

**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 (\_\_\_\_\_, 2015), and \_\_\_\_\_, 2015 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leasing authority to the Navajo Land Department, Navajo Nation Division of Natural Resources, are hereby rescinded.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, such authorities as delegated to DNR hereunder.

**§ 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 and Subleases, Telecommunications Revocable Use Permits and Co-Location Licenses so as 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 co-locations on 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 policy and the Navajo Nation’s land use policies, and protective of 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. Adopting categorical exclusions to Navajo Nation environmental review consistent with Navajo law and land use policies, the General Leasing Regulations, and categorical exclusions adopted by the Federal Communications Commission (“FCC”) under the National Environmental Policy Act (“NEPA”). Categorical exclusions may include subleases, co-location licenses, COWs or ballasted structures on already disturbed land for which an environmental review has been conducted at the discretion of the environmental reviewers.

#### **§ 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, Cell Towers On Wheels (COWs), 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 broadcast radio and television reception;
- C. Cellular signal booster used solely for a Single Residence;
- D. Satellite reception antennae used solely for a Single Residence;
- E. COWs placed for a period of not more than one hundred twenty (120) days after a declaration of an emergency or a disaster by the President of the Navajo Nation; provided, written notice is promptly given to the NNTRC;
- F. Television and AM/FM radio broadcast towers and associated facilities where such facilities are licensed and/or permitted by another agency of the Navajo Nation; and
- G. Facilities owned and operated by a federally-licensed amateur radio station operator.

**§ 5. 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 at least three (3) other tenants/telecommunications providers at commercially reasonable rates where such Traditional Support Structures are physically capable of supporting such co-location. 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 at least three (3) additional tenants.

The compound area surrounding the support structure must be capable of being expanded to sufficient size to accommodate Accessory Equipment for at least three (3) additional tenants.

C. Concealed Telecommunications Facilities shall be designed to accommodate the subleasing or co-location of other antennae whenever economically and technically feasible and aesthetically appropriate.

D. Upon petition to the NNTRC, the NNTRC may waive by order of the Commission the requirement that new Traditional Support Structures accommodate the subleasing of other tenants if construction of a shorter support structure with fewer antennae would be more appropriate based on the location of the facility, if subleasing would cause interference with existing Telecommunications Facilities, as demonstrated by submitted technical evidence, or for other good cause demonstrated.

## **§ 6. Telecommunications Leasing, Permitting and Licensing Procedures**

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

- a. All current Right-of-Way, Permits, and any other instrument used for Traditional Support Structures must be transferred to leases upon their expiration, unless otherwise provided by law or pre-existing agreement to which the Nation was a party.
- b. If the company wants to transfer a Right-of-Way, Permit, or other instrument to a lease prior to the expiration thereof, the telecommunications company must submit all documentation required pursuant to Appendix C.

### **B. Modifications**

- a. The procedures for authorizing (A) Minor Modifications and Minor Replacements to Telecommunications Facilities, and for obtaining: (B) Major Modification Permits, (C) New Telecommunications Tower Site Leases, (D) Existing Site Telecommunications Tower Site Leases, (E) Telecommunications Tower Site Subleases, (F) Telecommunications Revocable Use Permits, and (G) Co-Location Licenses are set forth in the Telecommunications Leasing Permitting and Licensing Procedures (the "Procedures") attached hereto as Appendices A-G, respectively.
- b. The Procedures relating to DNR may be amended by approval of DNR; and the Procedures relating to NNTRC may be amended by approval of NNTRC in accordance with Navajo and other applicable law. These regulations do not grant authority over either entity the ability to change the procedures that are under the authority of the other entity.

**§ 7. Minor Modifications and Minor Replacements**

A. All Minor Modifications and Minor Replacements, as defined herein, require authorization by DNR in accordance with the Procedures. The carrier must also submit the same information to NNTRC.

B. Subleases on Traditional Support Structures approved under these Regulations are not considered Minor Modifications or Minor Replacements subject to separate authorization by DNR under this Section.

**§ 8. Major Modifications and Major Replacements**

A. Every Person proposing a Major Modification or Major Replacement of a Traditional Support Structure is required to obtain a Major Modification Permit from NLD, and must submit a packet of information to NNTRC under the Procedures.

B. Subleases on Traditional Support Structures approved under these Regulations are not considered Minor Modifications or Minor Replacements subject to a Major Modification Permit.

**§ 9. New Telecommunications Tower Site Lease**

A. Every Person proposing new construction of a Traditional Support Structure on unencumbered Navajo Nation Land, or seeking to authorize an existing Traditional Support Structure for which a lease, permit or right-of-way was never issued, is required to obtain a New Telecommunications Tower Site Lease (“NTSL”) issued by the DNR in accordance with the Procedures.

B. The term of a NTSL shall be twenty years and shall be renewable pursuant to §11 of these regulations.

C. The DNR does not have jurisdiction to enter into leases on allotments; however a permit must be obtained by NNTRC.

D. The NTSL shall include the right to ingress and egress. If the ingress and egress is off of a public road, no additional right-of-way is needed. If ingress and egress needs to be developed by the company, the right-of-way needs to be incorporated into the NTSL.

