

~~Section 6.2 — Wireless Communications Facilities~~

~~Section 6.2.1 — Purpose and Legislative Intent~~

- ~~(a) The purpose of this wireless communications section is:~~
- ~~(i) To provide for the public health, safety and welfare by ensuring that residents, businesses and public safety operations in Jackson County have reliable access to wireless communications networks and mobile broadband communications services while also providing for the protection of Jackson County's communities, residents, and natural resources;~~
 - ~~(ii) To encourage collocation of communications facilities on existing towers;~~
 - ~~(iii) To encourage the use of existing buildings and structures as locations for communications facilities; and~~
 - ~~(iv) To establish a fair and efficient process for review and approval of applications.~~
 - ~~(v) To accomplish the above stated objectives and to ensure that the placement, construction or modification of wireless communication facilities complies with all applicable federal laws, including without limitation Section 6409 of the Federal Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, and to assure compliance with applicable state laws, including Session Law 2013-185, Jackson County adopts this wireless communications ordinance. By enacting this section, it is Jackson County's intent to ensure Jackson County has sufficient wireless infrastructure to support public safety communications throughout Jackson County and to ensure access to reliable wireless communications services throughout all areas of Jackson County while protecting communities, residents, and natural resources.~~

~~Section 6.2.2 — Approvals Required for Wireless Communication Facilities and Wireless Support Structures~~

- ~~(a) **General procedure** and desired outcomes for approving and issuing permits for wireless communication facilities. In order to ensure that the placement, construction, and modification of wireless communication facilities protect the county's health, safety, public welfare, environmental features, the nature and character of communities and neighborhoods and other aspects of the quality of life within the County, while providing an adequate level of wireless communications service within the County, Jackson County hereby adopts an overall policy with respect to the review, approval and issuance of permits for wireless communication facilities for the express purpose of achieving the following outcomes:~~
- ~~(i) Implementing an application process for person(s) seeking approval of wireless communication facilities.~~
 - ~~(ii) Requiring review of applications for any new wireless communication facilities as required or otherwise specified in this section.~~
 - ~~(iii) Establishing a procedure for examining an application and issuing the required permit(s) for wireless communication facilities that is both fair and consistent.~~
 - ~~(iv) Promoting, and requiring wherever possible, the sharing and/or collocation of wireless communication facilities among service providers.~~
 - ~~(v) Requiring, promoting and encouraging, wherever possible, the placement, height and quantity of wireless communication facilities in such a manner as to minimize the physical and visual impact on the community, including, but not limited to, the use of concealment technology and camouflaging.~~
 - ~~(vi) Providing for a level of service that provides access to adequate wireless communication throughout Jackson County.~~

~~(vii) In approving a wireless communication facility, the county shall find that the proposed facility site is the most appropriate in regard to being the least visually intrusive within the community.~~

~~(b) **Requirements for review and approvals.**~~

~~(i) No person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of a wireless communication facility as of the effective date of this section without having first obtained the required permit for a wireless communication facility as defined in section (f) below and Article III: Permits and Procedures.~~

~~(ii) If constructed as required by permit, all legally permitted wireless communication facilities that existed on or before the effective date of this section shall be allowed to continue as they presently exist, provided however, that they are operating as originally permitted and that any modification of an existing wireless communication facilities permitted by this section complies with the applicable provisions of this section.~~

~~(iii) Ordinary maintenance of a wireless communication facilities as defined in this section and that does not exceed the conditions of the wireless communication facilities permit does not require an application for a wireless communication facility permit but may require a building permit. Additional construction or site modification shall not be considered to be ordinary maintenance.~~

~~(c) **Exclusions. The following shall be exempt from this section:**~~

~~(i) Any facilities expressly exempt from the County's siting, building and permitting requirements.~~

~~(ii) Any reception or transmission devices expressly exempted under the communications Act of 1996.~~

~~(iii) Facilities used exclusively for private, noncommercial radio and television reception and private citizen's bands, licensed amateur radio and other similar noncommercial communications.~~

~~(iv) Facilities used exclusively for providing unlicensed spread spectrum technologies, such as IEEE 802.11a, b, g services (e.g. Wi-Fi and Bluetooth) where the facility does not require a new tower or increase the height of the structure to which it will be attached.~~

~~(d) **Exemptions**~~

~~(i) Exempt from all approval processes. The following are exempt from all Jackson County plan approval processes and requirements:~~

