

CHAPTER 6

SPECIAL REQUIREMENTS

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Section 6.1 Purpose (Amended 11/18/14)

The Table of Permitted and Special Uses set forth in Chapter 5 contains a column on the far right labeled “SR” for Special Requirements. In any case where a use listed in the Table has a number in the SR column opposite the use that use must comply with the additional Special Requirements contained in this Section corresponding to the Special Requirements number.

SR 1 Accessory Buildings (Amended 6/22/16)

- A. Accessory Buildings. The following regulations shall apply in the RS, RS/H, and RA Zoning Districts. Accessory Buildings are not allowed in the RM Zoning District except when constructed in conjunction with detached single-family dwellings or when constructed for community recreational purposes.

Only one enclosed accessory building or greenhouse and one open accessory building, e.g. gazebos, arbors, and cabanas may be approved for construction for each single-family dwelling. Such accessory buildings must be a customary accessory to residential uses and shall not be occupied for residential purposes. In no event may an accessory building be constructed upon a lot until a development permit has been issued and the construction of the principal dwelling has commenced. Enclosed accessory buildings shall be of similar design and colors as the principle building. The dimensional requirements for all accessory buildings shall be as follows:

(1) Private Garage

A garage which is detached from the main dwelling is an accessory building but, for the purpose of this Ordinance, shall be considered an extension of the main dwelling and its location on the lot must comply with the building setback requirements for the Zoning district. Maximum height is seventeen (17) feet. A garage must be constructed with at least one side containing a minimum eight (8) foot wide garage door. The height of the garage door cannot exceed ten (10) feet. No sides may remain open and an approved driveway must lead to the building.

All single family dwellings constructed after the adoption of this ordinance are required to have an attached or detached garage. Existing attached garages may not be turned into living space unless a detached garage has been constructed.

(2) Non-Garage Accessory Building

Non-garage accessory buildings and greenhouses shall not be erected in any front or side yard or within fifty (50) feet of any street right of way or shoreline of a lake, pond or waterway. Nor may they be erected closer to any of the rear lot lines than the distance required for the side yard on lots not abutting streets or water bodies. Non-garage accessory buildings shall not exceed one hundred forty-four (144) square feet in size and the roof shall not project more than one (1) foot beyond the line of any roof sidewall. No sides of the structure may remain open. Maximum height is twelve (12) feet and the maximum wall length is fourteen (14) feet. The minimum wall width shall be one half (1/2) of the wall length. No shed type roof structure may be attached

to this building to increase coverage area. No shed type roof accessory structure may be attached to either the primary residence or to the garage, if separate.

(3) Open Accessory Buildings

(a) Gazebos and cabanas shall not be erected in any front or side yard or within thirty (30) feet of a shoreline of a lake, pond or waterway. Nor may they be erected closer to any lot line than the distance required for the side yard setback. Gazebos and cabanas may not exceed two hundred twenty-five (225) square feet with a maximum width or length of twenty (20) feet and a maximum height of twelve (12) feet.

(b) Arbors and pergolas shall not be erected within thirty (30) feet of a shoreline of a lake, pond or waterway. Arbors and pergolas may not exceed one hundred (100) square feet with a maximum width or length of fifteen (15) feet and a maximum height of ten (10) feet.

SR 2 Accessory Swimming Pools, Spas and Hot Tubs and Pool Houses

A. Regulations in the RS, RS/H, RM, OP, and AC Zoning Districts.

- (1) Swimming pools must be in ground and the deck/pool shall not exceed twelve (12) inches above grade after final grading of the property. Pools must be installed in the rear yard and all related components and equipment such as filters, pumps, tanks, etc. shall be fully enclosed or screened so as not to be visible from adjoining residences and/or streets. No pool or its deck may be located within forty (40) feet of any street right of way or within fifteen (15) feet of any Lot line. A permit issued by the Village of Whispering Pines is required.
- (2) A fence of the type stated in Chapter 4, Section 4.13(C) of this Ordinance requires a permit issued by the Village and shall not exceed 48 inches in height, must meet all requirements set by Moore County and State building codes and must be installed prior to the containment of water.
- (3) No pool shall be installed until the principal dwelling has been built or is under construction. A site plan showing the location of all other structures on the property, the proposed pool location and enclosure location must be submitted to the Administrator and a separate permit issued before the installation of a pool. Each private swimming pool shall be operated and maintained so as to comply with sanitation and health regulations in effect in Moore County and the State of North Carolina.
- (4) No pool house shall be installed until a permit has been issued and a pool has been installed or is under construction. Pool Houses may not exceed 300 square feet with a maximum height of seventeen (17) feet and must be located within the required setbacks. A pool house shall not contain a kitchen and shall not be occupied for

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residential purposes. Pool houses shall be of similar design, materials and colors as the principal building.

B. Regulations in Zoning District RA

(1) Swimming pools may be either in ground or above ground:

(a) In ground – A fence of the type stated in Chapter 4, Section 4.13(C) of this Ordinance requires a permit issued by the Village and shall not exceed 48 inches in height, must meet all requirements set by Moore County and State building codes and must be installed prior to the containment of water.

(b) Above Ground – A fence of the type stated in Chapter 4, Section 4.13(C) of this Ordinance requires a permit issued by the Village and shall not exceed 48 inches in height, must meet all requirements set by Moore County and State building codes and must be installed prior to the containment of water.

(c) No pool house shall be installed until a permit has been issued and a pool has been installed or is under construction. Pool Houses may not exceed 300 square feet with a maximum height of seventeen (17) feet and must be located within the required setbacks. A pool house shall not contain a kitchen and shall not be occupied for residential purposes. Pool houses shall be of similar design, materials and colors as the principal building.

C. Spas and Hot Tubs

In all zoning districts, outdoor spas and hot tubs are permitted as an integral part of an outdoor living area in the rear of the main dwelling, i.e. deck or patio, and must be either screened to the top or recessed into the deck and meet all principal building setbacks.

SR 3 Bulkheads and Docks

Property owners whose property fronts on Village-owned lakes, ponds or waterway, may construct bulkheads and docks. Both require the issuance of a development permit.

Bulkheads shall be situated so as to minimize encroachment into Village waters, and shall harmonize with adjoining properties, following the natural shoreline. The location and height of the bulkhead shall be approved by the Administrator.

Docks may not be constructed from a privately owned lot until the construction of a principal building has commenced. Docks shall be at ground level and shall not exceed twenty-five (25) feet in width along the shore line and shall not exceed twenty-five (25) feet in length outward from the shore line, and shall be located in conformance with the side yard minimums required in the Zoning District wherein the lot is located. “Shore Line shall mean the water mark where the level of the lake discharges water through a dam, sleuth or overflow mechanism. Structures on such docks shall be limited to guard railings, storage lockers, and pump houses, and shall not exceed three (3) feet in height.

SR 4 Fuel Tanks and Containers

Above ground tanks and containers for liquid or liquefied gas fuels are permitted in all Zoning districts, subject to the following regulations:

- A. Any such tank or container shall be installed in full accordance with Section 32 of the North Carolina Building Code, Volume 1-B Residential.
- B. In all Zoning Districts except RA, any such tank or container shall be:
 - (1) Located in either a side yard or a rear yard;
 - (2) Located within building envelope.
 - (3) Screened to the height of the tank structure by fencing, landscaping or vegetation so as not to be visible from adjoining residences, properties and streets.