**§ 10. Existing Site Telecommunications Tower Site Lease**

A. Every Person seeking renewal of a lease, permit or right-of-way for an existing Traditional Support Structure on Navajo Nation Land, or seeking to expand the acreage of their existing lease, permit or right-of-way for an existing Traditional Support Structure on Navajo Nation Land, is required to obtain an Existing Site Telecommunications Tower Site Lease (“ETSL”) issued by the DNR in accordance with the Procedures.

B. The term of an ETSL shall be twenty years and shall be renewable.

**§ 11. Renewals of New and Existing Site Telecommunication Tower Site Leases**

A. After the initial term of a new or existing site telecommunications tower site lease, Lessee has the option to renew the lease.

B. The lease is renewable for one twenty-year term. The annual rental shall be adjusted every five years on the anniversary of the Effective Date using the increase in the Consumer Price Index (CPI), U.S. City Average for All Urban Consumers, noting that the U.S Consumer Price Index used 1982-1984 as a base of 100, as published by the U.S. Bureau of Labor Statistics. All adjustments shall be done in accordance with the following formula:  $\text{Current CPI} \times \text{Base Rent} / \text{Old CPI}$ .

C. If Lessee decides to exercise the additional rental terms, Lessee shall provide written notice to Navajo Nation Land Department of its intention during the last three months of the primary term or any additional term thereof, but in no event shall such notice be less than thirty days prior to the expiration of any such term.

D. If Lessee wishes to maintain the site after all four renewals expired, a new Telecommunications Site Lease must be obtained pursuant to these regulations or any additional applicable laws.

**§ 12. Telecommunications Tower Site Sublease**

A. Every Lessee of an existing Traditional Support Structure on Navajo Nation Land seeking to place additional antennae and Accessory Equipment of a third party on such Support Structure is required to obtain a three-party Telecommunications Tower Site Sublease (“Tower Sublease”) issued by DNR in accordance with the Procedures. The Tower Sublease will be executed by the Nation as Lessor, the Tower Site Lessee and the Proposed Sublessee.

B. The term of a Tower Sublease shall be the term of the Tower Site Lease for the Support Structure, as renewed pursuant to these Regulations.

**§ 13. Telecommunications Revocable Use Permit**

A. Every Person seeking to temporarily place a COW or a Ballasted Support Structure on Navajo Nation Land is required to obtain a Telecommunications Revocable Use Permit (“TRUP”) issued by the DNR in accordance with the Procedures.

B. TRUPs will only be issued for placement on land that is: (1) encumbered or withdrawn (*e.g.*, under a duly authorized and currently valid surface lease or right-of-way, or on land withdrawn for any purpose pursuant to Land Withdrawal Regulations adopted pursuant to RDCJN-33-15 or any subsequent regulations pertaining to land withdrawals); and (2) already disturbed or authorized to be disturbed pursuant to a valid surface lease or right-of-way, or authorized to be disturbed within a government land withdrawal area because the site has gone through a federal or Navajo Nation environmental review and archaeological clearance. Placement of a COW on Navajo Nation Land where these two conditions are not met shall require a New Telecommunications Tower Site Lease issued in accordance with these Regulations.

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

D. TRUPs 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 TRUP shall be 90 days and may be renewable for not longer than one year upon petition to Navajo Land Department. Such additional term shall not entitle the permit holder to any possessory interests or leasehold rights in the property.

F. A TRUP may be revoked at any time and for any reason by the DNR upon fifteen (15) days’ notice to the permit holder, after which the owner of the COW or Ballasted Support Structure shall have fifteen (15) days to remove the Structure and restore the land to its original condition. A TRUP shall be revoked by the DNR upon a written request by the authorized occupant of the encumbered or withdrawn land. In the event of a cancellation of the TRUP 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. Telecommunications Co-Location License**

A. Every person seeking to place Telecommunications Facilities and Accessory Equipment on a Non-Tower Structure located on Navajo Nation Land shall obtain a

Telecommunications Co-Location License (“Location License”) issued by the NNTRC in accordance with the Procedures.

B. A Co-Location License may only be used for placement of Telecommunication Facilities on Non-Tower Structures that are situated on a valid surface lease or right-of-way or on land withdrawn for Navajo Nation or federal governmental purposes, and where such placement will not cause any additional land disturbance.

C. Co-locations of Telecommunications Facilities shall not be greater than fifteen (15) feet above the highest part of the existing structure.

D. The term of a Co-Location License shall be five (5) years, and shall be renewable.

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

**§ 15. Lease, Permit and License Rentals and Fees.**

A. Rents and fees shall be determined by a market analysis of the industry standard, subject to reasonable industry standard adjustments as determined by DNR with concurrence of the NNTRC, unless as otherwise provided by law.

B. The annual rental shall be adjusted every five years on the anniversary of the Effective Date using the increase in the Consumer Price Index (CPI), U.S. City Average for All Urban Consumers, noting that the U.S Consumer Price Index used 1982-1984 as a base of 100, as published by the U.S. Bureau of Labor Statistics. All adjustments shall be done in accordance with the following formula:  $\text{Current CPI} \times \text{Base Rent} / \text{Old CPI}$ .

**§ 16. Citing 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 original leaseholder must be obtained.

C. The original lease for the private land between the Navajo Nation and the original leaseholder must be amended to allow for the additional use.

