
Sec. 2.2 Jackson County Board of Commissioners.

- (a) *Authority.* The Jackson County Board of Commissioners shall have the following responsibilities in relation to the administration of this ordinance:
- (i) Hear and decide applications for amendments to the text, schedules, and map portions of this Ordinance, which shall be processed in accordance with the provisions detailed herein. In exercising this power, the Board of Commissioners is bound by G.S. 160D-601, the terms of this Ordinance, and applicable court decisions in carrying out its legislative function.
 - (ii) Hear and decide applications for Mountain Ridge Protection Permits, ~~Special Use Permits for Wireless Communications~~, and Manufactured Home Park Variances and Appeals (ref. Art. 3) requiring final approval from the Board of Commissioners.
 - (iii) Make necessary appointments to the Planning Board, Community Planning Councils, Board of Adjustments, Sedimentation and Erosion Control Board, and Watershed Board.
 - (iv) Provide, by appropriation, funds for the administration of this Ordinance.
- (b) *Creation of boards and councils.* The Board of Commissioners pursuant to G.S. 160D-361 created the Boards and Councils delineated in Section 2.3 to perform the following duties:
- (i) Make studies of the county and surrounding areas;
 - (ii) Determine objectives to be sought in the development of the study area;
 - (iii) Prepare and adopt plans for achieving these objectives;
 - (iv) Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;
 - (v) Advise the Board of Commissioners concerning the use and amendment of means for carrying out plans;
 - (vi) Exercise any functions in the administration and enforcement of various means for carrying out plans that the Board of Commissioners may direct;
 - (vii) Perform any other related duties that the Board of Commissioners may direct.
 - (viii) *Members Liability.* The Planning Board and Regulated District Planning Councils identified in Section 2.03 below and the individual members thereof, serving as an advisory board or council to the Board of Commissioners, are protected from liability in so far as their actions are within the scope of their duties and responsibilities, G.S. 153A-11 and 153A-12.
- (c) *Authority in regulated districts.*
- (i) *Powers and duties.* Without limiting any authority granted to the Jackson County Board of Commissioners by laws and regulations, the Jackson County Board of Commissioners shall have the following powers and duties with respect to the Regulated Districts, to be carried out in accordance with the terms of this ordinance:
 - 1) To adopt new text for and amendments to the text of this ordinance.
 - 2) To adopt new zoning maps and amendments to the zoning maps.
 - 3) Such additional powers and duties as may be set forth for the Jackson County Board of Commissioners elsewhere in this ordinance and in other laws and regulations.

(Ord. No. O2019-01(5), 11-2-2021)

Article III. PERMITS AND PROCEDURES

Section 3.1 Purpose

In order to establish an orderly process to develop land within the jurisdiction of Jackson County, it is the purpose of this section to provide a clear and comprehensible development process.

Section 3.2 General Provisions and Applicability

(a) The provisions of this article shall be applicable to all development activity under the jurisdiction of Jackson County.

TABLE 3.1: Development Review Procedures identifies the procedures for several processes and permits for Jackson County, the Planning Councils, and several Boards and Commissions for designated development on lands in the County and for the Regulated Districts of the Cashiers Commercial Area, the Cullowhee Community Planning Area, and the US 441 Gateway District.

(a) **Authority and Jurisdiction**

(i) This article, enacted in accordance with the provisions of NCGS 160D shall apply to all of Jackson County not within the jurisdictions of the various municipalities and the Qualla Boundary.

