

# NAVAJO NATION

## TELECOMMUNICATIONS FACILITIES SITING REGULATIONS

### § 1. Title

These Regulations shall be referred to as the Telecommunications Facilities Siting Regulations.

### § 2. Authority and Delegation

These Telecommunications Facilities Siting Regulations (“Regulations”) are adopted pursuant to the Navajo Nation General Leasing Regulations of 2013 (the “General Leasing Regulations”) (approved by Navajo Nation Council Resolution No. CO-53-13 (Oct. 22, 2013) and by the Assistant Secretary of Indian Affairs (May 16, 2014)), the Navajo Telecommunications Regulatory Act, 21 N.N.C. § 501 *et seq.*, (the “Telecommunications Act”), 2 N.N.C. §§ 500(C) and 501, Resolution No. \_\_\_\_\_ of the Resources and Development Committee of the Navajo Nation Council (\_\_\_\_\_, 2017), and \_\_\_\_\_, 2017 Order of the Navajo Nation Telecommunications Regulatory Commission in Docket No. \_\_\_\_\_.

All previous delegations for telecommunications leasing authority to the Navajo Land Department, Navajo Nation Division of Natural Resources, are hereby rescinded. The Navajo Nation Division of Natural Resources (“DNR”) may delegate to programs within DNR, including to the Navajo Land Department and General Land Development Department (GLDD), such authorities as delegated to DNR hereunder. RCD Resolution 104-10 is hereby rescinded.

Navajo Nation Telecommunications Regulatory Commission (“NNTRC” or “Commission”) has delegated authority to approve Collocations on Tower and Non-Tower Structures on Navajo Nation Land not covered by 21 N.N.C. § 524 or other provisions of the Telecommunications Act.

### § 3. Purpose

The purpose of these Telecommunications Facilities Siting Regulations (“Regulations”) is to:

- A. Develop policies and procedures for the issuance of Telecommunications Tower Leases, Subleases and Permits to fully enact the Navajo Nation General Leasing Regulations as they relate to surface land use for telecommunications, and to enact the authority of the Navajo

Nation Telecommunications Regulatory Commission under the Navajo Telecommunications Regulatory Act, including 21 N.N.C. § 524;

B. Delegate final approval authority from the Resources and Development Committee (RDC) of the Navajo Nation Council to DNR for telecommunications leases, subleases and permits, and to the Navajo Nation Telecommunications Regulatory Commission (“NNTRC” or “Commission”) for Collocations on Tower and Non-Tower Structures on Navajo Nation Land not covered by 21 N.N.C. § 524 or other provisions of the Telecommunications Act;

C. Consistent with these Regulations and other applicable law, help ensure that residents, businesses, government institutions, health facilities, and public safety facilities located on the Navajo Nation have reliable access to telecommunications networks and broadband to promote the health and welfare of the Navajo citizenry and to successfully bridge the “digital divide”; and

D. Ensure that the placement, construction, and modification of Telecommunications Facilities comply with applicable federal and Navajo Nation law and are consistent with federal and Navajo Nation telecommunications and land use policies, and to protect the health, safety, welfare, aesthetic character, and traditional cultural values of the Navajo Nation, in part by:

1. Encouraging the use of existing monopoles, towers, utility poles, buildings, water tanks, and other existing structures for placement of Telecommunications Facilities to minimize the number of new monopoles or towers that would otherwise need to be constructed;
2. Encouraging the placement of Telecommunications Facilities in unserved and underserved areas of the Navajo Nation; and
3. Conduct a Compliance Determination (biological and cultural compliance) consistent with Navajo law and land use policies and the General Leasing Regulations, and submit the compliance determination to Federal Communications Commission (“FCC”).
4. Compliance Determinations are not required for Collocation Permits, Cell On Wheels (COWs), Cell on Light Trucks (COLTs), or temporary ballasted structures, on already disturbed land for which an environmental review has been conducted.

