently place equipment on an existing building.

Combined Antenna or Combining: an antenna or an array of antennas designed and utilized to provide services for more than one carrier, for the same type of services.

Development Area: the area occupied by a WTF including areas inside or under the following: an antenna-supporting structure's framework, equipment enclosures, ancillary structures, and access ways.

Equipment Enclosure: any structure above the base flood elevation including: cabinets, shelters, pedestals, and other similar structures. Equipment enclosures are used exclusively to contain radio or other equipment necessary for the transmission or reception of wireless communication signals and not for the storage of equipment nor as habitable space.

FAA: the Federal Aviation Administration, or successor agency.

FCC: the Federal Communications Commission, or successor agency.

Guyed: a style of antenna-supporting structure consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other, and the assembly is attached to a foundation and supported by a series of guy wires that are connected to anchors placed in the ground or on a building.

Geographic Search Area: an area designated by a provider or operator for a new base station facility, produced in accordance with generally accepted principles of wireless engineering.

Lattice: a tapered style of antenna-supporting structure that consists of vertical and horizontal supports with multiple legs and cross-bracing, and metal crossed strips or bars to support antennas.

Monopole: a WTF constructed as a free-standing structure which consists of a single vertical pole usually composed of two or more hollow sections that are fixed into the ground and/or attached to a foundation without the use of guy wires or other stabilization devices containing one or more externally mounted antennas and associated equipment.

Personal Wireless Service: commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined in the Telecommunications Act of 1996.

Public Antenna-Supporting Structure: an antenna-supporting structure, appurtenances, equipment enclosures, and all associated ancillary structures used by a public body or public utility for the purposes of transmission and/or reception of wireless communication signals associated with but not limited to: public education, parks and recreation, fire and police protection, public works, and general government.

Radio Frequency Emissions: any electromagnetic radiation or other communications signal emitted from an antenna or antenna-related equipment on the ground, antenna-supporting structure, building, or other vertical projection.

Repair: the maintenance of or the return to a state of utility of a building, object, site, or structure.

Replacement: the construction of a new antenna-supporting structure built to replace an existing antenna-supporting structure.

Routine Maintenance: Day-to-day operational activities to keep the facility operating, such as replacement and repair work on the facilities and includes preventative maintenance.

Satellite Earth Station: a single or group of satellite parabolic (or dish) antennas. These dishes are mounted to a supporting device that may be a pole or truss assembly attached to a foundation in the ground, or in some other configuration. A satellite earth station may include the associated separate equipment enclosures necessary for the transmission or reception of wireless communications signals with satellites.

Self-Enclosed Monopole: a WTF constructed as a free-standing structure that consists of a single vertical pole, fixed into the ground and/or attached to a foundation with no guy wires containing one or more antennas and associated equipment no larger than thirty-six (36) inches in diameter at any given point with no externally mounted or visible antennae.

State of the Art: existing technology where the level of facilities, technical performance, capacity, equipment, components, and service are equal to that developed and demonstrated to be more technologically advanced than generally available for comparable service in the State of Texas. (type accepted by the FCC)

Stealth Wireless Transmission Facility (Stealth WTF): a WTF, that is screened, disguised, concealed, or otherwise camouflaged as a natural structure, structure or part of a structure such that the WTF is indistinguishable, not readily visible or identifiable as such from other natural structures, structures or the structure that it is attached to or within and is designed to be aesthetically compatible with existing and proposed uses on a site. A Stealth WTF may have a secondary function, including, but not limited to the following: church steeple, bell tower, spire, clock tower, cupola, light standard, flagpole with a flag, or tree.

Temporary Wireless Transmission Facility (Temporary WCF): a Wireless Transmission Facility that is portable, self-contained, and designed for use on a non-permanent basis.

Wireless Communications: any personal wireless service, which includes but is not limited to, cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), unlicensed spectrum services utilizing Part 15 devices (i.e. wireless internet services) and paging.

Wireless Transmission Facility (WTF): any staffed or unstaffed facility for transmitting or receiving television, am/fm radio, digital, microwave cellular, telephone or similar forms of electronic communication and usually consisting of an antenna or group of antennas, transmission cables, associated equipment and enclosures, and may include an antenna-supporting structure. The following developments shall be considered as a Wireless Communication Facility: developments containing new or existing antenna-supporting structures, public antenna-supporting structures, replacement antenna-supporting structures, collocations on existing antenna-supporting structures, attached wireless communications facilities, stealth wireless communication facilities, and temporary wireless communications facilities.

SEC. 13.14.005 – WTF General Standards

All WTFs shall comply with the following standards:

SEC. 13.14.006 – Siting of a WTF

Siting of a WTF (as herein defined) shall be in accordance with the following siting alternatives hierarchy (in preferred order):

- (a) Attached WTF;
- (b) Stealth WTF;
- (c) Replacement of Existing Antenna Support Structure;
- (d) Collocation on Existing Antenna Supporting Structure;
- (e) New Antenna Support Structure;

The order of ranking, from highest to lowest, shall be a, b, c, d, and e. Where a lower ranked alternative is proposed, the applicant must file an affidavit demonstrating that despite diligent efforts to adhere to the established hierarchy within the Geographic Search Area, as determined by a qualified radio frequency engineer, higher ranked options are not feasible.