Table 3.1 - Development Review Procedures

Development Permit/Process	Process Type	Review/Recommendation	Decision/Final Action	Appeal	Public Notice Required (Sec 3.5)	Reference
Administrative Adjustment	Administrative	Planning Director ¹	Planning Director	Board of Adjustment ²	N/A	Sec. 3.7.1
Administrative Appeal	Quasi-Judicial	Planning Director	Board of Adjustment	Superior Court	1 & 2	Sec. 3.7.2
Administrative Appeal (Regulated District incl Airport)	Quasi-Judicial	Planning Director	Community Planning Council	Superior Court	1 & 2	Sec. 3.7.2 (c)
Administrative Review	Administrative	Planning Director	Planning Director	Board of Adjustment	N/A	Sec. 3.7.3
Certificate of Appropriateness	Quasi-Judicial	Planning Director	Historic Preservation Committee	Board of Adjustment	1, 2, & 3	Sec. 3.6
Certificate of Occupancy	Administrative	Planning Director/Permitting & Code Enforcement Director ³	Planning Director/Permitting & Code Enforcement Director	Board of Adjustment	N/A	N/A
Design Review - Regulated Districts	Administrative/Quasi-Judicial ⁴	Planning Director	Community Planning Council ⁵	Community Planning Council ⁶	N/A	Sec. 3.7.4

Erosion and Sedimentation Control Plan	Administrative	Permitting & Code Enforcement Director	Permitting & Code Enforcement Director	Sediment & Erosion Control Appeals Board	N/A	Sec. 3.7.5
Development Permit/Process	Process Type	Review/ Recommendation	Decision/ Final Action	Appeal	Public Notice Required (Sec. 3.5)	Reference
Floodplain Development Permit	Administrative	Floodplain Administrator ⁷	Floodplain Administrator	Board of Adjustment	N/A	Sec. 3.7.6
Floodplain Variance	Quasi-Judicial	Floodplain Administrator	Board of Adjustment	Superior Court	1	Sec 3.7.20
Impervious Surface Area Modifications – Water Recharge	Legislative	Planning Director	Planning Board	Board of Adjustment	1	Sec. 3.4 Sec. 5.5
Industrial Permit	Administrative	Planning Director	Planning Director	Board of Adjustment	N/A	Sec. 3.7.7
Land Development Compliance Permit	Administrative	Permitting & Code Enforcement Director	Permitting & Code Enforcement Director	Board of Adjustment	N/A	Sec. 3.7.8
Manufactured Home Park Construction Permit	Administrative	Permitting & Code Enforcement Director	Permitting & Code Enforcement Director	Board of Commissioners	N/A	Sec. 3.7.9
Map Amendment/Rezoning	Legislative	Planning Director	Board of Commissioners	Superior Court	1,2 & 3	Sec. 3.7.12
Mountain & Hillside Development Permit	Administrative	Planning Director	Planning Board	Board of Adjustment	N/A	Sec. 3.7.10 Sec. 5.8
Mountain Ridge Protection Permit	Legislative	Planning Board	Board of Commissioners	Superior Court	1 & 2	Sec. 3.7.11 Sec. 5.7
Sign Permit	Administrative	Planning Director	Planning Director	Board of Adjustment	N/A	Sec. 3.7.13
Site Development Plan Permit (Regulated Districts)	Administrative	Planning Director	Planning Director	Board of Adjustment	N/A	Sec. 3.7.14
Special Use Permit	Quasi-Judicial	Planning Director	Multiple Boards and Entities ⁸	Superior Court	1, 2 & 3	Sec. 3.7.15
Stormwater Permit - Regulated Districts	Administrative	Permitting & Code Enforcement Director	Planning Director	Planning Council	N/A	Sec. 3.4

Subdivision, Major-Level 1 Preliminary Plat	Legislative	Planning Director	Planning Director	Planning Board	1	Sec. 3.7.16
Subdivision, Major-Level 2 Preliminary Plat	Administrative	Planning Director	Planning Board	Board of Adjustment	1	Sec. 3.7.16
Subdivision, Major, Final Plat	Administrative	Planning Director	Planning Director	Board of Adjustment	N/A	Sec. 3.7.16
Subdivision, Minor Plat	Administrative	Planning Director	Planning Director	Board of Adjustment	N/A	Sec. 3.7.17
Development Permit/Process	Process Type	Review/Recommendation	Decision/Final Action	Appeal	Public Notice Required (Sec. 3.5)	Reference
Temporary Use Permit	Administrative	Planning Director	Planning Director, Planning Council	Community Planning Council	N/A	Sec. 3.7.18
Text Amendment	Legislative	Planning Director	Board of Commissioners	Superior Court	1 & 2	Sec. 3.7.19
Variance	Quasi-Judicial	Planning Director	Multiple Boards & Entities ⁸	Superior Court	1, 2 & 3	Sec. 3.7.20
Vested Rights	Administrative	Planning Director	Planning Director	Planning Board/ Superior Court	N/A	Sec. 1.14 Sec. 3.7.2
Wireless Communications Permit	Administrative Quasi-Judicial	Planning Director	Board of Commissioners Planning Director	Superior Court Board of Adjustment	1, 2 & 3	Sec. 3.7.15 Sec. 6.3
Zoning Permit - Regulated Districts	Administrative	Planning Director	Planning Director	Community Planning Council	N/A	Sec. 3.7.21