~~1) Removal of equipment on an existing wireless tower or wireless communication facility.~~

~~2) Ordinary maintenance of existing wireless communication facilities and wireless support structures, as defined in this section.~~

~~3) COWs placed for a period of not more than 120 days at any location within Jackson County or after a declaration of an emergency or a disaster by the governor and/or by the Jackson County Board of Commissioners.~~

~~4) Facilities owned or leased by Jackson County or County authorities, e.g. airport authority.~~

~~5) Facilities used exclusively for state and local emergency management communications systems.~~

~~(e) **Administrative review and approval.**~~

~~(i) The following types of applications are subject to the application and administrative review process as provided in Section 3.4: Common Review Procedures. No additional plan review is necessary.~~

~~1) Concealed wireless communication facilities that are 60 feet or less in height, in any location.~~

~~2) COWs, if the use of the COW is either not in response to a declaration of an emergency or disaster by the governor and/or by the Jackson County Board of Commissioners or will last in excess of 120 days.~~

~~3) Collocations.~~

- 4) ~~Facilities used exclusively for providing unlicensed spread spectrum technologies, such as IEEE 802.11a, b, g services (e.g. Wi-Fi and Bluetooth) where the facility requires a new tower or increases the height of the structure to which it will be attached.~~
 - 5) ~~Wireless communication facilities placed on utility poles.~~
 - 6) ~~Placement of new transmission equipment on an existing wireless support structure or tower.~~
 - 7) ~~Replacement of transmission equipment on an existing wireless support structure or tower or base station that does not result in a substantial modification as defined in this Section. This includes both "like kind" replacement and upgrades with dissimilar equipment.~~
 - 8) ~~Facilities used exclusively for providing broadband services, provided that the structure to which facilities are attached does not exceed 120 feet in height and does not require the construction of an access road to the property.~~
 - 9) ~~Facilities owned by the State of North Carolina.~~
- (f) ~~**Wireless Communication Facilities Permit (Special Use Permit).**~~
- (i) ~~The following types of applications are subject to the application and review process as provided in section 3.7.15.~~
 - 1) ~~New wireless support structures, including towers;~~
 - 2) ~~Substantial modifications to existing wireless communication facilities.~~

~~Section 6.2.3 — Location and Design Standards for Wireless Communication Facilities~~

(a) ~~**Location of Wireless Communication Facilities.**~~

- (i) ~~It is recommended that applicants for all wireless communication facilities locate, site and construct said wireless communication facilities in accordance with the following priorities, in order:~~
 - 1) ~~On existing wireless support structures without substantial modification of the tower or structure.~~
 - 2) ~~On existing wireless support structures with substantial modification(s).~~
 - 3) ~~On existing structures other than wireless support structures, such as electrical transmission towers and buildings, capable of accommodating the facilities.~~
 - 4) ~~On properties in areas developed for business use.~~
 - 5) ~~On properties in areas developed for rural use.~~
 - 6) ~~On properties in areas developed for residential use.~~
- (ii) ~~If the proposed site is not proposed for the highest priority listed above, then a detailed explanation and documentation (i.e. intermodulation study) must be provided in the application as to why a site of a higher priority designation was not selected.~~
- (iii) ~~The County may approve any site located within an area in the above list of priorities, provided that the County finds that the proposed site is in the best interest of the health, safety and welfare of the County and its inhabitants.~~

(b) ~~**Type and Height of Wireless Support Structures and Towers.**~~

- (i) ~~The usual maximum height for wireless support structures shall be 100 feet. The Jackson County Board of Commissioners may approve increases in wireless support structure height up to a maximum height of 180 feet based on a showing of need and after consideration and satisfaction of the other requirements of this section.~~
- (ii) ~~Wireless support structures and towers may be monopole or lattice type.~~
- (iii) ~~Wireless support structures and towers may be located on a protected mountain ridge as defined in the Jackson County Mountain and Hillside Development Ordinance provided that:~~

- ~~1) The wireless support structure does not extend more than 20 feet above the average height of the tree canopy within 100 feet of the tower site. If any antenna extends more than two feet from the side of the support structure, the portion of the tower extending above the vegetative canopy shall be camouflaged to appear like the top of a coniferous tree with all antennas concealed within simulated foliage.~~
- ~~2) The wireless support structure or tower is not visible from a public road within one-half mile of the proposed site.~~
- ~~3) There is no other wireless support structure or tower located on a ridge within one mile of the proposed site.~~
- ~~4) The proposed wireless support structure or tower is a monopole.~~
- ~~5) The proposed wireless support structure or tower is not visible from and within two miles of the Blue Ridge Parkway.~~
- ~~6) There are no other structures, including electrical transmission towers, within the search area capable of accommodating the wireless communications equipment.~~

