



CITY PLAN COMMISSION STAFF REPORT

SUBJECT: Text Amendment

FROM: Mara M. Perry, AICP Director of Planning & Development

MEETING DATE: December 10th, 2018

PETITION: **18-PC-21 Wireless Code Text Amendment:** Proposed amendments include changes to the Wireless Telecommunications Facilities Code regulations in Sections 53.221 through 53.229 and Definitions in Section 53.020.

Proposal Summary

Staff is recommending a text amendment revising our Wireless Telecommunications zoning code section to address the new laws in place concerning wireless facilities. Two code amendments will need to be made, one in the Zoning Code (Chapter 53) and one in the Right-Of-Way Code (Chapter 10). Only the Zoning Code changes are required to be reviewed by the City Plan Commission through a public hearing process before moving forward to a hearing before the City Council. The Right-Of-Way code changes will have a public hearing before the City Council.

The proposed changes will help to identify what can be installed within our City and in our rights-of-way and the process for approval. The proposal includes the following:

- Provides general specifications and the application procedures outlined for each type of structure.
- Lists certain permitted uses and administrative permit uses.
- Creates two types of administratively approved designs: 1) a disguised structure and 2) a "Fast-Track" small wireless facility. A disguised structure is a structure that contains a wireless facility within it, but uses decorative, concealment, and stealth elements to make the structure not appear to be a wireless structure. A "Fast-Track" small wireless facility is a wireless facility that fits within certain volumetric parameters.
- Requires conditional use permits for installations that do not meet the definition of disguised or "Fast-Track".

Staff will make a presentation on the proposed changes.

Requested Action

Action on the text amendments will be in the form of a motion to recommend approval, approval with conditions or denial.

Section 53.020. Definitions.

For the purpose of this Chapter, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; and the word "shall" is mandatory and not directory. The definitions follow in alphabetical order:

~~"**Accessory Equipment**" shall mean any equipment serving or being used in conjunction with a wireless communications facility or wireless support structure. The term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters, or similar structures.~~

"Accessory Utility Facility" shall mean such facilities, including pedestals, boxes, vaults, cabinets, or other ground-mounted or below-ground facilities that directly serve the property or local area in which the facility is placed, are not primarily for transmission or distribution to other locations, do not materially alter the character of the neighborhood or area, and otherwise are customarily found in such areas. Unless otherwise required by law, accessory utility facilities shall not include fire hydrants, street lighting facilities, traffic signals, mail depositories or other approved facilities owned by the City, state, or federal government.

"Antenna" shall mean ~~communications equipment~~any device that transmits and/or receives wireless radio waves for voice, data, or video communications purposes including, but not limited to, television, AM/FM radio, texts, microwave, cellular telephone, and similar forms of communication~~electromagnetic radio signals used in the provisions of any type of wireless communications services, excluding amateur antennas. The term shall exclude satellite earth station antenna less than two (2) meters in diameter (mounted within twelve feet (12') of the ground or building-mounted) and any receive-only home television antenna.~~

~~"**Applicant**" shall mean any person engaged in the business of providing wireless communications services or the wireless communications infrastructure required for wireless communications services who submits an application.~~

~~"**Application**" shall mean a request submitted by an applicant to the City to construct a new wireless support structure, for the substantial modification of a wireless support structure, or for collocation of a wireless facility or replacement of a wireless facility on an existing structure.~~

~~"**Appurtenance**" shall mean an antenna or other piece of related equipment affixed to a transmission tower, building, silo, smokestack, light or utility pole, or an alternative support structure.~~

~~"**AGL (Above Ground Level)**" shall mean the level as determined by the average elevation of the natural ground level within a radius of fifty feet (50') from the center location of measurement.~~

~~"**Building permit**" shall mean a permit issued by the City prior to commencement of work on the collocation of wireless facilities on an existing structure, the substantial modification of a wireless support structure, or the commencement of construction of~~

~~any new wireless support structure, solely to ensure that the work to be performed by the applicant satisfies the applicable building code.~~

~~“**Cabinet**” shall mean a structure for the protection and security of communications equipment associated with one (1) or more Antenna where direct access to equipment is provided from the exterior and that has horizontal dimensions that do not exceed four feet (4’) by six feet (6’), and vertical height that does not exceed six feet (6’).~~

~~“**Collocation**” shall mean the placement or installation of a new wireless facility on a structure that already has an existing wireless facility, including electrical transmission towers, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes.~~

~~“**Director**” shall mean the Director of Planning and Development of the City of Webster Groves, Missouri, or his/her designee.~~

~~“**Disguised Support Structure**” shall mean any freestanding, manmade structure designed for the support of wireless facilities, the presence of which is camouflaged or concealed as an appropriately placed and designed architectural or natural feature. Depending on the location and type of disguise used, sSuch concealment structures may require placement underground of the utilities leading to the structure. Such structures may include but are not limited to clock towers, campaniles, observation towers, pylon sign structures, water towers, artificial trees, flag poles and light standards.~~

~~“**Equipment compound**” shall mean an area surrounding or near a wireless support structure within which are located wireless facilities.~~

~~“**Existing Sstructure**” shall mean a structure that is capable of supporting Wireless Communications Facilities (other than a Support Structure) in full conformance with the design and other requirements of the Wireless Code and is: (1) existing prior to the date of all applicable permit applications seeking City authorization for installation of such facilities thereon and (2) not built or installed in anticipation of such specific installation or erected as a means to evade approvals applicable to a non-existing structure exists at the time a request to place wireless facilities on a structure is filed with an authority. The term includes any structure that is capable of supporting the attachment of wireless facilities in compliance with applicable building codes, National Electric Safety Codes, and recognized industry standards for structural safety, capacity, reliability, and engineering, including, but not limited to, towers, buildings, and water towers. The term shall not include any utility pole.~~

~~“**FAA**” shall mean the Federal Aviation Administration.~~

~~“**Fast-Track**” **Small Wireless Facility, or “Fast-Track”**, shall mean a Small Wireless Facility that meets the requirements of Section 53.226.~~

~~“**FCC**” shall mean the Federal Communications Commission.~~

“Height” shall mean the vertical distance measured from the base of a structure at ground level to its highest point, including the main structure and all attachments thereto.

“Incidental Use” shall mean any use authorized herein that exists in addition to the principal use of the property.