SEC. 13.14.007 – Location Prioritization

The City shall prioritize proposed locations in zoning districts within the City using the siting hierarchy provided above for new WTFs in the following order:

- (a) Attached to an existing WTF in a non-residential zoning district (collocation).
- (b) Attached to a public structure in a non-residential zoning district.
- (c) Attached as a Stealth WTF to an existing building or structure in a non-residential zoning district.
- (d) Attached to an existing building or structure in a non-residential zoning district.
- (e) Located as a free-standing Stealth WTF in a permitted non-residential zoning district.
- (f) Located as a Self-Enclosed Monopole in a permitted non-residential zoning district.
- (g) Located as a Monopole in a permitted non-residential zoning district.
- (h) Attached as a Stealth WTF to an existing non-residential building or structure in a residential zoning district.

SEC. 13.14.008 – Applicability

- (a) *Covered Structures.* Except as provided for in subsection (b) below, this section shall apply to development activities including installation, construction, or modification to the following wireless communications facilities:
 - (1) Existing antenna-supporting structures; and
 - (2) Proposed antenna-supporting structures; and
 - (3) Public antenna-supporting structures; and
 - (4) Replacement of existing antenna-supporting structures; and
 - (5) Collocation on existing antenna-supporting structures; and
 - (6) Attached wireless communications facilities; and
 - (7) Stealth wireless communications facilities; and
 - (8) Temporary wireless communications facilities.
- (b) *Exempt Structures.* The following items are exempt from the provisions of this Chapter, notwithstanding any other provisions contained in the zoning ordinance of the City:

- (1) Non-Commercial, amateur, ham radio or citizen's band radio antennas supporting structures, antenna or antenna arrays which are less than forty (40) feet in height in residential zoning districts and less than sixty-five (65) feet in height in all other zoning districts and high-speed (broad band) internet antennas; however, any person constructing an antenna support structure, antenna, or antenna arrays less than the heights enumerated above shall, upon request from the City Manager, provide evidence of a valid FCC amateur license for operation of an amateur facility; and
- (2) Satellite earth stations that are one (1) meter (39.37 inches) or less in diameter in residential zoning districts and two (2) meters or less in all other zoning districts and which are not greater than twenty (20) feet above grade in residential zoning districts and thirty-five (35) feet above grade in all other zoning districts; and
- (3) Regular maintenance of any existing WTF that does not include the addition of, or the placement of, any new WTF; and
- (4) Any existing or proposed antenna-supporting structure, antenna or antenna arrays with an overall height of twenty (20) feet or less in residential zoning districts and thirty-five (35) feet or less above ground level in all other zoning districts; and
- (5) A government-owned WTF, upon the declaration of a state of emergency by federal, state, or local government, and a written determination of public necessity by the City Manager; except that such facility must comply with all federal and state requirements. No WTF shall be exempt from the provisions of this division beyond the duration of the state of emergency; and
- (6) Antenna supporting structures, antennas and/or antenna arrays for transmission facilities that are licensed by the Federal Communications Commission; and
- (7) Facilities exempt under subsections (1) and (2) above shall be limited to only one (1) amateur antenna and support structure per residential lot, and a maximum of two (2) satellite dishes per residential lot, provided neither unit is larger than one (1) meter (39.37 inches) in diameter.

SEC. 13.14.009 – Historic Regulations

Any application to locate a WTF in an historic district or on a building, area, or structure that is listed on an historic register shall be subject to review and approval by the Historic Landmark Commission.

SEC. 13.14.010 – Combined with other Uses

Except as provided in subsection 3.1.7. below, a WTF is permitted on a lot with an existing use.

SEC. 13.14.011 – Combination with Nonconforming Buildings, Uses, and Land

A WTF is permitted on a nonconforming building, on a lot with an existing nonconforming use, or in combination with a nonconforming use of land, provided that the WTF shall cease to operate if and when the provisions in this Code require that the nonconforming building, structure, use or use of land be removed, if the nonconforming use is not able to be brought into compliance with the required provisions of this Code.

SEC. 13.14.012 – Prohibited Combination

A WTF is prohibited on billboard signs (aka, "off-premises" signs).

SEC. 13.14.013 – Signage

Advertising is prohibited anywhere on a WTF, with the exception of the minimum signage as required by the Federal Communications Commission (FCC) regulations or necessary for the operation of a WTF.

SEC. 13.14.014 – Identification Sign

An identification sign for each service provider responsible for the operation and maintenance of a WTF at the site, not larger than two square feet, shall be posted at a location from which it can be easily read from outside the perimeter of the WTF, and shall provide the name, address, and emergency number of the responsible service provider.

SEC. 13.14.015 – Noise

Equipment located at the base of a WTF shall not generate noise in excess of seventy-five (75) decibels (db) at the property line.

SEC. 13.14.016 – Automation

Except as provided in subsection 3.1.12. below and during construction or an emergency, a WTF shall be fully automated and unattended on a daily basis, and shall be visited only for periodic and necessary maintenance.