**§ 17. DNR Enforcement of Terms and Conditions of Leases, Subleases and These Regulations.**



DNR shall be responsible for enforcing the terms and conditions of telecommunications leases, subleases and revocable use permits that sit directly on Navajo Nation land or are collocated on telecommunications towers (including failure to maintain Telecommunications Facilities improvements on Navajo Nation Land) and the applicable Regulations hereunder for such leases, subleases and permits. DNR does not enforce placement of telecommunications towers on other structures, such as buildings (*see* §18 below). Failure to comply with these Regulations as to telecommunications leases, subleases and permits is a civil trespass as defined under the Navajo Nation Civil Trespass Act, 21 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 criminal or civil sanction, as applicable, under 17 N.N.C. § 101 *et seq.*

**§ 18. NNTRC Enforcement of Permits, Licenses and These Regulations.**

The NNTRC shall be responsible for enforcing the terms and conditions of Telecommunications Co-Location Licenses and the applicable Regulations hereunder for such Licenses, and as otherwise set forth herein (*e.g.*, open access requirements). Failure to comply with these Regulations as applicable to Co-Location Licenses shall subject a Person to fines and penalties as may be assessed by the NNTRC pursuant to the Telecommunications Act.

**§ 19. Categorical Exclusions for Telecommunications Facilities Siting.**

Except as provided for in the Co-Location Licensing Procedures for consultation with the Navajo Nation Tribal Historic Preservation Officer, the following Navajo Nation approvals are categorically excluded from the environmental review process under the General Leasing Regulations or other applicable Navajo law because the Nation has determined that they individually and cumulatively will not have a significant impact on human health or the environment, including but not limited to impacting, altering, or disturbing the biological and cultural resources of the Navajo Nation:

A. Approval of a Co-Location License on new or Minor Replacement Utility Structures if: (1) the Telecommunications Facility is located in a right-of-way that is designated for communications towers, above-ground utility transmission or distribution lines, or any associated structures and equipment; (2) the right-of-way is in active use for such designated purposes; (3) the Telecommunications Facility will not constitute a substantial increase in size over existing Support Structures that are located in the right-of-way within the vicinity of the proposed construction; and (4) there will be no ground disturbance outside the right-of-way.

B. Approval of a Co-Location License for Distributed Antenna Systems (DAS) And Small Cell Technologies on and in Non-Tower Support Structures; provided, Applicant has certified by affidavit its compliance with § 18(B) and (C) of these Regulations (including compliance with the FCC's maximum permissible exposure limits for exposure to radio frequency energy);

C. Approval of a Co-Location License for other telecommunications facilities on or in a building, or on a water tower or other Non-Tower Support Structure (except Utility Structures) if:

1. The height above the existing structure is fifteen (15) feet or less;
2. The sum of the volume of all pre-existing Accessory Equipment after the Co-Location and the new Accessory Equipment is no greater than seventeen cubic feet, including all such equipment on the ground and such equipment physically on the structure, except that the following equipment shall not be included in the sum of the volume: (a) vertical cable runs for the connection of power and other services, provided the cable is in pre-existing aerial or underground corridors; (b) ancillary equipment installed by other entities that is outside of the applicant's ownership or control, such as a power meter installed by the electric utility in connection with the wireless deployment, and (c) comparable equipment from pre-existing wireless deployments on the structure; and
3. The sum of the volume of all Co-Located antennae, including pre-existing antennae that remain after the Co-Location, is no greater than six cubic feet.

D. Approval of a new or a renewal of a Telecommunications Tower Site Lease for a site that has undergone an environmental review within the prior twenty (20) years pursuant to the General Leasing Regulations, the Nation's Business Site Leasing Regulations, or the National Environmental Policy Act of 1969, 42 U.S.C. § 4321 *et seq.*, and such review included archaeological survey and clearances.

E. Approval of a sublease on a Traditional Support Structure, unless the sublease would constitute a Major Modification.

F. Approval of a Telecommunications Revocable Use Permit for placement of a COW or Ballasted Support Structure on land that is (1) already encumbered or withdrawn (*e.g.*, under a duly authorized and currently valid surface lease or right-of-way, or on land withdrawn for Navajo Nation or federal governmental purposes such as inside a Chapter compound or in a

Bureau of Indian Affairs (“BIA”) administrative withdrawal area); and (2) already disturbed or authorized to be disturbed pursuant to a valid surface lease or right-of-way, or, authorized to be disturbed within a government land withdrawal area because the site has gone through a federal or Navajo Nation environmental review and archaeological clearance.

**§ 20. Design Requirements.**

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

A. The maximum height for Traditional Support Structures shall be one hundred fifty (150) feet, excluding lightning arrestor.

B. Accessory Structures:

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. An equipment building, shelter, or cabinet on a Traditional Support Structure lease must not exceed five hundred sixty (560) square feet in area and twelve (12) feet in height.
3. 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.

D. Cable/Conduit: All cable runs should be through tower portals and within the tower itself. Where cable is required to be located on the exterior of tower for Co-Location of additional antennae, the cable shall be painted to match the tower or covered by a material to match the tower.

E. Color: Unless otherwise required by the FCC, the Federal Aviation Administration (“FAA”), or otherwise excepted by Chapter Resolution upon recommendation

of the Chapter Land Use Committee, or by Resolution of the Kayenta Township Commission, all Traditional Support Structures shall be painted to be compatible with the surrounding development and landscape.