#### **§ 4. Scope and Applicability**

These Regulations apply to all Telecommunications Facilities and equipment placed on Navajo Nation Lands or Improvements on Navajo Nation Lands by any Person, as defined herein, including, but not limited to, towers, monopoles, Ballast Support Structures, COWs, and/or COLT communications and electrical infrastructure to telecommunications sites, and all telecommunications equipment, including antennae and Accessory Equipment whether placed on monopoles, towers, utility poles, buildings, water tanks, or other structures, or directly on Navajo Nation Land, except that the following communications facilities and infrastructure are not subject to these Regulations:

- A. Fiber optic cable requiring a right-of-way under 25 C.F.R. Part 169;
- B. Antennae used by a Single Residence solely for personal communications;
- C. Cellular signal booster used solely for a Single Residence;
- D. Satellite reception antennae used solely for a Single Residence;

#### **§ 5. Jurisdiction**

By locating any tower or Collocation equipment on the Navajo Nation, Lessee and its employees, agents and assigns, consent to the legislative, executive and judicial jurisdiction of the Nation in connection with all activities conducted by the Lessee within the Nation.

#### **§ 6. Requirement for Open-Access Open Architecture**

A. To ensure that the placement, construction, and modification of Telecommunications Facilities and Traditional Support Structures are consistent with the Navajo Nation's land use policies, zoning, planning, and design standards, protective of the health, safety, welfare, aesthetic character, and traditional cultural values of the Navajo Nation, and supportive of the expansion of telecommunications services to bridge the "digital divide" on the Navajo Nation, all Traditional Support Structures shall be non-discriminatively made available for subleasing to other tenants/telecommunications providers at commercially reasonable rates where such Traditional Support Structures are physically capable of supporting such Collocation. The NNTRC will hear any complaints that owners of Traditional Support Structures are denying access to or demanding unreasonable rates for subleasing and will take appropriate actions as authorized under the Telecommunications Act.

B. All newly constructed or existing Traditional Support Structures modified as part of a Major Replacement shall be designed to accommodate additional tenants. The compound

area surrounding the support structure must be capable of being expanded to sufficient size to accommodate Accessory Equipment for additional tenants.

C. Concealed Telecommunications Facilities shall be designed to accommodate the Collocation of other antennae whenever economically and technically feasible and aesthetically appropriate.

D. Traditional Support Structures such as monopoles, which cannot reasonably accommodate additional tenants, do not need to comply with this section.

## **§ 7. Telecommunications Leasing and Permitting Procedures**

### **A. Transfer to Leases**

All current Rights-of-Way, Revocable Use Permits, Permits, Resolutions and any other instrument other than leases used for Traditional Support Structures shall be transferred to leases. Any Revocable Use Permit, Rights-of-Way, Permit or other instrument that was issued by the Bureau of Indian Affairs or any Lease issued prior to January 1, 2014 is now null and void. All holders of those instruments must comply with these regulations to obtain a lease. The former environmental compliance documents and surveys may be submitted to comply with the leasing requirements so long as the land use area has not been further modified. Any renewal must comply with, and is subject to the laws existing at the time of renewal including, but not limited to, those laws that apply to the Lease, Permit, land use, and taxation.

### **B. Modifications**

a. To modify the size of land utilized for the facility, contact GLDD and NLD for procedures.

b. To modify the equipment, add additional equipment, remove equipment, contact NNTRC for procedures.

### **C. NNTRC Certificate of Convenience and Necessity**

a. The CCN must be uploaded to the Navajo Nation System annually.

## **§ 8. Telecommunications Tower Site Lease**

A. Every Person proposing new construction of a Traditional Support Structure on unencumbered Navajo Nation Land, and any transfer from any Previous Instrument is required to obtain a Telecommunications Tower Site Lease (“Lease”) issued by the GLDD in accordance with the Procedures.

1. The term of a Lease shall be 5 years and shall be renewable pursuant to §11 of these regulations.
2. The DNR does not have jurisdiction to enter into leases on allotments; however notification must be sent to NNTRC.
3. The Lease shall include the right to ingress and egress. If the ingress and egress on existing roads, no Right-of-Way is needed. If ingress and egress needs to be developed by the company, the company must apply for a Right-of-Way.
4. The Navajo Nation System will send the applicant an automatic reminder prior to the date the yearly lease payment is due.
5. Lease payment shall be made to the Navajo Nation prior to the Lease anniversary date.
6. Lease payment and late fees shall be included in Appendix A.