SEC. 13.14.017 – Maintenance & Repair

All WTFs and associated equipment shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any person. Routine testing and maintenance shall be limited to weekdays between 8:30 a.m. and 4:30 p.m. Emergency repairs shall be allowed at all times.

SEC. 13.14.018 – Removal

Any WTF that is not operated for a continuous period of six (6) months shall be considered abandoned and shall be removed within sixty (60) days of receipt of notice from the City of such abandonment. Each property owner and person in control of the

site is responsible for removal, jointly and severally. If such facility is not removed within said sixty (60) days, the City may remove such facility at their expense. If there are two or more users of a single WTF, then this provision shall not become effective until all users cease operations on the facility housing the users.

SEC. 13.14.019 – Improvement & Replacement

An existing WTF may be improved or replaced with a new WTF provided the improvements or replacement comply with the provisions of this Chapter.

SEC. 13.14.020 – Violations

In addition to any other relief provided by this Section 2.00, the City may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this Section and other available relief.

SEC. 13.14.021 – Uses by Zoning Districts:

WTFs shall be allowed in accordance with the table below:

Zoning District	New Facility	Replacement of Existing Antenna Support Structure	Attached WTF		Stealth WTF	Monopole	Self-Enclosed Monopole
Planned Development Districts	P	P	P		P	P	P
Employment Center	NP	P	P		NP	NP	NP
P1 Nature	P	P	P		P	P	P
P2 Rural	P	P	P		P	P	P
P3 Neighborhood	NP	NP	NP		NP	NP	NP
P4 Mix	NP	NP	NP		NP	NP	NP
P5 Core	NP	NP	NP		NP	NP	NP

P: Permitted; NP: Not Permitted.

The extent to which WTFs are allowed in a particular Planned Development Districts (if at all) shall be the addressed in the PDD ordinance.

SEC. 13.14.022 – New Antenna Supporting Structures Development Standards; New Antenna Supporting Structures Approval Criteria

Approval criteria for new antenna-supporting structures includes:

(1) Setbacks

Any new antenna-supporting structures, equipment enclosures, and ancillary structures shall meet the minimum setback requirements for the zoning district where they are located, except that where the minimum setback distance for an antenna supporting structure from any property line or public right-of-way is less than the height of the proposed antenna-supporting structure, the minimum setback distance shall be increased to equal the height of the proposed antenna supporting structure, unless the antenna-supporting structure has been constructed using “breakpoint” design technology, in which case the minimum setback distance shall be equal to 110% of the distance from the top of the structure to the “breakpoint” level of the structure, plus the minimum setback for that zoning district.

For example, on a 100-foot-tall monopole with a “breakpoint” at 80 feet, the minimum setback distance would be 22 feet (110%) of 20 feet, the distance from the top of the monopole to the “breakpoint”, plus the minimum setback for that zoning district. However, in all instances, the minimum setback distance from the setback line of any residentially zoned property, with an inhabited residence or proposed residences, shall be at least 200% of the height of the entire proposed structure. Certification by a licensed Texas professional engineer of the “breakpoint” design and the design’s fall radius must be provided together with the other information required herein from an applicant.

(2) Height

The overall height of any antenna-supporting structure, antenna, and/or antenna array shall not be greater than one-hundred and twenty (120) feet. Height for all purposes in this Section shall mean the linear distance from the ground to the highest physical point on the WTF. The maximum height of associated equipment located at the base of a Monopole or Self-Enclosed Monopole shall be no more than ten (10) feet.

(3) Construction

New antenna-supporting structures shall have a monopole type construction only and shall not be guyed or have a lattice type construction.

(4) Structural Integrity

- A. The entire antenna-supporting structure and all appurtenances shall be designed pursuant to the wind speed design requirements of ASCE 7-95, including any subsequent modification to those specifications; and
- B. The new antenna-supporting structure shall be designed to accommodate the maximum amount of wireless communications equipment, including that of other wireless communication service providers. The exact amount of potential additional equipment to be accommodated shall be agreed upon

during a pre-application conference and recorded in the Letter of Understanding resulting from the conference. In all agreements reached, a new antenna-supporting structure between 80 and 120 feet in height shall, at a minimum, accommodate three (3) collocated facilities; and a new antenna supporting structure between 40 and 80 feet in height shall, at a minimum, accommodate two (2) collocated facilities.

(5) Lighting

Any facility shall be illuminated in accordance with FAA requirements to provide aircraft obstruction lighting, where required. Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e. the longest duration between flashes) allowable by the FAA. No strobes or other lighting shall be permitted unless required by the FAA. Security lighting around the equipment shelter is permitted provided it is not visible from neighboring properties. Lighting for maintenance purposes is permitted, provided the lights are not used at any other time.