F. Landscaping: Chapters and the Kayenta Township Commission may impose reasonable landscaping requirements on Traditional Support Structures.

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

H. Security and Fencing: Ground mounted Accessory Equipment for Traditional Support Structures and outside equipment for Co-Locations on Non-Tower Support Structures shall be secured and enclosed with fencing not less than six (6) feet in height. Fencing shall be compatible with surrounding development or landscape.

I. Signage: No advertising or display is permitted on any telecommunication facility or related equipment, unless required by the FCC or FAA.

J. Wall and Roof Mounted Antennae:

1. The maximum height (measured from the highest point) of any wall or roof-mounted antenna shall be fifteen (15) feet above the roofline.
2. Wall and roof-mounted antennae shall be designed and located to minimize visual impact and shall be architecturally compatible with the building.

## **§ 21. General Requirements**

A. Abandonment and Removal

1. Abandonment: Any Telecommunications Facility or Support Structure that is not operated for a period of one hundred eighty (180) consecutive days shall be considered abandoned. The lease is no longer valid and cannot be transferred or assigned.
2. Removal: If the Navajo Nation does not assume ownership of the abandoned Telecommunications Facility or Support Structure in its sole discretion (such ownership which will be effective by operation of law upon approval of the Executive Director of the Division of Natural Resources, after consultation with the Navajo Land Department, Navajo Nation Telecommunications and Utilities, the Department of Information

Technology and the NNTRC), or if another company does not express interest in obtaining a New Telecommunications Site Lease for the existing structure, the owner of the Telecommunications facility or Support structure shall remove the Structure or Facility at its cost and in a manner consistent with good engineering practices within one hundred eighty (180) days of its abandonment, and return the site to its original condition, or be subject to enforcement and penalties under the Navajo Nation Civil Trespass Act and other applicable laws. The Executive Director, DNR shall ensure and enforce removal of the Structure or Facility by means of its existing regulatory authority and by the applicable lease or permit terms.

B. Assignment and Sale of Telecommunication Tower Site: All assignments of leases, as well as sales of individual tower sites, must obtain prior written approval from the Navajo Nation before the assignment or sale are finalized.

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. If the new owners of the tower site are unauthorized to do business with the Nation, the former company must give the Nation first right of refusal. 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. 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.

E. 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.

F. Maintenance: Ordinary Maintenance of existing Telecommunications Facilities and Support Structures, as defined herein, shall be exempt from permitting/approval requirements.

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

- A. The provisions regarding leasing and subleasing will be enforced pursuant to the Navajo Nation Trespass Act, found at 16 N.N.C. § 2201 *et seq.*
- B. For failure to comply with all other provisions, regulated by the NNTRC, fines and penalties are assessed pursuant to 21 N.N.C. §501 *et seq.*

## § 22. 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, generators, batteries, cables, wiring, equipment buildings, equipment cabinets and storage sheds, shelters or other structures.

B. Allotted Lands: Individually owned federal trust acreage.

C. 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 omni directional antennae.

D. Ballasted Support Structure: Ballasted base frame supporting a monopole, without placement of foundations or footings in the ground. CDMI's Lite-Site® is an example of a Ballasted Support Structure.

E. Categorical Exclusion: A category of actions that do not individually or cumulatively have a significant effect on the human health or the environment, including but not limited to impacting, altering, or disturbing the biological and cultural resources of the Navajo Nation, and that are therefore not subject to environmental review under subchapter 8 of the General Leasing Regulations, 4 N.N.C. § 904(B) of the Navajo Nation Environmental Policy Act, or other applicable Navajo law.

F. Cell Tower 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.

G. 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.

H. Control Number: A number assigned by the Office of the Controller for placement of a lease, sublease, permit, or license in the Financial Management Information System (“FMIS”) of the Navajo Nation for proper invoicing and tracking of payments to the Navajo Nation and its agencies and departments.

I. Co-Location: The act of siting multiple Telecommunications Facilities on an existing Non-Tower Structure.

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

K. 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.

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

M. Finding in the Navajo Public Interest: A finding by the NNTRC that the proposed placement of a COW pursuant to a Telecommunications Revocable Use Permit would help meet critical needs of the Navajo Nation by providing telecommunications services, including broadband, to underserved or unserved areas of the Navajo Nation, or by improving reliability and/or lowering costs for telecommunications services for charitable, governmental, educational, health or public safety facilities.

N. Major Modification: Improvement to existing Telecommunications Facilities or Support Structures that increases the height of the facility or Support Structure by more than ten percent (10%) or expands the compound area for additional Accessory Equipment by more than fifteen percent (15%). Except for ordinary ingress and egress to the site, a Major Modification does not use or disturb land outside the authorized lease or permit area.

O. Major Replacement: Replacing and constructing a new Support Structure of such area proportions and height as would be considered a Major Modification.

P. Minor Modification: Improvement to existing Telecommunications Facilities and Support Structures that results in some material change to the facility or Support Structure but does not increase the height of the Facility or Support Structure by more than ten percent (10%) or expand the compound area for additional Accessory Equipment by more than fifteen percent (15%).