### **§ 9. Tower Site Location on Encumbered Trust Land**

A. When a person wishes to place a permanent Traditional Support Structure on a parcel of land that has an existing lease or is withdrawn for a specific purpose, the lessee must relinquish that portion of the original leased land where the tower will be placed.

B. This section applies to any and all leases that are administered Navajo Nation Land Department, GLDD, or Division of Economic Development.

C. The original Lessee cannot receive rents from a Traditional Support Structure on Navajo Land.

D. The original Lease with the original Lessee must be amended to relinquish the section of land that will be leased by the Tower owner.

### **§ 10. Lease Renewals**

A. After the initial five-year term of a Lease, Lessee has the option to renew the lease.

B. The lease is renewable for additional five-year terms. Every five years, on the renewal date, the cost of the lease shall increase by 10% over the prior Term's rent.

C. Lessee shall upload notice to Navajo Nation System of Lessee's intention to renew the Lease up to 180 days prior to expiration, but in no event shall such notice be less than 30 days prior to the expiration.

- D. Any renewal must comply with, and is subject to the laws existing at the time of renewal including, but not limited to, those laws that apply to the Lease, Permit, land use, and taxation.

#### **§ 11. Modifications and Replacements**

- A. Notification must be given to NNTRC for any requests for modifications, replacements, additions or removal of equipment beyond routine maintenance.
- B. Any addition of land to the leased area requires an amended lease agreement from DNR.

#### **§ 12. Telecommunications Collocation Permit**

A. Every person seeking to place Telecommunications Facilities and Accessory Equipment on a Tower or Non-Tower Structure located on Navajo Nation Land shall obtain a Telecommunications Collocation Permit (“Collocation Permit”) issued by the NNTRC in accordance with the Procedures.

B. A Collocation Permit may only be used for placement of Telecommunication Facilities on Tower or Non-Tower Structures that are situated on a valid surface lease or on land withdrawn for Navajo Nation or federal governmental purposes, and where such placement will not cause any additional land disturbance. The Permittee must have permission from the Authorized Occupant.

C. Collocations of Telecommunications Facilities shall not be greater than 15 feet above the highest part of the existing structure.

D. The term of a Collocation Permit shall be five years, and shall be renewable.

E. Collocation Permits are issued pursuant to the Nation’s authority as a sovereign Indian government and convey no possessory interest in Navajo Nation Land.

#### **§ 13. Temporary Telecommunications Permit**

A. Every Person seeking to temporarily place any non-permanent structure, to include a COW, COLT, or a Ballasted Support Structure on Navajo Nation Land is required to obtain a Temporary Telecommunications Permit (“TTP”) issued by the DNR.

B. TTPs will only be issued for placement on land that is: already disturbed or authorized to be disturbed pursuant to a valid surface lease or authorized to be disturbed within a land withdrawal area because the site has gone through a federal or Navajo Nation environmental review. Placement of a COW, COLT or Ballasted Support Structures on Navajo Nation Land where these conditions are not met shall require a Telecommunications Lease.

C. Issuance of a TTP is subject to the express written permission of the authorized occupant of the encumbered or withdrawn Navajo Nation Land.

D. TTPs are issued pursuant to the Nation's authority as a sovereign Indian government and convey no possessory interest in Navajo Nation Land.

E. The maximum term of a TTP shall be 90 days and may be renewable for not longer than twenty-four months upon petition to GLDD. Should an emergency repair situation on a tower occur, temporary approval may be granted via email by GLDD, and the application shall be submitted within 30 days. Such additional term shall not entitle the permit holder to any possessory interests or leasehold rights in the property.

F. A TTP may be revoked at any time and for any reason by DNR upon 15 days' notice to the permit holder, after which the owner of the COW, COLT or Ballasted Support Structure shall have 15 days to remove the Structure and restore the land to its original condition. A TTP shall be revoked by DNR upon a written request by the authorized occupant of the encumbered or withdrawn land. In the event of a cancellation of the TTP through no fault of the permit holder, the permit holder shall be entitled to reimbursement from the Nation for any additional term paid by permit holder after cancellation. In no event shall the Nation be responsible for reimbursement of any payments made to the Authorized Occupant by the permit holder.