(6) Collocation Feasibility

- A. No antenna-supporting structure shall be permitted unless the applicant demonstrates that no existing WTF can accommodate the applicant's proposed facility; or that use of such existing facilities would prohibit personal wireless services in the area of the City to be served by the proposed antenna-supporting structure. Service providers shall allow the collocation of Attached WTFs by competing service providers.
- B. Evidence submitted to demonstrate that no existing WTF could accommodate the applicant's proposed facility may consist of any of the following:
 - 1. No existing WTF located within the geographic area meet the applicant's engineering requirements.
 - 2. Existing WTF are not of sufficient height to meet the applicant's engineering requirements and cannot be increased in height not to exceed 120 feet.
 - 3. Existing WTFs do not have sufficient structural strength to support the applicant's proposed WTF and related equipment, and the existing facility cannot be structurally improved.
 - 4. The applicant demonstrates that there are other limiting factors that render existing WTFs unsuitable.

(7) Color

New antenna-supporting structures shall maintain a galvanized non-contrasting gray, beige, or similar neutral color finish or other accepted contextual or compatible color minimizing its visibility, unless otherwise required by the FCC or FAA.

(8) Radio Frequency Emissions/Noise

The radio frequency emissions shall comply with FCC standards for such emissions on an individual and cumulative basis with any adjacent facilities. The applicant shall certify that any and all new services shall cause no harmful

interference to any existing City of Bastrop Public Safety Communications equipment. Any equipment which produces noise shall be sited and/or insulated in such a fashion as to minimize the audio impact on adjacent property, and shall not exceed sixty (60) decibels (60 db) when measured from the nearest property line to such equipment.

(9) Security

Applicants shall provide for a fence or wall around the proposed facility that meets the fencing requirements of this Code. Alternative equivalent screening may be approved through the site plan approval process provided in this Code. Any security lighting for on-ground facilities and equipment shall be in compliance with lighting requirements in this Section and this Code and shall minimize the potential attraction to migratory birds.

(10) Landscaping

Landscaping and buffering shall be required around the perimeter of the WTF, as required by this Section and this Code except that the City Council may waive the required landscaping otherwise required under this Section on one or more sides of the WTF or allow the placement of required landscaping elsewhere on the property when the required landscape area is located adjacent to undevelopable lands or lands not in public view. Alternative landscaping may be approved by the City Council. Landscaping shall be installed on the outside of the perimeter fence or wall. Existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or in supplement towards meeting the landscaping requirements, subject to approval by the City Council. Landscaping shall be placed in a manner so as to maximize the screening between residential areas and the WTF and minimize the view of the facility from any residential areas and public roads and rights-of-way.

(11) Signage

The only signage that is permitted upon an antenna-supporting structure, equipment enclosures, or fence (if applicable) shall be informational, and for the purpose of identifying the antenna-supporting structure, as well as the party responsible for the operation and maintenance of the facility, its current address and telephone number, security or safety signs, and property manager signs (if applicable). No advertising signs are allowed. If more than two hundred twenty (220) voltage is necessary for the operation of the facility and is present in a ground grid or in the tower, signs located every twenty (20) feet and attached to the fence or wall shall display in large, bold, high contrast letters (minimum height of each letter: four (4) inches) the following: "HIGH VOLTAGE - DANGER."

(12) Hazardous waste

No hazardous waste shall be discharged on the site of any Monopole or Self-Enclosed Monopole. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least one hundred percent (100%) of the volume of the hazardous materials stored or used on the site.

(13) Adverse Effects on Adjacent Properties

- A. New antenna-supporting structures shall be configured and located in a manner that shall minimize adverse effects including visual impacts on adjacent properties. The applicant shall demonstrate that alternative locations, configurations, and facility types have been examined and shall address in narrative and graphic form the feasibility of any alternatives that may have fewer adverse effects on adjacent properties than the facility, configuration, and location proposed.
- B. The following attributes shall be considered from vantage points at adjacent properties, roadways, and occupied structures:
 - 1. Height and location; and
 - 2. Mass and scale; and
 - 3. Materials and color; and
 - 4. Illumination; and
 - 5. Existing and proposed vegetation and intervening structures; and
 - 6. Overall aesthetics of the proposed structure.

SEC. 13.14.023 – New Antenna Supporting Structures Application Submittal Requirements

Submittal requirements for new antenna-supporting structure applications shall include:

- (1) A completed application form and any appropriate fees; and
- (2) Ten (10) sets (24" x 36") of signed and sealed site plans, including tower elevations, and landscape plans if required, preliminary grading plans may be included on site plans or separately submitted in equal quantities; and
- (3) A warranty deed or a tax bill showing the ownership of the subject parcel; and
- (4) A letter of agency, if the person filing the application is not the owner; and
- (5) A form indicating that a property and/or antenna-supporting structure's owner's agent has authorization to act upon their behalf (if applicable); and
- (6) A signed statement from the antenna-supporting structure's owner or owner's agent and the applicant stating that the radio frequency emissions comply with FCC standards for such emissions certifying that both individually and cumulatively with any other facilities located on or immediately adjacent to the proposed facility; and
- (7) Proof of FCC authority to transmit and/or receive radio signals in the City; and
- (8) Prior to issuance of a building permit, a stamped or sealed structural analysis of the proposed antenna-supporting structure prepared by a licensed Texas engineer indicating the proposed and future loading capacity of the antenna-supporting structure; and
- (9) One (1) original and two (2) copies of a survey of the property completed by a licensed Texas engineer or surveyor which shows all existing uses, structures, and improvements; and