Q. Minor Replacement: Constructing a new Support Structure of proportions and of equal height or such other height as would be allowed under the definition of Minor Modification to a pre-existing Support Structure in order to support a Telecommunications Facility or to accommodate subleasing, and removing the pre-existing Support Structure.

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

S. 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.

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

U. Ordinary 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.

V. 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.

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

X. 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.

Y. Small Operator ("SO"): A telecommunications carrier which has received a CCN from the NNTRC to operate on the Navajo Nation as a Small Operator.

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

AA. 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.

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

2016-03-04

CC. Traditional Support Structure: A telecommunications Monopole, Tower, Ballasted Support Structure, or similar structure intended solely for the installation of wireless Telecommunications Facilities.

DD. 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]

## **Telecommunications Leasing, Permitting and Licensing Procedures:**

### **APPENDICES A-G<sup>1</sup>**

These Telecommunications Leasing Permitting and Licensing Procedures may be referred to as the “Procedures.”

#### **APPENDIX A: Procedures for Authorizing Minor Modifications and Minor Replacements**

A. Minor Modifications and Minor Replacements to existing Traditional Support Structures shall be authorized by the Manager of the Navajo Land Department (“NLD”), Division of Natural Resources upon submittal to the NLD Project Review Office of an application letter and a \$200 filing fee (by check made out to the Navajo Nation) for such Modifications or Replacements by the owner of the Structure, with the following accompanying documentation, a copy of which shall be submitted by the Applicant to the Office of the NNTRC:

1. Written description and scaled drawings of the proposed Minor Modification or Minor Replacement, including structure height, ground and structure design, and proposed materials;
2. Copy of the current lease or permit for the Support Structure, with a legal description; and
3. Copy of a current CCN if Applicant is a telecommunications carrier.

B. Applicant may proceed after NLD issues a Notice to Proceed.

#### **APPENDIX B: Procedures for Permitting Major Modifications and Major Replacements**

A. Every Person proposing a Major Modification or Major Replacement shall submit the following documents to the NLD Project Review Office for a Major Modification Permit:

1. Cover Letter identifying the Applicant and a general project description;

---

<sup>1</sup>As approved for the Telecommunications Facilities Siting Regulations (“Regulations”) on \_\_\_\_\_, 2015. These Procedures are subject to amendment by the Navajo Nation Division of Natural Resources (“DNR”) and the Navajo Nation Telecommunications Regulatory Commission (“NNTRC” or “Commission”), as delegated by the Resources and Development Committee of the Navajo Nation Council pursuant to the Regulations and Resolution No. \_\_\_\_\_ (DATE), and pursuant to the authority of the NNTRC under the Navajo Telecommunications Regulatory Act. Unless otherwise defined in these Procedures, terms used herein shall have the meanings set forth in the Regulations.

2. \$700 filing fee (by check made out to the Navajo Nation);
3. Copy of the current lease or permit for the Support Structure;
4. Legal Description of the Project Site;
5. Survey map;
6. Detailed Project Description:
  - a. Number and type of proposed antennae and their height above ground level, including subleases and co-locations;
  - b. Elevations showing the height of proposed Telecommunications Facilities and all associated buildings and structures; and
  - c. Line-of-sight diagram or photo simulation, showing the proposed support structure set against the skyline and viewed from at least three (3) directions within the surrounding area.
7. One of the following documents prepared by the Environmental Reviewer demonstrating compliance with or exclusion from the Environmental Review Process under Subchapter 8 of the General Leasing Regulations:
  - a. Concurrence letter that the Project is subject to a categorical exclusion as provided in § 17 of the Regulations or under § 2382(B) of the General Leasing Regulations;
  - b. Finding of No Significant Impact (“FONSI”); or
  - c. Finding of Compliance.
8. A certificate/letter of good standing from the Navajo Nation Business Regulatory Department if Applicant is a corporation or company;
9. A current CCN from the NNTRC if Applicant is a telecommunications carrier; and
10. Proof of registration with the Office of Navajo Tax Commission, and/or proof of good standing with other Local Governance Act certified chapter(s) or Kayenta Township, as applicable.

B. Upon a determination that a Major Modification Permit Application is complete, the NLD Project Review Office shall forward the Application package to the NLD Manager for final approval, and for issuance of a Major Modification Permit to the Applicant.

**APPENDIX C: Procedures for Obtaining a New Telecommunications Tower Site Lease**

A. In order to obtain a New Telecommunications Tower Site Lease (“NTSL”), the Applicant shall coordinate with the NLD Project Review Office and the cognizant Navajo Nation agencies and officials to assemble and submit the following documents to the NLD Project Review Office, which shall constitute a complete Application for the Project:

1. Cover letter identifying the Applicant and a general project description;
2. \$700 filing fee (by check made out to the Navajo Nation);
3. Five (5) original copies of the Standard NTSL, as amended, with the appropriate portions filled out by Applicant and each executed by Applicant as an original;
4. If a ROW, Permit, or other legal instrument exist predating these regulations, and the company wishes to terminate this document to enter into a lease, the lease must be accompanied by a copy of the original document;
5. If a ROW, Permit, or other legal instrument is being terminated, a termination form for that legal instrument;
6. Legal description of the Project Site;
7. Survey map;
8. Detailed Project Description:
  - a. Number and type of proposed antennae and their height above ground level, including subleases and co-locations;
  - b. Elevations showing the height of proposed Telecommunications Facilities and all associated buildings and structures; and
  - c. Line-of-sight diagram or photo simulation, showing the proposed support structure set against the skyline and viewed from at least

three (3) directions within the surrounding area.