“Modification” shall mean any addition, deletion, or change, including the addition or replacement of Antenna, or any change to a structure requiring a building permit or other governmental approval.

~~**“Replacement”** shall mean includes constructing a new wireless support structure of equal proportions and of equal height or such other height that would not constitute a substantial modification to an existing structure in order to support wireless facilities or to accommodate collocation and includes the associated removal of the preexisting wireless facilities or wireless support structure.~~

“Shelter” shall mean a building for the protection and security of communications equipment associated with one (1) or more Antenna and where access to equipment is gained from the interior of the building. Human occupancy for office or other uses or the storage of other materials and equipment not in direct support of the connected Antenna is prohibited.

“Small Wireless Facility” shall mean an Antenna and associated equipment that meets the following:

- i. An Antenna of no more than six cubic feet (6ft³) in volume; and
- ii. All other associated equipment, to the extent permitted by applicable law to be calculated, of cumulatively no more than twenty-eight cubic feet (28ft³) in volume; provided that no single piece of equipment on the Utility Pole shall exceed nine cubic feet (9ft³) in volume, and no single piece of ground mounted equipment shall exceed fifteen cubic feet (15ft³) in volume.

“Support Structure” shall mean a Tower or Disguised Support Structure.

~~**“Substantial modification”** shall mean the mounting of a proposed wireless facility on a wireless support structure which, as applied to the structure as it was originally constructed.~~

~~a. _____ Increases the existing vertical height of the structure by:~~

~~1. More than ten percent; or~~

~~2. The height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater;~~

~~or~~

~~b. _____ Involves adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure more than twenty feet or more than the width of the wireless~~

~~support structure at the level of the appurtenance, whichever is greater (except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable);~~

- ~~c. Involves the installation of more than the standard number of new outdoor equipment cabinets for the technology involved, not to exceed four new equipment cabinets; or~~
- ~~d. Increases the square footage of the existing equipment compound by more than one thousand two hundred fifty square feet.~~

“Tower” shall mean a structure designed for the support of one (1) or more Antenna and including guyed towers, self-supporting (lattice) towers, or monopoles, but not Disguised Support Structures, Utility Poles, or buildings. The term shall also not include any Support Structure that includes attachments of sixty-two feet (62’) or less in height owned and operated solely for use by an amateur radio operator licensed by the FCC.

“Utility Pole” shall mean a structure owned or operated by a utility that is designed specifically for and used to carry lines, cables, or wires for wireless communications, lighting, traffic control, signage, or a similar function, which may also support a Small Wireless Facility or “Fast Track” telephony, cable television, or electricity, or to provide lighting.

~~“Wireless Communications Service” shall mean to include the wireless facilities of all services licensed to use radio communications pursuant to Section 301 of the communications Act of 1934, 47 U.S.C. § 301~~

~~“Wireless Facility” shall mean the set of equipment and network components, exclusive of the underlying wireless support structure, including, but not limited to, antennas, accessory equipment, transmitters, receivers, power supplies, cabling and associated equipment necessary to provide wireless communications services.~~

~~“Wireless Support Structure” shall mean a structure, such as a monopole, tower or building capable of supporting wireless facilities. This definition does not include utility poles.~~

“Wireless Communications Facility” shall mean: Any Antenna, Small Wireless Facility, “Fast Track,” Cabinet, Shelter, and Support Structure, and associated equipment.

Section 53.221. Wireless Telecommunications Facilities Code.

Sections 53.221 through 53.229 shall be known and may be cited as the "Wireless Telecommunications Facilities Code" of the City of Webster Groves, Missouri.

Section 53.222. Purpose and Applicability.

~~The purposes of this Wireless Telecommunications Facilities Code are to:~~

~~a. Provide for the appropriate location and deployment of wireless communications infrastructure to better serve the citizens and businesses of the City of Webster Groves and the metropolitan St. Louis area; Statement of Purpose. The general purpose of this Wireless Communications Facilities Code ("Wireless Code") is to regulate the placement, construction, and modification of telecommunications Wireless Communications Facilities to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the City of Webster Groves. Specifically, this Wireless Code is intended to:~~

- ~~1. Provide for the appropriate location and development of telecommunications facilities and systems to serve the citizens and businesses of the City of Webster Groves;~~
- ~~2. Minimize adverse visual impacts of Wireless Communications Facilities through careful design, siting, landscape screening, and innovative camouflaging techniques that provide predictability for nearby property owners and others that future uses will not materially alter such approved aesthetic protections without zoning hearing procedures and input from interested parties;~~
- ~~3. Ensure that any new Wireless Communications Facilities are located in an area compatible with the neighborhood or surrounding community to the extent possible; and~~
- ~~4. Ensure that regulation of Wireless Communications Facilities does not have the effect of prohibiting the provision of personal wireless services and does not unreasonably discriminate among functionally equivalent providers of such service and promotes the provision and availability of communication services within the City.~~

~~a.b. Minimize adverse visual impacts of wireless facilities and support structures through careful design, siting, landscape screening and innovative camouflaging techniques; Applicability; preemption. Notwithstanding any ordinance to the contrary, the procedures set forth in this Wireless Code shall be applicable to all Wireless Communications Facilities existing or installed, built or modified after the effective date of this Wireless Code to the fullest extent permitted by law. No provision of this Wireless Code shall apply to any circumstance in which such application shall be unlawful under superseding federal or state law and furthermore, if any section, subsection, sentence, clause, phrase, or portion of this Wireless Code is now or in the future superseded or preempted by state or~~

federal law or found by a court of competent jurisdiction to be unauthorized, such provision shall be automatically interpreted and applied as required by law.

- ~~b. Encourage the use of disguised support structures so as to protect the architectural and scenic quality of the City;~~
- ~~c. Comply with applicable law including the Federal Telecommunications Act of 1996, 47 USC 332, and the Missouri Uniform Wireless Communications Infrastructure Deployment Act, 67.5090 et seq RSMo.~~

Section 53.223. ~~Use Regulations~~Application Procedures; Timing.