1. Planning Director and/or his/her designee.
2. For the purposes of this article, Board of Adjustment may mean any appeal body (Planning Council, etc.) other than the Superior Court.
3. Permitting & Code Enforcement Director and/or his/her designee.
4. If a Special Use Permit is required, the Design Review Committee makes findings of facts regarding the design standards.
5. The Community Planning Council serves as the Design Review Committee for all regulated districts.
6. The Planning Council is authorized by the Board of Commissioners to make final decision per Section 2.2(b).
7. The Permitting & Code Enforcement Director is also designated as the Floodplain Administrator.
8. Variances may be heard by Board of Adjustment, Planning Board, Regulated District Community Planning Councils, Watershed Review Board, Sediment Control Appeals Board.

Section 3.3 Public Meetings

All meetings of elected or appointed bodies under this Ordinance shall be open to the public in accordance with NCGS 143-318.12 and shall be conducted in accordance with the procedures set forth in these regulations and rules of procedure adopted by the respective bodies and approved by the Board of Commissioners.

Section 3.4 Common Review Procedures

(a) Overview

Section 3.7.14 Site Development Plan (Regulated Districts)

(a) **Purpose and Intent**

- (i) It is the purpose of this section to establish a procedure which will enable the County to consider site plan applications for improvements to land within the County's Regulated Districts.

(b) **Applicability**

- (i) Site development plan review is applicable to any development activity or subdivision of land within any regulated district. See also Article IX: Regulated Districts for individual district standards and requirements.
- (ii) Cashiers Commercial Area Regulated District requires a Special Use Permit for all development. See also Section 3.7.15 below.

(c) **Site Development Plan Procedure**

(i) **Pre-Application Conference**

- 1) It is recommended that a pre-application conference be scheduled with the Planning Director prior to application submittal. Preliminary plans may be shown at this conference in order to receive general guidance.

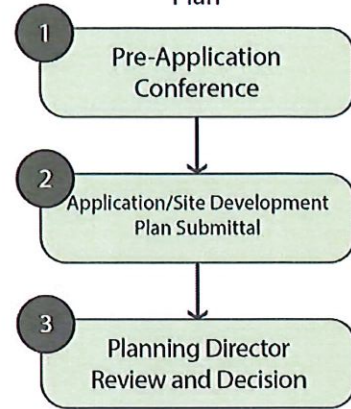
(ii) **Application Submittal and Acceptance**

- 1) Each application for a site development plan shall contain the information required on the application form. Staff Review and Decision
- 2) Following submittal of the application and site plan, they shall be reviewed by the staff of the Jackson County Planning Department for compliance. The Planning Department staff may request input from other local, regional, and/or state agencies to assist in the thorough review of the site construction plan.
- 3) The Planning Director shall approve the site development plan if staff finds the application and site plan in compliance with the requirements of this Ordinance.

(d) **Appeal**

- (i) Reference Section 3.7.2, Administrative Appeals.

FIG 3.5 Site Development Plan



Section 3.7.15 Special Use Permit

(a) **Purpose and Intent**

- (i) The special use permit review process is established to provide for the adequate review and consideration of those uses which, because of their unique characteristics and impacts upon the community, require individual consideration of their location, design, configuration, and/or operation in the community. The individual consideration may also call for the imposition of individualized conditions in order to ensure that the use, ~~including Wireless Communication Facilities~~, is appropriate in the community. Any use identified as a special use in the Permitted Uses Section of the Regulated Districts in Article IX, shall not be permitted without the approval of the appropriate Community Planning Council in accordance with the requirements and procedures set forth in that section.