~~(c) **Reserved.**~~

~~(d) **Visibility and Noise of Wireless Communication Facilities.**~~

- ~~(i) **Lighting.** Wireless communication facilities shall not be artificially lighted or marked, except as required by federal regulations. If lighting is legally required, the applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. For any wireless communication facilities for which lighting is required under the FAA's regulations, or that for any reason has lights attached, all such lighting shall be affixed with technology that enables the light to be seen as intended from the air, but that prevents the ground scatter effect so that it is not able to be seen from the ground to a height of at least 12 degrees vertical for a distance of at least one mile in a level terrain situation. Such device must be compliant with or not in conflict with FAA regulations. A physical shield may be used, as long as the light is able to be seen from the air, as intended by the FAA. If lighting is required by the FAA or other government agency, then such lighting shall be installed pursuant to the FAA or other government agency standards. The applicant shall present the options for selection by the County, being mindful of the impacts of the proposed lighting upon people whose residences are located at higher elevations.~~
- ~~(ii) **Retrofitting.** In the event a wireless communication facility that is lighted is modified, at the time of the modification the County may require that the tower be retrofitted with the technology set forth in the preceding subsection.~~
- ~~(iii) **Camouflage/concealment.** All new wireless communication facilities are encouraged to utilize camouflage and/or concealment techniques to the maximum extent feasible. Wireless communications facilities to be located within residential areas, rural areas, and scenic areas are encouraged to employ camouflage or concealment techniques.~~
- ~~(iv) **Wireless communication facilities finish/color.** Structures shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this section and subject to FAA requirements.~~
- ~~(v) **Noise.** All facilities at a wireless communication facility, regardless of the owner of the facilities, shall comply with the County's noise control regulations, without exception.~~

~~(e) **Security of wireless communication facilities.** All wireless communication facilities shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:~~

- ~~(i) All wireless communication facilities, including antennas, towers and other supporting structures, including guy anchor points and wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and~~

- ~~(ii) Transmitters and communications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.~~
- ~~(f) **Signage.** Wireless communication facilities shall contain a sign no larger than four square feet shall be installed to containing the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC registration site, as applicable, is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted.~~
- ~~(g) **Setbacks.**~~
- ~~(i) Unless otherwise stated herein, each wireless support structure shall be set back from all property lines a distance equal to its engineered fall zone plus ten percent. The setback shall be measured from the nearest portion of the right of way of any public road or thoroughfare and any occupied building or domicile. Further, the nearest portion of any new access road leading to a wireless communication facility shall be no closer than 15 feet to the nearest property line.~~
- ~~(ii) Accessory structures shall be located within the footprint of the approved facility and meet the minimum property line setbacks for the district or 30 feet from adjacent property lines whichever is more restrictive.~~
- ~~(iii) There shall be no development of habitable buildings within the wireless support structure setback set forth in the preceding subsection.~~
- ~~(h) The accessory structures associated with wireless communication facilities shall maximize the use of building materials, colors, and textures designed to blend with and harmonize with the natural surroundings.~~
- ~~(i) All utilities at a wireless communication facilities site shall be installed underground if practical and in compliance with all laws, ordinances, rules and regulations of the County, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.~~
- ~~(j) At a wireless communication facilities site an access road and turnaround space for an emergency vehicle shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road design and construction shall comply with the private road standards set forth in Article IV: Subdivisions. Maintenance of the access roads shall be provided to assure vehicular access to the site at all times. All erosion control and storm water management facilities shall be maintained at all times. A maintenance log that documents inspections of the site and access roads shall be maintained at the communications facility site. The required maintenance log shall be placed in a location accessible at all times to the Jackson County employees charged with review of the log. Inspections shall have made at least quarterly by the owner/lessee of the site to confirm that the access road and site are maintained with no erosion or storm water issues and that all equipment is in good order. The employee of the site owner/lessee conducting the inspection shall note the date of the inspection and condition of the site and access road on the inspection log. Inspections logs shall be reviewed at least biennially by the Jackson County Planning Department. Any failure to maintain the inspection log and/or to maintain the erosion control and storm water management measures at the site and on the access roads shall be considered a violation of this Section.~~
- ~~(k) All wireless communication facilities, shall be constructed, operated, maintained, repaired, provided for removal of, modified, or restored in strict compliance with all current applicable technical, safety and safety related codes adopted by the County, state, or United States, including, but not limited to, the most recent editions of the ANSI Code, National Electrical Safety Code, and the National~~

Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.