- ~~a. Applications. Applications for permitted, administrative, or conditional uses pursuant to this Wireless Code shall be subject to the supplementary procedures in this Wireless Code. Applications shall be submitted to the City as a complete application on forms provided by the City. A “complete application” shall be an application submitted on the forms provided by the City, fully executed by the applicant, identifying the specific approval sought, and containing all attachments, fees as may be established to reimburse the City for its inspection and review costs, and information as required thereon or by the City, consistent with this Wireless Code. Applications shall be accompanied by a building permit application and other applicable forms.~~
- ~~b. Proof of Owner Consent. Applications for permitted, administrative, or conditional uses pursuant to this Wireless Code shall be required to provide proof of landlord consent, which shall minimally include:

 - ~~1. Written consent to pursue the application by all fee simple owners of the underlying real estate (or where located in street Right-of-Way, the Right-of-Way owner thereof), including when the proposed location is also in a utility easement; and~~
 - ~~2. Written consent to pursue the application. of the owner of the structure on which such Facility is to be placed, if different than applicant.~~~~
- ~~c. Timing. Applications shall be decided upon within a reasonable time, subject further to state or federal specific additional time requirements as may apply to the particular application.~~

~~Permitted, conditional and accessory uses are permitted as follows in all non-residential zoning districts:~~

~~Permitted Uses.~~

~~Satellite earth stations less than six (6) feet in diameter and receive-only home television antennae are allowed as accessory uses in all districts without any permit and wireless facilities and support structures which meet any of the following criteria may be constructed, repaired or modified upon receipt of a building permit issued by the Director of Planning and Development:~~

- ~~a. Collocation and replacement applications, provided that no permit may be issued for collocation to a certified historic structure as defined in section 253.545 RSMo until at least one public hearing has been held by the Director within 30 days prior to issuance. The Director shall provide public notice of such public hearing in the same manner as required for proposed zoning code changes. Such applications are subject to General Condition F.1. of this section, but no other zoning or land use requirements, including design or placement requirements, or public hearing review.~~
- ~~b. The mounting of wireless facilities in or on the roof of any existing building other than a single-family residence, provided that the building was not constructed primarily for the support of antennae and provided that the height of the facilities does not exceed twenty (20) feet from its mounting and that such use is not otherwise prohibited by ordinance.~~
- ~~c. Wireless facilities or support structures for the operations of a commercial or public radio or television station licensed by the Federal Communications Commission or a local, state or federal law enforcement or emergency agency may be installed as permitted by law in non-residential districts.~~
- ~~d. The installation or mounting of antennae on any electrical transmission towers located in any commercial zoning district of the city.~~
- ~~e. The installation of a disguised support structure and related wireless facilities as part of a building or structure that is otherwise allowed in the district in which located.~~
- ~~f. Wireless facilities or support structures for the operation of a licensed amateur radio facility within the city. The permit application must be accompanied by proof that the applicant or an occupant of the property is a licensed amateur radio operator.
 - ~~1. The Director shall issue an amateur radio antenna/ structure permit if it is determined that: (a) any antenna(s) mounted on a roof shall not extend more than sixty-eight (68) feet above grade; (b) any tower-mounted antenna(s) shall not extend more than sixty-two (62) feet above grade when fully extended; and (c) the requirements of this section regarding location, structural components and wiring are complied with. Permits for ground mounted antennas and supports intended exclusively for the support of wire antennas which are so erected as to be readily~~~~

~~capable of being relocated from time to time shall describe the area within which such an antenna or support may be positioned.~~

- ~~2. Any person desiring to install, erect or maintain an amateur radio antenna at any height greater than set forth in the preceding subsection shall file an application therefor with the Board of Adjustment. No fee shall be required for this application. The Board of Adjustment may grant a permit to allow construction to such height as it shall determine if it finds that topographical circumstances or other operational parameters of the antenna(s) and the associated radio equipment so require and that there are adequate provisions to protect adjoining properties.~~
- ~~3. Wireless facilities or support structures for licensed amateur radio uses that are ground-mounted shall be located in the rear of the lot between the rear line of the principal building on the lot and six (6) feet from the rear lot line. No such antenna, nor any portion of any base or support therefore, may be closer than six (6) feet to any lot line; provided, further, that on corner lots no antenna may be closer to any street than the principal building.~~

Conditional Uses. ~~The following uses are permitted under requirements specified in Section 53.170. et seq.~~

~~All wireless facilities and support structures to be installed, built or otherwise modified that are not expressly permitted by the permitted uses herein, and not prohibited below~~

Prohibited Uses ~~Except as otherwise permitted above:~~

- ~~a. No wireless facilities or support structures shall be permitted in residentially-zoned districts, other than for licensed amateur radio uses.~~
- ~~b. No wireless facilities or support structures shall be permitted to have a total height in excess of one hundred (100) feet.~~
- ~~c. Wireless facilities installed on a building shall not exceed twenty (20) feet from the highest point of the building, other than for licensed amateur radio uses.~~
- ~~d. Unless a disguised support structure is in the form of a standard outdoor advertising structure, the placement of advertising or signs on wireless support structures is prohibited.~~

Section 53.224. ~~Dimensional Regulations~~ General Requirements.

~~a. Wireless support structures, except disguised support structures, shall not be located within two hundred (200) feet of any residential structure. Applicability. The requirements set forth in this Wireless Code shall be applicable to all Wireless Communications Facilities within the City installed, built, or modified after the effective date of this Wireless Code to the full extent permitted by law. Such zoning review and approvals required in this Wireless Code shall be in addition to any other generally applicable permitting requirement, including applicable building, excavation, or other right-of-way permits.~~

~~1. Principal or incidental use. Towers may be either a principal or incidental use in all commercial and industrial zoning districts, subject to any applicable requirement relating to yard or setback. An incidental use subject to a leasehold interest of a person other than the lot owner may be approved for a Tower only if the leasehold area separately meets all requirements for a separate subdivided lot, including dedicated access, parking, setbacks, and lot size, applicable to a primary use in the district in which the use is proposed as if it was a separate subdivided lot. No other district shall allow Towers unless required by law. All other wireless facilities other than Towers, may be a principal or incidental use in all districts subject to the requirements herein. No more than one Tower may be erected on any lot in the City.~~

~~2. Building codes, safety standards, and zoning compliance. Wireless Communications Facilities shall be constructed and maintained in compliance with all standards contained in applicable state and local building codes. A certified engineer's structural report shall be required for all applications to construct a new or modify, or any way alter, a Support Structure, a Utility Pole, or Antenna, including Small Wireless Facility and Fast Track, unless waived upon application to the Director stating why such report is unnecessary to the specific application and a determination in the discretion of the Director approving such statement. In addition to any other approvals required by this Wireless Code, no Wireless Communication Facility or portion thereof shall be erected, replaced, or expanded prior to receipt of a Certificate of Zoning Compliance, unless otherwise required by law, and the issuance of a Building Permit. For sites within City Right-of-Way, (1) the most restrictive adjacent underlying zoning district classification shall apply unless otherwise specifically zoned and designated on the official zoning map, (2) no application shall be submitted for permit approval without attaching the City's consent to use the Right-of-Way for the specific construction application, to the extent permitted by applicable law; (3) Wireless Communications Facilities shall be installed and maintained as~~

not to obstruct or hinder the usual travel or public safety on the Right-of-Way or obstruct the legal use of such Right-of-Way by authorities or authorized right-of-way users; and (4) such use shall be required to obtain applicable permits and comply with the City's ROW management rules and regulations set forth in Chapter 10.