SR 5 Antennas (Except Wireless Communication Facilities. See SR 14)

- A. Antennas are considered to be a permitted accessory use in all Districts, except as noted. The following types of antennas are subject to regulation:
 - (1) Radio and conventional television antennas mounted on the roof of a building.
 - (2) Satellite antennas.
 - (3) Amateur (HAM) radio antennae.
- B. Location of Antenna and Setback Requirements
 - (1) All antennas shall have a minimum setback from a side or rear lot line in accordance with the side yard setback for the zoning district controlling the property.
 - (2) Small satellite antennas, smaller than twenty-four (24) inches in diameter, may be in a front yard, but are subject to the front yard and side yard setback. Such antennas in a side yard or rear yard are subject to the side yard setback.
 - (3) The Administrator may allow for the small satellite antennas to be placed outside the setbacks if no service can be found as determined by the satellite provider in writing.
- C. Structure Height and Size
 - (1) Roof and tower-mounted radio and conventional television antennas shall not exceed a height of fifty (50) feet above the ground.
 - (2) Amateur radio antennae may not exceed ninety (90) feet in height.

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- (3) Satellite antennas mounted on towers, as permitted in the Residential Agricultural (RA) Zoning District, shall not exceed three feet in diameter and the final structure shall not exceed a height of twelve (12) feet above ground.
- (4) Satellite antennas mounted on roofs, as permitted in all Residential Agriculture (RA) Districts, shall not exceed two (2) feet in diameter and the final structure shall not exceed a height of five (5) feet above roof.

D. Number of Structures

There shall not be more than two (2) conventional television antenna and/or satellite antenna located on a single residential lot.

SR 6 Solar Panels

Solar panels are permitted in all districts subject to the following standards:

A. On pitched roofs

1. Solar panels shall be mounted parallel to the roof edges and have an overall height of less than six (6) inches above the roof including the air gap between the panel surface and the roof surface
2. Solar panels shall use mounting hardware, framing and trim pieces which closely match the panel color and the roof color.
3. Exposed wiring and piping are not permitted

B. On flat or nearly flat roofs

Raised panels are permitted if screened from visibility from adjacent roadways, properties and lakes

C. There are no limitations on the coverage area on roofs as long as the solar panels do not extend past the roof boundaries. Integral solar panels are permitted on any roof surface.

D. Ground mounted solar panels are permitted if located within the building setback requirements, must be in the rear yard and shall not exceed three (3) feet in height including structural components. Ground mounted solar panels shall not be visible from adjacent roadways, properties and lakes where applicable.

SR 7 Portable Storage Containers

- A. No Portable Storage Container shall be permissible on any lot except in accordance with a temporary use permit issued by the Administrator.
- B. A Portable Storage Container is not a building or structure.

C. A Portable Storage Unit when on site shall be located in a vehicular parking area, shall not obstruct any drive aisle, and shall not block any required parking spaces or public safety installation.

D. Household or Personal Use

Portable Storage Containers for Household or Personal Use shall be used for household moving or temporary storage at a separate location. The Temporary Use Permit shall be valid for a maximum of fifteen (15) days but may be renewed one time for an additional fifteen (15) days provided renewal occurs prior to expiration of the original temporary use permit.

E. Contractor Use

Contractors with a valid Building Permit may use Portable Storage Containers for the storage of construction materials and equipment at the site. The Temporary Use Permit shall be in the name of the Contractor and will expire with the Building Permit.

A Village of Whispering Pines Certificate of Compliance will not be issued with the Contractor's Portable Storage Container on the site.

SR 8 Temporary Buildings and Uses

A. Temporary buildings or temporary uses of buildings require a temporary use permit issued by the Administrator. The Administrator shall determine if the size, location and appearance of the building will be compatible with the surrounding area. The temporary use permit shall state the period for which the Administrator determines as reasonably necessary for its purpose. Such permits may be issued as follows:

(1) In all non-residential zoning districts, temporary buildings may be used in place of buildings made uninhabitable by fire, flood or other natural disaster for the period necessary to reconstruct the uninhabitable buildings and as temporary construction offices for the period necessary for construction; and

(2) In residential developments as temporary construction offices for the period necessary for the initial developer's construction

SR 9 Home Occupation

A home occupation shall be permitted as an accessory use to any dwelling unit, provided that:

A. The principal person or persons providing the business or service resides in the dwelling on the premises;

B. The area used for the business or service is contained in the dwelling and does not exceed twenty percent (20%) of the combined floor area of the structure;

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- C. There are no advertising devices on the property, or other signs of the home occupation, which are visible from outside the dwelling;
- D. The property contains no outdoor display or storage of goods or services which are associated with the home occupation;
- E. The home occupation causes no change in the external appearance of the existing buildings and structures on the property;
- F. No additional parking area other than driveways are allowed;
- G. Wholesale or retail sales of goods do not occur on the premises;
- H. The home occupation employs no one who does not reside on the premises;
- I. The home occupation does not create any additional traffic or parking congestion, noise, vibration, odor, glare, fumes, or electrical or communications interference which can be detected by the normal senses off the premises, including visual or audible interference with radio or television reception;
- J. Only vehicles used primarily as passenger vehicles (e.g. automobiles, non-commercial vans, and non-commercial trucks) shall be permitted in connection with the home occupation.

SR 10 Family Care Homes

A family care home shall be in a building designated and constructed as a single-family dwelling. No family care home shall be located within one-half mile radius of an existing family care home measured from property line to property line. A family care use requires a permit from the Administrator.

SR 11 Child Day Care Home

If an outdoor play area is provided, it shall be fenced per Section 4.13 of this ordinance.

SR 12 Horse Stable

In the RA and RS/H Districts, horse stables are permitted as an accessory use to an existing dwelling provided that the minimum lot size shall be four (4) acres and the setback for any stables shall be at least fifty (50) feet from any property line. A stable shall be permitted in addition to a garage or other accessory building.

SR 13 Beekeeping (Amended 9/14/16)

Non-commercial beekeeping shall be allowed with a zoning permit in any zoning district subject to the following:

1. **Qualifications:** Any person applying for a beekeeping Minor Special Use permit shall provide proof of successfully completing the Certified Level of the North Carolina Master Beekeeper Program administered by North Carolina State University or North Carolina State Beekeepers Association or provide proof of a minimum of three years of beekeeping experience.
2. **Notification:** The Administrator shall notify all contiguous property owners of the property containing the bee hive(s).
3. **Location:** Any hive(s) shall be kept in the rear yard and a minimum of 25 feet from any property line as measured from the nearest point of the hive to the property line.
4. **Density:** A maximum of five (5) hives and one nucleus colony is allowed and the minimum lot size for such hives shall be 20,000 square feet.
5. **Enclosure:** The hive area (apiary) shall be enclosed within a fenced or dense vegetative area four feet in height. If a fence is utilized, it must have a self-latching gate. (See Chapter 4, Section 4.13 for approved fence types and requirements). An existing fence, or densely treed or hedged property lines, enclosing the apiary meets this provision.
6. **Removable Frames and Anchoring:** All honey bee colonies shall be kept in moveable frame hives which shall be kept in sound and usable condition. All frames shall be placed at ground level or securely attached to an anchor or stand
7. **Water:** Each beekeeper shall ensure an onsite source of water is available to the bees at all times.
8. **Maintenance:** Each beekeeper shall ensure no bee comb or debris from the hive is left upon the grounds of the apiary. Upon removal from the hive, all such materials shall promptly be disposed of in a sealed container or placed within a building or other bee-proof enclosure.
9. **Inspection:** Each beekeeper shall request an apiary inspection at least once each calendar year by an agent of the State of North Carolina Department of Agriculture & Consumer Services (NCDA&CS), Plant Industry Division, Plant Protection Section, Apiary Division. A copy of the inspection report shall be provided to the Administrator by the inspector. Any apiary deficiencies denoted on the inspection report must be corrected and a new inspection report submitted to the Administrator within sixty (60) days. Two consecutive or continual annual inspection reports stating major, as defined by the inspector, beekeeping deficiencies shall result in the beekeeping permit being revoked and a requirement that the apiary be dismantled and removed.
10. **Compliance:** The beekeeper shall comply with all North Carolina honey bee regulations including, but not limited to, the North Carolina Honey Bee Act of 1977, the North Carolina Honey Bee Industry Regulations, and this SR. Failure to comply shall be subject to enforcement as regulated in Chapter 15 of this Ordinance and shall result in the beekeeping permit being revoked.

11. Removal: The Village may require removal of any hive if the owner no longer maintains the hive or if removal is necessary to protect the health, safety and welfare of the public

SR 14 Wireless Communication Facilities (WCF)

Section 14.1 Purpose and Intent

The purpose of this Section is to provide guidance and community standards for the siting of wireless communication facilities and to accommodate the growing need and demand for wireless communication services.

B. The intent of this Section is to:

1. Minimize the impacts of wireless communication facilities on surrounding properties by establishing standards for location, structural integrity, and compatibility.
2. Encourage the location and co-location of wireless communication equipment on existing structures.
3. Minimize the visual, aesthetic and public safety impacts and effects upon the historic and natural environments, and wildlife, and to reduce the need for additional antenna support structures.
4. Encourage coordination between the WCF developers and providers of wireless communication services.
5. Establish predictable and balanced codes governing the construction and location of wireless communications facilities, within the confines of permissible local regulations.
6. Establish technical and land use review procedures to ensure that applications for wireless communications facilities are reviewed and acted upon within a reasonable period of time.
7. Respond to the policies embodied in the *Telecommunications Act of 1996* in such a manner as not to unreasonably discriminate between providers of licensed and unlicensed services of personal commercial wireless services that may or may not be commercial in nature.
8. Protect the character of Whispering Pines while meeting the needs of its citizens to enjoy the benefits of wireless communications services. Encourage the use of public lands, buildings, and structures as locations for wireless telecommunications infrastructure demonstrating concealed (stealth) technologies and revenue generating methodologies.

Section 14.2 Permitted Wireless Communication Facilities.

WCFs are required to be of latest technology and utilize “stealth” technology to blend into the surrounding environment. All WCFs, including any antennas associated with a WCF shall be concealed. Permitted WCFs include:

- A. Attached concealed. Examples include, but are not limited to the following: painted antenna and feed lines to match the color of a building or structure, faux windows, dormers or other architectural features that blend with an existing or proposed building or structure. Example: Concealed antennas to a clock tower, Bell tower or rooftop parapet wall. Attached concealed WCFs are permitted in all zoning districts.

- B. Free-standing concealed. Free standing concealed WCFs are designed to resemble an object other than a WCF and blend with the natural environment. Examples: a flagpole with or without a flag, a pine tree in a wooded area, or on a farm, a silo. Free-standing concealed WCFs require a special use permit and must meet the requirements set forth in this Chapter,

Section 14.3 Applicability.

Except as provided below as exempt installations, the following shall apply to the development activities including installation, construction, or modification of the following wireless communications facilities:

- A. Proposed antenna support structures.

- B. Public Safety antenna support structures.

- C. Replacement of existing antenna support structures.

- D. Co-location on existing antenna support structures.

- E. Attached concealed wireless communications facilities.

- F. Free –standing concealed wireless communications facilities.

- G. Antenna support structures, antennas, and/or antenna arrays for AMJFMITV/HDTV broadcasting transmission facilities that are licensed by the Federal Communications Commission shall be regulated in accordance with federal and other applicable local regulations.

Section 14.4 Exempt Installations.

The following items are exempt from the provisions of this ordinance; notwithstanding any other provisions contained in this Ordinance

- A. Noncommercial Amateur radio station antennas;

- B. Satellite earth stations that are one (1) meter (39.37 inches) or less in diameter and two (2) meters (78.74 inches) or less and not greater than thirty-five (35) feet above.

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- C. A government-owned wireless communications facility, upon the declaration of a state of emergency by federal, state, or local government, and a written determination of public necessity by the Village except that such facility must comply with all federal and state requirements. No wireless communications facility shall be exempt from the provisions of this division beyond the duration of the state of emergency.
- D. A government-owned wireless communications facility erected for the purposes of installing antenna(s) and ancillary equipment necessary to provide communications for public health and safety.
- E. A temporary, commercial wireless communications facility, upon the declaration of a state of emergency by federal, state, or local government, or determination of public necessity by the Village and approved by the Village; except that such facility must comply with all federal and state requirements. The wireless communications facility may be exempt from the provisions of this division up to three (3) months after the duration of the state of emergency, or determination of public necessity by the Village. This provision may be extended in additional three (3) month increments.
- F. Permits may be issued for up to one week for temporary facilities (Cell On Wheels) needed in conjunction with scheduled special events at specific locales that are likely to generate a need for additional capacity at the event that is expected to exceed existing installed capacity. A maximum of four (4) one-week permits may be issued by the Village Council for a temporary facility. Temporary facilities requiring a temporary permit for longer than four weeks must receive approval from the Planning and Zoning Administrator.

Section 14.5 General Development Standards

- A. Applicability: Unless otherwise specified within this Section, all development standards upon which the WCF is located shall apply. Where permitted by zoning district, the following development standards apply to all new collocated or combined wireless facility installations. Where any land management plans, conservation management plans, or highway corridor boundary overlay also apply, the most restrictive standards shall govern.
- B. Design: All new or modified WCFs shall be designed for maximum collocation installations. WCFs must be designed for future rearrangements of antennas and to accept antennas mounted at varying heights. All WCFs shall be designed to allow collocation of public safety service equipment at usual and customary commercial rates, and these spaces shall be in addition to the antenna sites required for additional users as mentioned in this Section.
- C. Equipment compound: Electronic equipment associated with WCFs may be placed inside a building or, if placed on a rooftop, all equipment enclosures shall be mounted behind a parapet wall or façade which is camouflaged to match or complement the color and architectural treatment of the building. If placed on the ground on a concrete pad, equipment enclosures shall be screened so as to make them unobtrusive. If underground, the equipment compound shall be landscaped as described in this Section.