- ~~(l) A holder of a wireless communication facilities permit granted under this section shall obtain, at its own expense, all permits and licenses required by applicable law, ordinance, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the County or other governmental entity or agency having jurisdiction over the applicant.~~
- ~~(m) A building permit shall not be issued for construction of the wireless support structure unless there is an FCC authorized or licensed spectrum carrier which has indicated it will be installing equipment to use such spectrum on the wireless support structure.~~

~~Section 6.2.4 — Application and Review Process~~

- ~~(a) A wireless communication facilities permit shall be considered a Special Use Permit and shall be subject to the review and approval processes set forth in Section 3.7.15. The Board may, at its discretion, delegate or designate other official agencies or officials of the County or outside consultants to accept, review, analyze, evaluate and make recommendations to the Board with respect to the granting or not granting or revoking wireless communication facilities permits for wireless communication facilities. However, outside consultants shall have no authority to make or change policy for the County.~~
- ~~(b) When placing wireless communication facilities or wireless support structures on government-owned property or facilities, only noncommercial wireless carriers and users are exempt from the permitting requirements of this section.~~
- ~~(c) No wireless communication facilities or wireless support structures shall be installed, constructed or modified until the wireless communication facilities permit has been approved and a building permit has been issued.~~
- ~~(d) The applicant must provide documentation to verify it has the right to proceed as proposed on the site. This requires an executed copy of the lease with the landowner or landlord or a signed letter of agency acknowledging authorization. If the applicant owns the site, a copy of the ownership record is required.~~
- ~~(e) The application shall include a statement in writing:
 - ~~(i) That the applicant's proposed wireless communication facilities shall be maintained in a safe manner, and in compliance with all conditions of the wireless communication facilities permit, without exception, unless specifically granted relief by the board in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable county, state and federal laws, rules, and regulations.~~
 - ~~(ii) That the construction of the wireless communication facilities is legally permissible, including, but not limited to the fact that the applicant is authorized to do business in the State.~~
 - ~~(iii) The applicant acknowledges and understands that should the facility not be used for a period of 180 days, the applicant will remove the facility at its expense within 90 days of abandonment as set forth in section 6.2.8.~~~~
- ~~(f) Where an engineering certification is required in the application materials, such certification shall bear the signature and seal of a professional engineer licensed in North Carolina.~~

~~(g) In addition to all other information required by this section, all applications shall contain the following information:~~

~~(i) Ownership and management:~~

- ~~1) The name, address and phone number of the person preparing the application.~~
- ~~2) The name, address, and phone number of the property owner and the applicant, including the legal name of the applicant. If the owner of the structure is different than the applicant, the name and all necessary contact information shall be provided.~~

~~(ii) The 911 address and tax map parcel number of the property.~~

~~(iii) A copy of the FCC license applicable for the intended use of the wireless communication facilities.~~

~~(iv) Written acknowledgement that any new wireless support structure facility shall be structurally designed to accommodate a minimum of three antenna arrays and shall be managed so as to not restrict, prevent or prohibit competition among carriers. Further, applicant acknowledges that any charges made to other users of the facility, shall be reasonable and shall not exceed those charges made by other facility users in Jackson County using similar facilities.~~

~~(v) The applicant shall disclose in writing any agreement in existence prior to submission of the application that would limit or preclude the ability of the applicant to share any new wireless support structure that it constructs.~~