3. *Regulatory compliance.* All Wireless Communications Facilities shall meet or exceed current standards and regulations of the FAA, FCC, and any other local, state, or federal agency with the authority to regulate Wireless Communications Facilities, and including all required licenses, permits, and taxes applicable to such structure and/or modification. Should such standards or regulations be amended, then the owner shall bring such devices and structures into compliance with the revised standards or regulations within the time period mandated by the controlling agency. No approval for any placement, construction, or modification of any Wireless Communications Facilities permitted by this Wireless Code shall be granted for any applicant having an uncured violation of this Wireless Code, any zoning regulation regarding the lot on which the structure is proposed, or any other governmental regulatory, licensing, or tax requirement applicable to such Wireless Communications Facilities within the City unless preempted by applicable law.
4. *Security.* All Wireless Communications Facilities shall be protected from unauthorized access by appropriate security measures. A description of proposed security measures shall be provided as part of any application to install, build, alter, or modify Wireless Communications Facilities. Additional measures may be required as a condition of the issuance of a Building Permit as deemed necessary by the Director or by the City Council in the case of a Conditional Use Permit.
5. *Lighting.* Antenna, Small Wireless Facilities, Fast Track, and Support Structures shall not be lighted unless required by the FAA or other state or federal agency with authority to regulate, in which case a description of the required lighting scheme will be made a part of the application to install, build, alter, or modify the Antenna, Small Wireless Facilities, Fast Track, or Support Structure. Lighting may also be approved as a consistent component of a Disguised Support Structure. Equipment Cabinets and Shelters may have lighting only as approved by the Director or City Council on the approved site plan.
6. *Advertising.* Except for a Disguised Support Structure in the form of an otherwise lawfully permitted sign, the placement of advertising on Wireless Communications Facilities is prohibited other than identification signage or required safety signage of not greater than one (1) square foot on ground equipment.
7. *Design.*
- A. *Color.* Subject to the requirements of the FAA or any applicable state or federal agency, Wireless Communications Facilities and attachments shall be painted a neutral color consistent with the

natural or built environment of the site or an alternative painting scheme approved by the Director, or the City Council in the case of Conditional Use Permits, consistent with the requirements of this Wireless Code. Unpainted galvanized steel Support Structures are not permitted.

- B. *Ground equipment.* When authorized, equipment Shelters or Cabinets shall have an exterior finish compatible with the natural or built environment of the site and shall also comply with any design guidelines as may be applicable to the particular zoning district in which the facility is located. All equipment shall be either placed underground, contained in a single Shelter or Cabinet, or wholly concealed within a building or approved walled compound.
- C. *Antenna design.* Antenna attached to a Disguised Support Structure or Tower shall be contained within the Disguised Support Structure or within or mounted flush on the surface of the Tower to which they are mounted. Antenna attached to an existing building, Utility Pole, or structure shall be of a color identical to the surface to which they are mounted. Antenna on the rooftop or attached to a building shall be screened or constructed and/or colored to match the structure to which they are attached and shall not exceed twenty feet (20') from the highest point of the building, other than for licensed amateur radio uses. All Antenna shall be designed to be disguised and maximally concealed on or within the Support Structure, or other structure. Exposed Antenna on "crow's nest" or other visible platforms or extensions are prohibited.
- D. *Height.* Support Structures and Antenna shall be no taller than necessary. Support Structures may exceed underlying zoning district height restrictions for buildings and structures only where shown to be necessary, provided that no reasonable alternative exists. To the extent permitted by applicable law, district height restrictions shall be considered by the City in determining the appropriateness of the design and location of the application under the applicable standards for approval. No Support Structure shall be approved at a height exceeding one hundred feet (100') AGL unless the applicant clearly demonstrates that such height is required for the proper function of the applicant's system.
- E. *Monopole design.* All Towers shall be of a monopole design. Lattice, guyed Towers, or other non-monopole Tower designs shall not be permitted.
- F. *Compound walls/landscaping.* All Towers shall be surrounded by a minimum of a six foot (6') high decorative wall constructed of brick, stone, or comparable masonry materials and a landscape strip of not less than ten feet (10') in width and planted with deciduous trees not less than two and one-half inches (2½") in caliper, which will provide a visual barrier to a minimum height of

six feet (6'), at the time of planting. The landscape strip shall be exterior to any security wall. In lieu of the required wall and landscape strip, an alternative means of screening may be approved by the Director, or by the City Council in the case of a Conditional Use Permit, upon demonstration by the applicant that an equivalent degree of visual screening will be achieved. Landscaping or other improvements may be required for Disguised Support Structures if needed to implement an approved disguise.

- G. *Setbacks.* All Support Structures, including any portions of any Wireless Communications Facilities thereon and associated structures, fences, and walls (except for parking associated with the Wireless Communications Facility) shall be separated from any public Right-of-Way, sidewalk or street, alley, parking area, playground, or other building, and from the property line of any adjacent property at least a horizontal distance equal to the height of the Support Structure, including any portions of any Wireless Communications Facilities thereon. Towers shall not be located within two hundred feet (200') of any residential structure.
- H. *Storage.* Vehicle or outdoor storage on any Wireless Communications Facilities site is prohibited, unless otherwise permitted by the zoning district.
- I. *Parking.* On-site parking for periodic maintenance and service shall be provided at all Support Structure locations consistent with the underlying zoning district and the type of Antenna or Support Structure approval granted.
- J. *Decorative poles.* In districts where there are Utility Poles which were specifically designed for their aesthetic nature and compatibility with the built environment of that district, as determined by the City, such Utility Poles shall be deemed to be decorative Utility Poles. Such decorative Utility Poles, when authorized to be replaced by an applicant for Wireless Communications Facilities pursuant to applicable law and in compliance with this Wireless Code and Zoning Code, shall only be replaced with a substantially similar decorative Utility Pole which matches the aesthetics and decorative elements of the original decorative Utility Pole being replaced. Such replacement expenses shall be bore wholly by the applicant seeking to place Wireless Communications Facilities on such decorative Utility Pole.
- K. *Wiring.* All wiring to or from ground mounted Antennas or Towers located more than five feet (5') from the nearest building wall shall be underground; provided, however, that feed lines to and from Antennas for licensed amateur radio facilities which must be open

to the air in order to operate as designed (so called "open wire feed lines") need not be enclosed or located underground.