- (10) A landscape plan in accordance with the provisions of this Section and this Code; and
- (11) Photo-simulated post-construction renderings of the proposed antenna-supporting structure, equipment enclosures, and ancillary structures as they would look after construction from locations to be determined during the pre-application conference (but shall, at a minimum include renderings from the vantage point of any adjacent roadways and occupied or proposed non-residential or -residential structures), as well as photo-simulations of the antenna supporting structure after it has been fully developed with antenna structures (applicant may assume for the purpose of the simulation that other antenna structures on the facility will resemble their proposed structure in size and design), proposed exterior paint and stain samples for any items to be painted or stained, exterior building material and roof samples (all mounted on color board no larger than 11" by 17" indicating Light Reflectance Values (LRV); and
- (12) Prior to issuance of a building permit, proof of FAA compliance with Subpart C of the Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace; and
- (13) A signed statement from the antenna-supporting structure owner agreeing to allow the collocation of other wireless equipment on the proposed antenna-supporting structure; and
- (14) If required by the United States Fish and Wildlife Service, a letter indicating that the proposed antenna-supporting structure and appurtenances are in compliance with all applicable federal rules and regulations; and
- (15) All other documentation, evidence, or materials necessary to demonstrate compliance with the applicable approval criteria set forth in this chapter, including where applicable:
 - A. existing WTFs to which the proposed facility will be a handoff candidate, including latitude, longitude, and power levels of each; and
 - B. a radio frequency plot indicating the coverage of existing wireless communications sites, and that of the proposed site sufficient to demonstrate radio frequency search area, coverage prediction, and design radius, together with a certification from the applicant's radiofrequency engineer that the proposed facility's coverage or capacity potential cannot be achieved by any higher ranked alternative such as a stealth facility, attached facility, replacement facility, collocation, or new antenna supporting structure; and
 - C. a statement that the proposed facility conforms with State of the Art, as defined herein, or alternatively, that State of the Art technology is unsuitable for the proposed facility (costs of State of the Art technology that exceed facility development costs shall not be presumed to render the technology unsuitable); and
 - D. prior to issuance of a building permit, a statement by a licensed professional engineer specifying the design structural failure modes of the proposed facility, unless prefabricated antenna towers with manufacture's specifications are being used; and
 - E. antenna heights and power levels of the proposed facility and all other facilities on the subject property; and
 - F. a statement from the applicant that demonstrates that alternative locations, configurations, and facility types have been examined; and addresses in

narrative form the feasibility of any alternatives that may have fewer adverse effects on adjacent properties than the facility, configuration, and location proposed including but not limited to:

- 1) Height; and
- 2) Mass and scale; and
- 3) Materials and color; and
- 4) Illumination; and
- 5) Overall aesthetics; and
- 6) Information addressing the following items:
 - a. the extent of any existing or proposed commercial development within the Geographic Search Area of the proposed facility; and
 - b. the proximity of the structure to any existing or proposed residential dwellings; and
 - c. the proximity of the structure to any existing or proposed public buildings or facilities; and
 - d. the existence or proposal of tall and like structures within the Geographic Search Area of the proposed structure.

- (16) Title Report or A.L.T.A. Survey showing all easements on the subject property, together with a full legal description of the property.
- (17) Any other information required by the City Manager.
- (18) No application will be considered "filed" until it is deemed administratively complete by the City Manager.

SEC. 13.14.024 – Pre-Application Conference for New Antenna-Supporting Structures

- (a) A pre-application conference is required for any new antenna-supporting structure.
- (b) At the time a pre-application conference is held, the applicant shall demonstrate that the following notice was mailed (via certified mail) to all other wireless service providers licensed to provide service within the City as indicated on the list of wireless service providers provided by the City Manager:

"Pursuant to the requirements of the City of Bastrop Code of Ordinances, (name of provider) is hereby providing you with notice of our intent to meet with the City of Bastrop Staff in a pre-application conference to discuss the location of a free-standing wireless communications facility that would be located at _____(location)_____. In general, we plan to construct a support structure of _____ feet in height for the purpose of providing _____ (type of wireless service) _____. Please inform the City Manager and us if you have any desire to place additional wireless facilities or equipment within two (2) miles of our proposed facility. Please provide us with this information within twenty (20) business days after the date of this letter. Your cooperation is sincerely appreciated.

Sincerely, (pre-application applicant, wireless provider)"

- (c) Included the actual proposed physical address with the notice. Within twenty (20) days of receiving a timely response from an interested potential co-applicant, the applicant shall inform the respondent and the City in writing as to whether or not the potential collocation or Combining is acceptable and under what conditions. If the collocation or Combining is not acceptable, then the applicant must provide the respondent and the City written justification as to why the collocations or Combining not feasible.

SEC. 13.14.025 – Notices for New Antenna Supporting Structures

For all structures requiring a conditional use permit, all property owners within one thousand (1000) feet of the property boundary where the proposed structure will be constructed shall receive written notice of the application via certified mail from the applicant.