~~(vi) A site plan depicting the following:~~

- ~~1) The zoning district (in the case of Regulated Districts) or designation in which the property is situated, if applicable.~~
- ~~2) The size of the property footprint on which the proposed facility to be built or attached is located, stated both in square feet and lot line dimensions, topography of the subject property and the adjacent properties, and a survey showing the location of all lot lines. The location, size and height of all existing and proposed facility on the property on which the facility is to be located and adjoining properties.~~
- ~~3) The footprint and type, location and dimensions of any access drive, camouflage, landscaping buffers, fencing and any other improvements existing on or proposed for the site.~~
- ~~4) Plans for any access road to be constructed to provide access to the site.~~
- ~~5) Erosion control and storm water management plans for the proposed access road and the facility site.~~
- ~~6) A drawing showing a circle around the proposed facility equal to the setback requirements of Jackson County, if any; for such a facility.~~
- ~~7) A drawing showing any landscaping proposed for the site by the applicant.~~

~~(vii) Elevations showing the profile or the vertical rendition of the wireless support structure identifying proposed attachments and all related fixtures, structures, appurtenances and apparatus, including the height above the pre-existing grade, surrounding trees, materials, camouflage, color and lighting.~~

~~(viii) The azimuth, size and center line height location of all proposed antennas on the supporting structure.~~

~~(ix) Technical information regarding noise and/or sound generated by any generators or other equipment to be used on site, if applicable; if multiple generators are to be used, then the data~~

should show the cumulative impact of noise generated. A specification sheet from the generator manufacturer providing this information is sufficient to meet this requirement.

- (x) ~~Safety: If substantially modifying an existing wireless communication facility:
 - 1) ~~The age of the facility in years, including the date of the grant of the original permit.~~
 - 2) ~~A description of the type of tower, e.g. guyed, self-supporting lattice or monopole.~~~~
- (xi) ~~A structural report certified and signed by a professional engineer licensed to do business in North Carolina and bearing that engineer's currently valid stamp, showing the structural adequacy of the proposed or existing structure to accommodate the proposed wireless communication facilities, including any equipment shelter, unless the equipment shelter is located on the lowest floor of a building.~~
- (xii) ~~Compliance with FAA regulations. Applicant shall comply with all FAA regulations and shall supply any FAA determination for the proposed site. This applies to any modification to a pre-existing tower that adds additional height to the structure.~~
- (xiii) ~~The owner of a proposed new wireless support structure, and his/her successors in interest, shall negotiate in good faith for the shared use of the proposed wireless support structure by other wireless service providers in the future. Failure to abide by the conditions outlined above may be grounds for revocation of the wireless communication facilities permit.~~
- (xiv) ~~In order to better inform the public, in the case of a new wireless support structure (tower), the applicant shall conduct a "balloon test" prior to the initial public hearing on the application. The applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a ten-foot length, brightly colored balloon at least three feet in diameter at the maximum height of the proposed new wireless support structure (tower).
 - 1) ~~At least 14 days prior to the conducting of the balloon test, the applicant, in coordination with the planning department, shall cause a sign to be erected so as to be clearly visible from the public road nearest the proposed site and shall be removed no later than 14 days after the conduct of the balloon test. The sign shall be readable from the road by a person with 20/20 vision.~~
 - 2) ~~Such sign shall be placed off, but as near to, the public right of way as is possible.~~
 - 3) ~~Such sign shall contain the location, purpose, times and date(s) of the balloon test and contact information.~~
 - 4) ~~The dates (including a second date, in case of poor visibility or wind in excess of 15 mph on the initial date), times, purpose, and location of this balloon test shall be advertised by the applicant seven and 14 days in advance of the first test date in a newspaper with a general circulation in the County and as agreed to by the County. The applicant shall inform the Planning Department in writing, of the dates and times of the test, at least 14 days in advance. The balloon shall be flown for at least four consecutive hours between 10:00 a.m. and 2:00 p.m. on the dates chosen. The primary date shall be on a weekend, but the second date, in case of poor visibility on the initial date, may be on a week day. A report with photographs from various locations of the balloon shall be provided with the application. Locations from which photographs are to be taken shall be reviewed and approved by the planning department.~~
 - 5) ~~The applicant shall provide written notice to all property owners and residents of property located within 2,000 feet of the nearest property line of the subject property of the proposed construction of the wireless support structure (tower) and of the date(s), location,~~~~

and time(s) of the balloon test. Such notice shall be provided at least 14 days prior to the conduct of the balloon test and shall be delivered by first class mail to a resident at the address of such property and to the owner at the mailing address for such owner as listed in the Jackson County property records.