8. Public Property. Wireless Communications Facilities located on property owned, leased, or otherwise controlled by the City shall be subject to the requirements of this Wireless Code. A license or lease with the City authorizing the location of such Wireless Communications Facilities shall be required for each site.
 9. As-built plans. Within sixty (60) days of completion of the initial construction and any additional construction, two (2) complete sets of plans drawn to scale and certified as accurately depicting the location of all Wireless Communications Facilities constructed shall be furnished to the City.
 10. Historic preservation; 30-day hearing period. To the extent permitted by law, approval shall not be issued for any Wireless Communications Facility that the Director or City Council determines would create a significant negative visual impact or otherwise have a significant negative impact on the historical character and quality of any property within a Historic Preservation District or such District as a whole. For collocation of any certified historic structure as defined in Section 253.545 RSMo., in addition to all other applicable time requirements, there shall be a thirty-day (30) time period before approval of an application during which one or more public hearings on collocation to a certified historic structure are held. The Director shall provide public notice in accordance with the provisions of Section 53.800 "Changes and Amendment" et. seq.. The City may require reasonable, technically feasible and technological neutral design and concealment measures as a condition of approval of a Wireless Communication Facility within a historic district.
- ~~b. All wireless support structures, except disguised support structures, shall be separated from any residential structure at least a distance equal to the height of the support structure plus ten feet. Support structures on parcels adjacent to residentially-zoned property shall, at a minimum, meet the setbacks of the applicable zoning district as required for the principal structure along the adjoining property lines. No support structure may be placed on residentially-zoned property closer to any residential structures on adjoining properties than the distance from the support structure to the principal structure located on the lot on which the support structure is located. Administration. The Director shall have~~

the authority to establish forms and procedures consistent with this Wireless Code and applicable federal, state, and local law to ensure compliance and to facilitate prompt review and administration of applications.

Section 53.225. Development Standards Permitted Use.

a. *Building Codes and Safety Standards.* All wireless facilities and support structures shall meet or exceed the standards and regulations contained in applicable state and local building codes, National Electric Safety Codes, and recognized industry standards for structural safety, capacity, reliability, and engineering. *Permitted use.* The placement of Wireless Communications Facilities fully conforming with the General Requirements in this Wireless Code are permitted in all zoning districts only as follows:

1. *Collocations on Existing Support Structures.* The attachment of additional or replacement complying Antenna or equipment to any existing fully conforming Support Structure or as otherwise authorized by state or federal law where local zoning is preempted, provided that building permit requirements, national safety codes, and other applicable codes including recognized accepted industry standards for structural, safety, capacity, reliability, and engineering are satisfied, including specifically the requirement to submit a certified structural engineering report as provided in Section 53.223.
2. *Antenna on high-voltage Towers.* The mounting of Antenna on or within any existing high-voltage electric transmission Tower, but not exceeding the height of such Tower by more than ten feet (10'), provided that all requirements of this Wireless Code and the underlying zoning ordinance are met, except minimum setbacks provided in this Wireless Code shall not apply.
3. *Antenna on Existing buildings/structures.* In all districts, except not on single-family residential or two-family dwellings, the mounting of Antenna on any existing and conforming building or structure (other than a Support Structure or Utility Pole) provided that the presence of the Antenna and equipment is concealed by architectural elements or fully camouflaged or concealed by painting a color identical to the surface to which they are attached, and further provided that all requirements of this Wireless Code and the underlying zoning ordinance are met.
4. *Amateur radio facility.* Wireless Facilities or Support Structures for the operation of a licensed amateur radio facility within the City.
 - A. *The Director shall issue an amateur radio antenna/ structure permit if it is determined that: (a) any antenna(s) mounted on a roof shall not extend more than sixty-eight feet (68') AGL; (b) any tower-mounted antenna(s) shall not extend more than sixty-two*

feet (62') AGL when fully extended; and (c) the requirements of this section regarding location, structural components and wiring are complied with. Permits for ground mounted antennas and supports intended exclusively for the support of wire antennas which are so erected as to be readily capable of being relocated from time to time shall describe the area within which such an antenna or support may be positioned.

B. Any person desiring to install, erect or maintain an amateur radio antenna at any height greater than set forth in the preceding subsection shall file an application therefor with the Board of Adjustment. No fee shall be required for this application. The Board of Adjustment may grant a permit to allow construction to such height as it shall determine if it finds that topographical circumstances or other operational parameters of the antenna(s) and the associated radio equipment so require and that there are adequate provisions to protect adjoining properties.

C. Wireless facilities or support structures for licensed amateur radio uses that are ground-mounted shall be located in the rear of the lot between the rear line of the principal building on the lot and six feet (6') from the rear lot line. No such antenna, nor any portion of any base or support therefore, may be closer than six feet (6') to any lot line; provided, further, that on corner lots no antenna may be closer to any street than the principal building.