1. No equipment compound may be used for storage of any equipment or materials not needed for the operation or hazardous waste (e.g., discarded batteries.) No outdoor storage yards shall be allowed in a WCF equipment compound, nor may an equipment compound be used as habitable space or as an employment center for any worker. This provision does not prohibit the periodic maintenance or periodic monitoring of equipment and instruments.
- D. Equipment cabinets: Cabinets shall not be visible from public views. Cabinets may be provided within the principal building, behind a screen on a rooftop, or on the ground within the fenced-in and screened equipment compound. Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages and for testing and maintenance purposes. Any and all generators used for wireless communications purposes under this Article shall control the noise level by use of a silencer or other device that will reduce the noise level to no more than 70db. Testing and maintenance shall only take place on weekdays between the hours of 8:30 a.m. and 4:30 p.m. Generators may be used for temporary power prior to receipt of Certificate of Occupancy and not to exceed thirty (30) days.
- E. Fencing: Notwithstanding any other provision of this Ordinance, equipment compounds shall be enclosed with a seven (7) foot metal-vinyl with faux wood appearance/brick/masonry fences. in all zoning districts.
- F. Access: Access to any WCF equipment compound shall be graded and stoned in a manner that will allow access by police and fire/rescue units. The applicant shall prominently display and maintain the assigned street number on a post at the driveway intersection. The numbers on the driveway display shall be no less than 3 inches in height and have a night reflective surface. Further, this address post shall be installed within five (5) business days from issuance of a zoning permit.
- G. Buffers: The proposed WCF equipment compound shall be landscaped as outlined below.
- H. Lighting: Wireless communications facilities shall be lighted only if required by the FAA, and shall not exceed the minimum standard required by the FAA, including intensity and flashes per minute. When applicable, dual lighting systems shall be employed. Non-daytime strobe lighting shall not be allowed unless specifically required by the FAA.
1. A WCF may utilize a security light controlled by a motion-detector sensor at or near the entrance to a WCF.
 2. Lighting of any equipment enclosures and other ancillary structures on site shall be shielded from adjacent properties. The footcandle measurement at property lines shall be no more than 1.0 footcandle when measured at grade. FAA required lighting is exempt from this requirement.
 3. A WCF may utilize a security light controlled by a motion-detector sensor at or nearby.

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4. Ground lighting used to respectfully illuminate the American flag on a concealed WCF flagpole shall be permitted provided that the maximum lumen output is 1300 lumens.
- I. Compliance with legal requirements. WCFs and any equipment compounds shall be constructed and maintained in conformance with all applicable County building codes, state and federal requirements, American National Standards Institute (ANSI) standards and Whispering Pines ordinances.
 - J. Maintenance. A WTF shall be maintained in good condition. Maintenance of a WTF shall include, but not be limited to the structural integrity of the antenna support structure and antennas, equipment compound and cabinets, painting, and irrigation and upkeep of buffer areas and landscaping. If maintenance of a WTF will result in a modification so that it no longer performs at the same level, as described in “Modifications “below, the requirements of that section shall apply.
 - K. Abandonment or Discontinuation of Use. WCFs and the equipment compound, if any, shall be removed at the owner’s expense, within ninety (90) days of cessation of use, unless the abandonment is associated with a replacement antenna structure as provided in Submittal requirements, in which case the removal shall occur within one hundred eighty (180) days of cessation of use.
 1. An owner wishing to extend the time for removal or reactivation shall submit an application stating the reason for such extension. The Village may extend the time for removal or reactivation up to ninety (90) additional days upon a showing of good cause. If the antenna support structure is not removed in a timely fashion, the Village shall give notice that it will contract for removal within sixty (60) days following written notice to the owner. Thereafter, the Village may cause removal of the antenna support structure with costs being borne by the current WCF or landowner.
 2. Applicant shall provide, prior to issuance of a permit, a performance bond or letter of credit from an accepted bank in the amount of One Hundred Twenty Five percent (125%) of the written estimate from a qualified tower removal contractor to guarantee that the facility will be removed when no longer in use. Collocation applicants shall provide a performance bond equal to the written estimate from a qualified tower removal contractor to remove their equipment, cabinets, antenna, feed wires and all other appurtenances in collocation applicant's ownership/lease upon applicant's cessation of use.
 3. Upon removal of the WCF, the equipment compound and at ground foundations including two feet below ground level, the development area shall be returned to its natural state and topography and vegetation shall be consistent with the natural surroundings or consistent with the current use of the land at the time of removal. The cost of rehabilitation shall be borne by the current WCF or land owner. Should

the existing support structure be required to be replaced and/or rebuilt it shall comply with all applicable codes including but not limited to these provisions.

- L. Antennas associated with a WCF may not be co-located on a tower or other support structure used by an amateur radio operator.
- M. Antennas associated with a WCF shall not be located upon a Single Family Dwelling or Multi-Family Dwelling.

14.6 Attached-concealed WCF requirements

- A. An attached concealed wireless Telecommunications Facility must be clearly incidental and subordinate to the main use of a structure. Antennas associated with a Concealed Wireless Telecommunications Facility must be concealed from exterior view.
- B. The addition of antenna, support or other equipment shall not add more than fifteen feet in height to the attached structure unless a variance is obtained from the Zoning Board of Adjustment. Any increase in height shall be in scale and proportionality to the structure as originally configured. Notwithstanding the foregoing, any increase in the height of an existing structure must comply with other provisions of this Section unless appropriate approvals are obtained.
- C. Should the existing support structure be required to be replaced and/or rebuilt it shall comply with all applicable codes including but not limited to these provisions.
- D. A structural analysis shall be performed by a licensed professional engineer in the State of North Carolina in accordance with the current revision to ANSI EIA/TIA-222 certifying that the structure is capable of supporting the proposed loading.

14.7 Free-standing concealed WCF requirements

A free-standing concealed facility shall blend into its surroundings through design and siting that is appropriate and typical to the context of the proposed location. Such facility shall also be designed to appear as a structure that would be allowed in the zoning district in which it is proposed to be located and that is customary to the location (e.g., a smokestack would not be allowed in a residential district. Guyed structure and lattice structure construction is not allowed.

- A. A Special Use Permit is required in addition to General Submittal Requirements.
 - 1. Height. Maximum height limits shall include above ground foundations, but exclude lighting rods or lights required by the FAA that do not provide any support for antennas. The maximum height shall be limited to eighty (80) feet.
 - 2. Setbacks. The concealed free standing WCF and its equipment compound shall be subject to the setbacks of the zoning district in which it is permitted. In

addition, WCFs shall conform with one of the following minimum setback requirements:

- a. A fall zone clear of any buildings on the parcel containing the WCF site (other than equipment enclosures associated with the wireless telecommunications facility) equal to the height of the structure shall be required.
 - b. A setback shall be required from all property lines equal to the height of the structure.
 - c. A setback may be reduced or its location in relation to a public street varied, at the sole discretion of the Village Council, to allow the integration of a tower and/or an antenna into an existing or proposed alternative structure which is made available for use; or
3. If the antenna support structure has been constructed using Breakpoint Design Technology, the minimum setback distance shall be equal to 100 percent (100%) of the distance from the top of the structure to the breakpoint level of the structure, plus the minimum setback distance. For example, on a 100 foot tall WCF with a breakpoint at eighty (80) feet, the minimum setback would be twenty (20) feet (100% of 20 feet, the distance from the top of the WCF to the breakpoint) plus the minimum setback for the zoning district. Certification by a registered professional engineer licensed by the State of North Carolina of the breakpoint design and the design's fall radius must be provided together with the other information required herein from an applicant.
 4. **Yard Buffers:** The concealed free standing WCF and its equipment compound shall be subject to the required buffers of the zoning district in which it is permitted.
 5. **Wetlands.** Any structure within wetlands or within the fall zone of wetlands shall require DENR approval which shall be reviewed prior to final approval by the Village,