SEC. 13.14.026 – Replacement of an Existing Antenna-Supporting Structure Development Standards; Replacement of an Existing Antenna-Supporting Structure Approval Criteria

Approval criteria for replacement antenna-supporting structures includes:

- (1) For a proposed replacement antenna-supporting structure to be approved, it shall meet the approval criteria in subsections (4), (5), and (7) through (11) as provided in Section 13.14.021. above, as well as the following:
- (2) Setbacks
 - A. Any new equipment enclosures shall meet the minimum setback requirements for the zoning district where they are located; and
 - B. Replacement antenna-supporting structure foundations constructed on a property or properties which is/are contiguous to residential zoning districts shall not be any closer to these zoning districts than the foundation of the original antenna-supporting structure being replaced.
- (3) Height

Replacement antenna-supporting structures, antennas and/or antenna arrays shall not exceed the height requirements set forth in Section 13.14.021.(2) above or 110% of the height of the antenna-supporting structure it is replacing, whichever is less.
- (4) Construction

Subject to the height provisions above:

 - A. Replacement antenna-supporting structures, antennas and/or antenna arrays which are replacing existing structures that have an overall height of one hundred twenty (120) feet or less shall have a monopole type construction.
 - B. As an alternative to a new monopole type construction for the replacement structure at the existing site, an applicant may request the construction of two

(2) distinct WTFs at two different locations consisting of either stealth or attached facility construction, which facilities, when collectively utilized, will permit at a minimum the same number of WTFs on the two (2) new facilities as were capable of being placed on the existing structure sought to be replaced.

C. The alternative facilities provided in subsection (2) above shall be processed as one (1) application under this Section and shall require only one application fee. Such alternative facilities shall be evaluated and permitted in accordance with the standards and requirements as set forth in the stealth facilities and attached facilities provisions of this Section.

(5) Removal of old structure shall be completed within ninety (90) days of completion of replacement structure and otherwise subject to the abandonment provision hereinbelow.

SEC. 13.14.027 – Replacement of an Existing Antenna-Supporting Structure

Application Submittal Requirements

Submittal requirements for replacement antenna-supporting structure applications include:

- (1) For a proposed replacement antenna-supporting structure application to be considered complete, it shall contain the same submittal materials required as indicated in Section 13.14.022.(1) through (10), (12), (13), (15)(1) through (4), (16) and (17).
- (2) No application will be considered “filed” until it is deemed administratively complete by the City.

SEC. 13.14.028 – Collocations on an Existing Antenna-Supporting Structure Development Standards; Collocations on an Existing Antenna-Supporting Structure Approval Criteria

Approval criteria for collocations on existing antenna-supporting structures:

- (1) For a collocation on an existing antenna-supporting structure to be approved, it shall meet with approval criteria subsections (8) and (12) as indicated in Section 13.14.021., as well as the following:
- (2) Height
A collocation on an existing antenna-supporting structure shall not increase the overall height of the antenna-supporting structure, antenna and/or antenna array beyond that allowed under Section 13.14.021.(2).
- (3) Structural Integrity
Any collocation on an existing antenna-supporting structure shall meet current building code requirements.

SEC. 13.14.029 – Collocations on an Existing Antenna-Supporting Structure Application Submittal Requirements

Submittal requirements for collocation on an existing antenna-supporting structure applications:

- (1) For a collocation on an existing antenna-supporting structure application to be considered complete, it shall contain submittal materials (1) through (7), (15)(1) through (4), (16) and (17), as provided in Section 13.14.022. above, as well as the following:
 - A. A stamped or sealed structural analysis of the existing antenna-supporting structure prepared by a licensed Texas engineer indicating that the existing antenna-supporting structure as well as all existing and proposed appurtenances meets current building code requirements for the antenna-supporting structure.
 - B. A copy of the lease or sublease between the owner of the antenna-supporting structure and the applicant seeking to place additional wireless equipment on the structure. Clauses related to lease term or rent may be deleted or censored.
 - C. A certification from the applicant that the radio frequency emissions from the proposed facility, individually and in conjunction with the existing facilities to which collocation is proposed, meet all applicable federal guidelines.
- (2) No application will be considered “filed” until it is deemed administratively complete by the City Manager.

SEC. 13.14.030 – Attached WTF Development Standards; Attached WTF Approval Criteria

Approval criteria for Attached WTFs:

- (1) For a proposed Attached WTF to be approved, it shall meet with the approval criteria (5), (8), (9), and (12), as indicated in Section 13.14.021. provided above, as well as the following:
- (2) Accessory Use
An Attached WTF shall be an accessory use as defined in this Section.
- (3) Height
 - A. An Attached WTF, antenna, antenna array, attachment device, equipment enclosure, and/or any ancillary equipment shall not extend above the highest point of the building or structure to which it is attached by more than ten (10) feet and shall not violate the maximum height restriction of the zoning district in which the building or structure is located (the foregoing restriction shall not apply to WTFs attached to state, county, and municipal structures); and

B. Existing or proposed attached wireless communications facilities which project more than ten (10) feet above the highest point of the building upon which it is mounted shall be considered as an antenna-supporting structure and subject to the provisions for these types of uses pursuant to Section 13.14.021.