9. Order of the NNTRC exempting the Project from subleasing requirements, if applicable. In such case, the Standard NTSL shall be amended accordingly.
10. One of the following documents prepared by the Environmental Reviewer demonstrating compliance with or exclusion from the Environmental Review Process under Subchapter 8 of the General Leasing Regulations:
  - a. Concurrence letter that the Project is subject to a categorical exclusion as provided in § 17 of the Regulations or under § 2382(B) of the General Leasing Regulations;
  - b. Finding of No Significant Impact (“FONSI”);
  - c. Permission to move forward with the project provided mitigation measures are implemented; or
  - d. Finding of Compliance.
11. Field Clearance Document issued by the local Grazing Official demonstrating grazing permittee’s consent to the Project; as well as a one-time payment of \$1,000 made payable directly to the grazing permittee. Acceptance of such payment shall also be proof of consent, and proof of payment to the permittee must be submitted with this packet;
12. Chapter resolution in support of the Project;
13. A certificate/letter of good standing from the Navajo Nation Business Regulatory Department if Applicant is a corporation or company;
14. A current CCN from the NNTRC if Applicant is a telecommunications carrier; and
15. Proof of registration with the Office of Navajo Tax Commission, and/or proof of good standing with other Local Governance Act certified chapter(s) or Kayenta Township, as applicable.

B. Upon receipt of a complete Application, the NLD Project Review Office and Applicant shall initiate the Executive Review process and forward the Complete Application/ Executive Review Package for review and signature, and final execution by the President, to:

1. Department Manager, NLD;
2. The Division of Natural Resources;
3. The Office of the Controller;
4. The Navajo Nation Department of Justice; and
5. The Office of the President and Vice President.

C. Upon execution of the five (5) original copies of the NTSL by the President, the NLD Project Review Office shall pick up and forward the five (5) originals to the Office of the Controller for assignment of a Control Number in the Financial Management Information System (“FMIS”), such Control Number to be placed on each of the five (5) originals for distribution as follows:

1. One copy to the Office of the President;
2. One copy to the Office of the Controller;
3. One copy to the NLD;
4. One copy to the Applicant; and
5. One copy to the NNTRC, with a copy of the legal description, survey, and project description attached.

D. The NLD Project Review Office shall retain one copy of the Complete Application/Executive Review Package either in electronic or paper form, in accordance with its record retention policies.

E. The NLD shall coordinate with the Office of the Controller to ensure that the lessee is invoiced annually for the applicable rent.

**APPENDIX D: Procedures for Obtaining an Existing Telecommunications Site Lease**

A. In order to obtain an Existing Telecommunications Site Lease (“ETSL”), the Applicant shall coordinate with the NLD Project Review Office and the cognizant Navajo Nation agencies and officials to assemble and submit the following documents to the NLD Project Review Office, which shall constitute a complete Application for the Project:

1. Cover Letter identifying the Applicant and providing a general description of the existing tower site;
2. \$700 filing fee (by check made out to the Navajo Nation);
3. Five (5) original copies of the Standard Existing Site Telecommunications Tower Site Lease, as amended, with the appropriate portions filled out by Applicant and each executed by Applicant as an original;

4. Legal description of the Project Site;
5. Survey map;
6. Detailed Project Description:
  - a. Number and type of antennae and their height above ground level, including subleases and co-locations;
  - b. Elevations showing the height of Telecommunications Facilities and all associated buildings and structures; and
  - c. Line-of-sight diagram or photo simulation, showing the support structure set against the skyline and viewed from at least three (3) directions within the surrounding area.
7. Copy of the prior lease, permit or right-of-way for the Support Structure;
8. Order of the NNTRC exempting the Project from co-location/subleasing requirements, if applicable. In such case, the Standard ETSL shall be amended accordingly;
9. One of the following documents prepared by the Environmental Reviewer demonstrating compliance with or exclusion from the Environmental Review Process under Subchapter 8 of the General Leasing Regulations:
  - a. Concurrence letter that the Project is subject to a categorical exclusion as provided in § 17 of the Regulations or under § 2382(B) of the General Leasing Regulations;
  - b. Finding of No Significant Impact (“FONSI”); or
  - c. Finding of Compliance.
10. A certificate/letter of good standing from the Navajo Nation Business Regulatory Department if Applicant is a corporation or company;
11. A current CCN from the NNTRC if Applicant is a telecommunications carrier; and
12. Proof of registration with the Office of Navajo Tax Commission, and/or proof of good standing with other Local Governance Act certified chapter(s) or Kayenta Township, as applicable.



B. Upon receipt of a complete Application, the NLD Project Review Office and Applicant shall initiate the Executive Review process and forward the Complete Application/Executive Review Package for review and surname, and final execution by the President, to:

1. Department Manager, NLD;
2. Division Director, Division of Natural Resources;
3. The Office of the Controller;
4. The Navajo Nation Department of Justice;
5. The Division of Natural Resources; and
6. The Office of the President and Vice President.