(b) **Applicability**

- (i) Uses identified in the Table of Permitted Uses in the Regulated Districts, shall be approved as a special use in accordance with the procedures and standards of this section, prior to development. ~~This procedure shall also be followed for wireless telecommunications permits.~~

~~(c) **Wireless Telecommunications Permits**~~

- ~~(i) A wireless communication facilities permit shall be considered a special use permit and shall be subject to the review procedures mandated for such permits.~~

~~(d)~~(c) **Special Use Permit Procedure**

(i) Pre-Application Conference

- 1) Every applicant for a special use permit is required to meet with the Jackson County Planning Department in a pre-application conference prior to the submittal of a special use application. The purposes of the conference are to provide additional information regarding the review process and assistance in the preparation of the application.

(ii) Application Submittal and Acceptance

- 1) An application for a special use permit may be filed by the owner of the property or by an agent specifically authorized to submit the application. The application for a special use permit shall be filed with the Jackson County Planning Department on a form provided by the Planning Department or on the County Website.

- 2) Each application for a special use permit shall contain the information required on the application form. Staff Review and Recommendation

FIG 3.6 Special Use Permit

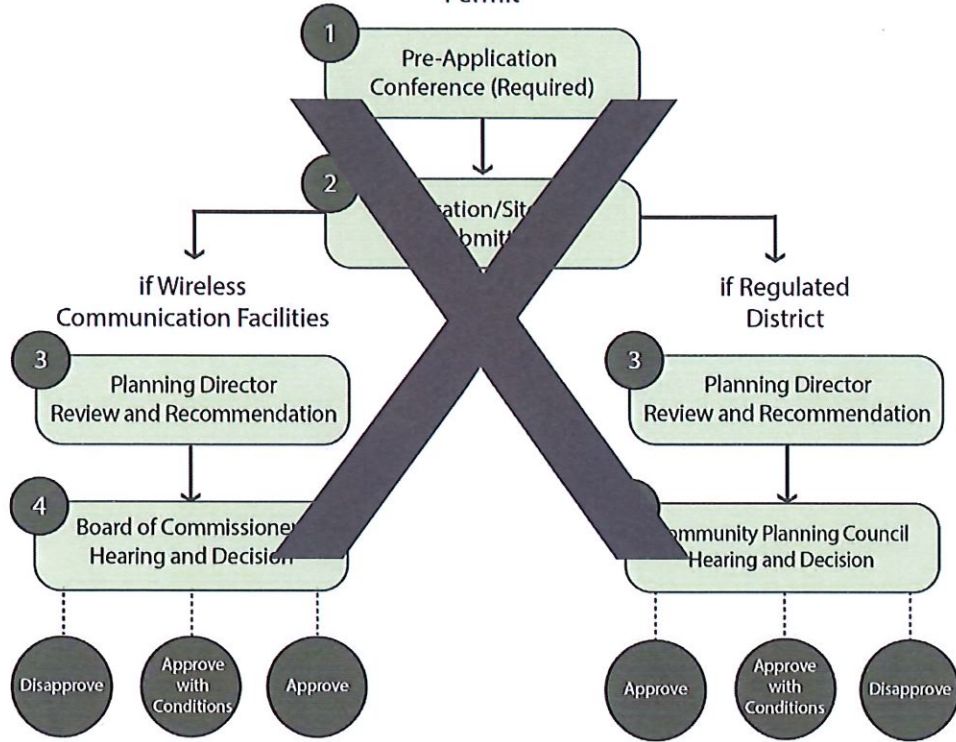


FIG 3.6 Special Use Permit



3) Following submittal of the application and site plan for the special use permit, they shall be reviewed by the staff of the Jackson County Planning Department for compliance with the requirements of this section. The Planning Director may request input from other local, regional, and/or state agencies, such as the Jackson County Health Department and the North Carolina Department of Transportation, to assist in the thorough review of the special use permit application and site plan. The Planning Director shall review the special use permit application and site plan within 15 working days of its submittal.