#### **§ 14. Lease, Permit and Permit Rentals and Fees.**

A. Fees shall be assessed in accordance with the Fee Schedule. This Schedule will be modified by DNR for Leases, Permits and those associated Application Fees; or by NNTRC for Collocation Permits and associated Application Fees.

#### **§ 15. Siting Towers on Navajo Nation Fee Land.**

A. Telecommunications Leases may be entered into on Navajo Nation Fee Land following the same leasing process as all other Leases.

B. Permission from the Authorized Occupant is required.

- C. The original lease between the Navajo Nation and the original leaseholder must be amended to allow for the additional use.
- D. On Navajo Nation Fee lands, Lessee shall pay, before becoming delinquent, all property, use or gross receipts taxes or assessments, or any other like charges levied upon or against the Leased Premises. Lessee shall upload to the Navajo Nation System evidence that all taxes, assessments and other charges have been paid, satisfied or otherwise discharged. All costs and other expenses incurred by Lessor on behalf of Lessee shall be repaid by Lessee to Lessor with interest of ten percent (10%) per year.

**§ 16. DNR Enforcement of Terms and Conditions of Leases, Permits and These Regulations.**

A. DNR shall be responsible for enforcing the terms and conditions of Telecommunications Leases and TTPs on Navajo Nation Lands and relevant provisions of these Regulations pursuant to 21 N.N.C. § 2201 *et seq.* and the General Leasing Regulations at 21 N.N.C. § 2301 *et seq.*

B. Failure to comply with these Regulations as to telecommunications leases and permits is a civil trespass as defined under the Navajo Nation Civil Trespass Act, 16 N.N.C. § 2201 *et seq.*, and may subject a Person to a civil trespass assessment as authorized under such Act, and may also subject a Person to a civil sanction, including, but not limited to, the exclusionary process included in 17 N.N.C. § 1901.

**§ 17. NNTRC Enforcement of Permits and These Regulations.**

The NNTRC shall be responsible for enforcing the terms and conditions of Telecommunications Collocation Permits and the applicable Regulations. Failure to comply with these Regulations as applicable to Collocation Permits shall subject a Person to fines and penalties as may be assessed by the NNTRC pursuant to the Telecommunications Act at 21 N.N.C. §506. Violation of these Regulations may subject a Person to a civil sanction, including, but not limited to, the exclusionary process included in 17 N.N.C. § 1901.

**§ 18. Design Requirements.**

Unless a variance is approved with concurrence by the NNTRC, the following design requirements shall apply to new Telecommunications Facilities:

A. Tower height must comply with requirements established by the FCC and Federal Avionics Administration (FAA) requirements.

B. A tower blueprint approved and stamped by a certified engineer shall be submitted to NNTRC, with a description of the building, and including a list containing the following:

1. Accessory Equipment, including any buildings, cabinets, or shelters shall be used only to house equipment and other supplies in support of the operation of the Telecommunications Facility or Support Structure. Any equipment not used in direct support of such operation shall not be stored on the site.
2. Buildings or shelters shall be faced with materials that are compatible with the surrounding development and landscape.

C. Antennae: All anticipated antennae and mounting hardware should be shown on drawings for review. Mounting locations for multiple antennae on a Traditional Support Structure should be coordinated in design, and spaced and balanced to give a planned and uncluttered appearance to the extent practicable.

D. Cable/Conduit: All cable runs should be through tower portals and within the tower itself. Other than on lattice towers, where cable is required to be located on the exterior of tower for Collocation of additional antennae, the cable shall match as closely the tower color.

E. Lighting and Marking: Telecommunications facilities or support structures shall not be lighted or marked unless required by the FCC or FAA.

F. Security and Fencing: Traditional Support Structures and all equipment for Collocations shall be secured and enclosed with fencing not less than six feet in height, and may include up to three strands of barbed or razor wire at the top.

G. Signage: No advertising or display is permitted on any telecommunication facility or related equipment, however, all towers must clearly include the FCC required Antenna Structure Registration information for the tower owner and any tenants.

H. Wall and Roof Mounted Antennae: Any Collocations on Non-Tower Structures, such as Navajo Nation or commercial buildings, water towers, or other structures, must coordinate with the building owner as well as the appropriate Navajo Nation government office (such as Facilities Maintenance) if it is a government building. Any damages caused by

Collocators on a Non-Tower Structure is the sole responsibility of the Collocator.