(4) Color

All attached antenna or antenna arrays, equipment enclosures and ancillary equipment visible from outside the building where they are located shall be painted so as to blend in with the building where they are placed; and

(5) Mounting, Screening, and Placement

A. The support structure or equipment for an Attached WTF shall be mounted flush with the vertical exterior of the building or structure to which it is attached or shall project no more than twenty-four (24) inches from the surface of the building or structure to which it is attached; and

B. Attached WTFs shall be screened by a parapet or other device so as to minimize its visual impact as measured from the boundary line of the subject property. Attached facilities shall be placed in the center of the building where reasonably possible so as to further minimize visual impact; and

C. Attached WTFs that are side-mounted shall blend with the existing building's architecture and shall be painted or shielded with material that is consistent with the design features and materials of the building; and

D. All cabinets, boxes and WTF associated equipment that is not roof-mounted or side-mounted shall be located underground, unless it is so designed and located that it is not visible from a street; and

E. An Attached WTF shall only be attached to a non-residential building.

SEC. 13.14.031 – Attached WTF Application Submittal Requirements

Submittal requirements for Attached WTF applications:

- (1) For a proposed Attached WTF application to be considered complete, it shall contain submittal materials (1) through (7), (9), (15)(1) through (4), (16), and (17) as provided in Section 13.14.022., as well as a photo-simulated post construction renderings of the proposed attached facility, equipment, enclosures, and ancillary structures as they would look after construction from the public domain.
- (2) Certification from the licensed Texas engineer that the structure, Monopole, Self-Enclosed Monopole, or rooftop to which the facility will be attached has the structural capability to accommodate such attachment.
- (3) No application will be considered "filed" until it is deemed administratively complete by the City Manager.

SEC. 13.14.032 – Stealth WTF Development Standards; Stealth WTF Approval Criteria

Approval criteria for Stealth WTFs include:

- (1) For a proposed stealth WTF to be approved, it shall meet the approval criteria (5), (8), and (12) provided in Section 13.14.021., as well as the following:
- (2) Setbacks
Stealth WTFs shall meet the minimum setback requirements for the zoning district where they are located for the type of structure used or simulated. To protect citizens in their homes, free-standing Stealth WTFs shall be placed a minimum distance equal to the height of the freestanding Stealth WTF away from any residential structure.
- (3) Height
Stealth WTFs shall not exceed one hundred (100) feet in overall height, and shall be compatible with existing adjacent structures, relative to height and design.
- (4) Construction
No Stealth WTF shall be guyed or have lattice-type construction.
- (5) Accessory Use
A Stealth WTF shall be an accessory use as defined in this Section.
- (6) Structural Integrity
The Stealth WTF shall be designed to meet all current building code requirements.
- (7) Visibility and Aesthetics
The antenna and associated equipment of a Stealth WTF shall be screened, disguised, concealed, or otherwise camouflaged as part of a structure such that the antenna and associated equipment of the WTF are indistinguishable from the structure that it is attached to or within. If the City Manager determines that the associated equipment cannot be feasibly or adequately camouflaged due to the unique circumstances of the proposed location, it shall be placed underground; or it may be screened from view from the public right-of-way and adjacent properties by a fence with a minimum height of one (1) foot greater than the height of the equipment shelter. Examples of stealth facilities include, but are not limited to, flagpoles, clock towers, steeples, cupolas, and trees. Any equipment associated with the Stealth WTF that produces noise shall be sited and/or insulated in such a fashion as to minimize the audio impact on adjacent property.

SEC. 13.14.033 – Stealth WTF Application Submittal Requirements

Submittal requirements for Stealth WTFs include:

- (1) For a proposed Stealth WTF application to be considered complete, it shall contain submittal materials (1) through (10), (15)(1) through (4), and (16) through (18) provided in Section 13.14.022. as well as a photo-simulated post construction renderings of the proposed Stealth WTF, equipment enclosures, and ancillary structures as they would look after construction from the public domain.
- (2) For a proposed Stealth WTF that is not ground-mounted, the City Council may waive certain submittal requirements to reflect the necessary documentation required to demonstrate compliance with the provisions of this chapter.
- (3) No application will be considered "filed" until it is deemed administratively complete by the City Manager.

SEC. 13.14.034 – Criteria for Approval of a Stealth WTF

The City Council with the recommendation from the Planning and Zoning Commission shall determine whether or not a proposed Stealth WTF is sufficiently camouflaged based on the type, size, scale, and appropriateness of the structure that the Stealth WTF will resemble in relation to the architectural and land use context in which the Stealth WTF is proposed to be located.

SEC. 13.14.035 – Expert Review

Where due to the complexity of the methodology or analysis required to review an application for a WTF requiring a special exception, the City Council may require a technical review by a third party expert, the costs of which shall be borne by the applicant, which sum shall be in addition to site plan and conditional use permit fees, as applicable. Applicant shall submit a deposit towards the cost of such technical review upon written notification from the City Council that a technical review is required, and shall remit any outstanding balance to the City for such review. New antenna supporting structures shall require an expert review. The City Council may require an expert review for any other type of structure. The amount of deposit shall be determined annually by the City Council in the standard fee schedule in accordance with the budget.