4) Upon review of an application and site plan for a special use permit, the Director will determine that the application is one of the following:

~~a) Complete. If the Planning Director finds the application and site plan to be in compliance with the requirements of this Ordinance, they shall forward their report and the special use permit application and site plan to the appropriate Community Planning Council for review and final action (Section 3.7.15 (v)), Community Planning Council Review and Decision). If the application is for a Wireless Communications facilities permit, the permit application shall be forwarded to the Board of Commissioners (Section 3.7.15 (vii)), Board of Commissioners Review and Decision).~~

~~b) Complete with Recommended Conditions. If the Planning Director has recommendations on the application, the recommendations shall be forwarded to the Community Council with the staff report, the special use permit application and site plan shall be forwarded to the Community Planning Council or Board of Commissioners for review and final action. Incomplete or Fails to meet ordinance standards. If the application is incomplete or fails to meet the ordinance standards, the Planning Director shall provide, in writing, the reasons for the determination to the applicant. The special use permit may be revised to address the deficiencies and resubmitted in accordance with the provisions of this ordinance. The decision of the Planning Director shall be considered final action on the request unless, within 30 days of receiving the written determination, the applicant provides a written request for review by the appropriate Community Planning Council or the Board of Commissioners.~~

(iii) Public Notification

1) Applicable (refer to Table 3.1: Development Review Procedures).

(iv) Community Planning Council Review and Decision (Regulated Districts)

1) The Community Planning Council shall consider the special use permit request, at a public hearing, within 35 days of receiving the recommendation regarding the special use permit application and site plan from the Jackson County Planning Director.

2) The Community Planning Council, after conducting the public hearing may, in accordance with Section 3.7.15 (vi), Special Use Review Standards, deny approval; table the request pending submittal of additional information; or approve the special use permit. The minutes of the Community Planning Council shall state whether the proposed special use does or does not meet each of the standards set forth in Section (vi) of this Ordinance and all other requirements set forth in this Ordinance for the proposed special use. The decision on the special use permit shall be by a simple majority vote of those members of the Community Planning Council present at the meeting at which the action is taken.

3) A Design Review Committee, as appointed by and composed of members of the applicable Community Planning Council, shall review all special use permit applications and site plans

for compliance with the design standards set forth in Section 3.7.4 of this Ordinance and in accordance with the special use review standards (vi) below.

(v) Special Use Permit Review Standards (Regulated Districts)

- 1) The Community Planning Council shall not approve the special use permit application and site plan unless and until it makes the following findings, based on the evidence and testimony presented at the public hearing or otherwise appearing in the record of the case:
 - a) That the proposed use or development of the land will not materially endanger the public health or safety.
 - b) That the proposed use or development of the land is reasonably compatible with significant natural and topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.
 - c) That the proposed use or development of the land will not substantially injure the value of adjoining or abutting properties.
 - d) That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the community.
 - e) That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.
 - f) That the proposed use will not cause undue traffic congestion or create a traffic hazard.

~~(vi) Board of Commissioners Review and Decision (Wireless Communication Facilities)~~

- ~~1) Quasi-judicial hearing. Upon receipt of a report from the Planning Department requesting a quasi-judicial hearing on the application for a wireless communication facility permit, a hearing shall be scheduled by the Jackson County Board of Commissioners on the application. Notice of all quasi-judicial hearings shall be in accordance with the North Carolina General Statutes. In addition, owners of all adjoining properties and all properties abutting any private road to be used to access the proposed site of the proposed facility shall be notified of the hearing by first class mail. Such notice shall be provided as required by law prior to the hearing. The quasi-judicial hearing on the application shall be scheduled by the Jackson County Board of Commissioners and shall meet all requirements for such a hearing.~~

~~(vii) Action by the Jackson County Board of Commissioners~~

- ~~1) Designation of approval body. The Jackson County Board of Commissioners is hereby designated as the approval body for wireless communication facilities permits required by this section and is granted all necessary authority to carry out this responsibility.~~
- ~~2) Review of the wireless communication facilities permit request. In order to preserve the integrity of the quasi-judicial hearing and at the same time comply with NCGS 160D-406, the Jackson County Board of Commissioners shall consider the wireless communication facilities permit request, at a quasi-judicial hearing.~~
- ~~3) Special-use standards. The Jackson County Board of Commissioners shall not approve the wireless communication facilities permit application unless and until it finds that the application meets all requirements set forth in this section and makes the following findings,~~