~~(xv) All applications for proposed wireless support structures shall contain a demonstration that the facility is sited and designed so as to create the least visual and physical intrusiveness reasonably possible given the facts and circumstances involved, and thereby will have the least adverse visual and physical effect on the environment and its character, on existing vegetation, and on the community in the area of the wireless support structure. The County expressly reserves the right to require the use of camouflage and/or concealment technology or techniques to achieve this goal and such shall be subject to approval by the board.~~

~~(xvi) To assist the County in making this determination, the applicant shall furnish a visual impact assessment, which shall include:~~

~~1) Pictorial representations (photo simulations) of "before and after" views from key viewpoints inside of the county, including, but not limited to, state highways and other major roads, state and local parks, other public lands, historic districts, preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors, travelers, or residents. Guidance will be provided concerning the appropriate key viewpoints at the pre-application meeting. In addition to photographic simulations to scale showing the visual impact, the application shall provide a map showing the locations of where the pictures were taken and the distance(s) of each location from the proposed wireless support structure;~~

~~2) A pictorial representation or photo simulation of the visual impact of the proposed facility, including, as applicable, the tower base, guy wires, fencing and accessory buildings from abutting and adjacent properties and streets as related to the need or appropriateness of screening.~~

~~(xvii) The applicant shall demonstrate and provide by drawing and/or photo simulation how it shall effectively screen from view the base and all related equipment and structures of the proposed wireless communication facilities.~~

~~(xviii) Applications will not be transmitted to the Board of Commissioners for consideration until the application is deemed complete.~~

~~(xix) The holder of a wireless communication facilities permit shall notify the county of any proposed modification of a wireless communication facility and shall apply to the county to modify, relocate or rebuild a wireless communication facility.~~

~~(xx) All applications for a condition use permit and administrative review in the following sections shall be accompanied by the following statements.~~

~~1) The information contained in this application is true and accurate.~~

~~2) Is signed and sworn before a notary public.~~

~~(h) **Transfer of Approval.** A wireless communication permit approval may be transferred to a subsequent owner of the property for which the permit was issued but may not be transferred to another property.~~

- ~~(i) **Resubmission of Denied Applications.** No application for approval of a wireless communication permit shall be filed with or accepted by the Planning Department that is identical or substantially similar to an application that has been denied by the Jackson County Board of Commissioners.~~
- ~~(j) **Modifications.** Modifications from the standards established by this section for wireless communication facility are subject to the procedure and standards set forth in Section 6.2.10.~~
- ~~(k) **Permit validity.** Approval of a wireless communications permit (Special Use Permit) shall be valid for one year from the date of approval by the Jackson County Board of Commissioners. Failure to obtain a building permit, or otherwise initiate the permitted use, within this time shall render the wireless communications permit approval void. The Jackson County Planning Department may grant a single extension of this time period of up to six months upon submittal by the applicant of sufficient justification for the extension.~~
- ~~(l) **Wireless Communication Facilities Permit Administrative Review Application Requirements**
 - ~~(i) All applicants for administrative review to collocate on an existing wireless support structure, to upgrade equipment on an existing wireless support structure, to replace existing equipment, and/or any other activity not meeting the definitions of substantial modification or ordinary maintenance provided in this Section shall comply with the administrative review requirements in Section 3.4 Common Review Procedures.~~
 - ~~(ii) An application to "substantially modify" the parameters of an approved wireless communication facilities as relates to the approved height, profile, number of collocations or footprint shall not qualify for administrative review under Section 3.4: Common Review Procedures.~~
 - ~~(iii) Approval of a wireless communication facility permit (Special Use Permit) shall not be required for an application to modify or to co-locate an antenna array on an existing and properly permitted wireless support structure so long as the co-location or modification does not exceed the parameters set forth in NCGS 160D-933, unless for good cause such approval shall be required by the Planning Board or Planning Department. Administrative review shall be required for such application.~~
 - ~~(iv) Documentation shall be provided to demonstrate that the applicant has the legal right to proceed as proposed on the site, including an executed copy of the lease with the owner of the facility proposed to be attached to, or a letter of agency, showing the right of the applicant to attach to the structure.~~
 - ~~(v) The applicant shall include a written statement that:
 - ~~1) The applicant's proposed wireless communication facility shall be maintained in a safe manner, and in compliance with all conditions of all applicable permits and authorizations, without exception, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable County, State and Federal laws, rules, and regulations.~~
 - ~~2) The construction of the wireless communication facility is legally permissible, including, but not limited to the fact that the applicant is authorized to do business in the state of North Carolina.~~~~
 - ~~(vi) An application for attaching an antenna array, which shall include equipment upgrades and replacement of equipment, under this section shall contain the following information:
 - ~~1) The name, address and phone number of the person preparing the application.~~~~~~