### **§ 19. Bonds**

Lessee shall obtain a bond to cover the rental and cost of removal and remediation, amount to be listed in the Appendices. Lessee may avoid obtaining the Bond should the annual rental payment be made in advance of the due date.

### **§20. Insurance**

(A) Lessee shall obtain and maintain a commercial public liability insurance policy for the duration of the lease. The dollar amount of insurance that must be carried shall be determined by Risk Management and may be changed at their discretion at any time.

(B) In no event shall the amount of Lessee's insurance policy limit Lessee's liability or its duty to indemnify Lessor under this Agreement.

### **§ 21. Abandonment**

Any Telecommunications Facility or Support Structure that is not operated for a period of 180 consecutive days after the lease has expired, and the company is not in communication with the Nation, the tower shall be considered abandoned if operation does not resume within 90 days of notice. The lease is no longer valid and cannot be transferred or assigned. Towers shall become the property of the Navajo Nation and may be resold or leased by the Nation. The Tower may be dismantled and removed, and the last owner of record will be sent a bill for the total cost of removal.

### **§ 22. Assignment, Sale or Transfer.**

A. Navajo Nation shall have right of first refusal for any sale or transfer of the Tower, fiber or company pursuant to 16 N.N.C. § 2337.

B. All sales or transfers of individual tower sites, must obtain prior written approval from the Navajo Nation Land Department before the assignment or sale are finalized in accordance with 16 N.N.C. § 2338.

C. Sale of the telecommunication company: When a lessee company is considering selling or transferring the entire company's assets to another entity, the Navajo Nation must be notified prior to the completion of the transfer, and has first right of refusal to purchase the entire company or its assets located on the Nation. If the Nation chooses not to act, the former company must make arrangements to transfer the towers to an entity authorized to do business on the Nation.

D. Any notification to the Navajo Nation Land Department concerning acquisitions of property can be uploaded to the Navajo Nation System utilizing a secure encrypted upload for confidential documents. The upload can be designated to one or more specific recipients to protect the confidentiality of the proposed transaction. If the Land Department does not respond within 60 days of the notification, the proposed sale or transfer will be deemed approved.

E. If the sale of the telecommunication company or its equipment is approved, the new company shall enter into a new lease with the Navajo Nation. This process shall be initiated by the new company within 30 days of their acquisition of the company or its assets. The prior environmental clearance documents, maps, surveys, blueprints, and other documentation given to the Nation from the prior owner may be utilized to expedite this process so long as no major modifications occur.

F. Federal and Navajo Nation Regulations: All Telecommunications Facilities must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the Navajo Nation or Federal Government with the authority to regulate Telecommunications Facilities and Telecommunications Carriers.

G. Interference Requirements: All Telecommunications Facilities shall be installed, operated, and maintained in accordance with all applicable laws, regulations, and ordinances so as not to interfere or cause interference with existing communications including, but not limited to, other carrier systems, radios, televisions, computers, and the Navajo Nation's or other public entity's emergency broadcast systems.

H. Maintenance: Ordinary Maintenance of existing Telecommunications Facilities and Support Structures, as defined herein, shall be exempt from permitting/approval requirements. This includes subcontracting with other companies to perform maintenance.

### **§ 23. Penalties for failure to comply with these regulations**

- A. The provisions regarding leasing and permitting will be enforced pursuant to the Navajo Nation Trespass Act, found at 16 N.N.C. § 2201 *et seq.*; and the General Leasing Regulations, found at 16 N.N.C. § 2301 *et seq.*
- B. For failure to comply with co-licensing and other provisions regulated by the NNTRC, fines and penalties are assessed pursuant to 21 N.N.C. §517-518.

### **§ 24. Mandatory Government Use**

All Traditional Support Structures with the ability to have Collocations on their towers shall permit emergency response, law enforcement, and public safety services to collocate on the tower at no charge. Towers that are able to have Collocations shall permit at least one such Collocation, if there is room remaining on the tower when the request is made. These no-cost Collocations include: Navajo Nation Law Enforcement entities, such as Division of Public Safety; DNR enforcement programs; Navajo Nation emergency services, including fire and EMS; any federal program that provides public safety services to the Nation, such as FBI, Homeland Security, Border Patrol, Bureau of Indian Affairs.