~~based on the evidence and testimony presented at the public hearing or otherwise appearing in the record of the case:~~

- ~~a) That the proposed use or development of the land will not materially endanger the public health or safety.~~
- ~~b) That the proposed use or development of the land is reasonably compatible with significant natural and topographic features on the site and within the immediate vicinity of the site given the proposed facility, site and access road design and any mitigation techniques or measures proposed by the applicant.~~
- ~~c) That adjacent/adjoining property owners have not demonstrated that proposed use or development of the land will substantially injure the value of adjoining or abutting properties.~~
- ~~d) That the site can be accessed by service and emergency vehicles.~~
- ~~e) That the application, site and proposed improvements comply with all provisions of this Section.~~

~~(viii) Decision by the Jackson County Board of Commissioners. The Jackson County Board of Commissioners, after conducting the quasi-judicial hearing, may: deny approval; table the request pending submittal of additional information; or approve the wireless communications permit with or without additional conditions. The minutes of the Jackson County Board of Commissioners shall state whether the proposed use does or does not meet the requirements set forth in this Section for the proposed use, and if the permit request is approved, the findings required by this Section for such approval shall be stated within the minutes. The decision on the permit application shall be by a simple majority vote of those members of the Jackson County Board of Commissioners present at the meeting at which the action is taken. Any action taken by the Jackson County Board of Commissioners shall be given to applicant and property owner in writing within 30 days of the date the action is taken. If the application is denied, the Jackson County Board of Commissioners shall state the reason(s) for said denial in its notification to the applicant.~~

~~(ix)(vi)~~ _____ Transfer of approval

- 1) A special use 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.

~~(x)(vii)~~ _____ Resubmission of denied applications

- 1) No application for approval of a special use permit shall be filed with or accepted by the Jackson County Planning Department that is identical or substantially similar to an application that has been denied by a Community Planning Council.
- ~~2) 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.~~

~~(xi)(viii)~~ _____ Project phasing

- 1) If a project approved as a special use is to be developed in phases, a master plan for the entire development must be approved by the Community Planning Council at the same time and in the same manner the special use permit application is considered. Final plans for phases of the special use may be submitted in stages and approved by the Jackson County Planning Department provided that the following requirements are met:
 - a) All phases must be shown with precise boundaries on the master plan and numbered in the expected order of development.
 - b) Each phase must be able to exist independently of subsequent phases by meeting all applicable standards as if the phase were a separate project.
 - c) All the data required for the project as a whole must be given for each phase shown on the plan.
 - d) A proportionate share of the common facilities must be included in each phase of the development.
 - e) The phasing must be consistent with the traffic circulation, drainage, and utilities plan for the entire master plan, with the infrastructure provided for the phase submitted for approval.
 - f) Each phase of the special use must comply with any and all conditions attached to the approval of the special use permit. No certificate of occupancy will be issued for the project phase until a site inspection has confirmed that all conditions and requirements are met.

~~(e)~~(d) **VariANCES**

- (i) Variances from the use standards established by this Ordinance for special uses shall not be permitted.

~~(f)~~(e) **Appeal**

- (i) An appeal from the decision of the Community Planning Council ~~or Board of Commissioners~~ regarding a special use permit application and site plan may be made by an aggrieved party and shall be made to the Superior Court of Jackson County in the nature of certiorari. Any petition to the Superior Court shall be filed with the Court no later than 30 days after a written copy of the decision of the Community Planning Council is received by the applicant.

~~(e)~~(f) **Expiration**

- (i) Approval of a special use permit shall be valid for two years from the date of approval by the Community Planning Council ~~or Board of Commissioners~~. Failure to obtain a building permit, or otherwise initiate the permitted use, within this time shall render the special use 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. Permits for the phased development of a special use project shall remain valid for the time approved by the Community Planning Council as part of the special use approval of the master plan for the special use.

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.