- ~~2) The name, address, and phone number of the property owner and the applicant, including the legal name of the applicant. If the owner of the structure is different than the applicant, the name and all necessary contact information shall be provided.~~
- ~~3) The 911 address and tax map parcel number of the property.~~
- ~~4) A copy of the FCC license or other authorization applicable for the intended use of the wireless communication facilities.~~
- ~~5) A site plan depicting the following:
 - ~~a) The zoning district (in the case of Regulated Districts) or designation in which the property is situated, if applicable.~~
 - ~~b) For applications that involve expansion of the ground compound, the size of the property on which the structure to be attached to is located, stated both in square feet and lot line dimensions, and a survey showing the location of all lot lines.~~
 - ~~c) The location, size and height of all existing and proposed structures on the property on which the structure is located and that is the subject of the application;~~
 - ~~d) The footprint, location and dimensions of access drives, landscaping and buffers, fencing and any other existing or proposed site improvements.~~
 - ~~e) Unless it is deemed inappropriate or unnecessary by the planning department given the facts and circumstances, the method proposed to effectively buffer and screen from view the base and all related equipment and structures of the proposed Wireless Communication Facility up to a height of ten feet.~~
 - ~~f) Unless already contained in the structural analysis required by Section 6.2.3 (b) elevations showing the vertical rendition of the wireless communication facilities identifying all attachments, and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;~~~~
- ~~6) All attachments and exposed cabling shall use concealment techniques to match as closely as possible the color and texture of the structure, whenever practical.~~
- ~~7) The applicant shall provide a certification by a professional engineer licensed in North Carolina, along with documentation (a structural analysis), including calculations, that prove that the wireless support structure and its foundation as proposed to be utilized, including all proposed attachments, existing attachments, and reserved future attachments, are designed and were constructed to meet all local, county, state, federal and ANSI EIA/TIA 222 as amended requirements for loads, including wind and ice loads and the placement of any equipment on the roof a building after the addition of the proposed new facilities.~~

~~All utilities installed for a new wireless communication facility shall be installed underground when practical and in compliance with all laws, ordinances, rules and regulations of the county, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.~~

- ~~(vii) Permit validity. Approval of a request for administrative review and approval shall be valid for one year from the date of approval by the planning department. Failure to obtain a building permit, or otherwise initiate the permitted use, within this time shall render the approval void. The Jackson County Planning Department may grant a single extension of this time period of up to six months upon submittal by the applicant of sufficient justification for the extension.~~

~~Section 6.2.5 — Retention of Consultant/Expert Assistance Cost to be Borne by Applicant~~

- ~~(a) The County may hire any consultant and/or expert necessary to assist the County in reviewing and evaluating the application for substantial modifications, new wireless communication facilities, and collocations, including the construction and modification of the site, once permitted, and any site inspections.~~
- ~~(b) To prevent the taxpayers from having to bear the cost related to the issue of the regulation of wireless communication facilities, an applicant shall pay the consultant's fee as set forth in the contractual agreement between the consultant and the County. The amount of the fee shall be based on the cost of services provided and what is usual and customary in Jackson County for the review and permitting assistance related to wireless communication facilities to cover all reasonable costs of consultant and expert evaluation and consultation with the County in connection with the submittal, review and permitting of any application, and where applicable, any lease negotiation, preapproval evaluation and including any construction and modification of the site, once permitted. The payment of the consultant's fee to the County shall precede any work being done as regards to processing an application.~~
- ~~(c) Records of all outside costs associated with the review and permitting process shall be maintained and available for public inspection, in compliance with applicable North Carolina law.~~

~~Section 6.2.6 — Removal and Performance Security~~

- ~~(a) The Applicant and the owner of record of any proposed wireless communication facilities property site, at its cost and expense, shall be jointly required to execute and file with the County a bond, or other form of security acceptable to the County as to type of security and the form and manner of execution, in an amount and with such sureties as are deemed sufficient by the County to assure the faithful performance of the terms and conditions of this section and conditions of any communications facility permit issued pursuant to this section. The amount of the bond or other security shall be at least \$75,000.00, with the amount based upon cost estimates for the removal of the wireless support structure or tower and the restoration of the site. Such cost estimates shall be submitted by the applicant and shall be provided by independent contractors. The full amount of the bond or security shall remain in full force and effect throughout the term of the communications facility permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original communications facility permit. All bonds or other forms of security provided as required by this section shall be reviewed every five years to assure that the amount of the security is adequate to cover the cost of the structure removal and site restoration. An increase in the amount of the security shall be required if it is determined that the amount of the security is insufficient to adequately restore the site.~~