## **§ 25. Emergency Exclusion**

COWs or COLTs placed for a period of not more than 120 days after a Declaration of an emergency or a disaster by the Navajo Nation President and/or the Emergency Management Commission are excluded from these regulations; however carriers must work with Navajo Emergency Management Department. Written notice must be promptly given to the GLDD and NNTRC.

## **§ 26. Severability**

If any provision of this Act or the application of such provision shall be held invalid the remainder of the Act and the application of such provision other than those held invalid shall not be affected thereby.

## **§ 27. Definitions**

A. Accessory Equipment: Any equipment serving or being used in conjunction with a telecommunications facility or support structure. This equipment includes, but is not limited to, utility or transmission equipment, converters, power supplies, fuel tanks, generators, batteries, cables, wiring, equipment buildings, equipment cabinets and storage sheds, shelters or other structures.

B. Additional Land Disturbance: Any action by any person that would result in exceeding the current property boundaries of a valid surface lease or withdrawn land.

C. Allotted Lands: Individually owned federal trust acreage.

D. Antenna(e): Any structure or device used to collect or radiate electromagnetic waves for the provision of wireless services, including but not limited to, cellular, paging, personal communications services (PCS) and microwave communications. Such structures and devices include, but are not limited to, directional antennae, such as panels, microwave dishes and satellite dishes, and omnidirectional antennae.

E. Authorized Occupant: Any lessee or permit holder who has been issued a valid approved instrument by the Navajo Nation or the BIA that is currently in effect.

F. Ballasted Support Structure: Ballasted base frame supporting a monopole, without placement of foundations or footings in the ground.

G. Cell on Wheels (“COW”): A portable self-contained cell site that can be moved to a location and set up to provide local wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the antenna support structure.

H. Cell on Light Truck (“COLT”): A portable self-contained cell site that is located on a light truck and can be used to provide local wireless services on a temporary or emergency basis.

I. Certificate of Convenience and Necessity (“CCN”): The form of licensure and authorization required for all telecommunications carriers operating on the Navajo Nation pursuant to 21 N.N.C. § 510 of the Telecommunications Act, as amended, and as established by rule of the NNTRC.

J. Collocation: The act of siting Telecommunications Facilities on an Existing Structure without the need to construct a new support structure and without a Substantial Increase in the size of an Existing Structure.

K. Collocator: A person or company that places equipment on a Tower or Non-Tower Structure and is not the owner and Lessee of the tower.

L. Concealed Telecommunications Facility: Any Telecommunications Facility that is integrated as an architectural feature of a tower or accessory equipment designed so that the purpose of the Facility or Support Structure for providing wireless services is not readily apparent to a casual observer.

M. Distributed Antenna Systems (“DAS”): A DAS network distributes RF signals from transceivers at a central hub to a specific service area with poor coverage or inadequate capacity. As typically configured, a DAS network consists of: (1) a number of remote communications nodes deployed throughout the desired coverage area, each including at least one antenna for transmission and reception; (2) a high capacity signal transport medium (typically fiber optic cable) connecting each node to a central communications hub site; and (3) radio transceivers located at the hub site (rather than at each individual node as is the case for small cells) to process or control the communications signals transmitted and received through

the antennas. DAS deployments offer robust and broad coverage without creating the visual and physical impacts of multiple macrocells. Further, whereas small cells are usually operator-managed and support only a single wireless service provider, DAS networks can often accommodate multiple providers using different frequencies and/or wireless air interfaces.

N. Environmental Reviewer: The person delegated responsibility for Environmental Compliance Determinations under the General Leasing Regulations.

O. Existing Structure: Previously erected Support Structure or any other structure, including but not limited to, buildings and water tanks, to which Telecommunications Facilities can be attached.

P. Modification and Replacement: Any repair, replacement, addition or removal that does not meet industry standard for regular maintenance. Any need for additional land would require an amendment to a lease.

Q. Monopole: A single, freestanding pole-type structure supporting one or more antennae.

R. Navajo Nation Government: Navajo Nation Government is comprised of the legislative, executive, and judicial branches, as well as political subdivisions. For the purpose of land use ownership, and these regulations, enterprises, businesses, housing authorities, or other entities created or owned by the Navajo Nation are not entities of the Navajo Nation Government.