5. *New, replacement, and modified Utility Poles.* New, replacement, or modified Utility Poles, at heights below the height limitations outlined in this Section, and collocation of Small Wireless Facilities on the same shall be a permitted use in all districts except single-family residential and historic districts provided the proposed installation does not:

A. materially interfere with the safe operation of traffic and control equipment or City-owned communications equipment;

B. materially interfere with compliance with the American Disabilities Act, or similar federal or state standards regarding pedestrian access or movement;

C. materially obstruct or hinder the usual travel or public safety on the rights-of-way;

D. materially obstruct the legal use of the rights-of-way by the City, utility, or other third-party;

E. fail to comply with the spacing requirements within Section (Insert ROW Code Spacing Section);

- F. fail to comply with applicable national safety codes, including recognized engineering standards for Utility Poles or Support Structures;
- G. fail to comply with the decorative pole replacement requirements herein;
- H. fail to comply with undergrounding requirements within **Section _____ (Insert ROW Code Undergrounding Code Section);** or
- I. interfere or impair the operation of existing utility facilities, or City or third-party attachments.
6. New, replacement, or modification of Utility Poles under the following circumstances shall not be considered a permitted use under this Section:
- A. Proposals to construct or modify a Utility Pole which exceeds the greater of:
- i. Fifty feet (50') AGL; or
- ii. More than ten feet (10') above the tallest existing Utility Pole as of January 1, 2019 within five hundred feet (500') of the proposed Utility Pole in the City'; and
- B. Proposals to collocate on an existing Utility Pole in place on August 28, 2018 which exceeds the height of the existing Utility Pole by more than ten feet (10').
- b. Application procedure. Application for a Permitted Use under this Section shall require submission of an application with proof of owner consent as required by Section 53-222 and an application fee to partly cover the City's actual costs, but not to exceed such amounts as may be limited by law, as follows:

<u>Type of Fee:</u>	<u>Total Application Fees:</u>
<u>Collocation of SWF:</u>	<u>\$100/per</u>
<u>All other permitted uses:</u>	<u>\$500/per</u>

If the applicant is not a Wireless Services Provider, then the applicant must submit evidence of agreements or plans, or otherwise provide attestations to the same, which conclusively demonstrate to the City that the proposed site(s) will become operational and used by a Wireless Services Provider within one year of the permit's issuance date. For any application for a Small Wireless Facility, the

applicant shall provide an attestation that the proposed Small Wireless Facility complies with the volumetric limitations as required to meet the definition of a Small Wireless Facility in accordance with this Wireless Code and pursuant to applicable law. Applicant shall also submit a certified structural analysis as required in the General Requirements of this Wireless Code. Applications requesting any information that is prohibited by federal or state law under the applicable circumstance shall be deemed inapplicable to the subject application. The Director shall issue a decision on the application for a permitted use within the time-frame permitted by applicable law. A decision to deny an application shall be made in writing and state the specific reasons for the denial.

- ~~a. *Regulatory Compliance.* All wireless facilities and support structures shall meet or exceed current standards and regulations of the FAA, FCC and any other federal or state agency with the authority to regulate such facilities and support structures. Should such standards or regulations be amended, then the owner shall bring such facilities and support structure into compliance with the revised standards or regulations within six (6) months of the effective date of the revision unless a different date is established by the controlling agency.~~
- ~~b. *Supports.* No more than one antenna tower may be erected on any lot in the city; provided, however, that a support used exclusively for the support of a wire antenna for a licensed amateur radio facility and being no wider than six (6) inches at grade and having a height no greater than fifty (50) feet above grade shall not be considered as an antenna tower for purposes of calculating the permitted number of such towers under this subsection.~~
- ~~c. *Lighting.* Wireless facilities and support structures shall not be illuminated at night unless required by the FAA or other federal or state agencies, in which case, a description of the required lighting scheme will be made a part of the application.~~
- ~~d. *Design*~~
 - ~~1. Wireless facilities and support structures should, to the extent reasonably possible, be architecturally and visually compatible with surrounding buildings, structures, vegetation and/or uses already in the area or likely to exist under the regulations of the underlying zoning district.~~
 - ~~2. Wireless support structures, except disguised support structures, shall maintain a galvanized steel finish or, subject to the requirements of the FAA, FCC or any other applicable federal or state agency, be painted a neutral color consistent with the natural or built environment of the site.~~

- ~~3. Wireless facilities other than antennae shall have an exterior finish compatible with the natural or built environment of the site, and shall also comply with such other reasonable design guidelines as may be required by the city.~~
- ~~4. Wireless facilities mounted on buildings should be made to appear as unobtrusive as possible by location as far away as feasible from the edge of the building and by making them a color consistent with the natural or building backdrop.~~
- ~~5. Wireless facilities shall be screened by appropriate landscaping and/or fencing. Wireless support structures shall be surrounded by a landscape strip of not less than ten (10) feet in width and planted with materials which will provide a visual barrier to a minimum height of six (6) feet. Evergreen trees shall be a minimum of six (6) feet tall and deciduous trees not less than two and one-half (2½) inches in caliper at time of planting.~~
- ~~6. Said landscape strip shall be exterior to any security fencing. In lieu of the required landscape strip, a minimum six (6) foot high decorative masonry fence or wall may be approved by the city upon demonstration by the applicant that an equivalent degree of visual screening is achieved.~~
- ~~7. All wiring to or from ground mounted antennas or antenna towers located more than five (5) feet from the nearest building wall shall be underground; provided, however, that feed lines to and from antennas for licensed amateur radio facilities which must be open to the air in order to operate as designed (so called "open wire feed lines") need not be enclosed or located underground.~~

~~f. Miscellaneous~~

- ~~1. For any guyed wireless support structure, ground anchors shall be located on the same parcel as the structure and such anchors shall meet the setbacks required for accessory buildings within the zoning district.~~
- ~~2. Vehicle or outdoor storage on the site of any wireless facilities or support structure is prohibited.~~

- ~~3. On-site parking for periodic maintenance and service shall be provided at all locations of wireless facilities and support structures.~~
- ~~4. Any wireless facility or support structure no longer used for its original communications purpose shall be removed at the owner's expense. The owner and applicable co-users shall provide the city with a copy of any notice to the FCC of intent to cease operations and shall have ninety (90) days from the date of ceasing operations to remove the facility and/or support structure. In the case of co-use, this provision shall not become effective until all users cease operations. Any wireless support structure not in use for a period of one (1) year shall be deemed a public nuisance and may be removed by the city at the owner's expense. Removal of facilities shall not be a condition of approval of any application.~~
- ~~5. Prior to the issuance of a building or conditional use permit, other than for a collocation or replacement application, the city may require submittal of easement documents, lease agreements or other documentation of evidence of the right to utilize the property for location of wireless facilities and/or support structures.~~

Section 53.226. Time LimitsAdministrative Approval.

a. Administrative approval. The placement of Wireless Communications Facilities fully conforming with the General Requirements in this Wireless Code are permitted in all zoning districts by Administrative Permit approved by the Director only as follows:

1. Disguised Support Structures.

A. General requirements. For purposes of qualifying as a disguised structure, the structure must meet the following criteria:

- i. It is consistent with and contributes to and does not detract from the character and property values and use of the area and neighborhood in which it is located;
- ii. It does not contain distorted proportions, size, or other features not typically found on the type of structure or feature to which it is designed to replicate;
- iii. It cannot be identified as a Support Structure by persons with reasonable sensibilities and knowledge;
- iv. Its equipment, accessory buildings, or other aspects or attachments relating to the Disguised Support Structure are wholly concealed using a manner consistent with and typically associated with the architectural or natural structure or feature being replicated; and

v. It is of a height, design, and type that would ordinarily occur at the location and neighborhood selected.