~~Section 6.2.7 Reservation of Authority to Inspect Wireless Communication Facilities~~

- ~~(a) In order to verify that the holder of a wireless communications facility permit for wireless communication facilities and any and all lessees, renters, and/or licensees of such place and construct such facilities, in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, ordinances and regulations and other applicable requirements, the County may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction,~~

modification and maintenance of such facilities, including, but not limited to, wireless support structures, antennas and buildings (excluding exteriors) or other structures constructed or located on the permitted site.

Section 6.2.8 Removal of Wireless Communication Facilities

- (a) Under the following circumstances, the County may determine that the health, safety, and welfare interests of the County warrant and require the removal of wireless communication facilities:
- (i) Wireless communication facilities with a permit have been abandoned (i.e. not used as wireless communication facilities) for a period exceeding 180 days, except for periods caused by force majeure or acts of God, in which case repair or removal shall commence within 90 days of abandonment;
 - (ii) Permitted wireless communications facilities fall into such a state of disrepair that it creates a health or safety hazard;
 - (iii) Wireless communications facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required communications facility permit, or any other necessary authorization and the special permit may be revoked.
- (b) If the County makes such a determination as noted in subsection (a), then the County shall notify the holder of the wireless communications facility permit within 48 hours that said wireless communication facilities are to be removed, the County may approve an interim temporary use agreement/permit, such as to enable the sale of the wireless communication facilities.
- (c) The holder of the wireless communication facility permit, or its successors or assigns, shall dismantle and remove such facility, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within 90 days of receipt of written notice from the County. However, if the owner of the property upon which the facility is located wishes to retain any access roadway to the facility, the owner may do so.
- (d) If wireless communication facilities are not removed or substantial progress has not been made to remove the wireless communication facilities within 90 days after the permit holder has received notice, then the County may order officials or representatives of the County to remove the wireless communication facilities at the sole expense of the owner or wireless communication facility permit holder.
- (e) If the County removes, or causes to be removed, wireless communication facilities, and the owner of the wireless communication facilities does not claim and remove it from the site to a lawful location within ten days, then the County may take steps to declare the wireless communication facilities abandoned and sell them and their components.
- (f) Notwithstanding anything in this section to the contrary, the County may approve a temporary use permit/agreement for the wireless communication facilities, for no more than 90 days, during which time a suitable plan for removal, conversion, or relocation of the affected facility shall be developed by the holder of the communications facility permit, subject to the approval of the County, and an agreement to such plan shall be executed by the holder of the permit and the County. If such a plan is not developed, approved and executed within the 90 day time period, then the County may take possession of and dispose of the affected facilities in the manner provided in this section and utilize the bond in this section.

Section 6.2.9 Liability Insurance

- (a) A holder of a wireless communication facility permit shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the wireless communication facility permit in amounts as set forth below:

- ~~(i) Commercial general liability covering personal injuries, death and property damages \$1,000,000.00 per occurrence/\$2,000,000.00 aggregate; and~~
- ~~(ii) Umbrella coverage: \$3,000,000.00.~~

~~Section 6.2.10-Modifications~~

- ~~(a) Any applicant desiring modification, waiver, or exemption from any aspect or requirement of this section may request such at the pre-application meeting, provided that the request for modification is detailed in the submitted application for either a communications facility permit or, in the case of an improvement requiring administrative review, in the application submitted for administrative review. All requests shall be heard and decided by the Jackson County Board of Commissioners, which must find that justification is provided for the requested modification, waiver, or exemption. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested modification, waiver, or exemption is solely on the applicant to prove. All requests for a modification, waiver, or exemption shall be accompanied by an application fee as set forth in the schedule of fees and charges. No modification, waiver, or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that the request is justified and is necessary to prevent unnecessary hardship and that, if granted, the modification, waiver, or exemption will have no significant effect on the health, safety, and welfare of the County, its residents, property owners and other service providers and preserves the intent of this section.~~