S. Navajo Nation Fee Lands: Lands partially or wholly owned in fee-simple by the Navajo Nation.

T. Navajo Nation Land(s): Land(s) held in trust for the Navajo Nation by the United States for which the Navajo Nation is the beneficial owner; and lands partially or wholly owned in fee-simple by the Navajo Nation, including such Lands leased to a third-party, including leases to Navajo tribal members and non-members. Allotted lands are not included in the definition of Navajo Nation lands.

U. Navajo Nation System: The case management system operated and maintained by the Navajo Nation Land Department. This system is the repository for all digitized records, including Leases, survey maps, Permits, environmental reviews, permits, payments, etc.

V. Non-Tower Structure: Such man-made structures such as Utility Structures, buildings, and water tanks, which are not Traditional Support Structures.

W. Ordinary or Regular Maintenance: Ensuring that Telecommunications Facilities and Support Structures are kept in good operating condition. Ordinary maintenance includes inspections, testing, and modifications that maintain functional capacity and structural integrity (such as the strengthening of the Support Structure foundation or the Support Structure itself that does not result in any increase in the size of the Support Structure). Ordinary maintenance includes replacing antennae and Accessory Equipment on a like-for-like basis within an existing Telecommunications Facility and relocating the antennae of approved Telecommunications Facilities to different height levels on an existing monopole or tower upon which they are currently located, but which does not increase the height or size of the facility. Ordinary Maintenance does not include Minor and Major Modifications and is not subject to approval under these Regulations.

X. Permit: A license or other document given by an authorized public official or agency to allow a person or business to perform certain acts.

Y. Person: A natural person, either a Navajo or non-Navajo individual, sole proprietorship, partnership, corporation, joint venture, limited liability company, limited liability partnership, trust, estate, or other such similar entity formed under the laws of the United States, a state, or a tribe, unincorporated association, public or private organization, for-profit or not-for-profit entity, government (other than the Navajo Nation central government or non-governance certified chapters where providing exclusively internal telecommunications services), all instrumentalities owned by the Navajo Nation government such as enterprises, housing authorities, corporations, and LLCs, and any part, division or agency of any of the foregoing or any other entity.

Z. Previous Instrument: Revocable Use Permit, Permit, Resolution, Rights-of-Way, or any other instrument previously issued and approved by any entity to allow telecommunication use on Navajo Nation Land.

AA. Single Residence: A single or multi-extended family home, or small group of extended family residences, within a homesite(s), including hooghans.

BB. Small Cell Technology: Small cells are low-powered wireless base stations that function like cells in a mobile wireless network, typically covering targeted indoor or localized outdoor areas ranging in size from homes and offices to stadiums, shopping malls, hospitals, and metropolitan outdoor spaces. Wireless service providers often use small cells to provide connectivity to their subscribers in areas that present capacity and coverage challenges to traditional wide-area macrocell networks, such as coverage gaps created by buildings, tower siting difficulties, and challenging terrain. Because these cells are significantly smaller in coverage area than traditional macrocells, networks that incorporate small-cell technology can reuse scarce wireless frequencies, thus greatly increasing spectral efficiency and data capacity

within the network footprint. For example, deploying ten small cells in a coverage area that can be served by a single macrocell could result in a tenfold increase in capacity while using the same quantity of spectrum.

CC. Support Structure: Any structure which can support Telecommunications Facilities.

DD. Telecommunications Facility: Any facility established for the purpose of providing wireless transmission of voice, data, images, or other information including, but not limited to, cellular service, personal communications service (PCS), and paging service. A Telecommunications Facility may consist of one or more antennae and Accessory Equipment, or one or more base stations.

EE. Tower: A structure designed to support Telecommunications Facilities including, but not limited to, lattice style towers, Monopoles and other freestanding structures.

FF. Traditional Support Structure: A Tower as defined above, or similar structure intended solely for the installation of wireless Telecommunications Facilities.

GG. Utility Structures: Utility poles or electric transmission towers in active use by a utility company, including NTUA, but not including light poles, lamp posts, and other structures whose primary purpose is to provide public lighting. Utility Structures are by their nature designed to hold a variety of electrical, communications, or other such equipment.

[END]