C. Upon execution of the five (5) original copies of the ETSL by the President, the NLD Project Review Office shall pick up and forward the five (5) originals to the Office of the Controller for assignment of a Control Number in the FMIS, such Control Number to be placed on each of the five (5) originals for distribution as follows:

1. One copy to the Office of the President;
2. One copy to the Office of the Controller;
3. One copy to the NLD;
4. One copy to the Applicant; and
5. One copy to the NNTRC, with a copy of the legal description, survey, and project description attached.

D. The NLD Project Review Office shall retain one copy of the Complete Application/Executive Review Package either in electronic or paper form, in accordance with its record retention policies.

E. The NLD shall coordinate with the Office of the Controller to ensure that the lessee is invoiced for the applicable annual rent.

**APPENDIX E: Procedures for Obtaining a Telecommunications Tower Site Sublease**

A. In order to obtain a Telecommunications Tower Site Sublease (“Tower Sublease”), the sublessee as Applicant shall work with the Lessee and coordinate with the NLD Project Review Office and the cognizant Navajo Nation agencies and officials to assemble and submit the following documents to the NLD Project Review Office, which shall constitute a complete application for the Project:

1. Cover Letter identifying the Applicant and providing a general description of the existing tower site and proposed sublease;
2. \$700 filing fee (by check made out to the Navajo Nation);
3. Six (6) original copies of the Tower Sublease with the appropriate portions filled out by Applicant and each executed by Applicant and the proposed sublessee as an original;
4. Legal description of the Project Site;
5. Survey map;
6. Project Description:
  - a. Number and type of antennae and their height above ground level, including any existing co-locations and the proposed co-location;
  - b. Elevations showing the height of Telecommunications Facilities and all associated buildings and structures; and
  - c. Line-of-sight diagram or photo simulation, showing the support structure set against the skyline and viewed from at least three (3) directions within the surrounding area.
7. Copy of the existing lease, permit or right-of-way for the Support Structure;
8. One of the following documents prepared by the Environmental Reviewer demonstrating compliance with or exclusion from the Environmental Review Process under Subchapter 8 of the General Leasing Regulations:
  - a. Concurrence letter that the Project is subject to a categorical exclusion as provided in § 17 of the Regulations or under § 2382(B) of the General Leasing Regulations;
  - b. FONSI; or
  - c. Finding of Compliance.
9. A certificate/letter of good standing from the Navajo Nation Business Regulatory Department for both Applicant and the proposed Sublessee if Applicant and/or Sublessee is a corporation or company;

10. A current CCN from the NNTRC for both Applicant and the proposed sublessee if Applicant and/or sublessee is a telecommunications carrier; and
11. Proof of registration of both Applicant and the proposed sublessee with the Office of Navajo Tax Commission, and/or proof of good standing with other Local Governance Act certified chapter(s) or Kayenta Township, as applicable.

B. Upon receipt of a complete Application, the NLD Project Review Office and Applicant shall initiate the Executive Review process and forward the Complete Application/Executive Review Package for review and surname, and final execution by the President, to:

1. Department Manager, NLD;
2. The Office of the Controller;
3. The Navajo Nation Department of Justice;
4. The Division of Natural Resources; and
5. The Office of the President and Vice President.

C. Upon execution of the six (6) original copies of the Tower Sublease by the President, the NLD Project Review Office shall pick up and forward the six (6) originals to the Office of the Controller for assignment of a Control Number in the FMIS, such Control Number to be placed on each of the six (6) originals for distribution as follows:

1. One copy to the Office of the President;
2. One copy to the Office of the Controller;
3. One copy to the NLD;
4. One copy to the Applicant;
5. One copy to the Sublessee; and
6. One copy to the NNTRC, with a copy of the legal description, survey, project description, and the underlying lease, permit or right-of-way attached.

D. The NLD Project Review Office shall retain one complete copy of the Complete Application/Executive Review Package either in electronic or paper form, in accordance with its record retention policies.

E. The NLD shall coordinate with the Office of the Controller to ensure that the sublessee is invoiced for the applicable annual rent.

**APPENDIX F: Procedures for Obtaining a Telecommunications Revocable Use Permit**

A. In order to obtain a Telecommunications Revocable Use Permit (“TRUP”), the Applicant shall submit the following documents to the NLD Project Review Office, which shall constitute a complete application for the Project:

1. Cover page identifying the Applicant and providing a general description of the proposed TRUP site and purpose;
2. \$700 filing fee (by check made out to the Navajo Nation);
3. A copy of the underlying lease or right-of-way, or documentary proof of a government land withdrawal, the latter which may be in the contents of a letter from the Navajo Nation or federal official in custody of such withdrawn land;
4. Proof of an existing environmental clearance if the COW or Ballasted Support Structure will be placed on disturbed land;
5. Written permission of the authorized occupant of the proposed site authorizing the Applicant’s temporary occupancy of the site, which may be in the form of a letter, a Chapter resolution, etc.;
6. In the case of an application for a TRUP expecting the need to renew for a term exceeding the original 180 days:
  - a. A Project Description containing the number and type of antennae and their height above ground level, including any existing or proposed co-locations, and a line-of-sight diagram or photo simulation, showing the Support Structure and Associated Equipment set against the skyline and viewed from at least three (3) directions within the surrounding area.
  - b. Order of the NNTRC finding that a renewable term and/or term longer than 180 days is in the Navajo Public Interest.
7. A certificate/letter of good standing from the Navajo Nation Business Regulatory Department if Applicant is a corporation or company;

8. A current CCN from the NNTRC if Applicant is a telecommunications carrier; and
9. Proof of registration with the Office of Navajo Tax Commission, and/or proof of good standing with other Local Governance Act certified chapter(s) or Kayenta Township, as applicable.