14.8 Collocated or Combined WCF Requirements.

- a) **Buffers.** The proposed WCF equipment compound shall be landscaped as outlined below.
- b) **Height.** A collocated or combined WCF shall not increase the height of an existing antenna support structure.
- c) **Setbacks:**

1. A collocated or combined WCF, its equipment compound and any ancillary equipment shall be subject to the setbacks of the zoning district.
2. When a collocated or combined WCF is to be located on a nonconforming building or structure, then the existing permitted nonconforming setback shall prevail.
 - A. Visibility. New antenna shall be flush-mounted onto existing WCFs, unless it is demonstrated through RF (Radio Frequency) propagation analysis that flush-mounted antennas will not meet the network objectives of the desired coverage area.
 - B. Collocation or combined facilities require a full application, including associated fees and shall comply with all limitations, requirements, and standards contained in other provisions of this Chapter.

14.9 Modifications.

A modification is a proposed change to any portion of a WCF from its description in a previously approved permit that:

- (a) is of a different height, size, type or appearance than what presently exists on or is associated with the WCF;
- (b) Increases or decreases the number of antennas on an array, change in antenna type(s), repositions of antenna(s) or change in number of channels per antenna above the maximum number approved; (See Antenna Element Replacement and Expansion of Existing Antenna Array.)
- (c) Alters the integrity of the structure
- (d) Modifications are considered as a new application which requires a full application, including associated fees and shall comply with all limitations, requirements, and standards contained in other provisions of this Chapter. All applicable local, state, and federal approvals and permits shall also be obtained. The Administrator shall have the discretion to determine if a proposed change is a modification.
- (e) For the purposes of this subsection, collocation shall not be considered a modification.

14.10 Antenna Element Replacement shall mean the replacement of any or all of an antenna or antenna array with a model of the same manufacturer and model type or close specification, better described as repairing of non-functional equipment.

- A. Any repair or replacement of an existing antenna or antenna array with another of like model, type and number, and which will not alter the structural integrity or the ANSI

radiation levels of the support structure shall be exempt from further review provided that a notarized certification shall be submitted by a qualified technician stating that the replacement will not alter the structural integrity of the support structure and that any changes will not affect electrical specifications.

- B. For any repair or replacement of an existing antenna or antenna array on a WCF that changes the mechanical or electrical specifications of the WCF, but does not increase the number and/or size of feed lines to the existing WCF, the applicant must, prior to making modifications submit items identified in General Submittal Requirements and those requirements for Antenna Element Replacements.

14.11 Expansion of Existing Antenna Array shall mean the addition of an antenna or antenna array with a new manufacturer and/or model type and/or increases the bandwidth of the antenna or antenna array.

Any repair or replacement of an existing antenna or antenna array on a WCF that changes the mechanical specifications and/or increases the number and/or size of feed lines and/or equipment cabinets of the existing WCF will be treated as a new collocation and shall comply with General Submittal Requirements and those requirements for Attached, Collocated and Combined WCFs.

14.12 Submittal requirements

In addition to the submittal requirements of any subsection below, each applicant shall submit a completed application and required application fees as part of the submittal package.

- A. General Submittal requirements for proposed WCFs and for modifications of WCFs
1. Proof that a property and/or antenna support structure owner's agent has appropriate authorization to act upon the owner's behalf (if applicable.)
 2. Fifteen sets (24"x 36") of signed and sealed site plans, an existing conditions map, including antenna support structure elevations and fall zone radius labeled as "NO BUILD ZONE; landscaping plans and one letter size (8 1/2 "x 11") of the foregoing plans
 3. If the proposed WCF is subject to FAA regulation, than copy of approval from the Federal Aviation Administration (FAA) as to site, height and all other design aspects prior to issuance of final approval by the Village. Such documentation shall include that the lighting, if any, for the tower is no greater than the minimum required by FAA regulation.
 4. Any Strobe lighting on WCFs, if required by the FAA must be of minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowed by the FAA, and shall utilize allowed downward shielding to minimize visual impact to pedestrians and reduce the potential attraction to migratory birds. Duel lighting standards shall be used in the following manner:

Strobe lights during daylight hours and red lights during nighttime hours unless specifically prohibited by the FAA.

5. A signed statement from a qualified person, together with his qualifications, that certifies radio frequency emissions from the antenna array(s) comply with current FCC standards. The statement shall also certify that both individually and cumulatively, and with any other existing facilities located on or immediately adjacent to the proposed facility complies with current FCC standards.
6. Proposed maximum height of the proposed WCF, including measurement of the base of the antenna support structure, less the lightning rod.
7. Simulated photographic evidence of the proposed WCFs appearance from four vantage points including the facility types the applicant has considered and the impact on adjacent properties including: overall height, configuration, physical location, mass and scale, materials and color, illumination and architectural design.
8. A map showing the designated geographic search ring with all Antenna Support Structures within the ring.
9. For all applications except collocations, a radio frequency analysis indicating the coverage of existing wireless communications sites, coverage prediction, and design radius, together with a certification from the applicant's radio frequency (RF) engineer that the proposed network design is intended to improve- coverage or capacity potential or reduce interference.
10. The applicant must supply a letter of intent agreeing to make all of its telecommunication facilities available to providers of functionally equivalent services at usual and customary commercial rates for the duration of time that the facility is in operation. Verification shall be provided demonstrating that the applicant has an executed lease for the property that allows the land owner and/or the applicant to enter into leases or subleases with other wireless service providers.
11. All applications, except a co-location application, shall be accompanied by an executed copy of a lease requiring the applicant to remove all above ground facilities (not including any part of the foundation) no later than ninety (90) days after cessation of operations. In addition, each applicant shall execute a standard facility maintenance/removal agreement prior to issuance of a telecommunications facility permit. The agreement shall bind the applicant and applicant's successors to properly maintain the exterior appearance of and ultimately remove the facility in compliance with the provisions of this Ordinance and any additional conditions of approval. It shall further bind them to pay all costs for monitoring compliance with, and enforcement of, the agreement and to reimburse the Village for all costs incurred to perform any work required of the applicant by the agreement that the applicant fails to perform. Such costs include, but not limited to, administrative and job supervision cost. It shall also authorize the Village and/or its agents to enter

onto the property and undertake said work so long as the Administrator has first provided the applicant the following written notices at the applicant's last known address:

- a. An initial compliance request identifying the work needed to comply with the agreement and providing the applicant at least thirty (30) days to complete the work and,
 - b. A follow-up notice of default specifying the applicant's failure to comply with the work within the time period specified and indicating the Village's intent to commence the required work within ten (10) days.
12. The applicant shall provide a statement as to the potential visual and aesthetic impacts of the proposed WCF on all adjacent residential zoning districts.
13. If the United States Fish and Wildlife Service requires the applicant to submit any information to it concerning the proposed wireless communications facility, the applicant shall also furnish a copy of any material submitted to the United States Fish and Wildlife Service to the Village as part of the application package.