B. *Special requirements.* The construction of a Disguised Support Structure meeting the above criteria, is permitted by Administrative Permit provided that all related equipment shall be placed underground or concealed within the structure. Equipment may be placed in an appropriately concealed cabinet if the Disguised Support Structure is incidental to an industrial, commercial, or other non-residential use and fits with the natural built environment or the Disguised Support Structure. Any Disguised Support Structure shall have as a condition of approval, unless expressly exempted in the approval, an obligation and corresponding covenant recorded on the property that runs with the land to the benefit of the City on behalf of the public, prohibiting modifications to the Disguised Support Structure that eliminate or are materially detrimental to the disguise, unless such proposed modification is approved by a duly authorized zoning or conditional use approval. If the applicant does not wish to have such a covenant, the application shall not qualify for Administrative Permit approval, unless another mechanism is proposed and approved to ensure that the disguise is not subsequently eliminated or materially detrimentally altered.

2. *“Fast-Track” Small Wireless Facilities.* An application for a “Fast-Track” Small Wireless Facility may be approved administratively by the Director, subject to meeting the following requirements:

A. *General requirements.* The following requirements shall generally apply to all “Fast-Track” Small Wireless Facilities located within the City:

i. The Antenna and associated equipment shall meet the following requirements:

(1) No more than seven cubic feet (7ft³) in volume (comprised of no more than twenty-seven square feet (27ft²) of exterior surface area, excluding the surface width equal to the width of the Existing Structure or Utility Pole to which it is mounted, on an imaginary enclosure around the perimeter thereof, excluding cable or cable conduit of four inches (4”) or less). Volume shall be the measure of the exterior displacement of the Antenna and associated equipment;

(2) Located with the consent of the owner on an Existing Structure or Utility Pole, or concealed within or on a replacement Utility Pole if the appearance is not materially altered and the replacement Existing Structure or Utility Pole is no more than five feet (5’) taller;

(3) Not exceeding six feet (6’) above the top of an Existing Structure or Utility Pole for a total height not exceeding forty-five feet (45’) (nor taller than more than six feet (6’) above the average of similar poles within three hundred feet (300’)).

- ii. The “Fast-Track” shall substantially match any current aesthetic or ornamental elements of the Existing Structure or Utility Pole, or otherwise be designed to maximally blend in to the built environment, with attention to the current uses within the district at the proposed site;
 - iii. Any portion above the Existing Structure or Utility Pole shall be concealed and of the same dimensions and appearance so as to appear to be a natural extension of the Existing Structure or Utility Pole in lieu of an enclosure or concealment;
 - iv. The “Fast-Track” equipment shall not emit noise audible from the building line of any residentially zoned or used property; and
 - v. Location, placement, and orientation of the “Fast-Track” shall, to the extent feasible, minimize the obstruction to, or visibility from, the closest adjacent properties unless otherwise required by the City for safety reasons.
- B. *Additional requirements when sited near pedestrian and vehicle ways.* When a “Fast-Track” is proposed to be located on an Existing Structure or Utility Pole on or adjacent to public or private streets, sidewalks, or other pedestrian or vehicle ways:
- i. Only one “Fast-Track” shall be permitted per structure or Utility Pole in the Rights-of-Way;
 - ii. The height of all portions of the “Fast-Track” shall be located at least eight feet (8’) above ground level;
 - iii. No ground equipment shall be permitted; and
 - iv. No portions of the “Fast-Track” shall extend horizontally from the surface of the Utility Pole or Existing Structure more than sixteen inches (16”).
- C. *Waiver for good cause shown.* Additionally, the Director may for good cause shown increase any one or more of the maximum volumetric specifications from the definition of a “Fast-Track” by up to fifty percent (50%) if the applicant demonstrates that it:
- i. Does not in any location nationally use equipment capable of meeting the specifications and the purpose of the equipment; and
 - ii. Cannot feasibly meet the requirements as defined and described.

The City Council may further waive one or more of the requirements found in the

definition of “Fast-Track”, or from a. General Requirements or b. Additional Requirements When Sited Near Pedestrian or Vehicle Ways of this Section upon good cause shown by the applicant, and provided a showing that the waiver is the minimum necessary to accomplish the purposes of this Wireless Code. The burden of proof for any waiver shall be wholly on the applicant and must be shown by clear and convincing evidence.

b. Application procedures. Applications for Administrative Permits shall be made on the appropriate forms to the Director consistent with the requirements of this Wireless Code. Applications requesting any information that is prohibited by federal or state law under the applicable circumstance shall be deemed inapplicable to the subject application.

1. General application requirements. Applicant shall submit along with its completed application form:

A. An application fee as required to partly cover the City’s actual costs, but not to exceed such amounts as may be limited by law; any amount not used by the City shall be refunded to the applicant upon written request after a final decision. The application fee shall be as follows;

<u>Type of Fee:</u>	<u>Total Application Fees:</u>
<u>Fast-Track:</u>	<u>\$100/per</u>
<u>Disguised Structure</u>	<u>\$500/per</u>

B. A detailed site plan, based on a closed boundary survey of the host parcel, shall be submitted indicating the exact location of the facility, all dimensions and orientations of the facility and associated equipment, in addition to all existing and proposed improvements including buildings, drives, walkway, parking areas, and other structures, public right-of-way, the zoning categories of the subject and adjoining properties, the location of and distance to off-site residential structures, required setbacks, required buffer and landscape areas, hydrologic features, and the coordinates and height AGL of the Utility Pole, or Existing Structure, if applicable;