SEC. 13.14.036 – The expert review may address any or all of the following:

- (1) The accuracy and completeness of submissions;
- (2) The applicability of analysis techniques and methodologies;
- (3) The validity of conclusions reached;
- (4) Whether the proposed WTF complies with the applicable approval criteria set forth in this chapter; and
- (5) Other matters deemed by the City Council to be relevant to determining whether a proposed wireless communications facility complies with the provisions of these codes.

SEC. 13.14.037 – Based on the results of the expert review, the City Council may require changes to the applicant's application or submittals.

SEC. 13.14.038 – The applicant shall reimburse the City within fifteen (15) working days of the date of receipt of an invoice for expenses associated with the third party expert's

review of the application. Failure by the applicant to make reimbursement pursuant to this section shall abate the pending application until paid in full.

SEC. 13.14.039 – ABANDONMENT

WTFs and associated equipment shall be removed, by the owner, at the owner's expense, within one hundred eighty (180) days of cessation of use, unless the abandonment is associated with a replacement antenna structure as provided hereinabove, in which case the removal shall occur within ninety (90) days of cessation of use.

SEC. 13.14.040 – An owner wishing to extend the time for removal or reactivation shall submit an application stating the reason for such extension. The City Manager may extend the time for removal or reactivation up to sixty (60) additional days upon a showing of good cause. If the WTF or associated equipment is not removed in a timely fashion, the City may give notice that it will contract for removal within thirty (30) days following written notice to the owner. Thereafter, the City may cause removal at a cost to the owner, and a lien shall be authorized to be placed on the property by the City to recoup its removal expenses. All applicants for WTF within the City shall post a cash bond of five thousand dollars (\$5,000.00) to cover the cost of removal under this section.

SEC. 13.14.041 – Upon removal of the WTF, the site shall be returned to its natural state and topography and vegetated consistent with the natural surroundings.

SEC. 13.14.042 – APPLICATION FEES & BOND REQUIREMENT

Application Fees

Application fees are due and payable by the applicant at the time of submission of application and supporting materials. Fees shall be in an amount established annually by the City Council in the standard fee schedule in accordance with the budget.

SEC. 13.14.043 – Bonds

All applicants for a WTF within the City shall post a cash bond as determined by the City Manager, with their application to cover the cost of removal as provided in this Chapter. Such bond shall be returned to the applicant upon compliance with the aforementioned Chapter.

SEC. 13.14.044 – AMATEUR WIRELESS FACILITY

Amateur Wireless Facility Special Permit

An applicant proposing an amateur wireless facility in excess of forty (40) feet in residential zoning districts or in excess of sixty-five (65) feet in all other zoning districts shall be required to obtain a special permit.

SEC. 13.14.045 – Amateur Wireless Facility Application Requirements

- (1) Site plan application in accordance with the site plan requirements of the City's Code.
- (2) Applicant's copy of current, valid FCC license for amateur radio operation.
- (3) Site plan sketch showing all proposed structures (e.g. support structures, anchorage) and setbacks from such structures to property boundaries.
- (4) Payment of application fee, as established annually by the City Council in the standard fee schedule in accordance with the budget.

SEC. 13.14.046 – APPLICANTS' RIGHT TO RECONSIDERATION

If any party who has applied for authority to construct a WTF pursuant to this chapter is aggrieved by any decision arising from application of this chapter to such proposed facility, such party shall have fifteen (15) days from the effective date of the decision of the City or its officials to formally request reconsideration of such decision to the City Council by filing a written request with the City Secretary.

SEC. 13.14.047 – DORMANT PROJECT

Permits issued pursuant to this chapter expire one-year from the date of issuance if construction of the facility is not completed by that time. Applicants may seek a one-year extension of permits issued by submitting a written request to the City Manager prior to their expiration date.

SEC. 13.14.048 – ENFORCEMENT; Civil & Criminal Penalties

The City shall have the power to administer and enforce the provisions of this Chapter as may be required by governing law. Any person violating any provision of this Chapter is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Chapter is hereby declared to be a nuisance.

SEC. 13.14.049 – Criminal Prosecution

Any person violating any provision of this Chapter shall, upon conviction, be fined a sum not exceeding five hundred dollars (\$500.00). Each day that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this Ordinance is a misdemeanor.

SEC. 13.14.050 – Civil Remedies

Nothing in this Chapter shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law, including, but not limited to the following:

- (a) injunctive relief to prevent specific conduct that violates the Ordinance or to require specific conduct that is necessary for compliance with the Ordinance; and

- (b) a civil penalty up to one hundred dollars (\$100.00) a day when it is shown that the defendant was actually notified of the provisions of the Ordinance and after receiving notice committed acts in violation of the Ordinance or failed to take action necessary for compliance with the Ordinance; and other available relief.

SEC. 13.14.051 – Application Fee

The submission of applications under this Chapter shall be subject to the imposition of reasonable application fees as established in the City's Fee Schedule.