In order to facilitate the regulation, placement, and construction of WCFs, and to ensure that all parties comply to the fullest extent possible with the rules, regulations, and/or guidelines of the FCC, each owner of a WCF or applicant for a WCF shall agree in a written statement to the following:

1. In the case of an application for collocated telecommunications facilities, the applicant, together with the owner of the subject site, shall use their best efforts to provide a composite analysis of all users of the site to determine that the applicant's proposed facilities will not cause radio frequency interference with the Village's public safety communications equipment and will implement appropriate technical measures, (Antenna Element Replacements), to attempt to prevent such interference.
2. Whenever the Village has encountered radio frequency interference with its public safety communications equipment, and it believes that such interference has been or is being caused by one or more WCFs, the following steps shall be taken:
3. The Village shall provide notification to all WCF service providers operating in the jurisdiction of possible interference with the public safety communications equipment. Upon such notification, the owners shall use their best efforts to cooperate and coordinate with the Village and among themselves to investigate and mitigate the interference, if any, utilizing the procedures set forth in the latest version of the joint wireless industry-public safety "Best Practices Guide" released by the FCC, including the "Good Engineering Practices."
4. If any WCF owner fails to cooperate with the Village in complying with the owner's obligations under this section or if the FCC makes a determination of

radio frequency interference with the Village public safety communications equipment, the owner who fails to cooperate and/or the owner of the WCF which caused the interference shall be responsible, upon FCC determination of radio frequency interference, for reimbursing the Village for all costs associated with ascertaining and resolving the interference, including but not limited to any engineering studies obtained by the jurisdiction to determine the source of the interference. For the purposes of this subsection, failure to cooperate shall include failure to initiate any response or action within twenty- four (24) hours of the Village's notification.

5. A structural engineering certification signed and sealed by a registered NC professional engineer must certify that the WCF has sufficient structural integrity to support the proposed antenna and base.
6. Materials detailing the locations of existing wireless communications facilities to which the proposed antenna will be a handoff candidate, including latitude and longitude of the proposed and existing antenna.
7. Completed checklist demonstrating compliance with the National Environmental Policy Act (NEPA).
8. Landscaping Requirements. For free standing concealed WCFs, at least one (1) row of evergreen shrubs capable of forming a continuous hedge at least five (5) feet in height shall be provided with individual plantings spaced not more than five (5) feet apart and at least one (1) row of evergreen trees with a minimum caliper of one and three-fourths (1 3/4) inches at the time of planting and spaced not more than twenty-five (25) feet apart shall be provided within fifteen (15) feet of the perimeter of the setback area.
9. In lieu of the above requirements, in special cases including, but not limited to, cases where a required tree would be closer to the tower than the height of the tree at maturity, the applicant may prepare a detailed plan and specifications for landscape and screening, including plantings, fences, walls, topography, etc., to screen the base of the tower and accessory uses. The plan shall accomplish the same degree of screening achieved in items (i) above but may deviate from the specific requirements set forth, and it shall be determined by the Planning Director that the public interest will be equally served by such plan.
10. All required landscaping shall be installed according to established planting procedures using good quality plant materials.
11. No certificate of occupancy shall be issued until the required landscaping is completed in accordance with the approved landscape plan as certified by an on-site inspection by the Planning and Zoning Administrator. When the occupancy of a structure is desired prior to the completions of the required landscaping, a certificate of occupancy shall be issued only if the owner or developer provides to

the Village a form of surety bond in an amount equal to the remaining plant materials, related materials and installation costs.

12. All required landscaping must be installed and approved by the first planting season following issuance of the certificate of occupancy or the surety bond will be forfeited to the Village.
13. The owners and their agents shall be responsible for providing, protecting and maintaining all landscaping in healthy and growing conditions, replacing unhealthy or dead plant materials within three years or by the next planting season, whichever comes first. Replacement material shall conform to the original intent of the landscape plan.
14. General Liability Insurance. Prior to the issuance of a wireless communication facility permit, the applicant shall be required to provide certificates of insurance demonstrating it has a minimum of \$1,000,000 - in general liability insurance covering any liability arising out of its construction or operation of the wireless communication facility. The applicant shall be required to maintain such coverage in full force and effect until such time as all above-ground portions of the facility (not including any part of the foundation) have been removed.
15. Performance Bond. The applicant shall submit a performance bond from an accepted bank in the amount of One Hundred Twenty Five Percent (125%) of the written estimate from a qualified tower removal contractor to guarantee that the facility will be removed when no longer in use.

Collocation applicants shall provide a performance bond equal to the written estimate from a qualified tower removal contractor to remove their equipment, cabinets, antennas and all other appurtenances in collocation applicant's ownership/lease upon applicant's cessation of use.

B. Freestanding Concealed WCF additional submittal requirements.

A Special Use Permit is required. The applicant must:

- (1) Submit a report and supporting technical data demonstrating that all antenna attachments and collocations, including all potentially useable utility distribution poles or transmission towers and other elevated structures within the proposed geographic search ring, and alternative antenna configurations have been examined, and found unacceptable. The report shall include reasons that existing facilities are not acceptable alternatives to a new freestanding concealed WCF. The report regarding the adequacy of alternative existing facilities to meet the applicant's need or the needs of service providers indicating that no existing wireless communications facility could accommodate the applicant's proposed facility shall demonstrate any of the following:
 - a. No existing wireless communications facilities located within the geographic search ring meet the applicant's engineering requirements, and why.

- b. Existing wireless communications facilities are not of sufficient height or design strength to meet the applicant's engineering requirements, and cannot be increased in height.
 - c. Existing wireless communications facilities do not have sufficient structural integrity to support the applicant's proposed wireless communications facilities and related equipment, and the existing facility cannot be sufficiently improved.
 - d. Other limiting factors that render existing wireless communications facilities unsuitable.
 - e. Technical data included in the report shall include certification by a Registered Professional Engineer licensed in the State of North Carolina or other qualified professional, which qualifications shall be included, regarding service gaps or service expansions that are addressed by the proposed WCF, and accompanying maps and calculations demonstrating the need for the proposed WCF.
- (2) Submit a statement that the proposed facility meets the siting alternatives hierarchy, or alternatively, that concealment technology is unsuitable for the proposed facility. Costs of concealment technology that exceed facility development costs shall not be presumed to render the technology unsuitable.
- (3) Furnish certification from a Registered Professional Engineer licensed in the State of North Carolina, that the WCF has sufficient structural integrity to accommodate the required number of proposed collocations.
- (4) Provide a written statement by a Registered Professional Engineer licensed by the State of North Carolina specifying the design structural failure modes of the proposed facility, if applicable.
- (5) Identify the intended service providers of the WCF.
- (6) Provide the Ordinance Administrator or his/her agent(s) with a complete list of the names, and addresses of the property owners to be notified per (a) and (b) below before any public hearing shall be conducted. A wireless telecommunication permit application shall not be considered complete until a comprehensive list is provided. The Village will verify the list for completeness and shall mail notices per the following provisions:
- a. Adjacent or abutting property owners. The Village will send notice of any public hearing by certified mail (return receipt requested) to the owners of all parcels of land adjacent to or abutting the site of the proposed telecommunication tower at the last address listed for such owners in the property tax records,
 - b. Notice to other affected property owners. The Village will send notice to all other owners of properties within a one-quarter mile radius of the proposed telecommunication facility site shall be sent by first-class mail with proper

postage affixed at the last address listed for such owners in the County property tax records.