C. Specifications, dimensions, photos, or drawings of the completed installation;

D. Proof of owner consent as required by Section 53-222.

E. Certified structural analysis as required in the General Requirements of this Wireless Code;

- F. If the applicant is not a Wireless Services Provider, then the applicant must submit evidence of agreements or plans, or otherwise provide attestations to the same, which conclusively demonstrate to the City that the proposed site(s) will become operational and used by a Wireless Services Provider within one year of the permit's issuance date; and
 - G. All other information necessary to show compliance with the applicable requirements of this Wireless Code.
2. "Fast-Track"-specific application requirements. In addition to the above General application requirements, applications for a "Fast-Track" shall include the following:
- A. An attestation that the proposed "Fast-track" meets the volumetric and other requirements to meet the definition of "Fast-track" provided in this Wireless Code; and
 - B. Information demonstrating that the applicant's proposed plans are in compliance with § 67.5113.3(9) RSMo. to the satisfaction of the City.
3. Review. The application shall be reviewed by the Director to determine compliance with the above standards, including specifically design, location, safety, and appearance requirements and transmit the application for review and comment by other departments and public agencies as may be affected by the proposed facility.
4. Additional information may be required. In reviewing an application, the Director may require the applicant to provide additional information, including technical studies, to the extent permitted by applicable law. An application shall not be deemed complete until satisfaction of all application requirements and submission of all requested information as provided herein.
5. Decisions: denials required in writing. The Director shall issue a decision on the permit within the time-frame permitted by applicable law. The Director may deny the application or approve the application as submitted or with such modifications or conditions as are, in his/her judgment, reasonably necessary to protect the safety or general welfare of the citizens and property values consistent with and to affect the purposes of this Wireless Code. The Director may consider the purposes of this Wireless Code and the factors established herein for granting a Conditional Use Permit as well as any other considerations consistent with the Wireless Code. A decision to deny an application shall be made in writing and state the specific reasons for the denial.

~~All applications regarding wireless facilities and support structures shall be processed in accordance with the time limits established by sections 67.5090 to 67.5103 RSMo.~~

Section 53.227. Fees Conditional Use Permit Required.

Fees for applications regarding wireless facilities and support structures shall not exceed the limits established by sections 67.5090 to 67.5103 RSMo. All proposals to construct or modify a Wireless Communications Facilities not permitted by Section 53-224 or Section 53-225 or not fully complying with the General Requirements of this Wireless Code shall be permitted only upon the approval of a Conditional Use Permit authorized consistent with Section 53.170 et. seq. following a duly advertised public hearing by the Planning and Zoning Commission and City Council, subject to the following additional requirements, procedures, and limitations:

- a. *Applications.* Applications for Conditional Use Permits shall be filed on such forms required by the Director and processed subject to the requirements of and in the manner established by applicable law, herein, and for Conditional Use Permits in the Zoning Code and, in addition to such other requirements, shall be accompanied by a deposit of one thousand five hundred dollars (\$1,500.00), to the extent permitted by applicable law to the specific Wireless Communications Facility. Any amount not used by the City shall be refunded to the applicant upon written request after a final decision. Except as otherwise provided by law, no application for a Conditional Use Permit under this Section shall be deemed complete until the applicant has paid all fees and deposits required under this Wireless Code, submitted certified engineering plans, and provided proof of owner consent as required by Section 53-222. Applications requesting any information that is prohibited by federal or state law under the applicable circumstance shall be deemed inapplicable to the subject application.
- b. *Decision and findings required.* A decision shall be contemporaneously accompanied by substantial evidence supporting the decision, which shall be made a part of the written record of the meeting at which a final decision on the application is rendered. Evidence shall be under oath and may be submitted with the application or thereafter or presented during the public hearing by the applicant or others.
- c. *Additional minimum requirements.* No Conditional Use Permit shall be issued unless the applicant has clearly demonstrated by substantial evidence that placement of Wireless Communications Facilities pursuant to Section 53-224 or Section 53-225 of this Wireless Code is not technologically or economically feasible. The City may consider current or emerging industry standards and practices, among other information, in determining feasibility.
- d. *Findings required.* In addition to the determinations or limitations specified herein and by the applicable provisions of Section 53-170 et. seq. of this Zoning Code for the consideration of Conditional Use Permits, no Conditional Use Permit shall be approved by the City Council unless findings in the affirmative are made that the following conditions exist:
 1. That the design of the Wireless Communications Facilities, including ground layout, maximally reduces visual degradation and otherwise complies with provisions and intent of this Wireless Code;
 2. That the design is visually compatible with the area, will not distract from the view of the surrounding area, is maximally concealed or blended in with the environment, and will not adversely affect property values;

3. That such conditional use shall not be inconsistent or adversely affect the regular permitted uses in the district in which the same is located;
4. and That the proposal fully complies with applicable law including the General Requirements herein; provided that an exception to the General Requirements, other than building or safety code compliance, may be approved upon evidence that compliance is not feasible or is shown to be unreasonable under the specific circumstances shown.

Section 53.228. RESERVED Unlawful Facilities and Removal of Structures.

- a. Commercial Operation of Unlawful Wireless Communications Facilities. Notwithstanding any right that may exist for a governmental entity to operate or construct Wireless Communications Facilities, it shall be unlawful for any person to erect or operate for any private commercial purpose any Wireless Communications Facilities in violation of any provision of this Wireless Code, regardless of whether such Wireless Communications Facilities are located on land owned by a governmental entity.
- b. Removal of Support Structure. Any Wireless Communications Facility or portion thereof that is no longer in use for its original communications purpose shall be removed at the owner's expense. In the case of multiple operators sharing use of a single Support Structure, this provision shall not become effective until all users cease operations. Any wireless support structure not in use for a period of one (1) year shall be deemed a public nuisance and may be removed by the city at the owner's expense. Removal of facilities shall not be a condition of approval of any application.

Section 53.229. RESERVED Penalty and Appeals.

- a. Penalty. Except as may otherwise be provided by law, any person violating any provision in this Wireless Code shall be subject to Section 1.060.
- b. Appeals. The procedures of Article VIII of Chapter 53, shall govern appeals by any aggrieved person of a final action of any City Officer, employee, board, commission, or the City Council that are claimed by an aggrieved person to be unlawful or an unconstitutional taking of property without compensation. To the fullest extent permitted by law, the review procedures of Article VIII of Chapter 53 shall be exhausted before any action may be filed in any court against the City or its officers, employees, boards, officials or commissions. Nothing herein shall be deemed to unlawfully limit any remedy that is required to be available as a matter of law.