B. Upon receipt of a complete application, the NLD Project Review Office will forward the application to the NLD Department Manager for his/her final approval. Upon receipt of the requisite fee (per § 15 of the Regulations) for the term of the TRUP (by check made out to the Navajo Nation), the NLD Project Review Office will provide the original TRUP to the Applicant, keep one copy for NLD, and provide one copy of the TRUP to the NNTRC (with a copy of the Project Description attached if the TRUP is issued for longer than 180 days).

#### **APPENDIX G: Procedures for Obtaining a Co-Location License**

To obtain a Co-Location License from the NNTRC, the following procedures apply:

A. Historic Preservation Review.

1. Before submittal of a complete application to the Office of the NNTRC, under Appendix G, Subsection B, below, the Applicant for a co-location License shall submit a Project Description to the Tribal Historic Preservation Officer (“THPO”), Navajo Nation Historic Preservation Department, for a cultural resource compliance clearance and to make any requisite changes to the proposed co-location in order to achieve compliance. For Applicant to proceed with the co-location application, the THPO must determine (a) that the co-location is categorically excluded from further review; or (b) that pursuant to 19 N.N.C. § 1021, although not categorically excluded, the proposed co-location would not result in changes in the character or use of cultural or historic properties, or, if such changes cannot be avoided, such changes are ameliorated by mitigation measures imposed by the THPO on the Applicant.
2. The Project Description submitted to the THPO shall include:
  - a. Number and type of antennae and their height above ground level, and any existing or proposed co-locations;
  - b. Elevations showing the height of Telecommunications Facilities and all associated buildings and structures; and
  - c. Line-of-sight diagram or photo simulation, showing the support

structure set against the skyline and viewed from at least three (3) directions within the surrounding area.

3. Pursuant to the Telecommunications Facilities Siting Regulations, co-location on a Non-Tower Support Structure is categorically excluded from environmental review unless:
  - a. The structure is inside the boundary of a historic or cultural property or landmark, or is within 250 feet of the boundary of a historic district and the antenna is visible from ground level within the historic district;
  - b. The structure is a designated as a National Historic Landmark or is listed in or eligible for listing in the National Register; or
  - c. The structure is a building and is over 45 years old.
4. If the THPO determines that the co-location as proposed is not categorically excluded and would result in changes in the character or use of cultural or historic properties, the THPO may impose such requirements as necessary to avoid such changes. If such changes cannot be avoided, the THPO may (i) approve the co-location with the imposition of mitigation measures to ameliorate the changes or (ii) deny the co-location.
5. The THPO shall have thirty (30) days in which to make its cultural resource compliance determination and the need for any changes or mitigation measures. Failure to make a formal determination within such thirty (30) day period shall be deemed an approval.

B. Upon obtaining a cultural resource compliance determination from the THPO, the Applicant shall submit the following documents to the Office of the NNTRC, which may be in electronic format in accordance with procedures adopted by the Office of the NNTRC, and which shall constitute a complete application for the Project:

- a. Cover letter identifying the Applicant and providing a general description of the proposed co-location site and purpose and providing the name, address, telephone number and email of the owner of the Non-Tower Support Structure;
- b. \$700 filing fee (by check made out to the Navajo Nation);

- c. Letter of permission executed by the owner/operator of the Non-Tower Support Structure authorizing the Applicant's co-location. If the Non-Tower Support Structure is owned and maintained by the Navajo Nation, authorization is required for the co-location from the Navajo Nation Division of General Services, Facilities Maintenance Department;
- d. A Compliance Letter or Cultural Resource Compliance Form from the Historic Preservation Department authorizing the co-location;
- e. Affidavit certifying compliance with § 19 (B) and (C) of the Regulations (including compliance with the FCC's maximum permissible exposure limits for exposure to radio frequency energy);
- f. A certificate/letter of good standing from the Navajo Nation Business Regulatory Department if Applicant is a corporation or company;
- g. A current CCN from the NNTRC if Applicant is a telecommunications carrier; and
- h. Proof of registration with the Office of Navajo Tax Commission and/or proof of good standing with other Local Governance Act certified chapter(s) or Kayenta Township, as applicable.

C. Upon receipt of a complete application, the Office of the NNTRC will forward the application package to the NNTRC Executive Director for his/her review and final approval, issue the Co-Location License upon such approval, and then forward one copy of the License to the Office of the Controller for assignment of a Control Number in the FMIS. The original Co-Location License shall be given to the licensee, with one copy each to go to DNR and to the owner of the Non-Tower Support Structure.

D. The Office of the NNTRC shall retain one complete copy of the application package either in electronic or paper form, in accordance with its record retention policies.

E. The Office of the NNTRC shall coordinate with the Office of the Controller to ensure that the licensee is invoiced for the applicable license fee.