- c. Timeliness of notice. Any notices required under the above subsections shall be mailed at least ten (10) but not more than twenty-five (25) days prior to the date of the public hearing. Notice of an application for a wireless communications facility shall comply with the provisions of N.C.G.S. 160A-364 as amended.

- (7) Provide prior to the issuance of a Special Use Permit a Certificate of Insurance demonstrating it has a minimum of \$1,000,000 in general liability insurance covering any liability arising out of its construction or operation of the telecommunication tower. The applicant shall be required to maintain such coverage in full force and effect until such time as all above ground portion of the tower (not including any part of the foundation) have been removed.

C. Attached, collocated and combined WCFs additional submittal requirements.

1. Certification furnished by a Registered Professional engineer licensed in the State of North Carolina that the WCF has sufficient structural integrity to support the proposed antenna and feed lines in addition to any and all other equipment located, mounted or planned for the future designed for maximum collocation installations.
2. A signed statement from the antenna support structure owner or owner's agent agreeing to allow the collocation of other wireless equipment on the proposed antenna support structure, if the structure is designed or capable of additional wireless equipment.
3. A signed statement from a qualified person, together with their qualifications shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the replacement antenna complies with FCC standards.

D. Antenna Element Replacements. Additional Submittal Requirements.

1. Any repair or replacement of an existing antenna or antenna array with another of like manufacturer model, type, and number, and which will not alter the structural integrity of the support structure, in any way, or alter the ANSI standards regarding radiation exposure shall be exempted from further review provided that a notarized certification shall be submitted by a qualified technician stating that the replacement will not alter the structural integrity of the support structure, and that any changes will not affect electrical specifications.
2. For any repair or replacement of an existing antenna or antenna array on a WCF that changes the mechanical or electrical specifications of the WCF, but does not increase

the number and/or size of feed lines to the existing WCF, the applicant must, prior to making such modifications, submit the following:

- a. A written statement setting forth the reasons for the modification.
- b. A description of the proposed modifications to the WCF, including modifications to antenna element design, type and number, as well as any additional feed lines from the base of the WCF to such antenna elements.
- c. A signed statement from a qualified person, together with their qualifications, shall be included representing the antenna support structure's owner or owner's agent that the radio frequency emissions comply with FCC standards for such emissions. A signed statement from a qualified person, together with their qualifications, shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the replacement antenna complies with FCC standards.
- d. A stamped or sealed structural analysis of the existing WCF prepared by a Registered Professional Engineer licensed by the State of North Carolina indicating that the existing antenna support structure as well as all existing and proposed appurtenances meets North Carolina Building Code requirements for facilities within Moore County (including wind loading) for the antenna support structure.

E. Expansion of Existing Antenna Array. Additional Submittal Requirements. Any repair or replacement of an existing antenna or antenna array WCF that changes the mechanical specifications and/or that increases the number and/or size of feed lines and/or equipment cabinets of the existing WCF will be treated as a new collocation.

14.12 Publicly-Owned Property

Pursuant to applicable law, the Village may contract with a third party to administer publicly owned sites for purposes of providing wireless telecommunications services, consistent with the terms of this Section. Except as specifically provided herein the terms of this Section, and the requirements established thereby, shall be applicable to all WCFs to be developed or collocated on Village-owned sites.

If an applicant requests a permit to develop a site on Village-owned property, the permit granted hereunder shall not become effective until the applicant and the jurisdiction have executed a written agreement or lease setting forth the particular terms and provisions under which the permit to occupy and use the public lands of the jurisdiction will be granted.

No permit granted under this section shall convey any exclusive right, privilege, permit or franchise to occupy or use the publically-owned sites of the jurisdiction for delivery of telecommunications services or any other purpose.

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No permit granted under this section shall convey any right, title or interest in the public lands, but shall be deemed a permit only to use and occupy the public lands for the limited purposes and terms stated in the grant. Further, no permit shall be construed as a conveyance of a title interest in the property.

14.13 Review Process.

All approvals are subject to the review processes outlined in Chapter 3 (See Special Uses).

Applications for collocation of wireless facilities are entitled to streamlined processing under GS 160A-400.53 and in accordance with the time frame requirements of GS 160A-400.52. There shall be a time frame of 150-days for processing applications other than collocations.

- A. Use of outside consultants. The Village elects to retain outside consultants to review the application and make determinations on relevant issues including, but not limited to, verification of the applicant's due diligence, analysis of alternatives, compliance with Federal, State and Local rules and regulations at the applicant's sole expense. A \$5,000.00 consultation fee shall be required and an application shall not be deemed complete until said consultation fee has been received by the Village.
- B. Supplemental Review. The Village reserves the right to require a supplemental review for any type of WCF, as determined necessary, subject to the following:
1. Where due to the complexity of the methodology or analysis required to review an application for a wireless communication facility, the Village may require the applicant to pay for a technical review by a third party expert, the costs of which shall be borne by the applicant and be in addition to other applicable fees.
 2. The applicant shall submit as published in the Village's current fee schedule.
 3. Based on the results of the expert review, the approving authority may require changes to the applicant's application or submittals.
 4. The supplemental review may address any or all of the following:
 - a. The accuracy and completeness of the application and accompanying documentation.
 - b. The applicability of analysis techniques and methodologies.
 - c. The validity of conclusions reached.
 - d. Whether the proposed wireless communications facility complies with the applicable approval criteria set forth in this Chapter
 - e. Other recommendations deemed by the Village to be relevant to determining whether a proposed wireless communications facility complies with the provisions of these codes.

14.14 Annual Operating Permits

- A. Annual Certification. Permits shall be issued beginning in January 2010. Permits shall be then applied for every January. Before an annual WCF operating permit shall be issued or renewed, the applicant must pay a nonrefundable fee as established by the Village per the fee schedule. Permit fees shall not be pro-rated. Private business users operating a single wireless communication facility at their place of business and governmental users are exempt from the fee.

- B. Applications for an annual WCF operating permit shall include such technical information about the facility as the Administrator (or his agent) deems reasonable and appropriate. Such information shall be in a form designated by the administrator or his agent.

- C. Applicants must certify that:
 - 1. It currently holds a FCC license to provide commercial wireless services and that such license is in good standing or, if the permittee is not a FCC licensee, that the license of each of its FCC tenants is in good standing. A copy of the operators FCC license shall be submitted to the Village Planning Administrator. Failure to provide such evidence shall cause the special Use Permit to be revoked.
 - 2. The names of users are accurate and state the number of additional users can be accommodated on the tower.
 - 3. The WCF continues to be operated by the applicant and that it has a continuing need for the facility to meet the requirements of its FCC license;
 - 4. That the facility complies with all FCC rules and regulations currently in effect relating to environmental effects of electromagnetic radiation;
 - 5. That the facility as currently constructed, maintained or operated is in compliance with all FAA rules and regulations;
 - 6. That the applicant currently has liability insurance in force covering the WCF in an amount deemed necessary by this Chapter and amendments thereto.
 - 7. That the applicant has not constructed or modified any WCF without approval of the Village, or if it has done so, that it has ceased operating and has removed all above ground portions of such facilities (not including any part of the foundation.)
 - 8. That any bond or other security to secure removal of the WCF remains in full force and effect and that the applicant is in full compliance with requirements for Abandonment as applicable.

