

6.2 Wireless communications facilities

Sec. 6.2.1 Purpose and Legislative Intent

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 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.
- (iii) 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 Approval Process

- (a) Requirements for review and approvals. All new and modified wireless communications facilities require a permit to be issued in accordance with this section.
- (i) (d) 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.
 - 1) New wireless support structures, including towers that do not exceed 199 feet in height.
 - 2) Concealed wireless communication facilities that are 60 feet or less in height, in any location.
 - 3) 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.
 - 4) Collocations.
 - 5) 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.
 - 6) Wireless communication facilities placed on utility poles.
 - 7) Placement of new transmission equipment on an existing wireless support structure or tower.

- 8) 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.
- 9) Facilities used exclusively for providing broadband services, provided that the structure to which facilities are attached does not exceed 199 feet in height
- 10) Facilities owned by the State of North Carolina.

(ii) The following information shall be provided with the application

- 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 the creation or 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) Landscape plan for perimeter buffer if applicable.
 - 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.
- 8) 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.

- 9) The azimuth, size and center line height location of all proposed antennas on the supporting structure.

6.2.3 Recommended Location Wireless Communication Facilities

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.

6.2.4- Wireless Communications Facilities Design Standards

(a) The maximum height for wireless support structures shall be 199 feet.

(b) Wireless support structures and towers may be monopole or lattice type.

(c) Wireless support structures and towers may be located on a protected mountain range as defined in Section 5.7- Mountain Ridge Protection Regulations and Section 5.8 Mountain and Hillside Development, provided that:

(i) 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.

(ii) The proposed wireless support structure or tower is a monopole.

(b) 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.

- (c) 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.
- (d) 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) 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) 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)
 - (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 new habitable buildings within the wireless support structure setback set forth in the preceding subsection.
- (h) 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.

- (k) The perimeter of the fenced facility shall be screened with a vegetative buffer if it is visible from adjacent properties, public or private rights-of way, or public trails.
- (l) All facilities must comply with all applicable state and federal regulations and obtain all required state and federal permits regarding wireless communications facilities.

6.2.5- 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.

6.2.6 Exemptions. The following are exempt from all Jackson County plan approval processes and requirements:

- (i) Removal of equipment on an existing wireless tower or wireless communication facility.
- (ii) Ordinary maintenance of existing wireless communication facilities and wireless support structures, as defined in this section.
- (iii) 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.
- (iv) Facilities owned or leased by Jackson County or County authorities, e.g. airport authority.
- (v) Facilities used exclusively for state and local emergency management communications systems.

6.2.6 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.

6.2.7 Removal of Wireless Communications 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.

6.2.8 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.

6.2.9 Variances

An applicant can request a variance to these standards per Section 3.7.20.