14.15 Appeals

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- A. **Administrative Review.** The Whispering Pines Board of Adjustment shall hear and decide appeals where it is alleged there is an error on any order, requirement, decision or determination made by any administrative official in the enforcement of this Article. This Section shall supersede Chapter A (Board of Adjustment) and shall control in regard to administrative appeals pertaining to wireless communication facilities.
1. Administrative appeals shall be filed with the Administrator or his/her agent(s) within ninety (90) days from the date of the action being appealed. The applicant shall submit a written appeal request on a form supplied by the Administrator or his/her agent(s). The appeal hearing for the appeal application shall occur within forty- five (45) days of receipt of a complete application.
 2. The concurring vote of four (4) members of the Board of Adjustment hearing the appeal may vote to reverse any order, requirement, decision or determination of any administrative official charged with the enforcement of this Ordinance.
 3. Public notice of the administrative appeal hearing and request shall be in accordance with Article XII of this Ordinance.
 4. The applicant for an administrative appeal shall pay a nonrefundable fee as established by the Village Council per the fee schedule to cover the cost of advertising and administration. This fee is in addition to any other fee that is applicable under this Section or any other ordinance. This fee is subject to change by resolution of the Whispering Pines Village Council.
 5. The Board of Adjustment shall make written findings to support its decision either to grant or deny the appeal application, and a copy shall be provided to the applicant. A request for an appeal under this Section shall not constitute an admission by the applicant of any findings of fact made by the Board of Adjustment or a waiver of appeal rights provided by this Section.

Appeals from the decision of the Board of Adjustment in regard to an administrative appeal shall be taken directly to the Superior Court having jurisdiction. The appeal to the Superior Court must occur within thirty (30) days of the Board of Adjustment's decision, or forever be barred.

14.16 Issuance of Permit. Should any appeal and/or variance be approved by the appropriate body, the Administrator or his/her agent(s) shall issue a wireless communication facility permit. The permit applicant shall acknowledge and agree to permit conditions approved by the Village Council, if applicable. If construction is not begun within twelve (12) months after the wireless communication facility permit is issued, the wireless communication facility permit shall expire.

14.17 Enforcement and Remedies

- A. **Enforcement Officer.** The Administrator or his/her designated agent(s) shall administer and enforce the provisions hereof. Such plans and applications as are finally approved shall be incorporated into any permit.

- B. **Violations.** Any violation of this Article or the terms of any wireless communication facility permit shall be subject to the enforcement remedies and penalties set forth in this Chapter and as provided by law. Each day's violation of any provision of this Article or the terms of any wireless communication facility permit shall constitute a separate and distinct offense.

- C. **Enforcement Procedure.** Upon finding a violation of this Article or of the terms of any wireless communication facility permit, the enforcement officer or his/her agent(s) shall notify the owner and service provider(s) of the nature of the violation and measures necessary to remedy the violation(s).

- D. **Failure to Comply.** Upon the failure of the owner(s) and/or the service provider(s) to comply with a notice of corrective action and/or notice of default, the owner(s) and service provider(s) shall be subject to such remedies and penalties as may be provided herein.

- E. **Remedies.** Anyone or all of the following procedures shall be used to enforce the provisions of this Article or the terms of any wireless telecommunication permit and zoning permit:
 - 1. **Injunction.** Violations may be enjoined, restrained, abated or mandated by injunction.

 - 2. **Civil Penalties.** Any person who violates this Article or the terms of any wireless telecommunication permit and zoning permit shall be subject to assessment of a civil penalty in the amount of \$250 for each violation. Each day's violation is a separate and distinct offense.

 - 3. **Stop Work.** Whenever any wireless communication facility is being constructed, erected, altered or repaired in violation of this Article or the terms of any wireless communication permit, the work may be immediately stopped by the enforcement officer or his/her agent(s).

 - 4. **Revocation of Permit.** A wireless communication permit shall be revoked for any substantial departure from the terms of the approved application including false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of any applicable federal, state or local law shall also be revoked.

 - 5. **Criminal Penalties.** Any violation of this Article shall be a misdemeanor or infraction as provided by N.C.G.S. 14-4.

SR 15 Sexually Oriented Business

- A. No such business shall locate within one thousand (1,000) feet of any other Sexually Oriented Business, as measured in a straight line from property line to property line.

- B. No Sexually Oriented Business shall be located within one thousand (1,000) feet of a church, public or private elementary or secondary school, library, child day care or nursery

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school, public park, residentially zoned or residentially used property, or any establishment with an on premise ABC license, as measured in a straight line from property line to property line.

- C. The gross floor area of any Sexually Oriented Business shall not exceed three thousand (3,000) square feet and all business related activity shall be conducted in a building.
- D. Except for an adult motel, no Sexually Oriented Business may have sleeping quarters.
- E. There shall not be more than one (1) Sexually Oriented Business in the same building, structure or portion thereof. No other principal or accessory use may occupy the same building, structure, property or portion thereof with any Sexually Oriented Business.
- F. Except for signs as may be permitted by Chapter 11 of this Ordinance, no printed material, slide, video, photograph, written text, live show or other visual presentation format shall be visible from outside the walls of the establishment, nor shall any live or recorded voices, music or sounds be heard from outside the walls of the establishment.
- G. No enclosed or underground parking shall be permitted.

SR 16 Electronic Gaming Operations

In addition to the regulations provided for elsewhere in this Land Development Ordinance and the Village Code, electronic gaming operations shall be subject to the following requirements:

(A) Hours of Operation. Electronic gaming operations may operate from 8 a.m. until 10 p.m., seven (7) days per week.

(B) Spacing Requirements.

(1) Not more than one electronic gaming operation may be located within 500 feet from any building being used as a dwelling.

(2) Each electronic gaming operation must be a minimum of 1/2 mile from any other gaming operation.

(3) For the purposes of subsections (1) and (2) above, the distance shall be measured in a straight line from the closest point between the building housing the electronic gaming operation and the building housing the dwelling or other electronic gaming operation;

(C) No more than twenty (20) terminals/machines shall be located in a single electronic gaming operation.

(D) Electronic gaming operations are prohibited in or as a part of any check cashing facility;

(E) No one under the age of eighteen (18) shall be allowed to enter into an electronic gaming operation where such operation is the primary use;

(F) Firearms shall be expressly prohibited in all electronic gaming operations and so posted where such operations are the primary use, except that this prohibition shall not apply (1) to on-duty law enforcement officers in the performance of their duties or (2) when such firearms are expressly permitted by State law (for example, by a person with a concealed handgun permit).

(G) Electronic gaming operations shall not pay out over \$600.00 in cash within a twenty-four (24) hour period to a patron. Any amount over \$600.00 shall be paid by check or other negotiable instrument;

(H) All applicable State and local permits and business licenses must be issued to the applicant prior to the opening of the business; and

(I) If food and/or beverages are served, then the establishment must meet any State requirements and the requirements of the Moore County Health Department.

(J) Electronic gaming operations shall post the above rules in a conspicuous place within the establishment.